

# HOUSE BILL No. 4142

February 6, 2001, Introduced by Rep. Jelinek 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 1995 PA 181.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

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

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

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

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

1 an "average after tax weekly wage" calculated by subtracting,  
2 from an individual's average weekly wage as determined in accord-  
3 ance with section 51, a reasonable approximation of the weekly  
4 amount required to be withheld by the employer from the remunera-  
5 tion of the individual based on dependents and exemptions for  
6 income taxes under SUBCHAPTER A OF chapter 24 of subtitle C of  
7 the internal revenue code of 1986, 26 U.S.C. 3401 to 3406, and  
8 under section 351 of the income tax act of 1967, ~~Act No. 281 of~~  
9 ~~the Public Acts of 1967, being section 206.351 of the Michigan~~  
10 ~~Compiled Laws~~ 1967 PA 281, MCL 206.351, and for old age and  
11 survivor's disability insurance taxes under the federal insurance  
12 contributions act, chapter 21 of subtitle C of the internal reve-  
13 nue code of 1986, 26 U.S.C. 3101 TO 3128. For purposes of apply-  
14 ing the table to an individual's claim, a dependent shall be as  
15 defined in subdivision (3). The table applicable to an  
16 individual's claim shall be the table reflecting the number of  
17 dependents claimed by the individual under subdivision (3). The  
18 commission shall adjust the tables based on changes in withhold-  
19 ing schedules published by the United States department of trea-  
20 sury, internal revenue service, and by the department of  
21 treasury. The number of dependents allowed shall be determined  
22 with respect to each week of unemployment for which an individual  
23 is claiming benefits.

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

1 or, in the case of a dependent husband, wife, or child, for the  
2 duration of the marital or parental relationship, if the rela-  
3 tionship has existed less than 90 days, has received more than  
4 half the cost of his or her support from the individual claiming  
5 benefits:

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

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

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

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

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

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

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

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

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

1 particular educational institution, at a high school, vocational  
2 school, community or junior college, or college or university and  
3 is less than 22 years of age.

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

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

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

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

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

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

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

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

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

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

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



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

1 eligible for training benefits in accordance with  
2 subsection (g).

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

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

24       (a) If and to the extent that unemployment benefits payable  
25 under this act would be chargeable to an employer who has con-  
26 tributed to the financing of a retirement plan under which the  
27 claimant is receiving or will receive a retirement benefit

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

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

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

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

1 apply only to that portion of the weekly benefit rate that would  
2 otherwise be allocable and chargeable to the employer.

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

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

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

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

24       (ii) Payable to an individual because the individual has  
25 qualified on the basis of attained age, length of service, or  
26 disability, whether or not the individual retired or was retired  
27 from employment. Amounts paid to individuals in the course of

1 liquidation of a private pension or retirement fund because of  
2 termination of the business or of a plant or department of the  
3 business of the employer involved shall not be considered to be  
4 retirement benefits.

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

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

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

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

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

1 subtitle C of the internal revenue code of 1986, 26 U.S.C. 3301  
2 to 3311.

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

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

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

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

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

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

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

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

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

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



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

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

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

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

3 (5) The amendments to subdivision (2) made by ~~Act No. 219~~  
4 ~~of the Public Acts of 1983~~ 1983 PA 219 apply to all claims for  
5 unemployment compensation that are filed on and after October 31,  
6 1983. However, the amendments are retroactive to September 5,  
7 1982 only if, as a condition for full tax credit against the tax  
8 imposed by the federal unemployment tax act, chapter 23 of  
9 subtitle C of the internal revenue code of 1986, 26 U.S.C. 3301  
10 to 3311, the United States secretary of labor determines that  
11 retroactivity is required by federal law.

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

26 (7) For benefit years established before the conversion date  
27 prescribed in section 75, and notwithstanding subdivisions (1),

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

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

1 shall be calculated in accordance with subsection (b)(1) but  
2 during the denial period the individual's weekly benefit payment  
3 shall be reduced by the portion of the payment attributable to  
4 base period wages paid by an educational institution and the  
5 account or experience account of the educational institution  
6 shall not be charged for benefits payable to the individual.  
7 When a denial of benefits under subdivision (1) is no longer  
8 applicable, benefits shall be paid and charged on the basis of  
9 base period wages with each of the base period employers includ-  
10 ing the educational institution.

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

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

26 (j) For weeks of unemployment beginning after December 31,  
27 1977, benefits shall not be paid to an individual on the basis of

1 any base period services, substantially all of which consist of  
2 participating in sports or athletic events or training or prepar-  
3 ing to so participate, for a week that commences during the  
4 period between 2 successive sport seasons or similar periods if  
5 the individual performed the services in the first of the seasons  
6 or similar periods and there is a reasonable assurance that the  
7 individual will perform the services in the later of the seasons  
8 or similar periods.

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

20       (2) Any data or information required of individuals applying  
21 for benefits to determine whether benefits are payable because of  
22 their alien status are uniformly required from all applicants for  
23 benefits.

24       (3) Where an individual whose application for benefits would  
25 otherwise be approved, a determination that benefits to that  
26 individual are not payable because of the individual's alien

1 status shall not be made except upon a preponderance of the  
2 evidence.

3       (m)(1) An individual filing a new claim for unemployment  
4 compensation under this act after September 30, 1982, at the time  
5 of filing the claim, shall disclose whether the individual owes  
6 child support obligations as defined in this subsection. If an  
7 individual discloses that he or she owes child support obliga-  
8 tions and is determined to be eligible for unemployment compensa-  
9 tion, the commission shall notify the state or local child sup-  
10 port enforcement agency enforcing the obligation that the indi-  
11 vidual has been determined to be eligible for unemployment  
12 compensation.

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

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

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

24       (c) Any amount otherwise required to be so deducted and  
25 withheld from unemployment compensation pursuant to legal pro-  
26 cess, as that term is defined in FORMER section 462(e) of part D

1 of title IV of the social security act, ~~chapter 531, 49~~  
2 ~~Stat. 620, 42 U.S.C. 662,~~ properly served upon the commission.

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

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

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

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

25 (7) As used in this subsection:

26 (a) "Unemployment compensation", for purposes of  
27 subdivisions (1) through (5), means any compensation payable

1 under this act, including amounts payable by the commission  
2 pursuant to an agreement under any federal law providing for com-  
3 pensation, assistance, or allowances with respect to  
4 unemployment.

5 (b) "Child support obligations" includes only obligations  
6 that are being enforced pursuant to a plan described in FORMER  
7 section 454 of part D of title IV of the social security act,  
8 ~~chapter 531, 49 Stat. 620, 42 U.S.C. 654,~~ that has been  
9 approved by the secretary of health and human services under  
10 part D of title IV of the social security act, chapter 531, 49  
11 Stat. 620, 42 U.S.C. 651 to ~~669~~ 653a, 654a TO 655, 656 TO 660,  
12 AND 663 TO 669b.

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

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

22 (o)(1) For weeks of unemployment beginning after July 1,  
23 1996, unemployment benefits based on services by a seasonal  
24 worker performed in seasonal employment shall be payable only for  
25 weeks of unemployment that occur during the normal seasonal work  
26 period. Benefits shall not be paid based on services performed  
27 in seasonal employment for any week of unemployment beginning



1 after the effective date of this subdivision that begins during  
2 the period between 2 successive normal seasonal work periods to  
3 any individual if that individual performs the service in the  
4 first of the normal seasonal work periods and if there is a rea-  
5 sonable assurance that the individual will perform the service  
6 for a seasonal employer in the second of the normal seasonal work  
7 periods. If benefits are denied to an individual for any week  
8 solely as a result of this subsection and the individual is not  
9 offered an opportunity to perform in the second normal seasonal  
10 work period for which reasonable assurance of employment had been  
11 given, the individual is entitled to a retroactive payment of  
12 benefits under this subsection for each week that the individual  
13 previously filed a timely claim for benefits. An individual may  
14 apply for any retroactive benefits under this subsection in  
15 accordance with R 421.210 of the Michigan administrative code.

16 (2) Not less than 20 days before the estimated beginning  
17 date of a normal seasonal work period, an employer may apply to  
18 the commission in writing for designation as a seasonal  
19 employer. At the time of application, the employer shall con-  
20 spicuously display a copy of the application on the employer's  
21 premises. Within 90 days after receipt of the application, the  
22 commission shall determine if the employer is a seasonal  
23 employer. A determination or redetermination of the commission  
24 concerning the status of an employer as a seasonal employer, or a  
25 decision of a referee or the board of review, or of the courts of  
26 this state concerning the status of an employer as a seasonal  
27 employer, which has become final, together with the record

1 thereof, may be introduced in any proceeding involving a claim  
2 for benefits, and the facts found and decision issued in the  
3 determination, redetermination, or decision shall be conclusive  
4 unless substantial evidence to the contrary is introduced by or  
5 on behalf of the claimant.

6       (3) If the employer is determined to be a seasonal employer,  
7 the employer shall conspicuously display on its premises a notice  
8 of the determination and the beginning and ending dates of the  
9 employer's normal seasonal work periods. The notice shall be  
10 furnished by the commission. The notice shall additionally spec-  
11 ify that an employee must timely apply for unemployment benefits  
12 at the end of a first seasonal work period to preserve his or her  
13 right to receive retroactive unemployment benefits in the event  
14 that he or she is not reemployed by the seasonal employer in the  
15 second of the normal seasonal work periods.

16       (4) The commission may issue a determination terminating an  
17 employer's status as a seasonal employer on the commission's own  
18 motion for good cause, or upon the written request of the  
19 employer. A termination determination under this subdivision  
20 terminates an employer's status as a seasonal employer, and shall  
21 become effective on the beginning date of the normal seasonal  
22 work period that would have immediately followed the date the  
23 commission issues the determination. A determination under this  
24 subdivision is subject to review in the same manner and to the  
25 same extent as any other determination under this act.

26       (5) An employer whose status as a seasonal employer is  
27 terminated under subdivision (4) may not reapply for a seasonal

1 employer status determination until after a regularly recurring  
2 normal seasonal work period has begun and ended.

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

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

16       (8) At the time an employee is hired by a seasonal employer,  
17 the employer shall notify the employee in writing whether the  
18 employee will be a seasonal worker. The employer shall provide  
19 the worker with written notice of any subsequent change in the  
20 employee's status as a seasonal worker. If an employee of a sea-  
21 sonal employer is denied benefits because that employee is a sea-  
22 sonal worker, the employee may contest that designation in  
23 accordance with section 32a.

24       (9) As used in this subsection:

25       (a) "Construction industry" means the work activity desig-  
26 nated in ~~major groups 15, 16, and 17 of the standard industrial~~  
27 ~~classification manual, United States office of management and~~

1 ~~budget, 1987~~ SECTOR GROUP 23-CONSTRUCTION, OF THE NORTH AMERICAN  
2 CLASSIFICATION SYSTEM-UNITED STATES OFFICE OF MANAGEMENT AND  
3 BUDGET, 1997 edition.

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

8 (c) "Seasonal employment" means the employment of 1 or more  
9 individuals primarily hired to perform services in an industry,  
10 other than the construction industry, that does either of the  
11 following:

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

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

17 (d) "Seasonal employer" means an employer, other than an  
18 employer in the construction industry, who applies to the commis-  
19 sion for designation as a seasonal employer and who the commis-  
20 sion determines to be an employer whose operations and business  
21 are substantially engaged in seasonal employment. A SEASONAL  
22 EMPLOYER SHALL INCLUDE, BUT IS NOT LIMITED TO, A HOTEL OR MOTEL  
23 THE OPERATIONS AND BUSINESS OF WHICH ARE SUBSTANTIALLY ENGAGED IN  
24 SEASONAL EMPLOYMENT. AS USED IN THIS SUBDIVISION, "HOTEL" OR  
25 "MOTEL" MEANS THAT TERM AS DEFINED IN SECTION 3A OF THE USE TAX  
26 ACT, 1937 PA 94, MCL 205.93A.

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  
6 tax act, chapter 23 of the internal revenue code of 1986, 26  
7 U.S.C. 3301 to 3311, or the social security act, chapter 531, 49  
8 Stat. 620, and if conformity with the federal law is required as  
9 a 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  
14 his 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  
18 has a reasonable assurance that he or she will perform those  
19 services in the second of the academic years or terms.