

HOUSE BILL No. 6037

September 15, 1998, Introduced by Rep. Profit and referred to the Committee on Labor and Occupational Safety.

A bill to amend 1936 (Ex Sess) PA 1, entitled "Michigan employment security act," by amending section 27 (MCL 421.27), as amended by 1995 PA 181.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 27. (a)(1) When a determination, redetermination, or
2 decision is made that benefits are due an unemployed individual,
3 the benefits shall immediately become payable from the fund and
4 continue to be payable to the unemployed individual, subject to
5 the limitations imposed by the individual's monetary entitlement,
6 as long as the individual continues to be unemployed and to file
7 claims for benefits, until the determination, redetermination, or
8 decision is reversed, a determination, redetermination, or deci-
9 sion on a new issue holding the individual disqualified or
10 ineligible is made, or, for benefit years beginning before the

1 conversion date prescribed in section 75, a new separation issue
2 arises resulting from subsequent work.

3 (2) Benefits shall be paid in person or by mail through
4 employment offices in accordance with rules promulgated by the
5 commission.

6 (b)(1) Subject to subsection (f), the weekly benefit rate
7 for an individual, with respect to benefit years beginning before
8 the conversion date prescribed in section 75, shall be 67% of the
9 individual's average after tax weekly wage, except that the
10 individual's maximum weekly benefit rate shall not exceed
11 \$300.00. However, with respect to benefit years beginning after
12 the conversion date as prescribed in section 75, the individual's
13 weekly benefit rate shall be 4.1% of the individual's wages paid
14 in the calendar quarter of the base period in which the individ-
15 ual was paid the highest total wages, plus \$6.00 for each depen-
16 dent as defined in subdivision (3), up to a maximum of 5 depen-
17 dents, claimed by the individual at the time the individual files
18 a new claim for benefits, except that the individual's maximum
19 weekly benefit rate shall not exceed \$300.00. With respect to
20 benefit years beginning on or after October 2, 1983, the weekly
21 benefit rate shall be adjusted to the next lower multiple of
22 \$1.00.

23 (2) For benefit years beginning before the conversion date
24 prescribed in section 75, the state average weekly wage for a
25 calendar year shall be computed on the basis of the 12 months
26 ending the June 30 immediately preceding that calendar year. The
27 commission shall prepare a table of weekly benefit rates based on

1 an "average after tax weekly wage" calculated by subtracting,
2 from an individual's average weekly wage as determined in accord-
3 ance with section 51, a reasonable approximation of the weekly
4 amount required to be withheld by the employer from the remunera-
5 tion of the individual based on dependents and exemptions for
6 income taxes under chapter 24 of subtitle C of the internal reve-
7 nue code of 1986, 26 U.S.C. 3401 to 3406, and under section 351
8 of the income tax act of 1967, ~~Act No. 281 of the Public Acts of~~
9 ~~1967, being section 206.351 of the Michigan Compiled Laws~~ 1967
10 PA 281, MCL 206.351, and for old age and survivor's disability
11 insurance taxes under the federal insurance contributions act,
12 chapter 21 of subtitle C of the internal revenue code of 1986, 26
13 U.S.C. 3128. For purposes of applying the table to an
14 individual's claim, a dependent shall be as defined in
15 subdivision (3). The table applicable to an individual's claim
16 shall be the table reflecting the number of dependents claimed by
17 the individual under subdivision (3). The commission shall
18 adjust the tables based on changes in withholding schedules pub-
19 lished by the United States department of treasury, internal rev-
20 enue service, and by the department of treasury. The number of
21 dependents allowed shall be determined with respect to each week
22 of unemployment for which an individual is claiming benefits.

23 (3) For benefit years beginning before the conversion date
24 prescribed in section 75, a dependent means any of the following
25 persons who is receiving and for at least 90 consecutive days
26 immediately preceding the week for which benefits are claimed,
27 or, in the case of a dependent husband, wife, or child, for the

1 duration of the marital or parental relationship, if the
2 relationship has existed less than 90 days, has received more
3 than half the cost of his or her support from the individual
4 claiming benefits:

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

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

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

17 (d) A brother or sister of the individual if the brother or
18 sister is orphaned or the living parents are dependent parents of
19 an individual, and the brother or sister is under 18 years of
20 age, or 18 years of age or over if, because of physical or mental
21 infirmity, the brother or sister is unable to engage in a gainful
22 occupation, or is a full-time student as defined by the particu-
23 lar educational institution, at a high school, vocational school,
24 community or junior college, or college or university and is less
25 than 22 years of age.

26 (4) For benefit years beginning after the conversion date
27 prescribed in section 75, a dependent means any of the following

1 persons who received for at least 90 consecutive days immediately
2 preceding the first week of the benefit year or, in the case of a
3 dependent husband, wife, or child, for the duration of the mari-
4 tal or parental relationship if the relationship existed less
5 than 90 days before the beginning of the benefit year, has
6 received more than 1/2 the cost of his or her support from the
7 individual claiming the benefits:

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

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

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

20 (d) A brother or sister of the individual if the brother or
21 sister is orphaned or the living parents are dependent parents of
22 an individual, and the brother or sister is under 18 years of
23 age, or 18 years of age and over if, because of physical or
24 mental infirmity, the brother or sister is unable to engage in a
25 gainful occupation, or is a full-time student as defined by the
26 particular educational institution, at a high school, vocational

1 school, community or junior college, or college or university and
2 is less than 22 years of age.

3 (5) For benefit years beginning before the conversion date
4 prescribed in section 75, dependency status of a dependent, child
5 or otherwise, once established or fixed in favor of an individual
6 continues during the individual's benefit year until terminated.
7 Dependency status of a dependent terminates at the end of the
8 week in which the dependent ceases to be an individual described
9 in subdivision (3)(a), (b), (c), or (d) because of age, death, or
10 divorce. For benefit years beginning after the conversion date
11 prescribed in section 75, the number of dependents established
12 for an individual at the beginning of the benefit year shall
13 remain in effect during the entire benefit year.

14 (6) For benefit years beginning before the conversion date
15 prescribed in section 75, failure on the part of an individual,
16 due to misinformation or lack of information, to furnish all
17 information material for determination of the number of the
18 individual's dependents when the individual files a claim for
19 benefits with respect to a week shall be considered good cause
20 for the issuance of a redetermination as to the amount of bene-
21 fits based on the number of the individual's dependents as of the
22 beginning date of that week. Dependency status of a dependent,
23 child or otherwise, once established or fixed in favor of a
24 person is not transferable to or usable by another person with
25 respect to the same week.

26 For benefit years beginning after the conversion date as
27 prescribed in section 75, failure on the part of an individual,

1 due to misinformation or lack of information, to furnish all
2 information material for determination of the number of the
3 individual's dependents shall be considered good cause for the
4 issuance of a redetermination as to the amount of benefits based
5 on the number of the individual's dependents as of the beginning
6 of the benefit year.

7 (c) Subject to subsection (f), all of the following apply to
8 eligible individuals:

9 (1) Each eligible individual shall be paid a weekly benefit
10 rate with respect to the week for which the individual earns or
11 receives no remuneration.

12 Notwithstanding the definition of week as contained in sec-
13 tion 50, if within 2 consecutive weeks in which an individual was
14 not unemployed within the meaning of section 48 there was a
15 period of 7 or more consecutive days for which the individual did
16 not earn or receive remuneration, that period shall be considered
17 a week for benefit purposes under this act if a claim for bene-
18 fits for that period is filed not later than 30 days subsequent
19 to the end of the period.

20 ~~(2) Each eligible individual shall have his or her weekly~~
21 ~~benefit rate reduced with respect to each week in which the indi-~~
22 ~~vidual earns or receives remuneration at the rate of 50 cents for~~
23 ~~each whole \$1.00 of remuneration earned or received during that~~
24 ~~week.~~

25 (2) ~~(3)~~ An individual who receives or earns partial remu-
26 neration may not receive a total of benefits and earnings that
27 exceeds 1-1/2 times his or her weekly benefit amount. For each

1 dollar of total benefits and earnings that exceeds 1-1/2 times
2 the individual's weekly benefit amount, benefits shall be reduced
3 by \$1.00.

4 (3) ~~(4)~~ If the reduction in a claimant's benefit rate for
5 a week in accordance with subparagraph (2) ~~or (3)~~ results in a
6 benefit rate greater than zero for that week, the claimant's bal-
7 ance of weeks of benefit payments will be reduced by 1 week.

8 (4) ~~(5)~~ All remuneration for work performed during a shift
9 that terminates on 1 day but that began on the preceding day
10 shall be considered to have been earned by the eligible individ-
11 ual on the preceding day.

12 (d) For benefit years beginning before the conversion date
13 prescribed in section 75, and subject to subsection (f) and this
14 subsection, the amount of benefits to which an individual who is
15 otherwise eligible is entitled during a benefit year from an
16 employer with respect to employment during the base period is the
17 amount obtained by multiplying the weekly benefit rate with
18 respect to that employment by 3/4 of the number of credit weeks
19 earned in the employment. For the purpose of this subsection and
20 section 20(c), if the resultant product is not an even multiple
21 of 1/2 the weekly benefit rate, the product shall be raised to an
22 amount equal to the next higher multiple of 1/2 the weekly bene-
23 fit rate, and, for an individual who was employed by only 1
24 employer in the individual's base period and earned 34 credit
25 weeks with that employer, the product shall be raised to the next
26 higher multiple of the weekly benefit rate. The maximum amount
27 of benefits payable to an individual within a benefit year, with

1 respect to employment by an employer, shall not exceed 26 times
2 the weekly benefit rate with respect to that employment. The
3 maximum amount of benefits payable to an individual within a ben-
4 efit year shall not exceed the amount to which the individual
5 would be entitled for 26 weeks of unemployment in which remunera-
6 tion was not earned or received. The limitation of total bene-
7 fits set forth in this subsection does not apply to claimants
8 declared eligible for training benefits in accordance with sub-
9 section (g). For benefit years beginning after the conversion
10 date prescribed in section 75, and subject to subsection (f) and
11 this subsection, the maximum benefit amount payable to an indi-
12 vidual in a benefit year for purposes of this section and
13 section 20(c) is the number of weeks of benefits payable to an
14 individual during the benefit year, multiplied by the
15 individual's weekly benefit rate. The number of weeks of bene-
16 fits payable to an individual shall be calculated by taking 40%
17 of the individual's base period wages and dividing the result by
18 the individual's weekly benefit rate. If the quotient is not a
19 whole or half number, the result shall be rounded down to the
20 nearest half number. However, not more than 26 weeks of benefits
21 or less than 14 weeks of benefits shall be payable to an individ-
22 ual in a benefit year. The limitation of total benefits set
23 forth in this subsection shall not apply to claimants declared
24 eligible for training benefits in accordance with
25 subsection (g).

26 (e) When a claimant dies or is judicially declared insane or
27 mentally incompetent, unemployment compensation benefits accrued

1 and payable to that person for weeks of unemployment before
2 death, insanity, or incompetency, but not paid, shall become due
3 and payable to the person who is the legal heir or guardian of
4 the claimant or to any other person found by the commission to be
5 equitably entitled to the benefits by reason of having incurred
6 expense in behalf of the claimant for the claimant's burial or
7 other necessary expenses.

8 (f)(1) For benefit years beginning before the conversion
9 date prescribed in section 75, and notwithstanding any inconsis-
10 tent provisions of this act, the weekly benefit rate of each
11 individual who is receiving or will receive a "retirement
12 benefit", as defined in subdivision (4), shall be adjusted as
13 provided in subparagraphs (a), (b), and (c). However, an
14 individual's extended benefit account and an individual's weekly
15 extended benefit rate under section 64 shall be established with-
16 out reduction under this subsection unless subdivision (5) is in
17 effect. Except as otherwise provided in this subsection, all
18 other provisions of this act continue to apply in connection with
19 the benefit claims of those retired persons.

20 (a) If and to the extent that unemployment benefits payable
21 under this act would be chargeable to an employer who has con-
22 tributed to the financing of a retirement plan under which the
23 claimant is receiving or will receive a retirement benefit yield-
24 ing a pro rata weekly amount equal to or larger than the
25 claimant's weekly benefit rate as otherwise established under
26 this act, the claimant shall not receive unemployment benefits
27 that would be chargeable to the employer under this act.

1 (b) If and to the extent that unemployment benefits payable
2 under this act would be chargeable to an employer who has con-
3 tributed to the financing of a retirement plan under which the
4 claimant is receiving or will receive a retirement benefit yield-
5 ing a pro rata weekly amount less than the claimant's weekly ben-
6 efit rate as otherwise established under this act, then the
7 weekly benefit rate otherwise payable to the claimant and charge-
8 able to the employer under this act shall be reduced by an amount
9 equal to the pro rata weekly amount, adjusted to the next lower
10 multiple of \$1.00, which the claimant is receiving or will
11 receive as a retirement benefit.

12 (c) If the unemployment benefit payable under this act would
13 be chargeable to an employer who has not contributed to the
14 financing of a retirement plan under which the claimant is
15 receiving or will receive a retirement benefit, then the weekly
16 benefit rate of the claimant as otherwise established under this
17 act shall not be reduced due to receipt of a retirement benefit.

18 (d) If the unemployment benefit payable under this act is
19 computed on the basis of multiemployer credit weeks and a portion
20 of the benefit is allocable under section 20(e) to an employer
21 who has contributed to the financing of a retirement plan under
22 which the claimant is receiving or will receive a retirement ben-
23 efit, the adjustments required by subparagraph (a) or (b) apply
24 only to that portion of the weekly benefit rate that would other-
25 wise be allocable and chargeable to the employer.

26 (2) If an individual's weekly benefit rate under this act
27 was established before the period for which the individual first

1 receives a retirement benefit, any benefits received after a
2 retirement benefit becomes payable shall be determined in accord-
3 ance with the formula stated in this subsection.

4 (3) When necessary to assure prompt payment of benefits, the
5 commission shall determine the pro rata weekly amount yielded by
6 an individual's retirement benefit based on the best information
7 currently available to it. In the absence of fraud, a determina-
8 tion shall not be reconsidered unless it is established that the
9 individual's actual retirement benefit in fact differs from the
10 amount determined by \$2.00 or more per week. The reconsideration
11 shall apply only to benefits as may be claimed after the informa-
12 tion on which the reconsideration is based was received by the
13 commission.

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

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

20 (ii) Payable to an individual because the individual has
21 qualified on the basis of attained age, length of service, or
22 disability, whether or not the individual retired or was retired
23 from employment. Amounts paid to individuals in the course of
24 liquidation of a private pension or retirement fund because of
25 termination of the business or of a plant or department of the
26 business of the employer involved shall not be considered to be
27 retirement benefits.

1 (b) If a benefit as described in subparagraph (a) is payable
2 or paid to the individual under a plan to which the individual
3 has contributed:

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

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

8 (c) The burden of establishing the extent of an individual's
9 contribution to the cost of his or her retirement benefit for the
10 purpose of subparagraph (b) is upon the employer who has contrib-
11 uted to the plan under which a benefit is provided.

12 (5) Notwithstanding any other provision of this subsection,
13 for any week that begins after March 31, 1980, and with respect
14 to which an individual is receiving a governmental or other pen-
15 sion and claiming unemployment compensation, the weekly benefit
16 amount payable to the individual for those weeks shall be
17 reduced, but not below zero, by the entire prorated weekly amount
18 of any governmental or other pension, retirement or retired pay,
19 annuity, or any other similar payment that is based on any previ-
20 ous work of the individual. This reduction shall be made only if
21 it is required as a condition for full tax credit against the tax
22 imposed by the federal unemployment tax act, chapter 23 of
23 subtitle C of the internal revenue code of 1986, 26 U.S.C. 3301
24 to 3311.

25 (6) For benefit years beginning after the conversion date
26 prescribed in section 75, notwithstanding any inconsistent
27 provisions of this act, the weekly benefit rate of each

1 individual who is receiving or will receive a retirement benefit,
2 as defined in subdivision (4), shall be adjusted as provided in
3 subparagraphs (a), (b), and (c). However, an individual's
4 extended benefit account and an individual's weekly extended ben-
5 efit rate under section 64 shall be established without reduction
6 under this subsection, unless subdivision (5) is in effect.

7 Except as otherwise provided in this subsection, all the other
8 provisions of this act shall continue to be applicable in connec-
9 tion with the benefit claims of those retired persons.

10 (a) If any base period or chargeable employer has contrib-
11 uted to the financing of a retirement plan under which the claim-
12 ant is receiving or will receive a retirement benefit yielding a
13 pro rata weekly amount equal to or larger than the claimant's
14 weekly benefit rate as otherwise established under this act, the
15 claimant shall not receive unemployment benefits.

16 (b) If any base period employer or chargeable employer has
17 contributed to the financing of a retirement plan under which the
18 claimant is receiving or will receive a retirement benefit yield-
19 ing a pro rata weekly amount less than the claimant's weekly ben-
20 efit rate as otherwise established under this act, then the
21 weekly benefit rate otherwise payable to the claimant shall be
22 reduced by an amount equal to the pro rata weekly amount,
23 adjusted to the next lower multiple of \$1.00, which the claimant
24 is receiving or will receive as a retirement benefit.

25 (c) If no base period or separating employer has contributed
26 to the financing of a retirement plan under which the claimant is
27 receiving or will receive a retirement benefit, then the weekly

1 benefit rate of the claimant as otherwise established under this
2 act shall not be reduced due to receipt of a retirement benefit.

3 (g) Notwithstanding any other provision of this act, an
4 individual pursuing vocational training or retraining pursuant to
5 section 28(2) who has exhausted all benefits available under sub-
6 section (d) may be paid for each week of approved vocational
7 training pursued beyond the date of exhaustion a benefit amount
8 in accordance with subsection (c), but not in excess of the
9 individual's most recent weekly benefit rate. However, an indi-
10 vidual shall not be paid training benefits totaling more than 18
11 times the individual's most recent weekly benefit rate. The
12 expiration or termination of a benefit year shall not stop or
13 interrupt payment of training benefits if the training for which
14 the benefits were granted began before expiration or termination
15 of the benefit year.

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

22 (i) Benefits based on service in employment described in
23 section 42(8), (9), and (10) are payable in the same amount, on
24 the same terms, and subject to the same conditions as compensa-
25 tion payable on the basis of other service subject to this act,
26 except that:

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

19 (2) With respect to service performed in other than an
20 instructional, research, or principal administrative capacity for
21 an institution of higher education as defined in section 53(2) or
22 for an educational institution other than an institution of
23 higher education as defined in section 53(3), benefits shall not
24 be paid based on those services for any week of unemployment
25 beginning after December 31, 1977 that commences during the
26 period between 2 successive academic years or terms to any
27 individual if that individual performs the service in the first

1 of the academic years or terms and if there is a reasonable
2 assurance that the individual will perform the service for an
3 institution of higher education or an educational institution
4 other than an institution of higher education in the second of
5 the academic years or terms.

6 (3) With respect to any service described in subdivision (1)
7 or (2), benefits shall not be paid to an individual based upon
8 service for any week of unemployment that commences during an
9 established and customary vacation period or holiday recess if
10 the individual performs the service in the period immediately
11 before the vacation period or holiday recess and there is a con-
12 tract or reasonable assurance that the individual will perform
13 the service in the period immediately following the vacation
14 period or holiday recess.

15 (4) If benefits are denied to an individual for any week
16 solely as a result of subdivision (2) and the individual was not
17 offered an opportunity to perform in the second academic year or
18 term the service for which reasonable assurance had been given,
19 the individual is entitled to a retroactive payment of benefits
20 for each week for which the individual had previously filed a
21 timely claim for benefits. An individual entitled to benefits
22 under this subdivision may apply for those benefits by mail in
23 accordance with R 421.210 as promulgated by the commission.

24 (5) The amendments to subdivision (2) made by ~~Act No. 219~~
25 ~~of the Public Acts of 1983~~ 1983 PA 219 apply to all claims for
26 unemployment compensation that are filed on and after October 31,
27 1983. However, the amendments are retroactive to September 5,

1 1982 only if, as a condition for full tax credit against the tax
2 imposed by the federal unemployment tax act, chapter 23 of
3 subtitle C of the internal revenue code of 1986, 26 U.S.C. 3301
4 to 3311, the United States secretary of labor determines that
5 retroactivity is required by federal law.

6 (6) Notwithstanding subdivision (2), on and after April 1,
7 1984 benefits based upon services in other than an instructional,
8 research, or principal administrative capacity for an institution
9 of higher education shall not be denied for any week of unemploy-
10 ment commencing during the period between 2 successive academic
11 years or terms solely because the individual had performed the
12 service in the first of the academic years or terms and there is
13 reasonable assurance that the individual will perform the service
14 for an institution of higher education or an educational institu-
15 tion other than an institution of higher education in the second
16 of the academic years or terms, unless a denial is required as a
17 condition for full tax credit against the tax imposed by the fed-
18 eral unemployment tax act, chapter 23 of subtitle C of the inter-
19 nal revenue code of 1986, 26 U.S.C. 3301 to 3311.

20 (7) For benefit years established before the conversion date
21 prescribed in section 75, and notwithstanding subdivisions (1),
22 (2), and (3), the denial of benefits does not prevent an individ-
23 ual from completing requalifying weeks in accordance with section
24 29(3) nor does the denial prevent an individual from receiving
25 benefits based on service with an employer other than an educa-
26 tional institution for any week of unemployment occurring between
27 academic years or terms, whether or not successive, or during an

1 established and customary vacation period or holiday recess, even
2 though the employer is not the most recent chargeable employer in
3 the individual's base period. However, in that case section
4 20(b) applies to the sequence of benefit charging, except for the
5 employment with the educational institution, and section 50(b)
6 applies to the calculation of credit weeks. When a denial of
7 benefits under subdivision (1) no longer applies, benefits shall
8 be charged in accordance with the normal sequence of charging as
9 provided in section 20(b).

10 (8) For benefit years beginning after the conversion date
11 prescribed in section 75, and notwithstanding subdivisions (1),
12 (2), and (3), the denial of benefits shall not prevent an indi-
13 vidual from completing requalifying weeks in accordance with
14 section 29(3) nor shall the denial prevent an individual from
15 receiving benefits based on service with another base period
16 employer other than an educational institution for any week of
17 unemployment occurring between academic years or terms, whether
18 or not successive, or during an established and customary vaca-
19 tion period or holiday recess. However, when benefits are paid
20 based on service with 1 or more base period employers other than
21 an educational institution, the individual's weekly benefit rate
22 shall be calculated in accordance with subsection (b)(1) but
23 during the denial period the individual's weekly benefit payment
24 shall be reduced by the portion of the payment attributable to
25 base period wages paid by an educational institution and the
26 account or experience account of the educational institution
27 shall not be charged for benefits payable to the individual.

1 When a denial of benefits under subdivision (1) is no longer
2 applicable, benefits shall be paid and charged on the basis of
3 base period wages with each of the base period employers includ-
4 ing the educational institution.

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

11 (10) Benefits shall be denied, as provided in subdivisions
12 (1), (2), and (3), for any week of unemployment beginning on and
13 after April 1, 1984, to an individual who performed those serv-
14 ices in an educational institution while in the employ of an edu-
15 cational service agency. For the purpose of this subdivision,
16 "educational service agency" means a governmental agency or gov-
17 ernmental entity that is established and operated exclusively for
18 the purpose of providing the services to 1 or more educational
19 institutions.

20 (j) For weeks of unemployment beginning after December 31,
21 1977, benefits shall not be paid to an individual on the basis of
22 any base period services, substantially all of which consist of
23 participating in sports or athletic events or training or prepar-
24 ing to so participate, for a week that commences during the
25 period between 2 successive sport seasons or similar periods if
26 the individual performed the services in the first of the seasons
27 or similar periods and there is a reasonable assurance that the

1 individual will perform the services in the later of the seasons
2 or similar periods.

3 (k)(1) For weeks of unemployment beginning after
4 December 31, 1977, benefits shall not be payable on the basis of
5 services performed by an alien unless the alien is an individual
6 who was lawfully admitted for permanent residence at the time the
7 services were performed, was lawfully present for the purpose of
8 performing the services, or was permanently residing in the
9 United States under color of law at the time the services were
10 performed, including an alien who was lawfully present in the
11 United States under ~~section 203(a)(7) or~~ section 212(d)(5) of
12 the immigration and nationality act, 8 U.S.C. ~~1153 and~~ 1182.

13 (2) Any data or information required of individuals applying
14 for benefits to determine whether benefits are payable because of
15 their alien status are uniformly required from all applicants for
16 benefits.

17 (3) Where an individual whose application for benefits would
18 otherwise be approved, a determination that benefits to that
19 individual are not payable because of the individual's alien
20 status shall not be made except upon a preponderance of the
21 evidence.

22 (m)(1) An individual filing a new claim for unemployment
23 compensation under this act after September 30, 1982, at the time
24 of filing the claim, shall disclose whether the individual owes
25 child support obligations as defined in this subsection. If an
26 individual discloses that he or she owes child support
27 obligations and is determined to be eligible for unemployment

1 compensation, the commission shall notify the state or local
2 child support enforcement agency enforcing the obligation that
3 the individual has been determined to be eligible for unemploy-
4 ment compensation.

5 (2) Notwithstanding section 30, the commission shall deduct
6 and withhold from any unemployment compensation payable to an
7 individual who owes child support obligations by using whichever
8 of the following methods results in the greatest amount:

9 (a) The amount, if any, specified by the individual to be
10 deducted and withheld under this subdivision.

11 (b) The amount, if any, determined pursuant to an agreement
12 submitted to the commission under section 454(19)(B)(i) of part D
13 of title IV of the social security act, ~~chapter 531, 49~~
14 ~~Stat. 620,~~ 42 U.S.C. 654, by the state or local child support
15 enforcement agency.

16 (c) Any amount otherwise required to be so deducted and
17 withheld from unemployment compensation pursuant to legal pro-
18 cess, as that term is defined in section 462(e) of part D of
19 title IV of the social security act, ~~chapter 531, 49 Stat. 620,~~
20 42 U.S.C. 662, properly served upon the commission.

21 (3) The amount of unemployment compensation subject to
22 deduction under subdivision (2) is that portion that remains pay-
23 able to the individual after application of the recoupment provi-
24 sions of section 62(a) and the reduction provisions of
25 subsections (c) and (f).

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

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

9 (6) This subsection applies only if the state or local child
10 support enforcement agency agrees in writing to reimburse and
11 does reimburse the commission for the administrative costs
12 incurred by the commission under this subsection that are attrib-
13 utable to child support obligations being enforced by the state
14 or local child support enforcement agency. The administrative
15 costs incurred shall be determined by the commission. The com-
16 mission, in its discretion, may require payment of administrative
17 costs in advance.

18 (7) As used in this subsection:

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

24 (b) "Child support obligations" includes only obligations
25 that are being enforced pursuant to a plan described in
26 section 454 of part D of title IV of the social security act,
27 ~~chapter 531, 49 Stat. 620,~~ 42 U.S.C. 654, that has been

1 approved by the secretary of health and human services under
2 part D of title IV of the social security act, ~~chapter 531, 49~~
3 ~~Stat. 620,~~ 42 U.S.C. 651 to ~~669~~ 669b.

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

7 (n) Subsection (i)(2) applies to services performed by
8 school bus drivers employed by a private contributing employer
9 holding a contractual relationship with an educational institu-
10 tion, but only if at least 75% of the individual's base period
11 wages with that employer are attributable to services performed
12 as a school bus driver.

13 (o)(1) For weeks of unemployment beginning after July 1,
14 1996, unemployment benefits based on services by a seasonal
15 worker performed in seasonal employment shall be payable only for
16 weeks of unemployment that occur during the normal seasonal work
17 period. Benefits shall not be paid based on services performed
18 in seasonal employment for any week of unemployment beginning
19 after the effective date of this subdivision that begins during
20 the period between 2 successive normal seasonal work periods to
21 any individual if that individual performs the service in the
22 first of the normal seasonal work periods and if there is a rea-
23 sonable assurance that the individual will perform the service
24 for a seasonal employer in the second of the normal seasonal work
25 periods. If benefits are denied to an individual for any week
26 solely as a result of this subsection and the individual is not
27 offered an opportunity to perform in the second normal seasonal

1 work period for which reasonable assurance of employment had been
2 given, the individual is entitled to a retroactive payment of
3 benefits under this subsection for each week that the individual
4 previously filed a timely claim for benefits. An individual may
5 apply for any retroactive benefits under this subsection in
6 accordance with R 421.210 of the Michigan administrative code.

7 (2) Not less than 20 days before the estimated beginning
8 date of a normal seasonal work period, an employer may apply to
9 the commission in writing for designation as a seasonal
10 employer. At the time of application, the employer shall con-
11 spicuously display a copy of the application on the employer's
12 premises. Within 90 days after receipt of the application, the
13 commission shall determine if the employer is a seasonal
14 employer. A determination or redetermination of the commission
15 concerning the status of an employer as a seasonal employer, or a
16 decision of a referee or the board of review, or of the courts of
17 this state concerning the status of an employer as a seasonal
18 employer, which has become final, together with the record there-
19 of, may be introduced in any proceeding involving a claim for
20 benefits, and the facts found and decision issued in the determi-
21 nation, redetermination, or decision shall be conclusive unless
22 substantial evidence to the contrary is introduced by or on
23 behalf of the claimant.

24 (3) If the employer is determined to be a seasonal employer,
25 the employer shall conspicuously display on its premises a notice
26 of the determination and the beginning and ending dates of the
27 employer's normal seasonal work periods. The notice shall be

1 furnished by the commission. The notice shall additionally
2 specify that an employee must timely apply for unemployment bene-
3 fits at the end of a first seasonal work period to preserve his
4 or her right to receive retroactive unemployment benefits in the
5 event that he or she is not reemployed by the seasonal employer
6 in the second of the normal seasonal work periods.

7 (4) The commission may issue a determination terminating an
8 employer's status as a seasonal employer on the commission's own
9 motion for good cause, or upon the written request of the
10 employer. A termination determination under this subdivision
11 terminates an employer's status as a seasonal employer, and shall
12 become effective on the beginning date of the normal seasonal
13 work period that would have immediately followed the date the
14 commission issues the determination. A determination under this
15 subdivision is subject to review in the same manner and to the
16 same extent as any other determination under this act.

17 (5) An employer whose status as a seasonal employer is ter-
18 minated under subdivision (4) may not reapply for a seasonal
19 employer status determination until after a regularly recurring
20 normal seasonal work period has begun and ended.

21 (6) If a seasonal employer informs an employee who received
22 assurance of being rehired that, despite the assurance, the
23 employee will not be rehired at the beginning of the employer's
24 next normal seasonal work period, this subsection shall not pre-
25 vent the employee from receiving unemployment benefits in the
26 same manner and to the same extent he or she would receive

1 benefits under this act from an employer who has not been
2 determined to be a seasonal employer.

3 (7) A successor of a seasonal employer is considered to be a
4 seasonal employer unless the successor provides the commission,
5 within 120 days after the transfer, with a written request for
6 termination of its status as a seasonal employer in accordance
7 with subdivision (4).

8 (8) At the time an employee is hired by a seasonal employer,
9 the employer shall notify the employee in writing whether the
10 employee will be a seasonal worker. The employer shall provide
11 the worker with written notice of any subsequent change in the
12 employee's status as a seasonal worker. If an employee of a sea-
13 sonal employer is denied benefits because that employee is a sea-
14 sonal worker, the employee may contest that designation in
15 accordance with section 32a.

16 (9) As used in this subsection:

17 (a) "Construction industry" means the work activity desig-
18 nated in major groups 15, 16, and 17 of the standard industrial
19 classification manual, United States office of management and
20 budget, 1987 edition.

21 (b) "Normal seasonal work period" means that period or those
22 periods of time determined pursuant to rules promulgated by the
23 commission during which an individual is employed in seasonal
24 employment.

25 (c) "Seasonal employment" means the employment of 1 or more
26 individuals primarily hired to perform services in an industry,

1 other than the construction industry, that does either of the
2 following:

3 (1) Customarily operates during regularly recurring periods
4 of 26 weeks or less in any 52-consecutive-week period.

5 (2) Customarily employs at least 50% of its employees for
6 regularly recurring periods of 26 weeks or less within a period
7 of 52 consecutive weeks.

8 (d) "Seasonal employer" means an employer, other than an
9 employer in the construction industry, who applies to the commis-
10 sion for designation as a seasonal employer and who the commis-
11 sion determines to be an employer whose operations and business
12 are substantially engaged in seasonal employment.

13 (e) "Seasonal worker" means a worker who has been paid wages
14 by a seasonal employer for work performed only during the normal
15 seasonal work period.

16 (10) If this subsection is found by the United States
17 department of labor to be contrary to the federal unemployment
18 tax act, chapter 23 of the internal revenue code of 1986, 26
19 U.S.C. 3301 to 3311, or the social security act, chapter 531, 49
20 Stat. 620, and if conformity with the federal law is required as
21 a condition for full tax credit against the tax imposed under the
22 federal unemployment tax act or as a condition for receipt by the
23 commission of federal administrative grant funds under the social
24 security act, this subsection shall be invalid.

25 (p) Benefits shall not be paid to an individual based upon
26 his or her services as a school crossing guard for any week of
27 unemployment that begins between 2 successive academic years or

1 terms, if that individual performs the services of a school
2 crossing guard in the first of the academic years or terms and
3 has a reasonable assurance that he or she will perform those
4 services in the second of the academic years or terms.