

# HOUSE BILL No. 6426

September 6, 2006, Introduced by Reps. Sheltrown, Alma Smith, Vagnozzi, Meisner, Cushingberry, Lemmons, Jr., Miller, Bennett, Clemente, Gonzales, Angerer, Donigan, Wojno, McDowell, Bieda, Espinoza, Leland, Lipsey, Gillard, Hood, Farrah, Anderson, Brown, Sak, Hopgood, Williams, Virgil Smith, Plakas, Hunter, Polidori, Kolb, Gleason, Clack, Adamini, Byrum and Cheeks and referred to the Committee on Employment Relations, Training, and Safety.

A bill to amend 1936 (Ex Sess) PA 1, entitled  
"Michigan employment security act,"  
by amending section 27 (MCL 421.27), as amended by 2002 PA 192.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

1 ~~75- OCTOBER 1, 2000~~, a new separation issue arises resulting from  
2 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 for  
7 an individual, with respect to benefit years beginning before ~~the~~  
8 ~~conversion date prescribed in section 75, shall be~~ **OCTOBER 1,**  
9 **2000, IS** 67% of the individual's average after tax weekly wage,  
10 except that the individual's maximum weekly benefit rate shall not  
11 exceed \$300.00. However, with respect to benefit years beginning  
12 ~~after the conversion date as prescribed in section 75~~ **ON OR AFTER**  
13 **OCTOBER 1, 2000**, the individual's weekly benefit rate ~~shall be~~ **IS**  
14 4.1% of the individual's wages paid in the calendar quarter of the  
15 base period in which the individual was paid the highest total  
16 wages, plus \$6.00 for each dependent as defined in subdivision ~~(3)~~  
17 **(4)**, up to a maximum of 5 dependents, claimed by the individual at  
18 the time the individual files a new claim for benefits, except that  
19 the individual's maximum weekly benefit rate shall not exceed  
20 \$300.00 before ~~the effective date of the amendatory act that added~~  
21 ~~section 13/and \$362.00 for claims filed on and after the effective~~  
22 ~~date of the amendatory act that added section 13/~~ **APRIL 26, 2002.**  
23 **FOR CLAIMS FILED ON OR AFTER APRIL 26, 2002, THE MAXIMUM BENEFIT**  
24 **RATE SHALL BE \$362.00, EXCEPT THAT BEGINNING AT THE END OF 2006 THE**  
25 **AGENCY SHALL ADJUST THE MAXIMUM BENEFIT RATE FOR THE YEAR 2007 AND**  
26 **EACH SUCCEEDING YEAR BY AN AMOUNT DETERMINED BY THE AGENCY AT THE**  
27 **END OF EACH CALENDAR YEAR TO REFLECT THE CUMULATIVE ANNUAL**

1 **PERCENTAGE CHANGE IN THE MOST COMPREHENSIVE INDEX OF CONSUMER**  
 2 **PRICES AVAILABLE FOR THIS STATE FROM THE UNITED STATES DEPARTMENT**  
 3 **OF LABOR, BUREAU OF LABOR STATISTICS.** The weekly benefit rate for  
 4 an individual claiming benefits on and after ~~the effective date of~~  
 5 ~~the amendatory act that added section 13/~~ **THE THIRTIETH DAY AFTER**  
 6 **THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT PROVIDED FOR ANNUAL**  
 7 **ADJUSTMENT OF THE MAXIMUM BENEFIT RATE** shall be recalculated  
 8 subject to the ~~-\$362.00-~~ maximum weekly benefit rate. The  
 9 unemployment agency shall establish the procedures necessary to  
 10 verify the number of dependents claimed. If a person fraudulently  
 11 claims a dependent, that person is subject to the penalties set  
 12 forth in sections 54 and 54c. ~~With respect to~~ **FOR** benefit years  
 13 beginning on or after October 2, 1983, the weekly benefit rate  
 14 shall be adjusted to the next lower multiple of \$1.00.

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

1 1967 PA 281, MCL 206.351, and for old age and survivor's disability  
2 insurance taxes under the federal insurance contributions act,  
3 ~~chapter 21 of subtitle C of the internal revenue code of 1986,~~ 26  
4 ~~U.S.C.—~~ **USC 3101 TO** 3128. For purposes of applying the table to an  
5 individual's claim, a dependent shall be as defined in subdivision  
6 (3). The table applicable to an individual's claim shall be the  
7 table reflecting the number of dependents claimed by the individual  
8 under subdivision (3). The commission shall adjust the tables based  
9 on changes in withholding schedules published by the United States  
10 department of treasury, internal revenue service, and by the  
11 department of treasury. The number of dependents allowed shall be  
12 determined with respect to each week of unemployment for which an  
13 individual is claiming benefits.

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

23 (a) A child, including stepchild, adopted child, or grandchild  
24 of the individual who is under 18 years of age, or 18 years of age  
25 or over if, because of physical or mental infirmity, the child is  
26 unable to engage in a gainful occupation, or is a full-time student  
27 as defined by the particular educational institution, at a high

1 school, vocational school, community or junior college, or college  
2 or university and has not attained the age of 22.

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

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

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

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

25 (a) A child, including stepchild, adopted child, or grandchild  
26 of the individual who is under 18 years of age, or 18 years of age  
27 and over if, because of physical or mental infirmity, the child is

1 unable to engage in a gainful occupation, or is a full-time student  
2 as defined by the particular educational institution, at a high  
3 school, vocational school, community or junior college, or college  
4 or university and has not attained the age of 22.

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

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

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

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

1 individual at the beginning of the benefit year shall remain in  
2 effect during the entire benefit year.

3 (6) For benefit years beginning before ~~the conversion date~~  
4 ~~prescribed in section 75~~ **OCTOBER 1, 2000**, failure on the part of  
5 an individual, due to misinformation or lack of information, to  
6 furnish all information material for determination of the number of  
7 the individual's dependents when the individual files a claim for  
8 benefits with respect to a week ~~shall be considered~~ **IS** good cause  
9 ~~for the issuance of~~ **TO ISSUE** a redetermination as to the amount of  
10 benefits based on the number of the individual's dependents as of  
11 the beginning date of that week. Dependency status of a dependent,  
12 child or otherwise, once established or fixed in favor of a person  
13 is not transferable to or usable by another person with respect to  
14 the same week.

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

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

25 (1) Each eligible individual shall be paid a weekly benefit  
26 rate with respect to the week for which the individual earns or  
27 receives no remuneration. Notwithstanding the definition of week in

1 section 50, if within 2 consecutive weeks in which an individual  
2 was not unemployed within the meaning of section 48 there was a  
3 period of 7 or more consecutive days for which the individual did  
4 not earn or receive remuneration, that period shall be considered a  
5 week for benefit purposes under this act if a claim for benefits  
6 for that period is filed not later than 30 days after the end of  
7 the period.

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

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

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

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

26 (d) For benefit years beginning before ~~the conversion date~~  
27 ~~prescribed in section 75~~ **OCTOBER 1, 2000**, and subject to



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

1 during the benefit year, multiplied by the individual's weekly  
2 benefit rate. The number of weeks of benefits payable to an  
3 individual shall be calculated by taking 43% of the individual's  
4 base period wages and dividing the result by the individual's  
5 weekly benefit rate. If the quotient is not a whole or half number,  
6 the result shall be rounded down to the nearest half number.  
7 However, not more than 26 weeks of benefits or less than 14 weeks  
8 of benefits shall be payable to an individual in a benefit year.  
9 The limitation of total benefits set forth in this subsection shall  
10 not apply to claimants declared eligible for training benefits in  
11 accordance with 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 death,  
15 insanity, or incompetency, but not paid, shall become due and  
16 payable to the person who is the legal heir or guardian of the  
17 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 date~~  
22 ~~prescribed in section 75~~ **OCTOBER 1, 2000**, and notwithstanding any  
23 inconsistent provisions of this act, the weekly benefit rate of  
24 each 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 without  
2 reduction under this subsection unless subdivision (5) is in  
3 effect. Except as otherwise provided in this subsection, all other  
4 provisions of this act continue to apply in connection with the  
5 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  
8 contributed to the financing of a retirement plan under which the  
9 claimant is receiving or will receive a retirement benefit yielding  
10 a pro rata weekly amount equal to or larger than the claimant's  
11 weekly benefit rate as otherwise established under this act, the  
12 claimant shall not receive unemployment benefits that would be  
13 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  
16 contributed to the financing of a retirement plan under which the  
17 claimant is receiving or will receive a retirement benefit yielding  
18 a pro rata weekly amount less than the claimant's weekly benefit  
19 rate as otherwise established under this act, then the weekly  
20 benefit rate otherwise payable to the claimant and chargeable to  
21 the employer under this act shall be reduced by an amount equal to  
22 the pro rata weekly amount, adjusted to the next lower multiple of  
23 \$1.00, which the claimant is receiving or will receive as a  
24 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 who  
7 has contributed to the financing of a retirement plan under which  
8 the claimant is receiving or will receive a retirement benefit, the  
9 adjustments required by subparagraph (a) or (b) apply only to that  
10 portion of the weekly benefit rate that would otherwise be  
11 allocable and chargeable to the employer.

12 (2) If an individual's weekly benefit rate under this act was  
13 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  
16 accordance 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 an  
19 individual's retirement benefit based on the best information  
20 currently available to it. In the absence of fraud, a determination  
21 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  
25 information on which the reconsideration is based was received by  
26 the commission.

27 (4)(a) As used in this ~~subdivision~~ **SUBSECTION**, "retirement

benefit" means a benefit, annuity, or pension of any type or that part thereof that is described in subparagraph (b) that is **BOTH**:

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

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

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

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

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

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

(5) Notwithstanding any other provision of this subsection, for any week that begins after March 31, 1980, and with respect to which an individual is receiving a governmental or other pension

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

14 (7) As used in this subsection:

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

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

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

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

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

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



1 accordance with R 421.210 of the Michigan administrative code.

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

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

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

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

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

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

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

9       (9) As used in this subsection:

10       (a) "Construction industry" means the work activity designated  
11 in sector group 23 -- construction of the North American  
12 classification system -- United States office of management and  
13 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 of  
23 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 of  
26 52 consecutive weeks.

27       (d) "Seasonal employer" means an employer, other than an

1 employer in the construction industry, who applies to the  
2 commission for designation as a seasonal employer and who the  
3 commission determines to be an employer whose operations and  
4 business are substantially engaged in seasonal employment.

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

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

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