

# SENATE BILL No. 848

September 21, 2009, Introduced by Senators KUIPERS, PAPPAGEORGE, BIRKHOLZ, JANSEN, HARDIMAN, CROPSEY, CASSIS, RICHARDVILLE and KAHN and referred to the Committee on Commerce and Tourism.

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

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 27. (a) (1) When a determination, redetermination, or  
2       decision is made that benefits are due an unemployed individual,  
3       the benefits shall become payable from the fund and continue to be  
4       payable to the unemployed individual, subject to the limitations  
5       imposed by the individual's monetary entitlement, if the individual  
6       continues to be unemployed and to file claims for benefits, until  
7       the determination, redetermination, or decision is reversed, a  
8       determination, redetermination, or decision on a new issue holding  
9       the individual disqualified or ineligible is made, or, for benefit  
10      years beginning before ~~the conversion date prescribed in section 75~~

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

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

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

published by the United States department of treasury, internal revenue service, and by the department of treasury. The number of dependents allowed shall be determined with respect to each week of unemployment for which an individual is claiming benefits.

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

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

(b) The husband or wife of the individual.

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

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

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

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

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

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

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

27 (d) A brother or sister of the individual if the brother or

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

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

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

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

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

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

16 (1) Each eligible individual shall be paid a weekly benefit  
17 rate with respect to the week for which the individual earns or  
18 receives no remuneration **OR A WEEK IN WHICH, IN LIEU OF LAYOFF, THE**  
19 **INDIVIDUAL RECEIVES WAGES REDUCED BY THE EMPLOYER BY 25% OR MORE**  
20 **UNDER A WORK SHARE PLAN FILED WITH THE UNEMPLOYMENT INSURANCE**  
21 **AGENCY**. Notwithstanding the definition of week in section 50, if  
22 within 2 consecutive weeks in which an individual was not  
23 unemployed within the meaning of section 48 there was a period of 7  
24 or more consecutive days for which the individual did not earn or  
25 receive remuneration, that period shall be considered a week for  
26 benefit purposes under this act if a claim for benefits for that  
27 period is filed not later than 30 days after the end of the period.

1           (2) ~~Each~~ **EXCEPT FOR AN INDIVIDUAL RECEIVING REMUNERATION FOR**  
2 **SERVICES PERFORMED IN A WEEK IN WHICH THE INDIVIDUAL'S WAGES HAVE**  
3 **BEEN REDUCED BY THE EMPLOYER BY 25% OR MORE, AN** eligible individual  
4 shall have his or her weekly benefit rate reduced with respect to  
5 each week in which the individual earns or receives remuneration at  
6 the rate of 50 cents for each whole \$1.00 of remuneration earned or  
7 received during that week.

8           (3) An individual who receives or earns partial remuneration  
9 may not receive a total of benefits and earnings that exceeds 1-1/2  
10 times his or her weekly benefit amount. For each dollar of total  
11 benefits and earnings that exceeds 1-1/2 times the individual's  
12 weekly benefit amount, benefits shall be reduced by \$1.00. **THE**  
13 **LIMITATION UNDER THIS SUBDIVISION DOES NOT APPLY TO AN INDIVIDUAL**  
14 **RECEIVING REMUNERATION FOR SERVICES PERFORMED IN A WEEK IN WHICH**  
15 **THE INDIVIDUAL'S WAGES HAVE BEEN REDUCED BY THE EMPLOYER BY 25% OR**  
16 **MORE FROM THE INDIVIDUAL'S AVERAGE WEEKLY WAGE IN THE CALENDAR**  
17 **QUARTER OF THE BASE PERIOD OF THE INDIVIDUAL'S CLAIM IN WHICH THE**  
18 **INDIVIDUAL HAD THE HIGHEST QUARTERLY WAGES.**

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

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



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

1 for purposes of this section and section ~~20(e)~~**20(D)** is the number  
2 of weeks of benefits payable to an individual during the benefit  
3 year, multiplied by the individual's weekly benefit rate. The  
4 number of weeks of benefits payable to an individual shall be  
5 calculated by taking 43% of the individual's base period wages and  
6 dividing the result by the individual's weekly benefit rate. If the  
7 quotient is not a whole or half number, the result shall be rounded  
8 down to the nearest half number. However, not more than 26 weeks of  
9 benefits or less than 14 weeks of benefits shall be payable to an  
10 individual in a benefit year. The limitation of total benefits set  
11 forth in this subsection ~~shall~~**DOES** not apply to claimants declared  
12 eligible for training benefits in accordance with subsection (g).

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

22 (f)(1) For benefit years beginning before ~~the conversion date~~  
23 ~~prescribed in section 75~~**OCTOBER 1, 2000**, and notwithstanding any  
24 inconsistent provisions of this act, the weekly benefit rate of  
25 each individual who is receiving or will receive a "retirement  
26 benefit", as defined in subdivision (4), shall be adjusted as  
27 provided in subparagraphs (a), (b), and (c). However, an

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

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

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

26 (c) If the unemployment benefit payable under this act would  
27 be chargeable to an employer who has not contributed to the

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

27 (4) If benefits are denied to an individual for any week

1 solely as a result of subdivision (2) and the individual was not  
2 offered an opportunity to perform in the second academic year or  
3 term the service for which reasonable assurance had been given, the  
4 individual is entitled to a retroactive payment of benefits for  
5 each week for which the individual had previously filed a timely  
6 claim for benefits. An individual entitled to benefits under this  
7 subdivision may apply for those benefits by mail in accordance with  
8 R 421.210 **OF THE MICHIGAN ADMINISTRATIVE CODE** as promulgated by the  
9 commission.

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

23 (6) For benefit years established before ~~the conversion date~~  
24 ~~prescribed in section 75~~ **OCTOBER 1, 2000**, and notwithstanding  
25 subdivisions (1), (2), and (3), the denial of benefits does not  
26 prevent an individual from completing requalifying weeks in  
27 accordance with section 29(3) nor does the denial prevent an

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

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

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

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

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

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

1 performed the services in the first of the seasons or similar  
2 periods and there is a reasonable assurance that the individual  
3 will perform the services in the later of the seasons or similar  
4 periods.

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

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

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

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

1 for unemployment compensation, the commission shall notify the  
2 state or local child support enforcement agency enforcing the  
3 obligation that the individual has been determined to be eligible  
4 for unemployment compensation.

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

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

11 (b) The amount, if any, determined pursuant to an agreement  
12 submitted to the commission under ~~section 454(19)(B)(i) of part D of~~  
13 ~~title IV of the social security act, 42 U.S.C. 654~~ **42 USC**  
14 **654(19)(B)(I)**, by the state or local child support enforcement  
15 agency.

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

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

26 (4) Any amount deducted and withheld under subdivision (2)  
27 shall be paid by the commission to the appropriate state or local

1 child support enforcement agency.

2 (5) Any amount deducted and withheld under subdivision (2)  
3 shall be treated for all purposes as if it were paid to the  
4 individual as unemployment compensation and paid by the individual  
5 to the state or local child support enforcement agency in  
6 satisfaction of the individual's child support obligations.

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

16 (7) As used in this subsection:

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

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

1 ~~663-42~~ USC 651 to 669b.

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

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

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



1 that the individual previously filed a timely claim for benefits.  
2 An individual may apply for any retroactive benefits under this  
3 subsection in accordance with R 421.210 of the Michigan  
4 administrative code.

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

21 (3) If the employer is determined to be a seasonal employer,  
22 the employer shall conspicuously display on its premises a notice  
23 of the determination and the beginning and ending dates of the  
24 employer's normal seasonal work periods. The notice shall be  
25 furnished by the commission. The notice shall additionally specify  
26 that an employee must timely apply for unemployment benefits at the  
27 end of a first seasonal work period to preserve his or her right to

1 receive retroactive unemployment benefits ~~in the event that~~ **IF** he  
2 or she is not reemployed by the seasonal employer in the second of  
3 the normal seasonal work periods.

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

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

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

26 (7) A successor of a seasonal employer is considered to be a  
27 seasonal employer unless the successor provides the commission,

1 within 120 days after the transfer, with a written request for  
2 termination of its status as a seasonal employer in accordance with  
3 subdivision (4).

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

12 (9) As used in this subsection:

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

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

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

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

27 (2) Customarily employs at least 50% of its employees for

1 regularly recurring periods of 26 weeks or less within a period of  
2 52 consecutive weeks.

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

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

11 (10) ~~If this subsection is found by~~ **THIS SUBSECTION DOES NOT**  
12 **APPLY IF** the United States department of labor **FINDS IT** to be  
13 contrary to the federal unemployment tax act, ~~chapter 23 of the~~  
14 ~~internal revenue code of 1986, 26 U.S.C. 26 USC~~ 3301 to 3311, or  
15 the social security act, chapter 531, 49 Stat. 620, and if  
16 conformity with the federal law is required as a condition for full  
17 tax credit against the tax imposed under the federal unemployment  
18 tax act, **26 USC 3301 TO 3311**, or as a condition for receipt by the  
19 commission of federal administrative grant funds under the social  
20 security act, ~~this subsection shall be invalid~~ **CHAPTER 531, 49**  
21 **STAT. 620.**

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

1 in the second of the academic years or terms.