

HOUSE BILL No. 5756

January 20, 2010, Introduced by Rep. Lindberg and referred to the Committee on Labor.

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 be
4 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

1 years beginning before ~~the conversion date prescribed in section 75~~
2 **OCTOBER 1, 2000**, a new separation issue arises resulting from
3 subsequent work.

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

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

1 shall establish the procedures necessary to verify the number of
2 dependents claimed. If a person fraudulently claims a dependent,
3 that person is subject to the penalties set forth in sections 54
4 and 54c. ~~With respect to~~ **FOR** benefit years beginning on or after
5 October 2, 1983, the weekly benefit rate shall be adjusted to the
6 next lower multiple of \$1.00.

7 (2) For benefit years beginning before ~~the conversion date~~
8 ~~prescribed in section 75~~ **OCTOBER 1, 2000**, the state average weekly
9 wage for a calendar year shall be computed on the basis of the 12
10 months ending the June 30 immediately ~~preceding~~ **BEFORE** that
11 calendar year. The commission shall prepare a table of weekly
12 benefit rates based on an "average after tax weekly wage"
13 calculated by subtracting, from an individual's average weekly wage
14 as determined in accordance with section 51, a reasonable
15 approximation of the weekly amount required to be withheld by the
16 employer from the remuneration of the individual based on
17 dependents and exemptions for income taxes under ~~chapter 24 of~~
18 ~~subtitle C of the internal revenue code of 1986, 26 U.S.C. 26 USC~~
19 3401 to 3406, and under section 351 of the income tax act of 1967,
20 1967 PA 281, MCL 206.351, and for old age and survivor's disability
21 insurance taxes under the federal insurance contributions act,
22 ~~chapter 21 of subtitle C of the internal revenue code of 1986, 26~~
23 ~~U.S.C. 26 USC 3101 TO~~ 3128. For purposes of applying the table to
24 an individual's claim, a dependent shall be as defined in
25 subdivision (3). The table applicable to an individual's claim
26 shall be the table reflecting the number of dependents claimed by
27 the individual under subdivision (3). The commission shall adjust

1 the tables based on changes in withholding schedules published by
2 the United States department of treasury, internal revenue service,
3 and by the department of treasury. The number of dependents allowed
4 shall be determined with respect to each week of unemployment for
5 which an individual is claiming benefits.

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

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

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

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

26 (d) A brother or sister of the individual if the brother or
27 sister is orphaned or the living parents are dependent parents of

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

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

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

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

22 (6) For benefit years beginning before ~~the conversion date~~
23 ~~prescribed in section 75~~ **OCTOBER 1, 2000**, failure on the part of an
24 individual, due to misinformation or lack of information, to
25 furnish all information material for determination of the number of
26 the individual's dependents when the individual files a claim for
27 benefits with respect to a week ~~shall be considered~~ **IS** good cause

1 ~~for the issuance of~~ **TO ISSUE** a redetermination as to the amount of
2 benefits based on the number of the individual's dependents as of
3 the beginning date of that week. Dependency status of a dependent,
4 child or otherwise, once established or fixed in favor of a person
5 is not transferable to or usable by another person with respect to
6 the same week.

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

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

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

27 (2) Each eligible individual shall have his or her weekly

1 benefit rate reduced with respect to each week in which the
2 individual earns or receives remuneration at the rate of 50 cents
3 for each whole \$1.00 of remuneration earned or received during that
4 week.

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

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

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

19 (d) For benefit years beginning before ~~the conversion date~~
20 ~~prescribed in section 75~~ **OCTOBER 1, 2000**, and subject to subsection
21 (f) and this subsection, the amount of benefits to which an
22 individual who is otherwise eligible is entitled during a benefit
23 year from an employer with respect to employment during the base
24 period is the amount obtained by multiplying the weekly benefit
25 rate with respect to that employment by 3/4 of the number of credit
26 weeks earned in the employment. For the purpose of this subsection
27 and section 20(c), if the resultant product is not an even multiple

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

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

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

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

25 (a) If and to the extent that unemployment benefits payable
26 under this act would be chargeable to an employer who has
27 contributed to the financing of a retirement plan under which the

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

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

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

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

1 adjustments required by subparagraph (a) or (b) apply only to that
2 portion of the weekly benefit rate that would otherwise be
3 allocable and chargeable to the employer.

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

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

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

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

25 (ii) Payable to an individual because the individual has
26 qualified on the basis of attained age, length of service, or
27 disability, whether or not the individual retired or was retired

1 from employment. Amounts paid to individuals in the course of
2 liquidation of a private pension or retirement fund because of
3 termination of the business or of a plant or department of the
4 business of the employer involved ~~shall not be considered to be~~ **ARE**
5 **NOT** retirement benefits.

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

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

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

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

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

1 ~~internal revenue code of 1986, 26 U.S.C. 26 USC~~ 3301 to 3311.

2 (6) For benefit years beginning after the conversion date
3 ~~prescribed in section 75~~ **ON OR AFTER OCTOBER 1, 2000,**

4 notwithstanding any inconsistent provisions of this act, the weekly
5 benefit rate of each individual who is receiving or will receive a
6 retirement benefit, as defined in subdivision (4), shall be
7 adjusted as provided in subparagraphs (a), (b), and (c). However,
8 an individual's extended benefit account and an individual's weekly
9 extended benefit rate under section 64 shall be established without
10 reduction under this subsection, unless subdivision (5) is in
11 effect. Except as otherwise provided in this subsection, all the
12 other provisions of this act ~~shall continue to be applicable in~~
13 ~~connection with~~ **APPLY TO** the benefit claims of those retired
14 persons. **HOWEVER, IF THE REDUCTION WOULD IMPAIR THE FULL TAX CREDIT**
15 **AGAINST THE TAX IMPOSED BY THE FEDERAL UNEMPLOYMENT TAX ACT, 26 USC**
16 **3301 TO 3311, UNEMPLOYMENT BENEFITS SHALL NOT BE REDUCED AS**
17 **PROVIDED IN SUBPARAGRAPHS (A), (B), AND (C) FOR RECEIPT OF ANY**
18 **GOVERNMENTAL OR OTHER PENSION, RETIREMENT OR RETIRED PAY, ANNUITY,**
19 **OR OTHER SIMILAR PAYMENT THAT WAS NOT INCLUDABLE IN THE GROSS**
20 **INCOME OF THE INDIVIDUAL FOR THE TAXABLE YEAR IN WHICH IT WAS**
21 **RECEIVED BECAUSE IT WAS A PART OF A ROLLOVER DISTRIBUTION.**

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

1 (b) If any base period employer or chargeable employer has
2 contributed to the financing of a retirement plan under which the
3 claimant is receiving or will receive a retirement benefit yielding
4 a pro rata weekly amount less than the claimant's weekly benefit
5 rate as otherwise established under this act, then the weekly
6 benefit rate otherwise payable to the claimant shall be reduced by
7 an amount equal to the pro rata weekly amount, adjusted to the next
8 lower multiple of \$1.00, which the claimant is receiving or will
9 receive as a retirement benefit.

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

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

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

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

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

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

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

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

25 (4) If benefits are denied to an individual for any week
26 solely as a result of subdivision (2) and the individual was not
27 offered an opportunity to perform in the second academic year or

1 term the service for which reasonable assurance had been given, the
2 individual is entitled to a retroactive payment of benefits for
3 each week for which the individual had previously filed a timely
4 claim for benefits. An individual entitled to benefits under this
5 subdivision may apply for those benefits by mail in accordance with
6 R 421.210 **OF THE MICHIGAN ADMINISTRATIVE CODE** as promulgated by the
7 commission.

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

21 (6) For benefit years established before ~~the conversion date~~
22 ~~prescribed in section 75~~ **OCTOBER 1, 2000**, and notwithstanding
23 subdivisions (1), (2), and (3), the denial of benefits does not
24 prevent an individual from completing requalifying weeks in
25 accordance with section 29(3) nor does the denial prevent an
26 individual from receiving benefits based on service with an
27 employer other than an educational institution for any week of

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

11 (7) For benefit years beginning ~~after the conversion date~~
12 ~~prescribed in section 75~~ **ON OR AFTER OCTOBER 1, 2000**, and
13 notwithstanding subdivisions (1), (2), and (3), the denial of
14 benefits shall not prevent an individual from completing
15 requalifying weeks in accordance with section 29(3) nor shall the
16 denial prevent an individual from receiving benefits based on
17 service with another base period employer other than an educational
18 institution for any week of unemployment occurring between academic
19 years or terms, whether or not successive, or during an established
20 and customary vacation period or holiday recess. However, when
21 benefits are paid based on service with 1 or more base period
22 employers other than an educational institution, the individual's
23 weekly benefit rate shall be calculated in accordance with
24 subsection (b)(1) but during the denial period the individual's
25 weekly benefit payment shall be reduced by the portion of the
26 payment attributable to base period wages paid by an educational
27 institution and the account or experience account of the

1 educational institution shall not be charged for benefits payable
2 to the individual. When a denial of benefits under subdivision (1)
3 is no longer applicable, benefits shall be paid and charged on the
4 basis of base period wages with each of the base period employers
5 including the educational institution.

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

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

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

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

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

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

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

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

1 obligation that the individual has been determined to be eligible
2 for unemployment compensation.

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

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

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

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

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

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

27 (5) Any amount deducted and withheld under subdivision (2)

1 shall be treated for all purposes as if it were paid to the
 2 individual as unemployment compensation and paid by the individual
 3 to the state or local child support enforcement agency in
 4 satisfaction of the individual's child support obligations.

5 (6) ~~This subsection applies~~ **PROVISIONS CONCERNING DEDUCTIONS**
 6 **UNDER THIS SUBSECTION APPLY** only if the state or local child
 7 support enforcement agency agrees in writing to reimburse and does
 8 reimburse the commission for the administrative costs incurred by
 9 the commission under this subsection that are attributable to child
 10 support obligations being enforced by the state or local child
 11 support enforcement agency. The administrative costs incurred shall
 12 be determined by the commission. The commission, in its discretion,
 13 may require payment of administrative costs in advance.

14 (7) As used in this subsection:

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

20 (b) "Child support obligations" includes only obligations that
 21 are being enforced pursuant to a plan described in ~~section 454 of~~
 22 ~~part D of title IV of the social security act, 42 U.S.C. 42 USC 654~~
 23 ~~—~~that has been approved by the secretary of health and human
 24 services under ~~part D of title IV of the social security act,~~
 25 ~~chapter 531, 49 Stat. 620, 42 U.S.C. 651 to 655, 656 to 660, and~~
 26 ~~663~~ **42 USC 651** to 669b.

27 (c) "State or local child support enforcement agency" means

1 any agency of this state or a political subdivision of this state
2 operating pursuant to a plan described in subparagraph (b).

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

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

1 subsection in accordance with R 421.210 of the Michigan
2 administrative code.

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

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

1 normal seasonal work periods.

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

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

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

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

1 subdivision (4).

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

10 (9) As used in this subsection:

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

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

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

23 (1) Customarily operates during regularly recurring periods of
24 26 weeks or less in any 52-consecutive-week period.

25 (2) Customarily employs at least 50% of its employees for
26 regularly recurring periods of 26 weeks or less within a period of
27 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~~ **THIS SUBSECTION DOES NOT**
10 **APPLY IF** the United States department of labor **FINDS IT** to be
11 contrary to the federal unemployment tax act, ~~chapter 23 of the~~
12 ~~internal revenue code of 1986, 26 U.S.C. 26 USC~~ 3301 to 3311, or
13 the social security act, chapter 531, 49 Stat. 620, and if
14 conformity with the federal law is required as a condition for full
15 tax credit against the tax imposed under the federal unemployment
16 tax act, **26 USC 3301 TO 3311**, or as a condition for receipt by the
17 commission of federal administrative grant funds under the social
18 security act, ~~this subsection shall be invalid~~ **CHAPTER 531, 49**
19 **STAT. 620.**

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