

HOUSE BILL No. 5763

February 28, 2002, Introduced by Reps. Richardville, Hummel, Raczkowski, Pappageorge, Stewart, Caul, Vander Veen, Vear, Bradstreet, Hager, Kuipers, Gilbert, Meyer, Kooiman, Howell, Jelinek, Mortimer, Tabor, Cassis and Scranton 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 sections 27, 29, and 48 (MCL 421.27, 421.29, and
421.48), section 27 as amended by 1995 PA 181, section 29 as
amended by 1995 PA 25, and section 48 as amended by 1983 PA 164,
and by adding section 13/.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 13/. (1) AN INDIAN TRIBE OR TRIBAL UNIT LIABLE AS AN
2 EMPLOYER UNDER SECTION 41 SHALL PAY REIMBURSEMENTS IN LIEU OF
3 CONTRIBUTIONS UNDER THE SAME TERMS AND CONDITIONS AS ALL OTHER
4 REIMBURSING EMPLOYERS LIABLE UNDER SECTION 41, UNLESS THE INDIAN
5 TRIBE OR TRIBAL UNIT ELECTS TO PAY CONTRIBUTIONS.

6 (2) AN INDIAN TRIBE OR TRIBAL UNIT THAT ELECTS TO MAKE
7 CONTRIBUTIONS SHALL FILE WITH THE UNEMPLOYMENT AGENCY A WRITTEN
8 REQUEST FOR THAT ELECTION BEFORE JANUARY 1 OF THE CALENDAR YEAR

1 IN WHICH THE ELECTION WILL BE EFFECTIVE OR WITHIN 30 DAYS OF THE
2 EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS SECTION.
3 THE INDIAN TRIBE OR TRIBAL UNIT SHALL DETERMINE IF THE ELECTION
4 TO PAY CONTRIBUTIONS WILL APPLY TO THE TRIBE AS A WHOLE, WILL
5 APPLY ONLY TO INDIVIDUAL TRIBAL UNITS, OR WILL APPLY TO STATED
6 COMBINATIONS OF INDIVIDUAL TRIBAL UNITS.

7 (3) AN INDIAN TRIBE OR TRIBAL UNIT PAYING REIMBURSEMENTS IN
8 LIEU OF CONTRIBUTIONS SHALL BE BILLED FOR THE FULL AMOUNT OF BEN-
9 EFITS ATTRIBUTABLE TO SERVICE IN THE EMPLOY OF THE INDIAN TRIBE
10 OR TRIBAL UNIT. AN INDIAN TRIBE OR TRIBAL UNIT SHALL REIMBURSE
11 THE FUND ANNUALLY WITHIN 30 CALENDAR DAYS AFTER THE MAILING OF
12 THE FINAL BILLING FOR THE IMMEDIATELY PRECEDING CALENDAR YEAR.

13 (4) IF AN INDIAN TRIBE OR TRIBAL UNIT FAILS TO MAKE PAYMENTS
14 IN LIEU OF CONTRIBUTIONS, INCLUDING ASSESSMENTS OF INTEREST AND
15 PENALTIES, WITHIN 90 CALENDAR DAYS AFTER THE MAILING OF THE
16 NOTICE OF DELINQUENCY, THE INDIAN TRIBE WILL LOSE THE ABILITY TO
17 MAKE PAYMENTS IN LIEU OF CONTRIBUTIONS IMMEDIATELY UNLESS THE
18 PAYMENT IN FULL OR COLLECTION ON THE SECURITY IS RECEIVED BY THE
19 UNEMPLOYMENT AGENCY BY DECEMBER 1 OF THAT CALENDAR YEAR. AN
20 INDIAN TRIBE THAT LOSES THE ABILITY TO MAKE PAYMENTS IN LIEU OF
21 CONTRIBUTIONS SHALL BE MADE A CONTRIBUTING EMPLOYER AND SHALL NOT
22 HAVE THE ABILITY TO MAKE PAYMENTS IN LIEU OF CONTRIBUTIONS UNTIL
23 ALL CONTRIBUTIONS, PAYMENTS IN LIEU OF CONTRIBUTIONS, INTEREST,
24 OR PENALTIES HAVE BEEN PAID. THE ABILITY TO MAKE PAYMENTS IN
25 LIEU OF CONTRIBUTIONS SHALL BE REINSTATED EFFECTIVE THE JANUARY 1
26 IMMEDIATELY SUCCEEDING THE YEAR IN WHICH THE INDIAN TRIBE HAS
27 PAID IN FULL ALL CONTRIBUTIONS, PAYMENTS IN LIEU OF

1 CONTRIBUTIONS, INTEREST, AND PENALTIES. IF AN INDIAN TRIBE FAILS
2 TO PAY IN FULL ALL CONTRIBUTIONS, PAYMENTS IN LIEU OF CONTRIBU-
3 TIONS, INTEREST, AND PENALTIES WITHIN 90 CALENDAR DAYS OF A
4 NOTICE OF DELINQUENCY, THE UNEMPLOYMENT AGENCY SHALL IMMEDIATELY
5 NOTIFY THE UNITED STATES DEPARTMENT OF LABOR AND THE INTERNAL
6 REVENUE SERVICE OF THE UNITED STATES DEPARTMENT OF TREASURY OF
7 THAT DELINQUENCY. IF THAT DELINQUENCY IS SATISFIED, THE UNEM-
8 PLOYMENT AGENCY SHALL IMMEDIATELY NOTIFY THE UNITED STATES
9 DEPARTMENT OF LABOR AND THE INTERNAL REVENUE SERVICE OF THE
10 UNITED STATES DEPARTMENT OF TREASURY THAT ALL CONTRIBUTIONS, PAY-
11 MENTS IN LIEU OF CONTRIBUTIONS, INTEREST, AND PENALTIES HAVE BEEN
12 PAID.

13 (5) A NOTICE OF DELINQUENCY TO AN INDIAN TRIBE OR TRIBAL
14 UNIT SHALL INCLUDE INFORMATION THAT FAILURE TO MAKE FULL PAYMENT
15 WITHIN 90 DAYS OF THE DATE OF MAILING OF THE NOTICE OF DELIN-
16 QUENCY WILL RESULT IN THE INDIAN TRIBE LOSING THE ABILITY TO MAKE
17 PAYMENTS IN LIEU OF CONTRIBUTIONS UNTIL THE DELINQUENCY AND ALL
18 CONTRIBUTIONS, PAYMENTS IN LIEU OF CONTRIBUTIONS, INTEREST, AND
19 PENALTIES HAVE BEEN PAID IN FULL.

20 (6) ANY INDIAN TRIBE OR TRIBAL UNIT THAT MAKES REIMBURSEMENT
21 PAYMENTS IN LIEU OF CONTRIBUTIONS SHALL BE REQUIRED TO POST A
22 SECURITY, SUBJECT TO ALL OF THE FOLLOWING CONDITIONS:

23 (A) A REIMBURSING TRIBE OR TRIBAL UNIT MUST EITHER POST THE
24 SECURITY WITHIN 30 DAYS OF THE EFFECTIVE DATE OF THE AMENDATORY
25 ACT THAT ADDED THIS SECTION OR BY NOVEMBER 30 OF THE YEAR BEFORE
26 THE YEAR FOR WHICH THE SECURITY IS REQUIRED.

1 (B) THE SECURITY SHALL BE IN THE FORM OF A SURETY BOND,
2 IRREVOCABLE LETTER OF CREDIT, OR OTHER BANKING DEVICE THAT IS
3 ACCEPTABLE TO THE UNEMPLOYMENT AGENCY AND THAT PROVIDES FOR PAY-
4 MENT TO THE UNEMPLOYMENT AGENCY, ON DEMAND, OF AN AMOUNT EQUAL TO
5 THE SECURITY THAT IS REQUIRED TO BE POSTED. THE REQUIRED SECUR-
6 ITY MAY BE POSTED BY A THIRD-PARTY GUARANTOR.

7 (C) THE REQUIREMENT FOR A SECURITY DOES NOT APPLY TO AN
8 INDIAN TRIBE OR TRIBAL UNIT THAT IS EXPECTED TO HAVE LESS THAN
9 \$100,000.00 PER CALENDAR YEAR IN TOTAL WAGE PAYMENTS, AS DETER-
10 MINED BY THE UNEMPLOYMENT AGENCY. AN INDIAN TRIBE OR TRIBAL UNIT
11 IS REQUIRED TO PROVIDE SECURITY IF THE PAYMENT OF GROSS WAGES IN
12 A CALENDAR YEAR IS EQUAL TO OR GREATER THAN \$100,000.00. THE
13 EMPLOYER SHALL NOTIFY THE UNEMPLOYMENT AGENCY WITHIN 60 DAYS FROM
14 THE DATE ITS PAYROLL EQUALS OR EXCEEDS \$100,000.00. THE SECURITY
15 SHALL BE POSTED WITHIN 30 DAYS OF NOTICE BY THE UNEMPLOYMENT
16 AGENCY OF A REQUIREMENT TO POST A SECURITY.

17 (D) THE AMOUNT OF THE SECURITY REQUIRED IS 4.0% OF THE
18 EMPLOYER'S ESTIMATED TOTAL ANNUAL WAGE PAYMENTS, AS DETERMINED BY
19 THE UNEMPLOYMENT AGENCY. INDIAN TRIBES OR TRIBAL UNITS THAT HAVE
20 A PREVIOUS WAGE PAYMENT HISTORY SHALL BE REQUIRED TO FILE A
21 SECURITY THAT IS EQUAL TO 4.0% OF THE GROSS WAGES PAID FOR THE
22 12-MONTH PERIOD ENDING JUNE 30 OF THE YEAR IMMEDIATELY PRECEDING
23 THE YEAR FOR WHICH THE SECURITY IS REQUIRED OR 4.0% OF THE
24 EMPLOYER'S ESTIMATED TOTAL ANNUAL WAGES, WHICHEVER IS GREATER.

25 (7) ANY INDIAN TRIBE OR TRIBAL UNIT THAT IS LIABLE FOR REIM-
26 BURSEMENTS IN LIEU OF CONTRIBUTIONS MAY FORM A GROUP ACCOUNT WITH

1 ANOTHER TRIBE OR TRIBAL UNIT, IN THE SAME MANNER AND WITH THE
2 SAME RESTRICTIONS PROVIDED IN SECTION 13E(3).

3 (8) NOTWITHSTANDING SECTION 41(1), AFTER DECEMBER 20, 2000,
4 "EMPLOYER" INCLUDES AN INDIAN TRIBE OR TRIBAL UNIT FOR WHICH
5 SERVICES ARE PERFORMED IN EMPLOYMENT AS DEFINED IN SUBSECTION
6 (9).

7 (9) AFTER DECEMBER 20, 2000, "EMPLOYMENT" INCLUDES SERVICE
8 PERFORMED IN THE EMPLOY OF AN INDIAN TRIBE OR TRIBAL UNIT, IF THE
9 SERVICE IS EXCLUDED FROM EMPLOYMENT AS THAT TERM IS DEFINED IN
10 THE FEDERAL UNEMPLOYMENT TAX ACT, CHAPTER 23 OF SUBTITLE C OF THE
11 INTERNAL REVENUE CODE OF 1986, 26 U.S.C. 3301 TO 3311, SOLELY BY
12 REASON OF SECTION 3306(c)(7) OF THE FEDERAL UNEMPLOYMENT TAX ACT,
13 CHAPTER 23 OF SUBTITLE C OF THE INTERNAL REVENUE CODE OF 1986,
14 AND IS NOT OTHERWISE EXCLUDED FROM THE DEFINITION OF EMPLOYMENT
15 UNDER SECTION 43.

16 (10) AS USED IN THIS ACT:

17 (A) "INDIAN TRIBE" MEANS THAT TERM AS DEFINED IN SECTION
18 3306(u) OF THE FEDERAL UNEMPLOYMENT TAX ACT, CHAPTER 23 OF SUBTI-
19 TLE C OF THE INTERNAL REVENUE CODE OF 1986, 26 U.S.C. 3306.

20 (B) "TRIBAL UNIT" INCLUDES ANY SUBDIVISION, SUBSIDIARY, OR
21 BUSINESS ENTERPRISE, WHOLLY OWNED BY AN INDIAN TRIBE.

22 Sec. 27. (a)(1) When a determination, redetermination, or
23 decision is made that benefits are due an unemployed individual,
24 the benefits shall ~~immediately~~ become payable from the fund 1
25 WEEK FROM THE DATE OF THAT DETERMINATION, REDETERMINATION, OR
26 DECISION and continue to be payable to the unemployed individual,
27 subject to the limitations imposed by the individual's monetary

1 entitlement, ~~as long as~~ IF the individual continues to be
2 unemployed and to file claims for benefits, until the determina-
3 tion, redetermination, or decision is reversed, a determination,
4 redetermination, or decision on a new issue holding the individ-
5 ual disqualified or ineligible is made, or, for benefit years
6 beginning before the conversion date prescribed in section 75, a
7 new separation issue arises resulting from subsequent work.

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

11 (b)(1) Subject to subsection (f), the weekly benefit rate
12 for an individual, with respect to benefit years beginning before
13 the conversion date prescribed in section 75, shall be 67% of the
14 individual's average after tax weekly wage, except that the
15 individual's maximum weekly benefit rate shall not exceed
16 ~~-\$300.00-~~ \$415.00. However, with respect to benefit years begin-
17 ning after the conversion date as prescribed in section 75, the
18 individual's weekly benefit rate shall be 4.1% of the
19 individual's wages paid in the calendar quarter of the base
20 period in which the individual was paid the highest total wages,
21 plus \$6.00 for each dependent as defined in subdivision (3), up
22 to a maximum of 5 dependents, claimed by the individual at the
23 time the individual files a new claim for benefits, except that
24 the individual's maximum weekly benefit rate shall not exceed
25 ~~-\$300.00-~~ \$415.00. With respect to benefit years beginning on or
26 after October 2, 1983, the weekly benefit rate shall be adjusted
27 to the next lower multiple of \$1.00.

1 (2) For benefit years beginning before the conversion date
2 prescribed in section 75, the state average weekly wage for a
3 calendar year shall be computed on the basis of the 12 months
4 ending the June 30 immediately preceding that calendar year. The
5 commission shall prepare a table of weekly benefit rates based on
6 an "average after tax weekly wage" calculated by subtracting,
7 from an individual's average weekly wage as determined in accord-
8 ance with section 51, a reasonable approximation of the weekly
9 amount required to be withheld by the employer from the remunera-
10 tion of the individual based on dependents and exemptions for
11 income taxes under chapter 24 of subtitle C of the internal reve-
12 nue code of 1986, 26 U.S.C. 3401 to 3406, and under section 351
13 of the income tax act of 1967, ~~Act No. 281 of the Public Acts of~~
14 ~~1967, being section 206.351 of the Michigan Compiled Laws~~ 1967
15 PA 281, MCL 206.351, and for old age and survivor's disability
16 insurance taxes under the federal insurance contributions act,
17 chapter 21 of subtitle C of the internal revenue code of 1986, 26
18 U.S.C. 3128. For purposes of applying the table to an
19 individual's claim, a dependent shall be as defined in
20 subdivision (3). The table applicable to an individual's claim
21 shall be the table reflecting the number of dependents claimed by
22 the individual under subdivision (3). The commission shall
23 adjust the tables based on changes in withholding schedules pub-
24 lished by the United States department of treasury, internal rev-
25 enue service, and by the department of treasury. The number of
26 dependents allowed shall be determined with respect to each week
27 of unemployment for which an individual is claiming benefits.

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

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

(b) The husband or wife of the individual.

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

(d) A brother or sister of the individual if the brother or sister is orphaned or the living parents are dependent parents of an individual, and the brother or sister is under 18 years of age, or 18 years of age or over if, because of physical or mental infirmity, the brother or sister is unable to engage in a 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 (4) For benefit years beginning after the conversion date
5 prescribed in section 75, a dependent means any of the following
6 persons who received for at least 90 consecutive days immediately
7 preceding the first week of the benefit year or, in the case of a
8 dependent husband, wife, or child, for the duration of the mari-
9 tal or parental relationship if the relationship existed less
10 than 90 days before the beginning of the benefit year, has
11 received more than 1/2 the cost of his or her support from the
12 individual claiming the benefits:

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

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

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

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

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

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

18 (6) For benefit years beginning before the conversion date
19 prescribed in section 75, failure on the part of an individual,
20 due to misinformation or lack of information, to furnish all
21 information material for determination of the number of the
22 individual's dependents when the individual files a claim for
23 benefits with respect to a week shall be considered good cause
24 for the issuance of a redetermination as to the amount of bene-
25 fits based on the number of the individual's dependents as of the
26 beginning date of that week. Dependency status of a dependent,
27 child or otherwise, once established or fixed in favor of a

1 person is not transferable to or usable by another person with
2 respect to the same week.

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

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

13 (1) Each eligible individual shall be paid a weekly benefit
14 rate ~~with respect to the week for which~~ FOR EACH WEEK THAT the
15 individual earns or receives no remuneration, BEGINNING 1 WEEK
16 AFTER THE FIRST WEEK THAT THE INDIVIDUAL EARNS OR RECEIVES NO
17 REMUNERATION. HOWEVER, IN ANY CALENDAR YEAR IN WHICH AN ELIGIBLE
18 INDIVIDUAL RECEIVES BENEFITS BEGINNING 1 WEEK AFTER THE FIRST
19 WEEK THAT THE INDIVIDUAL EARNS OR RECEIVES NO REMUNERATION AS
20 PROVIDED IN THE PRECEDING SENTENCE AND IN ANY SUBSEQUENT WEEK IN
21 THAT SAME CALENDAR YEAR IN WHICH THE ELIGIBLE INDIVIDUAL EARNS OR
22 RECEIVES NO REMUNERATION, THE ELIGIBLE INDIVIDUAL SHALL BE PAID A
23 WEEKLY BENEFIT RATE BEGINNING THE FIRST WEEK THAT THE INDIVIDUAL
24 EARNS OR RECEIVES NO REMUNERATION. Notwithstanding the definition
25 of week ~~as contained~~ in section 50, if within 2 consecutive
26 weeks in which an individual was not unemployed within the
27 meaning of section 48 there was a period of 7 or more consecutive

1 days for which the individual did not earn or receive
2 remuneration, that period shall be considered a week for benefit
3 purposes under this act if a claim for benefits for that period
4 is filed not later than 30 days ~~subsequent to~~ AFTER the end of
5 the period.

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

11 (3) An individual who receives or earns partial remuneration
12 may not receive a total of benefits and earnings that exceeds
13 1-1/2 times his or her weekly benefit amount. For each dollar of
14 total benefits and earnings that exceeds 1-1/2 times the
15 individual's weekly benefit amount, benefits shall be reduced by
16 \$1.00.

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

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

25 (d) For benefit years beginning before the conversion date
26 prescribed in section 75, and subject to subsection (f) and this
27 subsection, the amount of benefits to which an individual who is

1 otherwise eligible is entitled during a benefit year from an
2 employer with respect to employment during the base period is the
3 amount obtained by multiplying the weekly benefit rate with
4 respect to that employment by $\frac{3}{4}$ of the number of credit weeks
5 earned in the employment. For the purpose of this subsection and
6 section 20(c), if the resultant product is not an even multiple
7 of $\frac{1}{2}$ the weekly benefit rate, the product shall be raised to an
8 amount equal to the next higher multiple of $\frac{1}{2}$ the weekly bene-
9 fit rate, and, for an individual who was employed by only 1
10 employer in the individual's base period and earned 34 credit
11 weeks with that employer, the product shall be raised to the next
12 higher multiple of the weekly benefit rate. The maximum amount
13 of benefits payable to an individual within a benefit year, with
14 respect to employment by an employer, shall not exceed 26 times
15 the weekly benefit rate with respect to that employment. The
16 maximum amount of benefits payable to an individual within a ben-
17 efit year shall not exceed the amount to which the individual
18 would be entitled for 26 weeks of unemployment in which remunera-
19 tion was not earned or received. The limitation of total bene-
20 fits set forth in this subsection does not apply to claimants
21 declared eligible for training benefits in accordance with sub-
22 section (g). For benefit years beginning after the conversion
23 date prescribed in section 75, and subject to subsection (f) and
24 this subsection, the maximum benefit amount payable to an indi-
25 vidual in a benefit year for purposes of this section and
26 section 20(c) is the number of weeks of benefits payable to an
27 individual during the benefit year, multiplied by the

1 individual's weekly benefit rate. The number of weeks of
2 benefits payable to an individual shall be calculated by taking
3 40% of the individual's base period wages and dividing the result
4 by the individual's weekly benefit rate. If the quotient is not
5 a whole or half number, the result shall be rounded down to the
6 nearest half number. However, not more than 26 weeks of benefits
7 or less than 14 weeks of benefits shall be payable to an individ-
8 ual in a benefit year. The limitation of total benefits set
9 forth in this subsection shall not apply to claimants declared
10 eligible for training benefits in accordance with
11 subsection (g).

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

21 (f)(1) For benefit years beginning before the conversion
22 date prescribed in section 75, and notwithstanding any inconsis-
23 tent provisions of this act, the weekly benefit rate of each
24 individual who is receiving or will receive a "retirement
25 benefit", as defined in subdivision (4), shall be adjusted as
26 provided in subparagraphs (a), (b), and (c). However, an
27 individual's extended benefit account and an individual's weekly

1 extended benefit rate under section 64 shall be established
2 without reduction under this subsection unless subdivision (5) is
3 in effect. Except as otherwise provided in this subsection, all
4 other provisions of this act continue to apply in connection with
5 the benefit claims of those retired persons.

6 (a) If and to the extent that unemployment benefits payable
7 under this act would be chargeable to an employer who has con-
8 tributed to the financing of a retirement plan under which the
9 claimant is receiving or will receive a retirement benefit yield-
10 ing a pro rata weekly amount equal to or larger than the
11 claimant's weekly benefit rate as otherwise established under
12 this act, the claimant shall not receive unemployment benefits
13 that would be chargeable to the employer under this act.

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

25 (c) If the unemployment benefit payable under this act would
26 be chargeable to an employer who has not contributed to the
27 financing of a retirement plan under which the claimant is

1 receiving or will receive a retirement benefit, then the weekly
2 benefit rate of the claimant as otherwise established under this
3 act shall not be reduced due to receipt of a retirement benefit.

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

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

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

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

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

7 (ii) Payable to an individual because the individual has
8 qualified on the basis of attained age, length of service, or
9 disability, whether or not the individual retired or was retired
10 from employment. Amounts paid to individuals in the course of
11 liquidation of a private pension or retirement fund because of
12 termination of the business or of a plant or department of the
13 business of the employer involved shall not be considered to be
14 retirement benefits.

15 (b) If a benefit as described in subparagraph (a) is payable
16 or paid to the individual under a plan to which the individual
17 has contributed:

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

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

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

26 (5) Notwithstanding any other provision of this subsection,
27 for any week that begins after March 31, 1980, and with respect

1 to which an individual is receiving a governmental or other
2 pension and claiming unemployment compensation, the weekly bene-
3 fit amount payable to the individual for those weeks shall be
4 reduced, but not below zero, by the entire prorated weekly amount
5 of any governmental or other pension, retirement or retired pay,
6 annuity, or any other similar payment that is based on any previ-
7 ous work of the individual. This reduction shall be made only if
8 it is required as a condition for full tax credit against the tax
9 imposed by the federal unemployment tax act, chapter 23 of
10 subtitle C of the internal revenue code of 1986, 26 U.S.C. 3301
11 to 3311.

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

24 (a) If any base period or chargeable employer has contrib-
25 uted to the financing of a retirement plan under which the claim-
26 ant is receiving or will receive a retirement benefit yielding a
27 pro rata weekly amount equal to or larger than the claimant's

1 weekly benefit rate as otherwise established under this act, the
2 claimant shall not receive unemployment benefits.

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

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

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

1 the benefits were granted began before expiration or termination
2 of the benefit year.

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

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

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

1 principal administrative capacity for an institution of higher
2 education or an educational institution other than an institution
3 of higher education in the second of the academic years or terms,
4 whether or not the terms are successive.

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

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

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

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

(5) ~~(6)~~ Notwithstanding subdivision (2), on and after April 1, 1984 benefits BASED upon services in other than an instructional, research, or principal administrative capacity for an institution of higher education shall not be denied for any week of unemployment commencing during the period between 2 successive academic years or terms solely because the individual had performed the service in the first of the academic years or terms and there is reasonable assurance that the individual will perform the service for an institution of higher education or an

1 educational institution other than an institution of higher
2 education in the second of the academic years or terms, unless a
3 denial is required as a condition for full tax credit against the
4 tax imposed by the federal unemployment tax act, chapter 23 of
5 subtitle C of the internal revenue code of 1986, 26 U.S.C. 3301
6 to 3311.

7 (6) ~~—(7)—~~ For benefit years established before the conver-
8 sion date prescribed in section 75, and notwithstanding subdivi-
9 sions (1), (2), and (3), the denial of benefits does not prevent
10 an individual from completing requalifying weeks in accordance
11 with section 29(3) nor does the denial prevent an individual from
12 receiving benefits based on service with an employer other than
13 an educational institution for any week of unemployment occurring
14 between academic years or terms, whether or not successive, or
15 during an established and customary vacation period or holiday
16 recess, even though the employer is not the most recent charge-
17 able employer in the individual's base period. However, in that
18 case section 20(b) applies to the sequence of benefit charging,
19 except for the employment with the educational institution, and
20 section 50(b) applies to the calculation of credit weeks. When a
21 denial of benefits under subdivision (1) no longer applies, bene-
22 fits shall be charged in accordance with the normal sequence of
23 charging as provided in section 20(b).

24 (7) ~~—(8)—~~ For benefit years beginning after the conversion
25 date prescribed in section 75, and notwithstanding subdivisions
26 (1), (2), and (3), the denial of benefits shall not prevent an
27 individual from completing requalifying weeks in accordance with

1 section 29(3) nor shall the denial prevent an individual from
 2 receiving benefits based on service with another base period
 3 employer other than an educational institution for any week of
 4 unemployment occurring between academic years or terms, whether
 5 or not successive, or during an established and customary vaca-
 6 tion period or holiday recess. However, when benefits are paid
 7 based on service with 1 or more base period employers other than
 8 an educational institution, the individual's weekly benefit rate
 9 shall be calculated in accordance with subsection (b)(1) but
 10 during the denial period the individual's weekly benefit payment
 11 shall be reduced by the portion of the payment attributable to
 12 base period wages paid by an educational institution and the
 13 account or experience account of the educational institution
 14 shall not be charged for benefits payable to the individual.
 15 When a denial of benefits under subdivision (1) is no longer
 16 applicable, benefits shall be paid and charged on the basis of
 17 base period wages with each of the base period employers includ-
 18 ing the educational institution.

19 (8) ~~-(9)-~~ For the purposes of this subsection, "academic
 20 year" means that period, as defined by the educational institu-
 21 tion, when classes are in session for that length of time
 22 required for students to receive sufficient instruction or earn
 23 sufficient credit to complete academic requirements for a partic-
 24 ular grade level or to complete instruction in a noncredit
 25 course.

26 (9) ~~-(10)-Benefits-~~ IN ACCORDANCE WITH SUBDIVISIONS (1),
 27 (2), AND (3), BENEFITS FOR ANY WEEK OF UNEMPLOYMENT shall be

1 ~~denied~~ ~~, as provided in subdivisions (1), (2), and (3), for any~~
2 ~~week of unemployment beginning on and after April 1, 1984,~~ to an
3 individual who performed ~~those~~ services DESCRIBED IN
4 SUBDIVISION (1), (2), OR (3) in an educational institution while
5 in the employ of an educational service agency. For the purpose
6 of this subdivision, "educational service agency" means a govern-
7 mental agency or governmental entity that is established and
8 operated exclusively for the purpose of providing the services to
9 1 or more educational institutions.

10 (j) ~~For weeks of unemployment beginning after December 31,~~
11 ~~1977, benefits~~ BENEFITS shall not be paid to an individual on
12 the basis of any base period services, substantially all of which
13 consist of participating in sports or athletic events or training
14 or preparing to ~~so~~ participate, for a week that commences
15 during the period between 2 successive sport seasons or similar
16 periods if the individual performed the services in the first of
17 the seasons or similar periods and there is a reasonable assur-
18 ance that the individual will perform the services in the later
19 of the seasons or similar periods.

20 (k)(1) ~~For weeks of unemployment beginning after~~
21 ~~December 31, 1977, benefits~~ BENEFITS shall not be payable on the
22 basis of services performed by an alien unless the alien is an
23 individual who was lawfully admitted for permanent residence at
24 the time the services were performed, was lawfully present for
25 the purpose of performing the services, or was permanently resid-
26 ing in the United States under color of law at the time the
27 services were performed, including an alien who was lawfully

1 present in the United States under ~~section 203(a)(7) or~~ section
2 212(d)(5) of the immigration and nationality act, CHAPTER 477, 66
3 STAT. 182, 8 U.S.C. ~~1153 and~~ 1182.

4 (2) Any data or information required of individuals applying
5 for benefits to determine whether benefits are payable because of
6 their alien status are uniformly required from all applicants for
7 benefits.

8 (3) Where an individual whose application for benefits would
9 otherwise be approved, a determination that benefits to that
10 individual are not payable because of the individual's alien
11 status shall not be made except upon a preponderance of the
12 evidence.

13 (m)(1) An individual filing a new claim for unemployment
14 compensation under this act, ~~after September 30, 1982,~~ at the
15 time of filing the claim, shall disclose whether the individual
16 owes child support obligations as defined in this subsection. If
17 an individual discloses that he or she owes child support obliga-
18 tions and is determined to be eligible for unemployment compensa-
19 tion, the commission shall notify the state or local child sup-
20 port enforcement agency enforcing the obligation that the indi-
21 vidual has been determined to be eligible for unemployment
22 compensation.

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

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

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

8 (c) Any amount otherwise required to be ~~so~~ deducted and
9 withheld from unemployment compensation pursuant to legal pro-
10 cess, as that term is defined in section 462(e) of part D of
11 title IV of the social security act, ~~chapter 531, 49 Stat. 620,~~
12 42 U.S.C. 662, properly served upon the commission.

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

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

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

26 (6) This subsection applies only if the state or local child
27 support enforcement agency agrees in writing to reimburse and

1 does reimburse the commission for the administrative costs
2 incurred by the commission under this subsection that are attrib-
3 utable to child support obligations being enforced by the state
4 or local child support enforcement agency. The administrative
5 costs incurred shall be determined by the commission. The com-
6 mission, in its discretion, may require payment of administrative
7 costs in advance.

8 (7) As used in this subsection:

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

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

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

25 (n) Subsection (i)(2) applies to services performed by
26 school bus drivers employed by a private contributing employer
27 holding a contractual relationship with an educational

1 institution, but only if at least 75% of the individual's base
2 period wages with that employer are attributable to services per-
3 formed as a school bus driver.

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

26 (2) Not less than 20 days before the estimated beginning
27 date of a normal seasonal work period, an employer may apply to

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

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

26 (4) The commission may issue a determination terminating an
27 employer's status as a seasonal employer on the commission's own

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

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

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

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

26 (8) At the time an employee is hired by a seasonal employer,
27 the employer shall notify the employee in writing whether the

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

7 (9) As used in this subsection:

8 (a) "Construction industry" means the work activity desig-
9 nated in ~~major groups 15, 16, and 17 of the standard industrial~~
10 ~~classification manual, United States office of management and~~
11 ~~budget, 1987 edition~~ SECTOR GROUP 23 -- CONSTRUCTION OF THE
12 NORTH AMERICAN CLASSIFICATION SYSTEM -- UNITED STATES OFFICE OF
13 MANAGEMENT AND BUDGET, 1997 EDITION.

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

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

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

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

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

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

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

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

25 Sec. 29. (1) An individual is disqualified from receiving
26 benefits if he or she:

1 (a) Left work voluntarily without good cause attributable to
2 the employer or employing unit. AN INDIVIDUAL WHO LEFT WORK
3 VOLUNTARILY IS PRESUMED TO HAVE LEFT WORK WITHOUT GOOD CAUSE
4 ATTRIBUTABLE TO THE EMPLOYER OR EMPLOYING UNIT. AN INDIVIDUAL
5 CLAIMING BENEFITS UNDER THIS ACT HAS THE BURDEN OF PROOF TO
6 ESTABLISH THAT HE OR SHE LEFT WORK VOLUNTARILY FOR GOOD CAUSE
7 THAT WAS ATTRIBUTABLE TO THE EMPLOYER OR EMPLOYING UNIT. However,
8 if the individual has an established benefit year in effect and
9 during that benefit year leaves unsuitable work within 60 days
10 after the beginning of that work, the leaving does not disqualify
11 the individual.

12 (b) Was discharged for misconduct connected with the
13 individual's work or for intoxication while at work unless the
14 discharge was subsequently reduced to a disciplinary layoff or
15 suspension.

16 (c) Failed without good cause to apply for available suit-
17 able work after receiving from the employment office or the com-
18 mission notice of the availability of that work.

19 (d) Failed without good cause while unemployed to report to
20 the individual's former employer or employing unit within a rea-
21 sonable time after that employer or employing unit provided
22 notice of the availability of an interview concerning available
23 suitable work with the former employer or employing unit.

24 (e) Failed without good cause to accept suitable work
25 offered to the individual or to return to the individual's cus-
26 tomary self-employment, if any, when directed by the employment
27 office or the commission.

1 (f) Lost his or her job due to absence from work resulting
2 from a violation of law for which the individual was convicted
3 and sentenced to jail or prison. This subdivision does not apply
4 if conviction of an individual results in a sentence to county
5 jail under conditions of day parole as provided in ~~Act No. 60 of~~
6 ~~the Public Acts of 1962, being sections 801.251 to 801.258 of the~~
7 ~~Michigan Compiled Laws~~ 1962 PA 60, MCL 801.251 TO 801.258, or if
8 the conviction was for a traffic violation that resulted in an
9 absence of less than 10 consecutive work days from the
10 individual's place of employment.

11 (g) Is discharged, whether or not the discharge is subse-
12 quently reduced to a disciplinary layoff or suspension, for par-
13 ticipation in either of the following:

14 (i) A strike or other concerted action in violation of an
15 applicable collective bargaining agreement that results in cur-
16 tailment of work or restriction of or interference with
17 production.

18 (ii) A wildcat strike or other concerted action not autho-
19 rized by the individual's recognized bargaining representative.

20 (h) Was discharged for an act of assault and battery con-
21 nected with the individual's work.

22 (i) Was discharged for theft connected with the individual's
23 work.

24 (j) Was discharged for willful destruction of property con-
25 nected with the individual's work.

26 (k) Committed a theft after receiving notice of a layoff or
27 discharge, but before the effective date of the layoff or

1 discharge, resulting in loss or damage to the employer who would
2 otherwise be chargeable for the benefits, regardless of whether
3 the individual qualified for the benefits before the theft.

4 (l) Was employed by a temporary help firm, which as used in
5 this section means an employer whose primary business is to pro-
6 vide a client with the temporary services of 1 or more individu-
7 als under contract with the employer, to perform services for a
8 client of that firm if each of the following conditions is met:

9 (i) The temporary help firm provided the employee with a
10 written notice before the employee began performing services for
11 the client stating in substance both of the following:

12 (A) That within 7 days after completing services for a
13 client of the temporary help firm, the employee is under a duty
14 to notify the temporary help firm of the completion of those
15 services.

16 (B) That a failure to provide the temporary help firm with
17 notice of the employee's completion of services pursuant to
18 sub-subparagraph (A) constitutes a voluntary quit that will
19 affect the employee's eligibility for unemployment compensation
20 should the employee seek unemployment compensation following com-
21 pletion of those services.

22 (ii) The employee did not provide the temporary help firm
23 with notice that the employee had completed his or her services
24 for the client within 7 days after completion of his or her serv-
25 ices for the client.

26 (m) Was discharged for (i) Illegally ingesting, injecting,
27 inhaling, or possessing a controlled substance on the premises of

1 the employer, (ii) Refusing to submit to a drug test that was
 2 required to be administered in a nondiscriminatory manner, or
 3 (iii) Testing positive on a drug test, if the test was adminis-
 4 tered in a nondiscriminatory manner. If the worker disputes the
 5 result of the testing, a generally accepted confirmatory test
 6 shall be administered and shall also indicate a positive result
 7 for the presence of a controlled substance before a disqualifica-
 8 tion of the worker under this subdivision. As used in this
 9 subdivision:

10 (A) "Controlled substance" means that term as defined in
 11 section 7104 of the public health code, ~~Act No. 368 of the~~
 12 ~~Public Acts of 1978, being section 333.7104 of the Michigan~~
 13 ~~Compiled Laws~~ 1978 PA 368, MCL 333.7104.

14 (B) "Drug test" means a test designed to detect the illegal
 15 use of a controlled substance.

16 (C) "Nondiscriminatory manner" means administered impar-
 17 tially and objectively in accordance with a collective bargaining
 18 agreement, rule, policy, a verbal or written notice, or a
 19 labor-management contract.

20 (n) Has an income exceeding \$100,000.00 for the calendar
 21 year in which he or she applies for benefits. This subdivision
 22 shall not take effect unless both of the following occur:

23 (i) Within 30 days ~~of the effective date of the act that~~
 24 ~~added subdivision (l)~~ AFTER MARCH 26, 1996, the governor
 25 requests from the United States department of labor a determina-
 26 tion confirming whether this subdivision is in conformity with
 27 the federal unemployment tax act, chapter 23 — of SUBTITLE C OF

1 the internal revenue code of 1986, 26 U.S.C. 3301 to 3311, and
2 the social security act, CHAPTER 531, 49 Stat. 620, and whether
3 conformity with those federal acts is a condition for a full tax
4 credit against the tax imposed under the federal unemployment tax
5 act, ~~—(FUTA)—~~ CHAPTER 23 OF SUBTITLE C OF THE INTERNAL REVENUE
6 CODE OF 1986, 26 U.S.C. 3301 TO 3311, or is a condition for state
7 receipt of federal administrative grant funds under the social
8 security act, CHAPTER 531, 49 STAT. 620.

9 (ii) The United States department of labor determines that
10 this subdivision is in conformity with the acts described in sub-
11 paragraph (i), or verifies that conformity with those federal
12 acts is not a condition for a tax credit or a grant described in
13 subparagraph (i).

14 (2) A disqualification under subsection (1) begins the week
15 in which the act or discharge that caused the disqualification
16 occurs and continues until the disqualified individual requali-
17 fies under subsection (3), except that for benefit years begin-
18 ning before the conversion date prescribed in section 75, the
19 disqualification does not prevent the payment of benefits if
20 there are credit weeks, other than multiemployer credit weeks,
21 after the most recent disqualifying act or discharge.

22 (3) After the week in which the disqualifying act or dis-
23 charge described in subsection (1) occurs, an individual who
24 seeks to requalify for benefits is subject to all of the
25 following:

26 (a) For benefit years established before the conversion date
27 described in section 75, the individual shall complete 6

1 requalifying weeks if he or she was disqualified under
2 subsection (1)(c), (d), (e), (f), (g), or (l), or 13 requalifying
3 weeks if he or she was disqualified under subsection (1)(h), (i),
4 (j), (k), or (m). A requalifying week required under this sub-
5 section shall be each week in which the individual does any of
6 the following:

7 (i) Earns or receives remuneration in an amount at least
8 equal to an amount needed to earn a credit week, as that term is
9 defined in section 50.

10 (ii) Otherwise meets all of the requirements of this act to
11 receive a benefit payment if the individual were not disqualified
12 under subsection (1).

13 (iii) Receives a benefit payment based on credit weeks sub-
14 sequent to the disqualifying act or discharge.

15 (b) For benefit years established before the conversion date
16 prescribed in section 75, if the individual is disqualified under
17 subsection (1)(a) or (b), he or she shall requalify, after the
18 week in which the disqualifying discharge occurred by earning in
19 employment for an employer liable under this act or the unemploy-
20 ment compensation act of another state an amount equal to, or in
21 excess of, 7 times the individual's potential weekly benefit
22 rate, calculated on the basis of employment with the employer
23 involved in the disqualification, or by earning in employment for
24 an employer liable under this act or the unemployment compensa-
25 tion act of another state an amount equal to, or in excess of, 40
26 times the state minimum hourly wage times 7, whichever is the
27 lesser amount.

1 (c) For benefit years established before the conversion date
2 prescribed in section 75, a benefit payable to an individual dis-
3 qualified under subsection (1)(a) or (b), shall be charged to the
4 nonchargeable benefits account, and not to the account of the
5 employer with whom the individual was involved in the
6 disqualification.

7 (d) For benefit years beginning after the conversion date
8 prescribed in section 75, subsequent to the week in which the
9 disqualifying act or discharge occurred, an individual shall com-
10 plete 6 requalifying weeks if he or she was disqualified under
11 subsection (1)(c), (d), (e), (f), (g), or (l), or 13 requalifying
12 weeks if he or she was disqualified under subsection (1)(h), (i),
13 (j), (k), or (m). A requalifying week required under this sub-
14 section shall be each week in which the individual does any of
15 the following:

16 (i) Earns or receives remuneration in an amount equal to at
17 least 1/13 of the minimum amount needed in a calendar quarter of
18 the base period for an individual to qualify for benefits,
19 rounded down to the nearest whole dollar.

20 (ii) Otherwise meets all of the requirements of this act to
21 receive a benefit payment if the individual were not disqualified
22 under subsection (1).

23 (e) For benefit years beginning after the conversion date
24 prescribed in section 75, if the individual is disqualified under
25 subsection (1)(a) or (b), he or she shall requalify, after the
26 week in which the disqualifying act or discharge occurred by
27 earning in employment for an employer liable under this act or

1 the unemployment compensation law of another state at least the
2 lesser of the following:

3 (i) ~~Seven~~ TWELVE times the individual's weekly benefit
4 rate.

5 (ii) Forty times the state minimum hourly wage times ~~7~~
6 12.

7 (f) A benefit payable to the individual disqualified or sep-
8 arated under disqualifying circumstances under subsection (1)(a)
9 or (b), shall be charged to the nonchargeable benefits account,
10 and not to the account of the employer with whom the individual
11 was involved in the separation. Benefits payable to an individ-
12 ual determined by the commission to be separated under disquali-
13 fying circumstances shall not be charged to the account of the
14 employer involved in the disqualification for any period after
15 the employer notifies the commission of the claimant's possible
16 ineligibility or disqualification. If a disqualifying act or
17 discharge occurs during the individual's benefit year, any bene-
18 fits that may become payable to the individual in a later benefit
19 year based on employment with the employer involved in the dis-
20 qualification shall be charged to the nonchargeable benefits
21 account.

22 (4) The maximum amount of benefits otherwise available under
23 section 27(d) to an individual disqualified under subsection (1)
24 is subject to all of the following conditions:

25 (a) For benefit years established before the conversion date
26 prescribed in section 75, if the individual is disqualified under
27 subsection (1)(c), (d), (e), (f), (g), or (l) and the maximum

1 amount of benefits is based on wages and credit weeks earned from
2 an employer before an act or discharge involving that employer,
3 the amount shall be reduced by an amount equal to the
4 individual's weekly benefit rate as to that employer multiplied
5 by the lesser of either of the following:

6 (i) The number of requalifying weeks required of the indi-
7 vidual under this section.

8 (ii) The number of weeks of benefit entitlement remaining
9 with that employer.

10 (b) If the individual has insufficient or no potential bene-
11 fit entitlement remaining with the employer involved in the dis-
12 qualification in the benefit year in existence on the date of the
13 disqualifying determination, a reduction of benefits described in
14 this subsection shall apply in a succeeding benefit year with
15 respect to any benefit entitlement based upon credit weeks earned
16 with the employer before the disqualifying act or discharge.

17 (c) For benefit years established before the conversion date
18 prescribed in section 75, an individual disqualified under sub-
19 section (1)(h), (i), (j), (k), or (m) is not entitled to benefits
20 based on wages and credit weeks earned before the disqualifying
21 act or discharge with the employer involved in the
22 disqualification.

23 (d) The benefit entitlement of an individual disqualified
24 under subsection (1)(a) or (b) is not subject to reduction as a
25 result of that disqualification.

1 (e) A denial or reduction of benefits under this subsection
2 does not apply to benefits based upon multiemployer credit
3 weeks.

4 (f) For benefit years established after the conversion date
5 prescribed in section 75, if the individual is disqualified under
6 subsection (1)(c), (d), (e), (f), (g), or (l), the maximum number
7 of weeks otherwise applicable in calculating benefits for the
8 individual under section 27(d) shall be reduced by the lesser of
9 the following:

10 (i) The number of requalifying weeks required of the indi-
11 vidual under this subsection.

12 (ii) The number of weeks of benefit entitlement remaining on
13 the claim.

14 (g) For benefit years beginning after the conversion date
15 prescribed in section 75, the benefits of an individual disquali-
16 fied under subsection (1)(h), (i), (j), (k), or (m) shall be
17 reduced by 13 weeks and any weekly benefit payments made to the
18 claimant thereafter shall be reduced by the portion of the pay-
19 ment attributable to base period wages paid by the base period
20 employer involved in a disqualification under subsection (1)(h),
21 (i), (j), (k), or (m).

22 (5) If an individual leaves work to accept permanent
23 full-time work with another employer and performs services for
24 that employer, or if an individual leaves work to accept a recall
25 from a former employer:

26 (a) Subsection (1) does not apply.

1 (b) Wages earned with the employer whom the individual last
2 left, including wages previously transferred under this
3 subsection to the last employer, for the purpose of computing and
4 charging benefits, are wages earned from the employer with whom
5 the individual accepted work or recall, and benefits paid based
6 upon those wages shall be charged to that employer.

7 (c) When issuing a determination covering the period of
8 employment with a new or former employer described in this sub-
9 section, the commission shall advise the chargeable employer of
10 the name and address of the other employer, the period covered by
11 the employment, and the extent of the benefits that may be
12 charged to the account of the chargeable employer.

13 (6) In determining whether work is suitable for an individu-
14 al, the commission shall consider the degree of risk involved to
15 the individual's health, safety, and morals, the individual's
16 physical fitness and prior training, the individual's length of
17 unemployment and prospects for securing local work in the
18 individual's customary occupation, and the distance of the avail-
19 able work from the individual's residence. Additionally, the
20 commission shall consider the individual's experience and prior
21 earnings, subject to the following limitation:

22 (a) An individual unemployed for 1 to 12 weeks who refuses
23 an offer of work determined to be suitable under this section
24 shall be denied benefits if the pay rate for that work is at
25 least 80% of the gross pay rate he or she received immediately
26 before becoming unemployed.

1 (b) An individual unemployed for 13 to 20 weeks who refuses
2 an offer of work determined to be suitable under this section
3 shall be denied benefits if the pay rate for that work is at
4 least 75% of the gross pay rate he or she received immediately
5 before becoming unemployed.

6 (c) An individual unemployed for more than 20 weeks who
7 refuses an offer of work determined to be suitable under this
8 section shall be denied benefits if the pay rate for that work is
9 at least 70% of the gross pay rate he or she received immediately
10 before becoming unemployed.

11 (7) Work is not suitable and benefits shall not be denied
12 under this act to an otherwise eligible individual for refusing
13 to accept new work under any of the following conditions:

14 (a) If the position offered is vacant due directly to a
15 strike, lockout, or other labor dispute.

16 (b) If the remuneration, hours, or other conditions of the
17 work offered are substantially less favorable to the individual
18 than those prevailing for similar work in the locality.

19 (c) If as a condition of being employed, the individual
20 would be required to join a company union or to resign from or
21 refrain from joining a bona fide labor organization.

22 (8) All of the following apply to an individual who seeks
23 benefits under this act:

24 (a) An individual is disqualified from receiving benefits
25 for a week in which the individual's total or partial unemploy-
26 ment is due to either of the following:

1 (i) A labor dispute in active progress at the place at which
2 the individual is or was last employed, or a shutdown or start-up
3 operation caused by that labor dispute.

4 (ii) A labor dispute, other than a lockout, in active
5 progress or a shutdown or start-up operation caused by that labor
6 dispute in any other establishment within the United States that
7 is both functionally integrated with the establishment described
8 in subparagraph (i) and operated by the same employing unit.

9 (b) An individual's disqualification imposed or imposable
10 under this subsection is terminated if the individual performs
11 services in employment with an employer in at least 2 consecutive
12 weeks falling wholly within the period of the individual's total
13 or partial unemployment due to the labor dispute, and in addition
14 earns wages in each of those weeks in an amount equal to or
15 greater than the individual's actual or potential weekly benefit
16 rate with respect to those weeks based on the individual's
17 employment with the employer involved in the labor dispute.

18 (c) An individual is not disqualified under this subsection
19 if the individual is not directly involved in the labor dispute.
20 An individual is not directly involved in a labor dispute unless
21 any of the following are established:

22 (i) At the time or in the course of a labor dispute in the
23 establishment in which the individual was then employed, the
24 individual in concert with 1 or more other employees voluntarily
25 stopped working other than at the direction of the individual's
26 employing unit.

1 (ii) The individual is participating in, financing, or
2 directly interested in the labor dispute that causes the
3 individual's total or partial unemployment. The payment of regu-
4 lar union dues, in amounts and for purposes established before
5 the inception of the labor dispute, is not financing a labor dis-
6 pute within the meaning of this subparagraph.

7 (iii) At any time a labor dispute in the establishment or
8 department in which the individual was employed does not exist,
9 and the individual voluntarily stops working, other than at the
10 direction of the individual's employing unit, in sympathy with
11 employees in some other establishment or department in which a
12 labor dispute is in progress.

13 (iv) The individual's total or partial unemployment is due
14 to a labor dispute that was or is in progress in a department,
15 unit, or group of workers in the same establishment.

16 (d) As used in this subsection, "directly interested" shall
17 be construed and applied so as not to disqualify individuals
18 unemployed as a result of a labor dispute the resolution of which
19 may not reasonably be expected to affect their wages, hours, or
20 other conditions of employment, and to disqualify individuals
21 whose wages, hours, or conditions of employment may reasonably be
22 expected to be affected by the resolution of the labor dispute.
23 A "reasonable expectation" of an effect on an individual's wages,
24 hours, or other conditions of employment exists, in the absence
25 of a substantial preponderance of evidence to the contrary, in
26 any of the following situations:

1 (i) If it is established that there is in the particular
2 establishment or employing unit a practice, custom, or
3 contractual obligation to extend within a reasonable period to
4 members of the individual's grade or class of workers in the
5 establishment in which the individual is or was last employed
6 changes in terms and conditions of employment that are substan-
7 tially similar or related to some or all of the changes in terms
8 and conditions of employment that are made for the workers among
9 whom there exists the labor dispute that has caused the
10 individual's total or partial unemployment.

11 (ii) If it is established that 1 of the issues in or pur-
12 poses of the labor dispute is to obtain a change in the terms and
13 conditions of employment for members of the individual's grade or
14 class of workers in the establishment in which the individual is
15 or was last employed.

16 (iii) If a collective bargaining agreement covers both the
17 individual's grade or class of workers in the establishment in
18 which the individual is or was last employed and the workers in
19 another establishment of the same employing unit who are actively
20 participating in the labor dispute, and that collective bargain-
21 ing agreement is subject by its terms to modification, supplemen-
22 tation, or replacement, or has expired or been opened by mutual
23 consent at the time of the labor dispute.

24 (e) In determining the scope of the grade or class of work-
25 ers, evidence of the following is relevant:

1 (i) Representation of the workers by the same national or
2 international organization or by local affiliates of that
3 national or international organization.

4 (ii) Whether the workers are included in a single, legally
5 designated, or negotiated bargaining unit.

6 (iii) Whether the workers are or within the past 6 months
7 have been covered by a common master collective bargaining agree-
8 ment that sets forth all or any part of the terms and conditions
9 of the workers' employment, or by separate agreements that are or
10 have been bargained as a part of the same negotiations.

11 (iv) Any functional integration of the work performed by
12 those workers.

13 (v) Whether the resolution of those issues involved in the
14 labor dispute as to some of the workers could directly or indi-
15 rectly affect the advancement, negotiation, or settlement of the
16 same or similar issues in respect to the remaining workers.

17 (vi) Whether the workers are currently or have been covered
18 by the same or similar demands by their recognized or certified
19 bargaining agent or agents for changes in their wages, hours, or
20 other conditions of employment.

21 (vii) Whether issues on the same subject matter as those
22 involved in the labor dispute have been the subject of proposals
23 or demands made upon the employing unit that would by their terms
24 have applied to those workers.

25 (9) Except for an individual disqualified under subsection
26 (1)(g), or an individual whose disqualifying discharge under
27 subsection (1)(b) is determined or redetermined to be a

1 disciplinary layoff or suspension, an individual is disqualified
2 from receiving benefits for the duration of the individual's dis-
3 ciplinary layoff or suspension if the individual becomes unem-
4 ployed because of a disciplinary layoff or suspension based upon
5 any of the following:

6 (a) Misconduct directly or indirectly connected with work.

7 (b) Participation in a strike or other concerted activity
8 resulting in a curtailment of work or restriction of or interfer-
9 ence with production contrary to an applicable collective bar-
10 gaining agreement.

11 (c) Participation in a wildcat strike or other concerted
12 activity not authorized by the individual's recognized bargaining
13 representative.

14 (10) If a disqualifying discharge under subsection (1)(b) is
15 determined or redetermined to be a suspension, the disqualifica-
16 tion provided under subsection (9) applies from the date of the
17 discharge.

18 (11) Notwithstanding subsections (1) to (10), if the employ-
19 ing unit submits notice to the commission of possible ineligibil-
20 ity or disqualification beyond the time limits prescribed by com-
21 mission rule, the notice shall not form the basis of a determina-
22 tion of ineligibility or disqualification for a claim period com-
23 pensated before the receipt of the notice by the commission.

24 (12) An individual is disqualified from receiving benefits
25 for any week or part of a week in which the individual has
26 received, is receiving, or is seeking unemployment benefits under
27 an unemployment compensation law of another state or of the

1 United States. If the appropriate agency of the other state or
2 of the United States finally determines that the individual is
3 not entitled to unemployment benefits, the disqualification
4 described in this subsection does not apply.

5 Sec. 48. (1) An individual shall be ~~deemed "unemployed"~~
6 ~~with respect to~~ CONSIDERED UNEMPLOYED FOR any week during which
7 he or she performs no services and ~~with respect to~~ FOR which
8 remuneration is not payable to the individual, or ~~with respect~~
9 ~~to~~ FOR any week of less than full-time work if the remuneration
10 payable to the individual is less than his or her weekly benefit
11 rate. However, any loss of remuneration incurred by an individ-
12 ual during any week resulting from any cause other than the fail-
13 ure of the individual's employing unit to furnish full-time, reg-
14 ular employment shall be included as remuneration earned for pur-
15 poses of this section and ~~of~~ section 27(c). The total amount
16 of remuneration ~~thus~~ lost shall be determined ~~in such manner~~
17 ~~as~~ PURSUANT TO REGULATIONS PRESCRIBED BY the commission. ~~shall~~
18 ~~by regulation prescribe.~~ For the purposes of this act, an
19 individual's weekly benefit rate ~~shall mean~~ MEANS the weekly
20 benefit rate ~~as~~ determined pursuant to section 27(b).

21 (2) All amounts paid to a claimant by an employing unit or
22 former employing unit for a vacation or a holiday, and amounts
23 paid in the form of retroactive pay, ~~or~~ PAY in lieu of notice,
24 SEVERANCE PAYMENTS, SALARY CONTINUATION, OR OTHER REMUNERATION
25 INTENDED BY THE EMPLOYING UNIT AS CONTINUING WAGES AS THE RESULT
26 OF THE SEPARATION shall be ~~deemed~~ CONSIDERED remuneration in
27 determining whether an individual is unemployed under this

1 section and also in determining his or her benefit payments under
2 section 27 (c), for the period designated by the contract or
3 agreement providing for the payment, or if there is no contrac-
4 tual specification of the period to which ~~such~~ payments shall
5 be allocated, then for the period designated by the employing
6 unit or former employing unit. However, payments for a vacation
7 or holiday, ~~made,~~ or the right to which has irrevocably vested,
8 after 14 days following ~~such~~ A vacation or holiday ~~, and pay=~~
9 ~~ments in the form of termination, separation, severance or dis-~~
10 ~~missal allowances, and bonuses,~~ shall not be ~~deemed~~ CONSIDERED
11 wages or remuneration within the meaning of this section.

12 (3) An individual shall not be ~~deemed~~ CONSIDERED to be
13 unemployed during any leave of absence from work granted by an
14 employer either at the request of the individual or pursuant to
15 an agreement with the individual's duly authorized bargaining
16 agent, or in accordance with law. An individual shall neither be
17 considered not unemployed nor on a leave of absence solely
18 because the individual elects to be laid off, pursuant to an
19 option provided under a collective bargaining agreement or writ-
20 ten employer plan ~~which~~ THAT permits ~~such~~ AN election, ~~when~~
21 IF there is a temporary layoff because of lack of work ~~,~~ and
22 the employer has consented ~~thereto~~ TO THE ELECTION.