

HOUSE BILL No. 4726

June 9, 2011, Introduced by Reps. Pscholka, Heise, Yonker, Lyons, O'Brien, McBroom, Daley, Genetski, Pettalia, Denby, Jenkins, Bumstead, Farrington, Shaughnessy, Shirkey, Tyler, Nesbitt, Hughes and Lindberg and referred to the Committee on Commerce.

A bill to amend 1936 (Ex Sess) PA 1, entitled
"Michigan employment security act,"
by amending section 27 (MCL 421.27), as amended by 2011 PA 14.

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 October 1, 2000, a new separation issue

1 arises resulting from subsequent work.

2 (2) Benefits shall be paid in person or by mail through
3 ~~Employment~~**UNEMPLOYMENT** offices in accordance with rules
4 promulgated by the commission.

5 (b)(1) Subject to subsection (f), the weekly benefit rate for
6 an individual, with respect to benefit years beginning before
7 October 1, 2000, shall be 67% of the individual's average after tax
8 weekly wage, except that the individual's maximum weekly benefit
9 rate shall not exceed \$300.00. However, with respect to benefit
10 years beginning on or after October 1, 2000, the individual's
11 weekly benefit rate is 4.1% of the individual's wages paid in the
12 calendar quarter of the base period in which the individual was
13 paid the highest total wages, plus \$6.00 for each dependent as
14 defined in subdivision (4), up to a maximum of 5 dependents,
15 claimed by the individual at the time the individual files a new
16 claim for benefits, except that the individual's maximum weekly
17 benefit rate shall not exceed \$300.00 before April 26, 2002 and
18 \$362.00 for claims filed on and after April 26, 2002. The weekly
19 benefit rate for an individual claiming benefits on and after April
20 26, 2002 shall be recalculated subject to the \$362.00 maximum
21 weekly benefit rate. The unemployment agency shall establish the
22 procedures necessary to verify the number of dependents claimed. If
23 a person fraudulently claims a dependent, that person is subject to
24 the penalties set forth in sections 54 and 54c. For benefit years
25 beginning on or after October 2, 1983, the weekly benefit rate
26 shall be adjusted to the next lower multiple of \$1.00.

27 (2) For benefit years beginning before October 1, 2000, the

1 state average weekly wage for a calendar year shall be computed on
2 the basis of the 12 months ending the June 30 immediately before
3 that calendar year. The commission shall prepare a table of weekly
4 benefit rates based on an "average after tax weekly wage"
5 calculated by subtracting, from an individual's average weekly wage
6 as determined in accordance with section 51, a reasonable
7 approximation of the weekly amount required to be withheld by the
8 employer from the remuneration of the individual based on
9 dependents and exemptions for income taxes under 26 USC 3401 to
10 3406, and under section 351 of the income tax act of 1967, 1967 PA
11 281, MCL 206.351, and for old age and survivor's disability
12 insurance taxes under the federal insurance contributions act, 26
13 USC 3101 to 3128. For purposes of applying the table to an
14 individual's claim, a dependent shall be as defined in subdivision
15 (3). The table applicable to an individual's claim shall be the
16 table reflecting the number of dependents claimed by the individual
17 under subdivision (3). The commission shall adjust the tables based
18 on changes in withholding schedules published by the United States
19 department of treasury, internal revenue service, and by the
20 department of treasury. The number of dependents allowed shall be
21 determined with respect to each week of unemployment for which an
22 individual is claiming benefits.

23 (3) For benefit years beginning before October 1, 2000, a
24 dependent means any of the following persons who are receiving and
25 for at least 90 consecutive days immediately before the week for
26 which benefits are claimed, or, in the case of a dependent husband,
27 wife, or child, for the duration of the marital or parental

1 relationship, if the relationship has existed less than 90 days,
2 has received more than 1/2 the cost of his or her support from the
3 individual claiming benefits:

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

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

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

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

24 (4) For benefit years beginning on or after October 1, 2000, a
25 dependent means any of the following persons who received for at
26 least 90 consecutive days immediately before the first week of the
27 benefit year or, in the case of a dependent husband, wife, or

1 child, for the duration of the marital or parental relationship if
2 the relationship existed less than 90 days before the beginning of
3 the benefit year, has received more than 1/2 the cost of his or her
4 support from the individual claiming the benefits:

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

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

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

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

25 (5) For benefit years beginning before October 1, 2000,
26 dependency status of a dependent, child or otherwise, once
27 established or fixed in favor of an individual continues during the

1 individual's benefit year until terminated. Dependency status of a
2 dependent terminates at the end of the week in which the dependent
3 ceases to be an individual described in subdivision (3)(a), (b),
4 (c), or (d) because of age, death, or divorce. For benefit years
5 beginning on or after October 1, 2000, the number of dependents
6 established for an individual at the beginning of the benefit year
7 shall remain in effect during the entire benefit year.

8 (6) For benefit years beginning before October 1, 2000,
9 failure on the part of an individual, due to misinformation or lack
10 of information, to furnish all information material for
11 determination of the number of the individual's dependents when the
12 individual files a claim for benefits with respect to a week is
13 good cause to issue a redetermination as to the amount of benefits
14 based on the number of the individual's dependents as of the
15 beginning date of that week. Dependency status of a dependent,
16 child or otherwise, once established or fixed in favor of a person
17 is not transferable to or usable by another person with respect to
18 the same week.

19 For benefit years beginning on or after October 1, 2000,
20 failure on the part of an individual, due to misinformation or lack
21 of information, to furnish all information material for
22 determination of the number of the individual's dependents is good
23 cause to issue a redetermination as to the amount of benefits based
24 on the number of the individual's dependents as of the beginning of
25 the benefit year.

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

1 (1) Each eligible individual shall be paid a weekly benefit
2 rate with respect to the week for which the individual earns or
3 receives no remuneration. Notwithstanding the definition of week in
4 section 50, if within 2 consecutive weeks in which an individual
5 was not unemployed within the meaning of section 48 there was a
6 period of 7 or more consecutive days for which the individual did
7 not earn or receive remuneration, that period shall be considered a
8 week for benefit purposes under this act if a claim for benefits
9 for that period is filed not later than 30 days after the end of
10 the period.

11 (2) Each eligible individual shall have his or her weekly
12 benefit rate reduced with respect to each week in which the
13 individual earns or receives remuneration at the rate of 50 cents
14 for each whole \$1.00 of remuneration earned or received during that
15 week. **THE WEEKLY BENEFIT RATE SHALL NOT BE REDUCED UNDER THIS**
16 **SUBDIVISION FOR REMUNERATION RECEIVED FOR ON-CALL OR TRAINING**
17 **SERVICES AS A VOLUNTEER FIREFIGHTER, IF THE VOLUNTEER FIREFIGHTER**
18 **RECEIVES LESS THAN \$10,000.00 IN A CALENDAR YEAR FOR SERVICES AS A**
19 **VOLUNTEER FIREFIGHTER.**

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

25 (4) If the reduction in a claimant's benefit rate for a week
26 in accordance with subdivision (2) or (3) results in a benefit rate
27 greater than zero for that week, the claimant's balance of weeks of

1 benefit payments shall be reduced by 1 week.

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

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

1 declared eligible for training benefits in accordance with
2 subsection (g). For benefit years beginning on or after October 1,
3 2000, and subject to subsection (f) and this subsection, the
4 maximum benefit amount payable to an individual in a benefit year
5 for purposes of this section and section 20(d) is the number of
6 weeks of benefits payable to an individual during the benefit year,
7 multiplied by the individual's weekly benefit rate. The number of
8 weeks of benefits payable to an individual shall be calculated by
9 taking 43% of the individual's base period wages and dividing the
10 result by the individual's weekly benefit rate. If the quotient is
11 not a whole or half number, the result shall be rounded down to the
12 nearest half number. However, for each eligible individual filing
13 an initial claim before January 15, 2012, not more than 26 weeks of
14 benefits or less than 14 weeks of benefits shall be payable to an
15 individual in a benefit year. For each eligible individual filing
16 an initial claim on or after January 15, 2012, not more than 20
17 weeks of benefits or less than 14 weeks of benefits shall be
18 payable to an individual in a benefit year. The limitation of total
19 benefits set forth in this subsection does not apply to claimants
20 declared eligible for training benefits in accordance with
21 subsection (g).

22 (e) When a claimant dies or is judicially declared insane or
23 mentally incompetent, unemployment compensation benefits accrued
24 and payable to that person for weeks of unemployment before death,
25 insanity, or incompetency, but not paid, shall become due and
26 payable to the person who is the legal heir or guardian of the
27 claimant or to any other person found by the commission to be

1 equitably entitled to the benefits by reason of having incurred
2 expense in behalf of the claimant for the claimant's burial or
3 other necessary expenses.

4 (f)(1) For benefit years beginning before October 1, 2000, and
5 notwithstanding any inconsistent provisions of this act, the weekly
6 benefit rate of each individual who is receiving or will receive a
7 "retirement benefit", as defined in subdivision (4), shall be
8 adjusted as provided in subparagraphs (a), (b), and (c). However,
9 an individual's extended benefit account and an individual's weekly
10 extended benefit rate under section 64 shall be established without
11 reduction under this subsection unless subdivision (5) is in
12 effect. Except as otherwise provided in this subsection, all other
13 provisions of this act continue to apply in connection with the
14 benefit claims of those retired persons.

15 (a) 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 equal to or larger than the claimant's
20 weekly benefit rate as otherwise established under this act, the
21 claimant shall not receive unemployment benefits that would be
22 chargeable to the employer under this act.

23 (b) If and to the extent that unemployment benefits payable
24 under this act would be chargeable to an employer who has
25 contributed to the financing of a retirement plan under which the
26 claimant is receiving or will receive a retirement benefit yielding
27 a pro rata weekly amount less than the claimant's weekly benefit

1 rate as otherwise established under this act, then the weekly
2 benefit rate otherwise payable to the claimant and chargeable to
3 the employer under this act shall be reduced by an amount equal to
4 the pro rata weekly amount, adjusted to the next lower multiple of
5 \$1.00, which the claimant is receiving or will receive as a
6 retirement benefit.

7 (c) If the unemployment benefit payable under this act would
8 be chargeable to an employer who has not contributed to the
9 financing of a retirement plan under which the claimant is
10 receiving or will receive a retirement benefit, then the weekly
11 benefit rate of the claimant as otherwise established under this
12 act shall not be reduced due to receipt of a retirement benefit.

13 (d) If the unemployment benefit payable under this act is
14 computed on the basis of multiemployer credit weeks and a portion
15 of the benefit is allocable under section 20(e) to an employer who
16 has contributed to the financing of a retirement plan under which
17 the claimant is receiving or will receive a retirement benefit, the
18 adjustments required by subparagraph (a) or (b) apply only to that
19 portion of the weekly benefit rate that would otherwise be
20 allocable and chargeable to the employer.

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

26 (3) When necessary to assure prompt payment of benefits, the
27 commission shall determine the pro rata weekly amount yielded by an

1 individual's retirement benefit based on the best information
2 currently available to it. In the absence of fraud, a determination
3 shall not be reconsidered unless it is established that the
4 individual's actual retirement benefit in fact differs from the
5 amount determined by \$2.00 or more per week. The reconsideration
6 shall apply only to benefits as may be claimed after the
7 information on which the reconsideration is based was received by
8 the commission.

9 (4) (a) As used in this subsection, "retirement benefit" means
10 a benefit, annuity, or pension of any type or that part thereof
11 that is described in subparagraph (b) that is both:

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

15 (ii) Payable to an individual because the individual has
16 qualified on the basis of attained age, length of service, or
17 disability, whether or not the individual retired or was retired
18 from employment. Amounts paid to individuals in the course of
19 liquidation of a private pension or retirement fund because of
20 termination of the business or of a plant or department of the
21 business of the employer involved are not retirement benefits.

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

25 (i) Less than 1/2 of the cost of the benefit, then only 1/2 of
26 the benefit is treated as a retirement benefit.

27 (ii) One-half or more of the cost of the benefit, then none of

1 the benefit is treated as a retirement benefit.

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

6 (5) Notwithstanding any other provision of this subsection,
7 for any week that begins after March 31, 1980, and with respect to
8 which an individual is receiving a governmental or other pension
9 and claiming unemployment compensation, the weekly benefit amount
10 payable to the individual for those weeks shall be reduced, but not
11 below zero, by the entire prorated weekly amount of any
12 governmental or other pension, retirement or retired pay, annuity,
13 or any other similar payment that is based on any previous work of
14 the individual. This reduction shall be made only if it is required
15 as a condition for full tax credit against the tax imposed by the
16 federal unemployment tax act, 26 USC 3301 to 3311.

17 (6) For benefit years beginning on or after October 1, 2000,
18 notwithstanding any inconsistent provisions of this act, the weekly
19 benefit rate of each individual who is receiving or will receive a
20 retirement benefit, as defined in subdivision (4), shall be
21 adjusted as provided in subparagraphs (a), (b), and (c). However,
22 an individual's extended benefit account and an individual's weekly
23 extended benefit rate under section 64 shall be established without
24 reduction under this subsection, unless subdivision (5) is in
25 effect. Except as otherwise provided in this subsection, all the
26 other provisions of this act apply to the benefit claims of those
27 retired persons. However, if the reduction would impair the full

1 tax credit against the tax imposed by the federal unemployment tax
2 act, 26 USC 3301 to 3311, unemployment benefits shall not be
3 reduced as provided in subparagraphs (a), (b), and (c) for receipt
4 of any governmental or other pension, retirement or retired pay,
5 annuity, or other similar payment that was not includable in the
6 gross income of the individual for the taxable year in which it was
7 received because it was a part of a rollover distribution.

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

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

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

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

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

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

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

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

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

2 (3) With respect to any service described in subdivision (1)
3 or (2), benefits shall not be paid to an individual based upon
4 service for any week of unemployment that commences during an
5 established and customary vacation period or holiday recess if the
6 individual performs the service in the period immediately before
7 the vacation period or holiday recess and there is a contract or
8 reasonable assurance that the individual will perform the service
9 in the period immediately following the vacation period or holiday
10 recess.

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

21 (5) Benefits based upon services in other than an
22 instructional, research, or principal administrative capacity for
23 an institution of higher education shall not be denied for any week
24 of unemployment commencing during the period between 2 successive
25 academic years or terms solely because the individual had performed
26 the service in the first of the academic years or terms and there
27 is reasonable assurance that the individual will perform the

1 service for an institution of higher education or an educational
2 institution other than an institution of higher education in the
3 second of the academic years or terms, unless a denial is required
4 as a condition for full tax credit against the tax imposed by the
5 federal unemployment tax act, 26 USC 3301 to 3311.

6 (6) For benefit years established before October 1, 2000, and
7 notwithstanding subdivisions (1), (2), and (3), the denial of
8 benefits does not prevent an individual from completing
9 requalifying weeks in accordance with section 29(3) nor does the
10 denial prevent an individual from receiving benefits based on
11 service with an employer other than an educational institution for
12 any week of unemployment occurring between academic years or terms,
13 whether or not successive, or during an established and customary
14 vacation period or holiday recess, even though the employer is not
15 the most recent chargeable employer in the individual's base
16 period. However, in that case section 20(b) applies to the sequence
17 of benefit charging, except for the employment with the educational
18 institution, and section 50(b) applies to the calculation of credit
19 weeks. When a denial of benefits under subdivision (1) no longer
20 applies, benefits shall be charged in accordance with the normal
21 sequence of charging as provided in section 20(b).

22 (7) For benefit years beginning on or after October 1, 2000,
23 and notwithstanding subdivisions (1), (2), and (3), the denial of
24 benefits shall not prevent an individual from completing
25 requalifying weeks in accordance with section 29(3) nor shall the
26 denial prevent an individual from receiving benefits based on
27 service with another base period employer other than an educational

1 institution for any week of unemployment occurring between academic
2 years or terms, whether or not successive, or during an established
3 and customary vacation period or holiday recess. However, when
4 benefits are paid based on service with 1 or more base period
5 employers other than an educational institution, the individual's
6 weekly benefit rate shall be calculated in accordance with
7 subsection (b)(1) but during the denial period the individual's
8 weekly benefit payment shall be reduced by the portion of the
9 payment attributable to base period wages paid by an educational
10 institution and the account or experience account of the
11 educational institution shall not be charged for benefits payable
12 to the individual. When a denial of benefits under subdivision (1)
13 is no longer applicable, benefits shall be paid and charged on the
14 basis of base period wages with each of the base period employers
15 including the educational institution.

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

22 (9) In accordance with subdivisions (1), (2), and (3),
23 benefits for any week of unemployment shall be denied to an
24 individual who performed services described in subdivision (1),
25 (2), or (3) in an educational institution while in the employ of an
26 educational service agency. For the purpose of this subdivision,
27 "educational service agency" means a governmental agency or

1 governmental entity that is established and operated exclusively
2 for the purpose of providing the services to 1 or more educational
3 institutions.

4 (j) Benefits shall not be paid to an individual on the basis
5 of any base period services, substantially all of which consist of
6 participating in sports or athletic events or training or preparing
7 to participate, for a week that commences during the period between
8 2 successive sport seasons or similar periods if the individual
9 performed the services in the first of the seasons or similar
10 periods and there is a reasonable assurance that the individual
11 will perform the services in the later of the seasons or similar
12 periods.

13 (k) (1) Benefits are not payable on the basis of services
14 performed by an alien unless the alien is an individual who was
15 lawfully admitted for permanent residence at the time the services
16 were performed, was lawfully present for the purpose of performing
17 the services, or was permanently residing in the United States
18 under color of law at the time the services were performed,
19 including an alien who was lawfully present in the United States
20 under section 212(d)(5) of the immigration and nationality act, 8
21 USC 1182.

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

26 (3) If an individual's application for benefits would
27 otherwise be approved, a determination that benefits to that

1 individual are not payable because of the individual's alien status
2 shall not be made except upon a preponderance of the evidence.

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

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

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

18 (b) The amount, if any, determined pursuant to an agreement
19 submitted to the commission under 42 USC 654(19)(b)(i), by the
20 state or local child support enforcement agency.

21 (c) Any amount otherwise required to be deducted and withheld
22 from unemployment compensation by legal process, as that term is
23 defined in 42 USC 659(i)(5), properly served upon the commission.

24 (3) The amount of unemployment compensation subject to
25 deduction under subdivision (2) is that portion that remains
26 payable to the individual after application of the recoupment
27 provisions of section 62(a) and the reduction provisions of

1 subsections (c) and (f).

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

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

10 (6) Provisions concerning deductions under this subsection
11 apply only if the state or local child support enforcement agency
12 agrees in writing to reimburse and does reimburse the commission
13 for the administrative costs incurred by the commission under this
14 subsection that are attributable to child support obligations being
15 enforced by the state or local child support enforcement agency.
16 The administrative costs incurred shall be determined by the
17 commission. The commission, in its discretion, may require payment
18 of administrative costs in advance.

19 (7) As used in this subsection:

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

25 (b) "Child support obligations" includes only obligations that
26 are being enforced pursuant to a plan described in 42 USC 654 that
27 has been approved by the secretary of health and human services

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

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

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

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

1 reemployed by the seasonal employer in the second of the normal
2 seasonal work periods.

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

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

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

25 (7) A successor of a seasonal employer is considered to be a
26 seasonal employer unless the successor provides the commission,
27 within 120 days after the transfer, with a written request for

1 termination of its status as a seasonal employer in accordance with
2 subdivision (4).

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

11 (9) As used in this subsection:

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

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

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

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

26 (2) Customarily employs at least 50% of its employees for
27 regularly recurring periods of 26 weeks or less within a period of

1 52 consecutive weeks.

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

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

10 (10) This subsection does not apply if the United States
11 department of labor finds it to be contrary to the federal
12 unemployment tax act, 26 USC 3301 to 3311, or the social security
13 act, chapter 531, 49 Stat. 620, and if conformity with the federal
14 law is required as a condition for full tax credit against the tax
15 imposed under the federal unemployment tax act, 26 USC 3301 to
16 3311, or as a condition for receipt by the commission of federal
17 administrative grant funds under the social security act, chapter
18 531, 49 Stat. 620.

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