

HOUSE BILL No. 6425

September 6, 2006, Introduced by Reps. McDowell, Bennett, Polidori, Miller, Alma Smith, Espinoza, Anderson, Angerer, Farrah, Kathleen Law, Sheltroun, Gleason, Kolb, Sak, Adamini, Brown, Clack, Lemmons, Jr., Lipsey, Waters, Vagnozzi, Tobocman and Cheeks 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 limitations
5 imposed by the individual's monetary entitlement, if the individual
6 continues to be unemployed and to file claims for benefits, until
7 the determination, redetermination, or decision is reversed, a
8 determination, redetermination, or decision on a new issue holding
9 the individual disqualified or ineligible is made, or, for benefit
10 years beginning before ~~the conversion date prescribed in section~~
11 ~~75~~ **OCTOBER 1, 2000**, a new separation issue arises resulting from

1 subsequent work.

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

5 (b)(1) Subject to subsection (f), the weekly benefit rate for
6 an individual, with respect to benefit years beginning before ~~the~~
7 ~~conversion date prescribed in section 75, shall be~~ **OCTOBER 1,**
8 **2000, IS** 67% of the individual's average after tax weekly wage,
9 except that the individual's maximum weekly benefit rate shall not
10 exceed \$300.00. However, with respect to benefit years beginning
11 ~~after the conversion date as prescribed in section 75~~ **ON OR AFTER**
12 **OCTOBER 1, 2000,** the individual's weekly benefit rate ~~shall be~~ **IS**
13 4.1% of the individual's wages paid in the calendar quarter of the
14 base period in which the individual was paid the highest total
15 wages, plus \$6.00 for each dependent as defined in subdivision ~~(3)~~
16 **(4),** up to a maximum of 5 dependents, claimed by the individual at
17 the time the individual files a new claim for benefits, except that
18 the individual's maximum weekly benefit rate shall not exceed
19 \$300.00 before ~~the effective date of the amendatory act that added~~
20 ~~section 13/and~~ **APRIL 26, 2002;** \$362.00 for claims filed on and
21 after ~~the effective date of the amendatory act that added section~~
22 ~~13/~~ **APRIL 26, 2002 AND BEFORE THE THIRTIETH DAY AFTER THE EFFECTIVE**
23 **DATE OF THE AMENDATORY ACT THAT ESTABLISHED THE MAXIMUM BENEFIT**
24 **RATE OF \$408.00; AND \$408.00 FOR CLAIMS FILED ON OR AFTER THE**
25 **THIRTIETH DAY AFTER THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT**
26 **ESTABLISHED THE MAXIMUM BENEFIT RATE OF \$408.00.** The weekly benefit
27 rate for an individual claiming benefits on and after ~~the~~

1 ~~effective date of the amendatory act that added section 13/~~ **THE**
 2 **THIRTIETH DAY AFTER THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT**
 3 **ESTABLISHED THE MAXIMUM BENEFIT RATE OF \$408.00** shall be
 4 recalculated subject to the ~~-\$362.00-~~ maximum weekly benefit rate.
 5 The unemployment agency shall establish the procedures necessary to
 6 verify the number of dependents claimed. If a person fraudulently
 7 claims a dependent, that person is subject to the penalties set
 8 forth in sections 54 and 54c. ~~With respect to~~ **FOR** benefit years
 9 beginning on or after October 2, 1983, the weekly benefit rate
 10 shall be adjusted to the next lower multiple of \$1.00.

11 (2) For benefit years beginning before ~~the conversion date~~
 12 ~~prescribed in section 75-~~ **OCTOBER 1, 2000**, the state average weekly
 13 wage for a calendar year shall be computed on the basis of the 12
 14 months ending the June 30 immediately ~~preceding~~ **BEFORE** that
 15 calendar year. The commission shall prepare a table of weekly
 16 benefit rates based on an "average after tax weekly wage"
 17 calculated by subtracting, from an individual's average weekly wage
 18 as determined in accordance with section 51, a reasonable
 19 approximation of the weekly amount required to be withheld by the
 20 employer from the remuneration of the individual based on
 21 dependents and exemptions for income taxes under ~~chapter 24 of~~
 22 ~~subtitle C of the internal revenue code of 1986,~~ 26 ~~U.S.C.~~ **USC**
 23 3401 to 3406, and under section 351 of the income tax act of 1967,
 24 1967 PA 281, MCL 206.351, and for old age and survivor's disability
 25 insurance taxes under the federal insurance contributions act,
 26 ~~chapter 21 of subtitle C of the internal revenue code of 1986,~~ 26
 27 ~~U.S.C.~~ **USC 3101 TO 3128**. For purposes of applying the table to an

1 individual's claim, a dependent shall be as defined in subdivision
2 (3). The table applicable to an individual's claim shall be the
3 table reflecting the number of dependents claimed by the individual
4 under subdivision (3). The commission shall adjust the tables based
5 on changes in withholding schedules published by the United States
6 department of treasury, internal revenue service, and by the
7 department of treasury. The number of dependents allowed shall be
8 determined with respect to each week of unemployment for which an
9 individual is claiming benefits.

10 (3) For benefit years beginning before ~~the conversion date~~
11 ~~prescribed in section 75~~ **OCTOBER 1, 2000**, a dependent means any of
12 the following persons who is receiving and for at least 90
13 consecutive days immediately ~~preceding~~ **BEFORE** the week for which
14 benefits are claimed, or, in the case of a dependent husband, wife,
15 or child, for the duration of the marital or parental relationship,
16 if the relationship has existed less than 90 days, has received
17 more than half the cost of his or her support from the individual
18 claiming benefits:

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

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

27 (c) The legal father or mother of the individual if that

1 parent is either more than 65 years of age or is permanently
2 disabled from engaging in a gainful occupation.

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

12 (4) For benefit years beginning ~~after the conversion date~~
13 ~~prescribed in section 75~~ **ON OR AFTER OCTOBER 1, 2000**, a dependent
14 means any of the following persons who received for at least 90
15 consecutive days immediately ~~preceding~~ **BEFORE** the first week of
16 the benefit year or, in the case of a dependent husband, wife, or
17 child, for the duration of the marital or parental relationship if
18 the relationship existed less than 90 days before the beginning of
19 the benefit year, has received more than 1/2 the cost of his or her
20 support from the individual claiming the benefits:

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

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

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

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

14 (5) For benefit years beginning before ~~the conversion date~~
15 ~~prescribed in section 75~~ **OCTOBER 1, 2000**, dependency status of a
16 dependent, child or otherwise, once established or fixed in favor
17 of an individual continues during the individual's benefit year
18 until terminated. Dependency status of a dependent terminates at
19 the end of the week in which the dependent ceases to be an
20 individual described in subdivision (3)(a), (b), (c), or (d)
21 because of age, death, or divorce. For benefit years beginning
22 ~~after the conversion date prescribed in section 75~~ **ON OR AFTER**
23 **OCTOBER 1, 2000**, the number of dependents established for an
24 individual at the beginning of the benefit year shall remain in
25 effect during the entire benefit year.

26 (6) For benefit years beginning before ~~the conversion date~~
27 ~~prescribed in section 75~~ **OCTOBER 1, 2000**, failure on the part of

1 an individual, due to misinformation or lack of information, to
2 furnish all information material for determination of the number of
3 the individual's dependents when the individual files a claim for
4 benefits with respect to a week ~~shall be considered~~ **IS** good cause
5 ~~for the issuance of~~ **TO ISSUE** a redetermination as to the amount of
6 benefits based on the number of the individual's dependents as of
7 the beginning date of that week. Dependency status of a dependent,
8 child or otherwise, once established or fixed in favor of a person
9 is not transferable to or usable by another person with respect to
10 the same week.

11 For benefit years beginning ~~after the conversion date as~~
12 ~~prescribed in section 75~~ **ON OR AFTER OCTOBER 1, 2000**, failure on
13 the part of an individual, due to misinformation or lack of
14 information, to furnish all information material for determination
15 of the number of the individual's dependents ~~shall be considered~~
16 **IS** good cause ~~for the issuance of~~ **TO ISSUE** a redetermination as to
17 the amount of benefits based on the number of the individual's
18 dependents as of the beginning of the benefit year.

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

21 (1) Each eligible individual shall be paid a weekly benefit
22 rate with respect to the week for which the individual earns or
23 receives no remuneration. Notwithstanding the definition of week in
24 section 50, if within 2 consecutive weeks in which an individual
25 was not unemployed within the meaning of section 48 there was a
26 period of 7 or more consecutive days for which the individual did
27 not earn or receive remuneration, that period shall be considered a

1 week for benefit purposes under this act if a claim for benefits
2 for that period is filed not later than 30 days after the end of
3 the period.

4 (2) Each eligible individual shall have his or her weekly
5 benefit rate reduced with respect to each week in which the
6 individual earns or receives remuneration at the rate of 50 cents
7 for each whole \$1.00 of remuneration earned or received during that
8 week.

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

14 (4) If the reduction in a claimant's benefit rate for a week
15 in accordance with subparagraph (2) or (3) results in a benefit
16 rate greater than zero for that week, the claimant's balance of
17 weeks of benefit payments ~~will~~ **SHALL** be reduced by 1 week.

18 (5) All remuneration for work performed during a shift that
19 terminates on 1 day but that began on the preceding day shall be
20 considered to have been earned by the eligible individual on the
21 preceding day.

22 (d) For benefit years beginning before ~~the conversion date~~
23 ~~prescribed in section 75~~ **OCTOBER 1, 2000**, and subject to
24 subsection (f) and this subsection, the amount of benefits to which
25 an individual who is otherwise eligible is entitled during a
26 benefit year from an employer with respect to employment during the
27 base period is the amount obtained by multiplying the weekly

1 benefit rate with respect to that employment by $\frac{3}{4}$ of the number
2 of credit weeks earned in the employment. For the purpose of this
3 subsection and section 20(c), if the resultant product is not an
4 even multiple of $\frac{1}{2}$ the weekly benefit rate, the product shall be
5 raised to an amount equal to the next higher multiple of $\frac{1}{2}$ the
6 weekly benefit rate, and, for an individual who was employed by
7 only 1 employer in the individual's base period and earned 34
8 credit weeks with that employer, the product shall be raised to the
9 next higher multiple of the weekly benefit rate. The maximum amount
10 of benefits payable to an individual within a benefit year, with
11 respect to employment by an employer, shall not exceed 26 times the
12 weekly benefit rate with respect to that employment. The maximum
13 amount of benefits payable to an individual within a benefit year
14 shall not exceed the amount to which the individual would be
15 entitled for 26 weeks of unemployment in which remuneration was not
16 earned or received. The limitation of total benefits set forth in
17 this subsection does not apply to claimants declared eligible for
18 training benefits in accordance with subsection (g). For benefit
19 years beginning ~~after the conversion date prescribed in section 75~~
20 **ON OR AFTER OCTOBER 1, 2000**, and subject to subsection (f) and this
21 subsection, the maximum benefit amount payable to an individual in
22 a benefit year for purposes of this section and section ~~20(e)~~
23 **20(D)** is the number of weeks of benefits payable to an individual
24 during the benefit year, multiplied by the individual's weekly
25 benefit rate. The number of weeks of benefits payable to an
26 individual shall be calculated by taking 43% of the individual's
27 base period wages and dividing the result by the individual's

1 weekly benefit rate. If the quotient is not a whole or half number,
2 the result shall be rounded down to the nearest half number.
3 However, not more than 26 weeks of benefits or less than 14 weeks
4 of benefits shall be payable to an individual in a benefit year.
5 The limitation of total benefits set forth in this subsection shall
6 not apply to claimants declared eligible for training benefits in
7 accordance with subsection (g).

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

17 (f)(1) For benefit years beginning before ~~the conversion date~~
18 ~~prescribed in section 75~~ **OCTOBER 1, 2000**, and notwithstanding any
19 inconsistent provisions of this act, the weekly benefit rate of
20 each individual who is receiving or will receive a "retirement
21 benefit", as defined in subdivision (4), shall be adjusted as
22 provided in subparagraphs (a), (b), and (c). However, an
23 individual's extended benefit account and an individual's weekly
24 extended benefit rate under section 64 shall be established without
25 reduction under this subsection unless subdivision (5) is in
26 effect. Except as otherwise provided in this subsection, all other
27 provisions of this act continue to apply in connection with the

1 benefit claims of those retired persons.

2 (a) If and to the extent that unemployment benefits payable
3 under this act would be chargeable to an employer who has
4 contributed to the financing of a retirement plan under which the
5 claimant is receiving or will receive a retirement benefit yielding
6 a pro rata weekly amount equal to or larger than the claimant's
7 weekly benefit rate as otherwise established under this act, the
8 claimant shall not receive unemployment benefits that would be
9 chargeable to the employer under this act.

10 (b) If and to the extent that unemployment benefits payable
11 under this act would be chargeable to an employer who has
12 contributed to the financing of a retirement plan under which the
13 claimant is receiving or will receive a retirement benefit yielding
14 a pro rata weekly amount less than the claimant's weekly benefit
15 rate as otherwise established under this act, then the weekly
16 benefit rate otherwise payable to the claimant and chargeable to
17 the employer under this act shall be reduced by an amount equal to
18 the pro rata weekly amount, adjusted to the next lower multiple of
19 \$1.00, which the claimant is receiving or will receive as a
20 retirement benefit.

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

27 (d) If the unemployment benefit payable under this act is

1 computed on the basis of multiemployer credit weeks and a portion
2 of the benefit is allocable under section 20(e) to an employer who
3 has contributed to the financing of a retirement plan under which
4 the claimant is receiving or will receive a retirement benefit, the
5 adjustments required by subparagraph (a) or (b) apply only to that
6 portion of the weekly benefit rate that would otherwise be
7 allocable and chargeable to the employer.

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

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

23 (4)(a) As used in this ~~subdivision~~ **SUBSECTION**, "retirement
24 benefit" means a benefit, annuity, or pension of any type or that
25 part thereof that is described in subparagraph (b) that is **BOTH**:

26 (i) Provided as an incident of employment under an established
27 retirement plan, policy, or agreement, including federal social

1 security if subdivision (5) is in effect.

2 (ii) Payable to an individual because the individual has
3 qualified on the basis of attained age, length of service, or
4 disability, whether or not the individual retired or was retired
5 from employment. Amounts paid to individuals in the course of
6 liquidation of a private pension or retirement fund because of
7 termination of the business or of a plant or department of the
8 business of the employer involved ~~shall not be considered to be~~
9 **ARE NOT** retirement benefits.

10 (b) If a benefit as described in subparagraph (a) is payable
11 or paid to the individual under a plan to which the individual has
12 contributed:

13 (i) Less than half of the cost of the benefit, then only half
14 of the benefit ~~shall be~~ **IS** treated as a retirement benefit.

15 (ii) Half or more of the cost of the benefit, then none of the
16 benefit ~~shall be~~ **IS** treated as a retirement benefit.

17 (c) The burden of establishing the extent of an individual's
18 contribution to the cost of his or her retirement benefit for the
19 purpose of subparagraph (b) is upon the employer who has
20 contributed to the plan under which a benefit is provided.

21 (5) Notwithstanding any other provision of this subsection,
22 for any week that begins after March 31, 1980, and with respect to
23 which an individual is receiving a governmental or other pension
24 and claiming unemployment compensation, the weekly benefit amount
25 payable to the individual for those weeks shall be reduced, but not
26 below zero, by the entire prorated weekly amount of any
27 governmental or other pension, retirement or retired pay, annuity,

1 or any other similar payment that is based on any previous work of
2 the individual. This reduction shall be made only if it is required
3 as a condition for full tax credit against the tax imposed by the
4 federal unemployment tax act, ~~chapter 23 of subtitle C of the~~
5 ~~internal revenue code of 1986,~~ 26 ~~U.S.C.~~ USC 3301 to 3311.

6 (6) For benefit years beginning ~~after the conversion date~~
7 ~~prescribed in section 75~~ **ON OR AFTER OCTOBER 1, 2000,**
8 notwithstanding any inconsistent provisions of this act, the weekly
9 benefit rate of each individual who is receiving or will receive a
10 retirement benefit, as defined in subdivision (4), shall be
11 adjusted as provided in subparagraphs (a), (b), and (c). However,
12 an individual's extended benefit account and an individual's weekly
13 extended benefit rate under section 64 shall be established without
14 reduction under this subsection, unless subdivision (5) is in
15 effect. Except as otherwise provided in this subsection, all the
16 other provisions of this act shall continue to be applicable in
17 connection with the benefit claims of those retired persons.

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

24 (b) If any base period employer or chargeable employer has
25 contributed to the financing of a retirement plan under which the
26 claimant is receiving or will receive a retirement benefit yielding
27 a pro rata weekly amount less than the claimant's weekly benefit

1 rate as otherwise established under this act, then the weekly
2 benefit rate otherwise payable to the claimant shall be reduced by
3 an amount equal to the pro rata weekly amount, adjusted to the next
4 lower multiple of \$1.00, which the claimant is receiving or will
5 receive as a retirement benefit.

6 (c) If no base period or separating employer has contributed
7 to the financing of a retirement plan under which the claimant is
8 receiving or will receive a retirement benefit, then the weekly
9 benefit rate of the claimant as otherwise established under this
10 act shall not be reduced due to receipt of a retirement benefit.

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

24 (h) A payment of accrued unemployment benefits shall not be
25 made to an eligible individual or in behalf of that individual as
26 provided in subsection (e) more than 6 years after the ending date
27 of the benefit year covering the payment or 2 calendar years after

1 the calendar year in which there is final disposition of a
2 contested case, whichever is later.

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

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

26 (2) With respect to service performed in other than an
27 instructional, research, or principal administrative capacity for

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

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

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

1 subdivision may apply for those benefits by mail in accordance with
2 R 421.210 **OF THE MICHIGAN ADMINISTRATIVE CODE** as promulgated by the
3 commission.

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

17 (6) For benefit years established before ~~the conversion date~~
18 ~~prescribed in section 75~~ **OCTOBER 1, 2000**, and notwithstanding
19 subdivisions (1), (2), and (3), the denial of benefits does not
20 prevent an individual from completing requalifying weeks in
21 accordance with section 29(3) nor does the denial prevent an
22 individual from receiving benefits based on service with an
23 employer other than an educational institution for any week of
24 unemployment occurring between academic years or terms, whether or
25 not successive, or during an established and customary vacation
26 period or holiday recess, even though the employer is not the most
27 recent chargeable employer in the individual's base period.

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

7 (7) For benefit years beginning ~~after the conversion date~~
8 ~~prescribed in section 75~~ **ON OR AFTER OCTOBER 1, 2000**, and
9 notwithstanding subdivisions (1), (2), and (3), the denial of
10 benefits shall not prevent an individual from completing
11 requalifying weeks in accordance with section 29(3) nor shall the
12 denial prevent an individual from receiving benefits based on
13 service with another base period employer other than an educational
14 institution for any week of unemployment occurring between academic
15 years or terms, whether or not successive, or during an established
16 and customary vacation period or holiday recess. However, when
17 benefits are paid based on service with 1 or more base period
18 employers other than an educational institution, the individual's
19 weekly benefit rate shall be calculated in accordance with
20 subsection (b)(1) but during the denial period the individual's
21 weekly benefit payment shall be reduced by the portion of the
22 payment attributable to base period wages paid by an educational
23 institution and the account or experience account of the
24 educational institution shall not be charged for benefits payable
25 to the individual. When a denial of benefits under subdivision (1)
26 is no longer applicable, benefits shall be paid and charged on the
27 basis of base period wages with each of the base period employers

1 including the educational institution.

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

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

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

26 (k)(1) Benefits shall not be payable on the basis of services
27 performed by an alien unless the alien is an individual who was

1 lawfully admitted for permanent residence at the time the services
2 were performed, was lawfully present for the purpose of performing
3 the services, or was permanently residing in the United States
4 under color of law at the time the services were performed,
5 including an alien who was lawfully present in the United States
6 under section 212(d)(5) of the immigration and nationality act,
7 ~~chapter 477, 66 Stat. 182, 8 U.S.C. 1182~~ **8 USC 1182.**

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

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

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

26 (2) Notwithstanding section 30, the commission shall deduct
27 and withhold from any unemployment compensation payable to an

1 individual who owes child support obligations by using whichever of
2 the following methods results in the greatest amount:

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

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

10 (c) Any amount otherwise required to be deducted and withheld
11 from unemployment compensation pursuant to legal process, as that
12 term is defined in ~~section 462(e) of part D of title IV of the~~
13 ~~social security act, 42 U.S.C. 662~~ **42 USC 659(I)(5)**, properly
14 served upon the commission.

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

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

23 (5) Any amount deducted and withheld under subdivision (2)
24 shall be treated for all purposes as if it were paid to the
25 individual as unemployment compensation and paid by the individual
26 to the state or local child support enforcement agency in
27 satisfaction of the individual's child support obligations.

1 (6) ~~This~~ **PROVISIONS CONCERNING DEDUCTIONS UNDER THIS**

2 subsection ~~applies~~ **APPLY** only if the state or local child support
3 enforcement agency agrees in writing to reimburse and does
4 reimburse the commission for the administrative costs incurred by
5 the commission under this subsection that are attributable to child
6 support obligations being enforced by the state or local child
7 support enforcement agency. The administrative costs incurred shall
8 be determined by the commission. The commission, in its discretion,
9 may require payment of administrative costs in advance.

10 (7) As used in this subsection:

11 (a) "Unemployment compensation", for purposes of subdivisions
12 (1) ~~through~~ **TO** (5), means any compensation payable under this
13 act, including amounts payable by the commission pursuant to an
14 agreement under any federal law providing for compensation,
15 assistance, or allowances with respect to unemployment.

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

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

26 (n) Subsection (i)(2) applies to services performed by school
27 bus drivers employed by a private contributing employer holding a

1 contractual relationship with an educational institution, but only
2 if at least 75% of the individual's base period wages with that
3 employer are attributable to services performed as a school bus
4 driver.

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

25 (2) Not less than 20 days before the estimated beginning date
26 of a normal seasonal work period, an employer may apply to the
27 commission in writing for designation as a seasonal employer. At

1 the time of application, the employer shall conspicuously display a
2 copy of the application on the employer's premises. Within 90 days
3 after receipt of the application, the commission shall determine if
4 the employer is a seasonal employer. A determination or
5 redetermination of the commission concerning the status of an
6 employer as a seasonal employer, or a decision of a referee or the
7 board of review, or of the courts of this state concerning the
8 status of an employer as a seasonal employer, which has become
9 final, together with the record thereof, may be introduced in any
10 proceeding involving a claim for benefits, and the facts found and
11 decision issued in the determination, redetermination, or decision
12 shall be conclusive unless substantial evidence to the contrary is
13 introduced by or on behalf of the claimant.

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

24 (4) The commission may issue a determination terminating an
25 employer's status as a seasonal employer on the commission's own
26 motion for good cause, or upon the written request of the employer.
27 A termination determination under this subdivision terminates an

1 employer's status as a seasonal employer, and ~~shall become~~
2 **BECOMES** effective on the beginning date of the normal seasonal work
3 period that would have immediately followed the date the commission
4 issues the determination. A determination under this subdivision is
5 subject to review in the same manner and to the same extent as any
6 other determination under this act.

7 (5) An employer whose status as a seasonal employer is
8 terminated under subdivision (4) may not reapply for a seasonal
9 employer status determination until after a regularly recurring
10 normal seasonal work period has begun and ended.

11 (6) If a seasonal employer informs an employee who received
12 assurance of being rehired that, despite the assurance, the
13 employee will not be rehired at the beginning of the employer's
14 next normal seasonal work period, this subsection ~~shall~~ **DOES** not
15 prevent the employee from receiving unemployment benefits in the
16 same manner and to the same extent he or she would receive benefits
17 under this act from an employer who has not been determined to be a
18 seasonal employer.

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

24 (8) At the time an employee is hired by a seasonal employer,
25 the employer shall notify the employee in writing ~~whether~~ **IF** the
26 employee will be a seasonal worker. The employer shall provide the
27 worker with written notice of any subsequent change in the

1 employee's status as a seasonal worker. If an employee of a
2 seasonal employer is denied benefits because that employee is a
3 seasonal worker, the employee may contest that designation in
4 accordance with section 32a.

5 (9) As used in this subsection:

6 (a) "Construction industry" means the work activity designated
7 in sector group 23 -- construction of the North American
8 classification system -- United States office of management and
9 budget, 1997 edition.

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

14 (c) "Seasonal employment" means the employment of 1 or more
15 individuals primarily hired to perform services in an industry,
16 other than the construction industry, that does either of the
17 following:

18 (1) Customarily operates during regularly recurring periods of
19 26 weeks or less in any 52-consecutive-week period.

20 (2) Customarily employs at least 50% of its employees for
21 regularly recurring periods of 26 weeks or less within a period of
22 52 consecutive weeks.

23 (d) "Seasonal employer" means an employer, other than an
24 employer in the construction industry, who applies to the
25 commission for designation as a seasonal employer and who the
26 commission determines to be an employer whose operations and
27 business are substantially engaged in seasonal employment.

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

4 (10) If this subsection is found by the United States
5 department of labor to be contrary to the federal unemployment tax
6 act, ~~chapter 23 of the internal revenue code of 1986,~~ 26 ~~U.S.C.~~
7 **USC** 3301 to 3311, or the social security act, chapter 531, 49 Stat.
8 620, and if conformity with the federal law is required as a
9 condition for full tax credit against the tax imposed under the
10 federal unemployment tax act or as a condition for receipt by the
11 commission of federal administrative grant funds under the social
12 security act, this subsection shall be invalid.

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