

# SENATE BILL No. 923

December 6, 2001, Introduced by Senators SMITH, DE BEAUSSAERT, EMERSON, MURPHY, KOIVISTO, BYRUM, SCOTT, CHERRY, HART, PETERS, MILLER, DINGELL, LELAND, HOFFMAN, YOUNG, GOSCHKA and SCHWARZ and referred to the Committee on Human Resources and Labor.

A bill to amend 1936 (Ex Sess) PA 1, entitled  
"Michigan employment security act,"  
by amending section 27 (MCL 421.27), as amended by 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~~ 58% OF THE STATE AVERAGE WEEKLY WAGE. However, with  
12 respect to benefit years beginning after the conversion date as  
13 prescribed in section 75, the individual's weekly benefit rate  
14 shall be 4.1% of the individual's wages paid in the calendar  
15 quarter of the base period in which the individual was paid the  
16 highest total wages, plus \$6.00 for each dependent as defined in  
17 subdivision (3), up to a maximum of 5 dependents, claimed by the  
18 individual at the time the individual files a new claim for bene-  
19 fits, except that the individual's maximum weekly benefit rate  
20 shall not exceed ~~\$300.00~~ 58% OF THE STATE AVERAGE WEEKLY WAGE.  
21 With respect to benefit years beginning on or after October 2,  
22 1983, the weekly benefit rate shall be adjusted to the next lower  
23 multiple of \$1.00.

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

1 commission shall prepare a table of weekly benefit rates based on  
2 an "average after tax weekly wage" calculated by subtracting,  
3 from an individual's average weekly wage as determined in accord-  
4 ance with section 51, a reasonable approximation of the weekly  
5 amount required to be withheld by the employer from the remunera-  
6 tion of the individual based on dependents and exemptions for  
7 income taxes under chapter 24 of subtitle C of the internal reve-  
8 nue code of 1986, 26 U.S.C. 3401 to 3406, and under section 351  
9 of the income tax act of 1967, ~~Act No. 281 of the Public Acts of~~  
10 ~~1967, being section 206.351 of the Michigan Compiled Laws 1967~~  
11 ~~PA 281, MCL 206.351,~~ and for old age and survivor's disability  
12 insurance taxes under the federal insurance contributions act,  
13 chapter 21 of subtitle C of the internal revenue code of 1986, 26  
14 U.S.C. 3128. For purposes of applying the table to an  
15 individual's claim, a dependent shall be as defined in  
16 subdivision (3). The table applicable to an individual's claim  
17 shall be the table reflecting the number of dependents claimed by  
18 the individual under subdivision (3). The commission shall  
19 adjust the tables based on changes in withholding schedules pub-  
20 lished by the United States department of treasury, internal rev-  
21 enue service, and by the department of treasury. The number of  
22 dependents allowed shall be determined with respect to each week  
23 of unemployment for which an individual 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. Notwithstanding the definition of week  
14 as contained in section 50, if within 2 consecutive weeks in  
15 which an individual was not unemployed within the meaning of sec-  
16 tion 48 there was a period of 7 or more consecutive days for  
17 which the individual did not earn or receive remuneration, that  
18 period shall be considered a week for benefit purposes under this  
19 act if a claim for benefits for that period is filed not later  
20 than 30 days subsequent to the end of the period.

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

26        (3) An individual who receives or earns partial remuneration  
27 may not receive a total of benefits and earnings that exceeds

1 1-1/2 times his or her weekly benefit amount. For each dollar of  
2 total benefits and earnings that exceeds 1-1/2 times the  
3 individual's weekly benefit amount, benefits shall be reduced by  
4 \$1.00.

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

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

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



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

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

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

22 (a) If and to the extent that unemployment benefits payable  
23 under this act would be chargeable to an employer who has con-  
24 tributed to the financing of a retirement plan under which the  
25 claimant is receiving or will receive a retirement benefit yield-  
26 ing a pro rata weekly amount equal to or larger than the  
27 claimant's weekly benefit rate as otherwise established under

1 this act, the claimant shall not receive unemployment benefits  
2 that would be chargeable to the employer under this act.

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

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

20       (d) If the unemployment benefit payable under this act is  
21 computed on the basis of multiemployer credit weeks and a portion  
22 of the benefit is allocable under section 20(e) to an employer  
23 who has contributed to the financing of a retirement plan under  
24 which the claimant is receiving or will receive a retirement ben-  
25 efit, the adjustments required by subparagraph (a) or (b) apply  
26 only to that portion of the weekly benefit rate that would  
27 otherwise be allocable and chargeable to the employer.

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

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

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

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

22       (ii) Payable to an individual because the individual has  
23 qualified on the basis of attained age, length of service, or  
24 disability, whether or not the individual retired or was retired  
25 from employment. Amounts paid to individuals in the course of  
26 liquidation of a private pension or retirement fund because of  
27 termination of the business or of a plant or department of the

1 business of the employer involved shall not be considered to be  
2 retirement benefits.

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

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

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

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

14 (5) Notwithstanding any other provision of this subsection,  
15 for any week that begins after March 31, 1980, and with respect  
16 to which an individual is receiving a governmental or other pen-  
17 sion and claiming unemployment compensation, the weekly benefit  
18 amount payable to the individual for those weeks shall be  
19 reduced, but not below zero, by the entire prorated weekly amount  
20 of any governmental or other pension, retirement or retired pay,  
21 annuity, or any other similar payment that is based on any previ-  
22 ous work of the individual. This reduction shall be made only if  
23 it is required as a condition for full tax credit against the tax  
24 imposed by the federal unemployment tax act, chapter 23 of  
25 subtitle C of the internal revenue code of 1986, 26 U.S.C. 3301  
26 to 3311.

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

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

19       (b) If any base period employer or chargeable employer has  
20 contributed to the financing of a retirement plan under which the  
21 claimant is receiving or will receive a retirement benefit yield-  
22 ing a pro rata weekly amount less than the claimant's weekly ben-  
23 efit rate as otherwise established under this act, then the  
24 weekly benefit rate otherwise payable to the claimant shall be  
25 reduced by an amount equal to the pro rata weekly amount,  
26 adjusted to the next lower multiple of \$1.00, which the claimant  
27 is receiving or will receive as a retirement benefit.

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

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

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

25 (i) Benefits based on service in employment described in  
26 section 42(8), (9), and (10) are payable in the same amount, on  
27 the same terms, and subject to the same conditions as

1 compensation payable on the basis of other service subject to  
2 this act, except that:

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

21       (2) With respect to service performed in other than an  
22 instructional, research, or principal administrative capacity for  
23 an institution of higher education as defined in section 53(2) or  
24 for an educational institution other than an institution of  
25 higher education as defined in section 53(3), benefits shall not  
26 be paid based on those services for any week of unemployment  
27 beginning after December 31, 1977 that commences during the



1 period between 2 successive academic years or terms to any  
2 individual if that individual performs the service in the first  
3 of the academic years or terms and if there is a reasonable  
4 assurance that the individual will perform the service for an  
5 institution of higher education or an educational institution  
6 other than an institution of higher education in the second of  
7 the academic years or terms.

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

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

26       ~~-(5) The amendments to subdivision (2) made by Act No. 219~~  
27 ~~of the Public Acts of 1983 apply to all claims for unemployment~~

1 ~~compensation that are filed on and after October 31, 1983.~~

2 ~~However, the amendments are retroactive to September 5, 1982 only~~  
3 ~~if, as a condition for full tax credit against the tax imposed by~~  
4 ~~the federal unemployment tax act, chapter 23 of subtitle C of the~~  
5 ~~internal revenue code of 1986, 26 U.S.C. 3301 to 3311, the United~~  
6 ~~States secretary of labor determines that retroactivity is~~  
7 ~~required by federal law.~~

8       (5) ~~—(6) Notwithstanding subdivision (2), on and after April~~  
9 ~~1, 1984 benefits~~ BENEFITS based upon services in other than an  
10 instructional, research, or principal administrative capacity for  
11 an institution of higher education shall not be denied for any  
12 week of unemployment commencing during the period between 2 suc-  
13 cessive academic years or terms solely because the individual had  
14 performed the service in the first of the academic years or terms  
15 and there is reasonable assurance that the individual will per-  
16 form the service for an institution of higher education or an  
17 educational institution other than an institution of higher edu-  
18 cation in the second of the academic years or terms, unless a  
19 denial is required as a condition for full tax credit against the  
20 tax imposed by the federal unemployment tax act, chapter 23 of  
21 subtitle C of the internal revenue code of 1986, 26 U.S.C. 3301  
22 to 3311.

23       (6) ~~—(7) For benefit years established before the conver-~~  
24 ~~sion date prescribed in section 75, and notwithstanding subdivi-~~  
25 ~~sions (1), (2), and (3), the denial of benefits does not prevent~~  
26 ~~an individual from completing requalifying weeks in accordance~~  
27 ~~with section 29(3) nor does the denial prevent an individual from~~

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

13       (7) ~~-(8)-~~ For benefit years beginning after the conversion  
14 date prescribed in section 75, and notwithstanding subdivisions  
15 (1), (2), and (3), the denial of benefits shall not prevent an  
16 individual from completing requalifying weeks in accordance with  
17 section 29(3) nor shall the denial prevent an individual from  
18 receiving benefits based on service with another base period  
19 employer other than an educational institution for any week of  
20 unemployment occurring between academic years or terms, whether  
21 or not successive, or during an established and customary vaca-  
22 tion period or holiday recess. However, when benefits are paid  
23 based on service with 1 or more base period employers other than  
24 an educational institution, the individual's weekly benefit rate  
25 shall be calculated in accordance with subsection (b)(1) but  
26 during the denial period the individual's weekly benefit payment  
27 shall be reduced by the portion of the payment attributable to

1 base period wages paid by an educational institution and the  
2 account or experience account of the educational institution  
3 shall not be charged for benefits payable to the individual.  
4 When a denial of benefits under subdivision (1) is no longer  
5 applicable, benefits shall be paid and charged on the basis of  
6 base period wages with each of the base period employers includ-  
7 ing the educational institution.

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

15       (9) ~~-(10)- Benefits~~ IN ACCORDANCE WITH SUBDIVISIONS (1),  
16 (2), AND (3), BENEFITS FOR ANY WEEK OF UNEMPLOYMENT shall be  
17 denied ~~-, as provided in subdivisions (1), (2), and (3), for any~~  
18 ~~week of unemployment beginning on and after April 1, 1984,~~ to an  
19 individual who performed ~~those~~ services DESCRIBED IN  
20 SUBDIVISION (1), (2), OR (3) in an educational institution while  
21 in the employ of an educational service agency. For the purpose  
22 of this subdivision, "educational service agency" means a govern-  
23 mental agency or governmental entity that is established and  
24 operated exclusively for the purpose of providing the services to  
25 1 or more educational institutions.

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

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

9 (k)(1) ~~For weeks of unemployment beginning after~~  
10 ~~December 31, 1977, benefits~~ BENEFITS shall not be payable on the  
11 basis of services performed by an alien unless the alien is an  
12 individual who was lawfully admitted for permanent residence at  
13 the time the services were performed, was lawfully present for  
14 the purpose of performing the services, or was permanently resid-  
15 ing in the United States under color of law at the time the serv-  
16 ices were performed, including an alien who was lawfully present  
17 in the United States under ~~section 203(a)(7) or~~ section  
18 212(d)(5) of the immigration and nationality act, CHAPTER 477, 66  
19 STAT. 182, 8 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  
5 time of filing the claim, shall disclose whether the individual  
6 owes child support obligations as defined in this subsection. If  
7 an 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 section 462(e) of part D of

1 title IV of the social security act, ~~chapter 531, 49 Stat. 620,~~  
2 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  
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~~ 655, 656 TO 660, AND 663 TO  
12 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 edition~~ SECTOR GROUP 23 -- CONSTRUCTION OF THE  
2 NORTH AMERICAN CLASSIFICATION SYSTEM -- UNITED STATES OFFICE OF  
3 MANAGEMENT AND 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.

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

25 (10) If this subsection is found by the United States  
26 department of labor to be contrary to the federal unemployment  
27 tax act, chapter 23 of the internal revenue code of 1986, 26

1 U.S.C. 3301 to 3311, or the social security act, chapter 531, 49  
2 Stat. 620, and if conformity with the federal law is required as  
3 a condition for full tax credit against the tax imposed under the  
4 federal unemployment tax act or as a condition for receipt by the  
5 commission of federal administrative grant funds under the social  
6 security act, this subsection shall be invalid.

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