

HOUSE BILL No. 5988

May 1, 2002, Introduced by Rep. Woronchak and referred to the Committee on Employment Relations, Training and 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 2002 PA 192.

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 become payable from the fund and continue to
4 be payable to the unemployed individual, subject to the limita-
5 tions imposed by the individual's monetary entitlement, if the
6 individual continues to be unemployed and to file claims for ben-
7 efits, until the determination, redetermination, or decision is
8 reversed, a determination, redetermination, or decision on a new
9 issue holding the individual disqualified or ineligible is made,
10 or, for benefit years beginning before the conversion date

1 prescribed in section 75, a new separation issue arises resulting
2 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%~~ 4.5% of the individual's
14 wages paid in the calendar quarter of the base period in which
15 the individual was paid the highest total wages, plus \$6.00 for
16 each dependent as defined in subdivision (3), up to a maximum of
17 5 dependents, claimed by the individual at the time the individ-
18 ual files a new claim for benefits, except that the individual's
19 maximum weekly benefit rate shall not exceed \$300.00 before the
20 effective date of the amendatory act that added section 13/ and
21 \$362.00 for claims filed on and after the effective date of the
22 amendatory act that added section 13/. The weekly benefit rate
23 for an individual claiming benefits on and after the effective
24 date of the amendatory act that added section 13/ shall be recal-
25 culated subject to the \$362.00 maximum weekly benefit rate. The
26 unemployment agency shall establish the procedures necessary to
27 verify the number of dependents claimed. If a person

1 fraudulently claims a dependent, that person is subject to the
2 penalties set forth in sections 54 and 54c. With respect to ben-
3 efit years beginning on or after October 2, 1983, the weekly ben-
4 efit rate shall be adjusted to the next lower multiple of \$1.00.

5 (2) For benefit years beginning before the conversion date
6 prescribed in section 75, the state average weekly wage for a
7 calendar year shall be computed on the basis of the 12 months
8 ending the June 30 immediately preceding that calendar year. The
9 commission shall prepare a table of weekly benefit rates based on
10 an "average after tax weekly wage" calculated by subtracting,
11 from an individual's average weekly wage as determined in accord-
12 ance with section 51, a reasonable approximation of the weekly
13 amount required to be withheld by the employer from the remunera-
14 tion of the individual based on dependents and exemptions for
15 income taxes under chapter 24 of subtitle C of the internal reve-
16 nue code of 1986, 26 U.S.C. 3401 to 3406, and under section 351
17 of the income tax act of 1967, 1967 PA 281, MCL 206.351, and for
18 old age and survivor's disability insurance taxes under the fed-
19 eral insurance contributions act, chapter 21 of subtitle C of the
20 internal revenue code of 1986, 26 U.S.C. 3128. For purposes of
21 applying the table to an individual's claim, a dependent shall be
22 as defined in subdivision (3). The table applicable to an
23 individual's claim shall be the table reflecting the number of
24 dependents claimed by the individual under subdivision (3). The
25 commission shall adjust the tables based on changes in withhold-
26 ing schedules published by the United States department of
27 treasury, internal revenue service, and by the department of

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

4 (3) For benefit years beginning before the conversion date
5 prescribed in section 75, a dependent means any of the following
6 persons who is receiving and for at least 90 consecutive days
7 immediately preceding the week for which benefits are claimed,
8 or, in the case of a dependent husband, wife, or child, for the
9 duration of the marital or parental relationship, if the rela-
10 tionship has existed less than 90 days, has received more than
11 half the cost of his or her support from the individual claiming
12 benefits:

13 (a) A child, including stepchild, adopted child, or grand-
14 child of the individual who is under 18 years of age, or 18 years
15 of age or over if, because of physical or mental infirmity, the
16 child is unable to engage in a gainful occupation, or is a
17 full-time student as defined by the particular educational insti-
18 tution, at a high school, vocational school, community or junior
19 college, or college or university and has not attained the age of
20 22.

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

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

25 (d) A brother or sister of the individual if the brother or
26 sister is orphaned or the living parents are dependent parents of
27 an individual, and the brother or sister is under 18 years of

1 age, or 18 years of age or over if, because of physical or mental
2 infirmity, the brother or sister is unable to engage in a gainful
3 occupation, or is a full-time student as defined by the particu-
4 lar educational institution, at a high school, vocational school,
5 community or junior college, or college or university and is less
6 than 22 years of age.

7 (4) For benefit years beginning after the conversion date
8 prescribed in section 75, a dependent means any of the following
9 persons who received for at least 90 consecutive days immediately
10 preceding the first week of the benefit year or, in the case of a
11 dependent husband, wife, or child, for the duration of the mari-
12 tal or parental relationship if the relationship existed less
13 than 90 days before the beginning of the benefit year, has
14 received more than 1/2 the cost of his or her support from the
15 individual claiming the benefits:

16 (a) A child, including stepchild, adopted child, or grand-
17 child of the individual who is under 18 years of age, or 18 years
18 of age and over if, because of physical or mental infirmity, the
19 child is unable to engage in a gainful occupation, or is a
20 full-time student as defined by the particular educational insti-
21 tution, at a high school, vocational school, community or junior
22 college, or college or university and has not attained the age of
23 22.

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

25 (c) The legal father or mother of the individual if that
26 parent is either more than 65 years of age or is permanently
27 disabled from engaging in a gainful occupation.

1 (d) A brother or sister of the individual if the brother or
2 sister is orphaned or the living parents are dependent parents of
3 an individual, and the brother or sister is under 18 years of
4 age, or 18 years of age and over if, because of physical or
5 mental infirmity, the brother or sister is unable to engage in a
6 gainful occupation, or is a full-time student as defined by the
7 particular educational institution, at a high school, vocational
8 school, community or junior college, or college or university and
9 is less than 22 years of age.

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

21 (6) For benefit years beginning before the conversion date
22 prescribed in section 75, failure on the part of an individual,
23 due to misinformation or lack of information, to furnish all
24 information material for determination of the number of the
25 individual's dependents when the individual files a claim for
26 benefits with respect to a week shall be considered good cause
27 for the issuance of a redetermination as to the amount of

1 benefits based on the number of the individual's dependents as of
2 the beginning date of that week. Dependency status of a depen-
3 dent, child or otherwise, once established or fixed in favor of a
4 person is not transferable to or usable by another person with
5 respect to the same week.

6 For benefit years beginning after the conversion date as
7 prescribed in section 75, failure on the part of an individual,
8 due to misinformation or lack of information, to furnish all
9 information material for determination of the number of the
10 individual's dependents shall be considered good cause for the
11 issuance of a redetermination as to the amount of benefits based
12 on the number of the individual's dependents as of the beginning
13 of the benefit year.

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

16 (1) Each eligible individual shall be paid a weekly benefit
17 rate with respect to the week for which the individual earns or
18 receives no remuneration. Notwithstanding the definition of week
19 in section 50, if within 2 consecutive weeks in which an individ-
20 ual was not unemployed within the meaning of section 48 there was
21 a period of 7 or more consecutive days for which the individual
22 did not earn or receive remuneration, that period shall be con-
23 sidered a week for benefit purposes under this act if a claim for
24 benefits for that period is filed not later than 30 days after
25 the end of the period.

26 (2) Each eligible individual shall have his or her weekly
27 benefit rate reduced with respect to each week in which the

1 individual earns or receives remuneration at the rate of 50 cents
2 for each whole \$1.00 of remuneration earned or received during
3 that week.

4 (3) An individual who receives or earns partial remuneration
5 may not receive a total of benefits and earnings that exceeds
6 1-1/2 times his or her weekly benefit amount. For each dollar of
7 total benefits and earnings that exceeds 1-1/2 times the
8 individual's weekly benefit amount, benefits shall be reduced by
9 \$1.00.

10 (4) If the reduction in a claimant's benefit rate for a week
11 in accordance with subparagraph (2) or (3) results in a benefit
12 rate greater than zero for that week, the claimant's balance of
13 weeks of benefit payments will be reduced by 1 week.

14 (5) All remuneration for work performed during a shift that
15 terminates on 1 day but that began on the preceding day shall be
16 considered to have been earned by the eligible individual on the
17 preceding day.

18 (d) For benefit years beginning before the conversion date
19 prescribed in section 75, and subject to subsection (f) and this
20 subsection, the amount of benefits to which an individual who is
21 otherwise eligible is entitled during a benefit year from an
22 employer with respect to employment during the base period is the
23 amount obtained by multiplying the weekly benefit rate with
24 respect to that employment by 3/4 of the number of credit weeks
25 earned in the employment. For the purpose of this subsection and
26 section 20(c), if the resultant product is not an even multiple
27 of 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, for 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 does not apply to claimants
14 declared eligible for training benefits in accordance with sub-
15 section (g). For benefit years beginning after the conversion
16 date prescribed in section 75, and subject to subsection (f) and
17 this subsection, the maximum benefit amount payable to an indi-
18 vidual in a benefit year for purposes of this section and
19 section 20(c) is the number of weeks of benefits payable to an
20 individual during the benefit year, multiplied by the
21 individual's weekly benefit rate. The number of weeks of bene-
22 fits payable to an individual shall be calculated by taking 43%
23 of the individual's base period wages and dividing the result by
24 the individual's weekly benefit rate. If the quotient is not a
25 whole or half number, the result shall be rounded down to the
26 nearest half number. However, not more than 26 weeks of benefits
27 or less than 14 weeks of benefits shall be payable to an

1 individual in a benefit year. The limitation of total benefits
2 set forth in this subsection shall not apply to claimants
3 declared eligible for training benefits in accordance with
4 subsection (g).

5 (e) When a claimant dies or is judicially declared insane or
6 mentally incompetent, unemployment compensation benefits accrued
7 and payable to that person for weeks of unemployment before
8 death, insanity, or incompetency, but not paid, shall become due
9 and payable to the person who is the legal heir or guardian of
10 the claimant or to any other person found by the commission to be
11 equitably entitled to the benefits by reason of having incurred
12 expense in behalf of the claimant for the claimant's burial or
13 other necessary expenses.

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

26 (a) If and to the extent that unemployment benefits payable
27 under this act would be chargeable to an employer who has

1 contributed to the financing of a retirement plan under which the
2 claimant is receiving or will receive a retirement benefit yield-
3 ing a pro rata weekly amount equal to or larger than the
4 claimant's weekly benefit rate as otherwise established under
5 this act, the claimant shall not receive unemployment benefits
6 that would be chargeable to the employer under this act.

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

18 (c) If the unemployment benefit payable under this act would
19 be chargeable to an employer who has not contributed to the
20 financing of a retirement plan under which the claimant is
21 receiving or will receive a retirement benefit, then the weekly
22 benefit rate of the claimant as otherwise established under this
23 act shall not be reduced due to receipt of a retirement benefit.

24 (d) If the unemployment benefit payable under this act is
25 computed on the basis of multiemployer credit weeks and a portion
26 of the benefit is allocable under section 20(e) to an employer
27 who has contributed to the financing of a retirement plan under

1 which the claimant is receiving or will receive a retirement
2 benefit, the adjustments required by subparagraph (a) or (b)
3 apply only to that portion of the weekly benefit rate that would
4 otherwise be allocable and chargeable to the employer.

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

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

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

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

26 (ii) Payable to an individual because the individual has
27 qualified on the basis of attained age, length of service, or

1 disability, whether or not the individual retired or was retired
2 from employment. Amounts paid to individuals in the course of
3 liquidation of a private pension or retirement fund because of
4 termination of the business or of a plant or department of the
5 business of the employer involved shall not be considered to be
6 retirement benefits.

7 (b) If a benefit as described in subparagraph (a) is payable
8 or paid to the individual under a plan to which the individual
9 has contributed:

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

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

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

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

1 imposed by the federal unemployment tax act, chapter 23 of
2 subtitle C of the internal revenue code of 1986, 26 U.S.C. 3301
3 to 3311.

4 (6) For benefit years beginning after the conversion date
5 prescribed in section 75, notwithstanding any inconsistent provi-
6 sions of this act, the weekly benefit rate of each individual who
7 is receiving or will receive a retirement benefit, as defined in
8 subdivision (4), shall be adjusted as provided in
9 subparagraphs (a), (b), and (c). However, an individual's
10 extended benefit account and an individual's weekly extended ben-
11 efit rate under section 64 shall be established without reduction
12 under this subsection, unless subdivision (5) is in effect.
13 Except as otherwise provided in this subsection, all the other
14 provisions of this act shall continue to be applicable in connec-
15 tion with the benefit claims of those retired persons.

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

22 (b) If any base period employer or chargeable employer has
23 contributed to the financing of a retirement plan under which the
24 claimant is receiving or will receive a retirement benefit yield-
25 ing a pro rata weekly amount less than the claimant's weekly ben-
26 efit rate as otherwise established under this act, then the
27 weekly benefit rate otherwise payable to the claimant shall be

1 reduced by an amount equal to the pro rata weekly amount,
2 adjusted to the next lower multiple of \$1.00, which the claimant
3 is receiving or will receive as a retirement benefit.

4 (c) If no base period or separating employer has contributed
5 to the 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 (g) Notwithstanding any other provision of this act, an
10 individual pursuing vocational training or retraining pursuant to
11 section 28(2) who has exhausted all benefits available under sub-
12 section (d) may be paid for each week of approved vocational
13 training pursued beyond the date of exhaustion a benefit amount
14 in accordance with subsection (c), but not in excess of the
15 individual's most recent weekly benefit rate. However, an indi-
16 vidual shall not be paid training benefits totaling more than 18
17 times the individual's most recent weekly benefit rate. The
18 expiration or termination of a benefit year shall not stop or
19 interrupt payment of training benefits if the training for which
20 the benefits were granted began before expiration or termination
21 of the benefit year.

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

1 (i) Benefits based on service in employment described in
2 section 42(8), (9), and (10) are payable in the same amount, on
3 the same terms, and subject to the same conditions as compensa-
4 tion payable on the basis of other service subject to this act,
5 except that:

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

24 (2) With respect to service performed in other than an
25 instructional, research, or principal administrative capacity for
26 an institution of higher education as defined in section 53(2) or
27 for an educational institution other than an institution of

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

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

20 (4) If benefits are denied to an individual for any week
21 solely as a result of subdivision (2) and the individual was not
22 offered an opportunity to perform in the second academic year or
23 term the service for which reasonable assurance had been given,
24 the individual is entitled to a retroactive payment of benefits
25 for each week for which the individual had previously filed a
26 timely claim for benefits. An individual entitled to benefits

1 under this subdivision may apply for those benefits by mail in
2 accordance with R 421.210 as promulgated by the commission.

3 (5) Benefits based upon services in other than an instruc-
4 tional, research, or principal administrative capacity for an
5 institution of higher education shall not be denied for any week
6 of unemployment commencing during the period between 2 successive
7 academic years or terms solely because the individual had per-
8 formed the service in the first of the academic years or terms
9 and there is reasonable assurance that the individual will per-
10 form the service for an institution of higher education or an
11 educational institution other than an institution of higher edu-
12 cation in the second of the academic years or terms, unless a
13 denial is required as a condition for full tax credit against the
14 tax imposed by the federal unemployment tax act, chapter 23 of
15 subtitle C of the internal revenue code of 1986, 26 U.S.C. 3301
16 to 3311.

17 (6) For benefit years established before the conversion date
18 prescribed in section 75, and notwithstanding subdivisions (1),
19 (2), and (3), the denial of benefits does not prevent an individ-
20 ual from completing requalifying weeks in accordance with section
21 29(3) nor does the denial prevent an individual from receiving
22 benefits based on service with an employer other than an educa-
23 tional institution for any week of unemployment occurring between
24 academic years or terms, whether or not successive, or during an
25 established and customary vacation period or holiday recess, even
26 though the employer is not the most recent chargeable employer in
27 the individual's base period. However, in that case section

1 20(b) applies to the sequence of benefit charging, except for the
2 employment with the educational institution, and section 50(b)
3 applies to the calculation of credit weeks. When a denial of
4 benefits under subdivision (1) no longer applies, benefits shall
5 be charged in accordance with the normal sequence of charging as
6 provided in section 20(b).

7 (7) For benefit years beginning after the conversion date
8 prescribed in section 75, and notwithstanding subdivisions (1),
9 (2), and (3), the denial of benefits shall not prevent an indi-
10 vidual from completing requalifying weeks in accordance with
11 section 29(3) nor shall the denial prevent an individual from
12 receiving benefits based on service with another base period
13 employer other than an educational institution for any week of
14 unemployment occurring between academic years or terms, whether
15 or not successive, or during an established and customary vaca-
16 tion period or holiday recess. However, when benefits are paid
17 based on service with 1 or more base period employers other than
18 an educational institution, the individual's weekly benefit rate
19 shall be calculated in accordance with subsection (b)(1) but
20 during the denial period the individual's weekly benefit payment
21 shall be reduced by the portion of the payment attributable to
22 base period wages paid by an educational institution and the
23 account or experience account of the educational institution
24 shall not be charged for benefits payable to the individual.
25 When a denial of benefits under subdivision (1) is no longer
26 applicable, benefits shall be paid and charged on the basis of

1 base period wages with each of the base period employers
2 including the educational institution.

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

9 (9) In accordance with subdivisions (1), (2), and (3), bene-
10 fits for any week of unemployment shall be denied to an individ-
11 ual who performed services described in subdivision (1), (2), or
12 (3) in an educational institution while in the employ of an edu-
13 cational service agency. For the purpose of this subdivision,
14 "educational service agency" means a governmental agency or gov-
15 ernmental entity that is established and operated exclusively for
16 the purpose of providing the services to 1 or more educational
17 institutions.

18 (j) Benefits shall not be paid to an individual on the basis
19 of any base period services, substantially all of which consist
20 of participating in sports or athletic events or training or pre-
21 paring to participate, for a week that commences during the
22 period between 2 successive sport seasons or similar periods if
23 the individual performed the services in the first of the seasons
24 or similar periods and there is a reasonable assurance that the
25 individual will perform the services in the later of the seasons
26 or similar periods.

1 (k)(1) Benefits shall not be payable on the basis of
2 services performed by an alien unless the alien is an individual
3 who was lawfully admitted for permanent residence at the time the
4 services were performed, was lawfully present for the purpose of
5 performing the services, or was permanently residing in the
6 United States under color of law at the time the services were
7 performed, including an alien who was lawfully present in the
8 United States under section 212(d)(5) of the immigration and
9 nationality act, chapter 477, 66 Stat. 182, 8 U.S.C. 1182.

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

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

19 (m)(1) An individual filing a new claim for unemployment
20 compensation under this act, at the time of filing the claim,
21 shall disclose whether the individual owes child support obliga-
22 tions as defined in this subsection. If an individual discloses
23 that he or she owes child support obligations and is determined
24 to be eligible for unemployment compensation, the commission
25 shall notify the state or local child support enforcement agency
26 enforcing the obligation that the individual has been determined
27 to be eligible for unemployment compensation.

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

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

7 (b) The amount, if any, determined pursuant to an agreement
8 submitted to the commission under section 454(19)(B)(i) of part D
9 of title IV of the social security act, 42 U.S.C. 654, by the
10 state or local child support enforcement agency.

11 (c) Any amount otherwise required to be deducted and with-
12 held from unemployment compensation pursuant to legal process, as
13 that term is defined in section 462(e) of part D of title IV of
14 the social security act, 42 U.S.C. 662, properly served upon the
15 commission.

16 (3) The amount of unemployment compensation subject to
17 deduction under subdivision (2) is that portion that remains pay-
18 able to the individual after application of the recoupment provi-
19 sions of section 62(a) and the reduction provisions of
20 subsections (c) and (f).

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

24 (5) Any amount deducted and withheld under subdivision (2)
25 shall be treated for all purposes as if it were paid to the indi-
26 vidual as unemployment compensation and paid by the individual to

1 the state or local child support enforcement agency in
2 satisfaction of the individual's child support obligations.

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

12 (7) As used in this subsection:

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

18 (b) "Child support obligations" includes only obligations
19 that are being enforced pursuant to a plan described in
20 section 454 of part D of title IV of the social security act, 42
21 U.S.C. 654, that has been approved by the secretary of health and
22 human services under part D of title IV of the social security
23 act, chapter 531, 49 Stat. 620, 42 U.S.C. 651 to 655, 656 to 660,
24 and 663 to 669b.

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

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

7 (o)(1) For weeks of unemployment beginning after July 1,
8 1996, unemployment benefits based on services by a seasonal
9 worker performed in seasonal employment shall be payable only for
10 weeks of unemployment that occur during the normal seasonal work
11 period. Benefits shall not be paid based on services performed
12 in seasonal employment for any week of unemployment beginning
13 after March 28, 1996 that begins during the period between 2 suc-
14 cessive normal seasonal work periods to any individual if that
15 individual performs the service in the first of the normal sea-
16 sonal work periods and if there is a reasonable assurance that
17 the individual will perform the service for a seasonal employer
18 in the second of the normal seasonal work periods. If benefits
19 are denied to an individual for any week solely as a result of
20 this subsection and the individual is not offered an opportunity
21 to perform in the second normal seasonal work period for which
22 reasonable assurance of employment had been given, the individual
23 is entitled to a retroactive payment of benefits under this sub-
24 section for each week that the individual previously filed a
25 timely claim for benefits. An individual may apply for any ret-
26 roactive benefits under this subsection in accordance with
27 R 421.210 of the Michigan administrative code.

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

18 (3) If the employer is determined to be a seasonal employer,
19 the employer shall conspicuously display on its premises a notice
20 of the determination and the beginning and ending dates of the
21 employer's normal seasonal work periods. The notice shall be
22 furnished by the commission. The notice shall additionally spec-
23 ify that an employee must timely apply for unemployment benefits
24 at the end of a first seasonal work period to preserve his or her
25 right to receive retroactive unemployment benefits in the event
26 that he or she is not reemployed by the seasonal employer in the
27 second of the normal seasonal work periods.

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

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

15 (6) If a seasonal employer informs an employee who received
16 assurance of being rehired that, despite the assurance, the
17 employee will not be rehired at the beginning of the employer's
18 next normal seasonal work period, this subsection shall not pre-
19 vent the employee from receiving unemployment benefits in the
20 same manner and to the same extent he or she would receive bene-
21 fits under this act from an employer who has not been determined
22 to be a seasonal employer.

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

1 (8) At the time an employee is hired by a seasonal employer,
2 the employer shall notify the employee in writing whether the
3 employee will be a seasonal worker. The employer shall provide
4 the worker with written notice of any subsequent change in the
5 employee's status as a seasonal worker. If an employee of a sea-
6 sonal employer is denied benefits because that employee is a sea-
7 sonal worker, the employee may contest that designation in
8 accordance with section 32a.

9 (9) As used in this subsection:

10 (a) "Construction industry" means the work activity desig-
11 nated in sector group 23 -- construction of the North American
12 classification system -- United States office of management and
13 budget, 1997 edition.

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

18 (c) "Seasonal employment" means the employment of 1 or more
19 individuals primarily hired to perform services in an industry,
20 other than the construction industry, that does either of the
21 following:

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

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

1 (d) "Seasonal employer" means an employer, other than an
2 employer in the construction industry, who applies to the
3 commission for designation as a seasonal employer and who the
4 commission determines to be an employer whose operations and
5 business are substantially engaged in seasonal employment.

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

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

18 (p) Benefits shall not be paid to an individual based upon
19 his or her services as a school crossing guard for any week of
20 unemployment that begins between 2 successive academic years or
21 terms, if that individual performs the services of a school
22 crossing guard in the first of the academic years or terms and
23 has a reasonable assurance that he or she will perform those
24 services in the second of the academic years or terms.