

# SENATE BILL No. 1297

September 20, 2012, Introduced by Senator BIEDA and referred to the Committee on Reforms, Restructuring and Reinventing.

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 269.

**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~~**EMPLOYMENT** offices in accordance with rules promulgated  
4 by the ~~commission~~**UNEMPLOYMENT AGENCY**.

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

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

1 wife, or child, for the duration of the marital or parental  
2 relationship, if the relationship has existed less than 90 days,  
3 has received more than 1/2 the cost of his or her support from the  
4 individual claiming 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 or 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 or 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 (4) For benefit years beginning on or after October 1, 2000, a  
26 dependent means any of the following persons who received for at  
27 least 90 consecutive days immediately before the first week of the

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

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

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

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

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

26 (5) For benefit years beginning before October 1, 2000,  
27 dependency status of a dependent, child or otherwise, once

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

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

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

27 (c) Subject to subsection (f), all of the following apply to

1 eligible individuals:

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

12 (2) Each eligible individual shall have his or her weekly  
13 benefit rate reduced with respect to each week in which the  
14 individual earns or receives remuneration at the rate of 40 cents  
15 for each whole \$1.00 of remuneration earned or received during that  
16 week. Beginning October 1, 2015, an eligible individual's weekly  
17 benefit rate shall be reduced at the rate of 50 cents for each  
18 whole \$1.00 of remuneration in which the eligible individual earns  
19 or receives remuneration in that benefit week.

20 (3) An individual who receives or earns partial remuneration  
21 may not receive a total of benefits and earnings that exceeds 1-3/5  
22 times his or her weekly benefit amount. For each dollar of total  
23 benefits and earnings that exceeds 1-3/5 times the individual's  
24 weekly benefit amount, benefits shall be reduced by \$1.00.  
25 Beginning October 1, 2015, the total benefits and earnings for an  
26 individual who receives or earns partial remuneration shall not  
27 exceed 1-1/2 times his or her weekly benefit amount. The

1 individual's benefits shall be reduced by \$1.00 for each dollar by  
2 which the total benefits and earnings exceed 1-1/2 times the  
3 individual's weekly benefit amount.

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

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

12 (6) The unemployment agency shall report annually to the  
13 legislature the following information with regard to subdivisions  
14 (2) and (3):

15 (a) The number of individuals whose weekly benefit rate was  
16 reduced at the rate of 40 or 50 cents for each whole \$1.00 of  
17 remuneration earned or received over the immediately preceding  
18 calendar year.

19 (b) The number of individuals who received or earned partial  
20 remuneration at or exceeding the applicable limit of 1-1/2 or 1-3/5  
21 times their weekly benefit amount prescribed in subdivision (3) for  
22 any 1 or more weeks during the immediately preceding calendar year.

23 (d) For benefit years beginning before October 1, 2000, and  
24 subject to subsection (f) and this subsection, the amount of  
25 benefits to which an individual who is otherwise eligible is  
26 entitled during a benefit year from an employer with respect to  
27 employment during the base period is the amount obtained by

1 multiplying the weekly benefit rate with respect to that employment  
2 by  $3/4$  of the number of credit weeks earned in the employment. For  
3 the purpose of this subsection and section 20(c), if the resultant  
4 product is not an even multiple of  $1/2$  the weekly benefit rate, the  
5 product shall be raised to an amount equal to the next higher  
6 multiple of  $1/2$  the weekly benefit rate, and, for an individual who  
7 was employed by only 1 employer in the individual's base period and  
8 earned 34 credit weeks with that employer, the product shall be  
9 raised to the next higher multiple of the weekly benefit rate. The  
10 maximum amount of benefits payable to an individual within a  
11 benefit year, with respect to employment by an employer, shall not  
12 exceed 26 times the weekly benefit rate with respect to that  
13 employment. The maximum amount of benefits payable to an individual  
14 within a benefit year shall not exceed the amount to which the  
15 individual would be entitled for 26 weeks of unemployment in which  
16 remuneration was not earned or received. The limitation of total  
17 benefits set forth in this subsection does not apply to claimants  
18 declared eligible for training benefits in accordance with  
19 subsection (g). For benefit years beginning on or after October 1,  
20 2000, and subject to subsection (f) and this subsection, the  
21 maximum benefit amount payable to an individual in a benefit year  
22 for purposes of this section and section 20(d) is the number of  
23 weeks of benefits payable to an individual during the benefit year,  
24 multiplied by the individual's weekly benefit rate. The number of  
25 weeks of benefits payable to an individual shall be calculated by  
26 taking 43% of the individual's base period wages and dividing the  
27 result by the individual's weekly benefit rate. If the quotient is

1 not a whole or half number, the result shall be rounded down to the  
2 nearest half number. However, for each eligible individual filing  
3 an initial claim before January 15, 2012, not more than 26 weeks of  
4 benefits or less than 14 weeks of benefits shall be payable to an  
5 individual in a benefit year. For each eligible individual filing  
6 an initial claim on or after January 15, 2012, not more than 20  
7 weeks of benefits or less than 14 weeks of benefits shall be  
8 payable to an individual in a benefit year. The limitation of total  
9 benefits set forth in this subsection does not apply to claimants  
10 declared eligible for training benefits in accordance with  
11 subsection (g).

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

21 (f) (1) For benefit years beginning before October 1, 2000, and  
22 notwithstanding any inconsistent provisions of this act, the weekly  
23 benefit rate of each individual who is receiving or will receive a  
24 "retirement benefit", as defined in subdivision (4), shall be  
25 adjusted as provided in subparagraphs (a), (b), and (c). However,  
26 an individual's extended benefit account and an individual's weekly  
27 extended benefit rate under section 64 shall be established without

1 reduction under this subsection unless subdivision (5) is in  
2 effect. Except as otherwise provided in this subsection, all other  
3 provisions of this act continue to apply in connection with the  
4 benefit claims of those retired persons.

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

13 (b) If and to the extent that unemployment benefits payable  
14 under this act would be chargeable to an employer who 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 and chargeable to  
20 the employer under this act shall be reduced by an amount equal to  
21 the pro rata weekly amount, adjusted to the next lower multiple of  
22 \$1.00, which the claimant is receiving or will receive as a  
23 retirement benefit.

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

1 benefit rate of the claimant as otherwise established under this  
2 act shall not be reduced due to receipt of a retirement benefit.

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

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

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

26 (4) (a) As used in this subsection, "retirement benefit" means  
27 a benefit, annuity, or pension of any type or that part thereof

1 that is described in subparagraph (b) that is both:

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

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

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

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

17 (ii) One-half or more of the cost of the benefit, then none of  
18 the benefit is treated as a retirement benefit.

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

23 (5) Notwithstanding any other provision of this subsection,  
24 for any week that begins after March 31, 1980, and with respect to  
25 which an individual is receiving a governmental or other pension  
26 and claiming unemployment compensation, the weekly benefit amount  
27 payable to the individual for those weeks shall be reduced, but not

1 below zero, by the entire prorated weekly amount of any  
2 governmental or other pension, retirement or retired pay, annuity,  
3 or any other similar payment that is based on any previous work of  
4 the individual. This reduction shall be made only if it is required  
5 as a condition for full tax credit against the tax imposed by the  
6 federal unemployment tax act, 26 USC 3301 to 3311.

7 (6) For benefit years beginning on or after October 1, 2000,  
8 notwithstanding any inconsistent provisions of this act, the weekly  
9 benefit rate of each individual who is receiving or will receive a  
10 retirement benefit, as defined in subdivision (4), shall be  
11 adjusted as provided in subparagraphs (a), (b), and (c). However,  
12 an individual's extended benefit account and an individual's weekly  
13 extended benefit rate under section 64 shall be established without  
14 reduction under this subsection, unless subdivision (5) is in  
15 effect. Except as otherwise provided in this subsection, all the  
16 other provisions of this act apply to the benefit claims of those  
17 retired persons. However, if the reduction would impair the full  
18 tax credit against the tax imposed by the federal unemployment tax  
19 act, 26 USC 3301 to 3311, unemployment benefits shall not be  
20 reduced as provided in subparagraphs (a), (b), and (c) for receipt  
21 of any governmental or other pension, retirement or retired pay,  
22 annuity, or other similar payment that was not includable in the  
23 gross income of the individual for the taxable year in which it was  
24 received because it was a part of a rollover distribution.

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

1 weekly amount equal to or larger than the claimant's weekly benefit  
2 rate as otherwise established under this act, the claimant shall  
3 not receive unemployment benefits.

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

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

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

1 interrupt payment of training benefits if the training for which  
2 the benefits were granted began before expiration or termination of  
3 the benefit year.

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

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

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

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

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

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

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

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

23 ~~—— (6) For benefit years established before October 1, 2000, and~~  
24 ~~notwithstanding subdivisions (1), (2), and (3), the denial of~~  
25 ~~benefits does not prevent an individual from completing~~  
26 ~~requalifying weeks in accordance with section 29(3) nor does the~~  
27 ~~denial prevent an individual from receiving benefits based on~~

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

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

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

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

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

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

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

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

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

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

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

1 for unemployment compensation.

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

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

8 (b) The amount, if any, determined pursuant to an agreement  
9 submitted to the ~~commission~~**UNEMPLOYMENT AGENCY** under 42 USC  
10 ~~654(19)(b)(i)~~, **654(19)(B)(I)** by the state or local child support  
11 enforcement agency.

12 (c) Any amount otherwise required to be deducted and withheld  
13 from unemployment compensation by legal process, as that term is  
14 defined in 42 USC 659(i)(5), properly served upon the  
15 ~~commission~~**UNEMPLOYMENT AGENCY**.

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

21 (4) Any amount deducted and withheld under subdivision (2)  
22 shall be paid by the ~~commission~~**UNEMPLOYMENT AGENCY** to the  
23 appropriate state or local child support enforcement agency.

24 (5) Any amount deducted and withheld under subdivision (2)  
25 shall be treated for all purposes as if it were paid to the  
26 individual as unemployment compensation and paid by the individual  
27 to the state or local child support enforcement agency in

1 satisfaction of the individual's child support obligations.

2 (6) Provisions concerning deductions under this subsection  
3 apply only if the state or local child support enforcement agency  
4 agrees in writing to reimburse and does reimburse the ~~commission~~  
5 **UNEMPLOYMENT AGENCY** for the administrative costs incurred by the  
6 ~~commission~~**UNEMPLOYMENT AGENCY** under this subsection that are  
7 attributable to child support obligations being enforced by the  
8 state or local child support enforcement agency. The administrative  
9 costs incurred shall be determined by the ~~commission~~**UNEMPLOYMENT**  
10 **AGENCY**. The ~~commission~~**UNEMPLOYMENT AGENCY**, in its discretion, may  
11 require payment of administrative costs in advance.

12 (7) As used in this subsection:

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

19 (b) "Child support obligations" includes only obligations that  
20 are being enforced pursuant to a plan described in 42 USC 654 that  
21 has been approved by the secretary of health and human services  
22 under 42 USC 651 to 669b.

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

26 ~~—— (n) Subsection (i) (2) applies to services performed by school~~  
27 ~~bus drivers employed by a private contributing employer holding a~~

1 ~~contractual relationship with an educational institution, but only~~  
2 ~~if at least 75% of the individual's base period wages with that~~  
3 ~~employer are attributable to services performed as a school bus~~  
4 ~~driver. Subsection (i)(1) and (2) but not subsection (i)(3) applies~~  
5 ~~to other services described in those subdivisions that are~~  
6 ~~performed by any employees under an employer's contract with an~~  
7 ~~educational institution or an educational service agency.~~

8 (N) ~~(e)(1)~~ For weeks of unemployment beginning after July 1,  
9 1996, unemployment benefits based on services by a seasonal worker  
10 performed in seasonal employment are **SUBJECT TO ALL OF THE**  
11 **FOLLOWING:**

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

1 apply for any retroactive benefits under this subsection in  
2 accordance with R 421.210 of the Michigan administrative code.

3 (2) Not less than 20 days before the estimated beginning date  
4 of a normal seasonal work period, an employer may apply to the  
5 ~~commission~~**UNEMPLOYMENT AGENCY** in writing for designation as a  
6 seasonal employer. At the time of application, the employer shall  
7 conspicuously display a copy of the application on the employer's  
8 premises. Within 90 days after receipt of the application, the  
9 ~~commission~~**UNEMPLOYMENT AGENCY** shall determine if the employer is a  
10 seasonal employer. A determination or redetermination of the  
11 ~~commission~~**UNEMPLOYMENT AGENCY** concerning the status of an employer  
12 as a seasonal employer, or a decision of an administrative law  
13 judge, the Michigan compensation appellate commission, or the  
14 courts of this state concerning the status of an employer as a  
15 seasonal employer, which has become final, together with the record  
16 thereof, may be introduced in any proceeding involving a claim for  
17 benefits, and the facts found and decision issued in the  
18 determination, redetermination, or decision ~~shall be~~**IS** conclusive  
19 unless substantial evidence to the contrary is introduced by or on  
20 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~~**UNEMPLOYMENT AGENCY**. The notice shall  
26 additionally specify that an employee must timely apply for  
27 unemployment benefits at the end of a first seasonal work period to

1 preserve his or her right to receive retroactive unemployment  
2 benefits if he or she is not reemployed by the seasonal employer in  
3 the second of the normal seasonal work periods.

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

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

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

27 (7) A successor of a seasonal employer is considered to be a

1 seasonal employer unless the successor provides the ~~commission,~~  
2 **UNEMPLOYMENT AGENCY**, within 120 days after the transfer, with a  
3 written request for termination of its status as a seasonal  
4 employer in accordance with subdivision (4).

5 (8) At the time an employee is hired by a seasonal employer,  
6 the employer shall notify the employee in writing if the employee  
7 will be a seasonal worker. The employer shall provide the worker  
8 with written notice of any subsequent change in the employee's  
9 status as a seasonal worker. If an employee of a seasonal employer  
10 is denied benefits because that employee is a seasonal worker, the  
11 employee may contest that designation in accordance with section  
12 32a.

13 (9) As used in this subsection:

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

18 (b) "Normal seasonal work period" means that period or those  
19 periods of time determined under rules promulgated by the  
20 ~~commission~~-**UNEMPLOYMENT AGENCY** during which an individual is  
21 employed in seasonal employment.

22 (c) "Seasonal employment" means the employment of 1 or more  
23 individuals primarily hired to perform services during regularly  
24 recurring periods of 26 weeks or less in any 52-week period other  
25 than services in the construction industry.

26 (d) "Seasonal employer" means an employer, other than an  
27 employer in the construction industry, who applies to the

1 ~~commission~~ **UNEMPLOYMENT AGENCY** for designation as a seasonal  
2 employer and who the ~~commission~~ **UNEMPLOYMENT AGENCY** determines is  
3 an employer whose operations and business require employees engaged  
4 in seasonal employment. A seasonal employer designation under this  
5 act need not correspond to a category assigned under the North  
6 American classification system – United States office of management  
7 and budget.

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

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