

HOUSE BILL No. 6428

September 6, 2006, Introduced by Reps. Gleason, McDowell, Anderson, Donigan, Cushingberry, Bieda, Wojno, Accavitti, Leland, Vagnozzi, Gonzales, Sheltroun, Angerer, Mayes, Bennett, Plakas, Hunter, Dillon, Polidori, Miller, Lipsey, Farrah, Lemmons, Jr., Clack, Brown, Adamini, Sak, Kolb, Spade, Zelenko, Williams, Hopgood, Alma Smith, Meisner, Condino, Gillard, Cheeks and Lemmons, III and referred to the Committee on Employment Relations, Training, and Safety.

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

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

1 years beginning before ~~the conversion date prescribed in section~~
2 ~~75~~ **OCTOBER 1, 2000**, a new separation issue arises resulting from
3 subsequent work.

4 (2) Benefits shall be paid in person or by mail through
5 employment offices in accordance with rules promulgated by the
6 commission.

7 (b)(1) Subject to subsection (f), the weekly benefit rate for
8 an individual, with respect to benefit years beginning before ~~the~~
9 ~~conversion date prescribed in section 75~~, shall be **OCTOBER 1,**
10 **2000, IS** 67% of the individual's average after tax weekly wage,
11 except that the individual's maximum weekly benefit rate shall not
12 exceed \$300.00. However, with respect to benefit years beginning
13 ~~after the conversion date as prescribed in section 75~~ **ON OR AFTER**
14 **OCTOBER 1, 2000**, the individual's weekly benefit rate ~~shall be~~ **IS**
15 4.1% of the individual's wages paid in the calendar quarter of the
16 base period in which the individual was paid the highest total
17 wages, plus ~~\$6.00~~ **\$20.00** for each dependent as defined in
18 subdivision ~~(3)~~ **(4)**, up to a maximum of 5 dependents, claimed by
19 the individual at the time the individual files a new claim for
20 benefits, except that the individual's maximum weekly benefit rate
21 shall not exceed \$300.00 before ~~the effective date of the~~
22 ~~amendatory act that added section 13/~~ **APRIL 26, 2002** and \$362.00
23 for claims filed on and after ~~the effective date of the amendatory~~
24 ~~act that added section 13/~~ **APRIL 26, 2002**. The weekly benefit rate
25 for an individual claiming benefits on ~~and~~ **OR** after ~~the~~
26 ~~effective date of the amendatory act that added section 13/~~ **APRIL**
27 **26, 2002** shall be recalculated subject to the \$362.00 maximum

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

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

1 changes in withholding schedules published by the United States
2 department of treasury, internal revenue service, and by the
3 department of treasury. The number of dependents allowed shall be
4 determined with respect to each week of unemployment for which an
5 individual is claiming benefits.

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

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

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

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

26 (d) A brother or sister of the individual if the brother or
27 sister is orphaned or the living parents are dependent parents of

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

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

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

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

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

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

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

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

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

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

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

17 (1) Each eligible individual shall be paid a weekly benefit
18 rate with respect to the week for which the individual earns or
19 receives no remuneration. Notwithstanding the definition of week in
20 section 50, if within 2 consecutive weeks in which an individual
21 was not unemployed within the meaning of section 48 there was a
22 period of 7 or more consecutive days for which the individual did
23 not earn or receive remuneration, that period shall be considered a
24 week for benefit purposes under this act if a claim for benefits
25 for that period is filed not later than 30 days after the end of
26 the period.

27 (2) Each eligible individual shall have his or her weekly

1 benefit rate reduced with respect to each week in which the
2 individual earns or receives remuneration at the rate of 50 cents
3 for each whole \$1.00 of remuneration earned or received during that
4 week.

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

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

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

19 (d) For benefit years beginning before ~~the conversion date~~
20 ~~prescribed in section 75~~ **OCTOBER 1, 2000**, and subject to
21 subsection (f) and this subsection, the amount of benefits to which
22 an individual who is otherwise eligible is entitled during a
23 benefit year from an employer with respect to employment during the
24 base period is the amount obtained by multiplying the weekly
25 benefit rate with respect to that employment by 3 of the number of
26 credit weeks earned in the employment. For the purpose of this
27 subsection and section 20(c), if the resultant product is not an

1 even multiple of 1/2 the weekly benefit rate, the product shall be
2 raised to an amount equal to the next higher multiple of 1/2 the
3 weekly benefit rate, and, for an individual who was employed by
4 only 1 employer in the individual's base period and earned 34
5 credit weeks with that employer, the product shall be raised to the
6 next higher multiple of the weekly benefit rate. The maximum amount
7 of benefits payable to an individual within a benefit year, with
8 respect to employment by an employer, shall not exceed 26 times the
9 weekly benefit rate with respect to that employment. The maximum
10 amount of benefits payable to an individual within a benefit year
11 shall not exceed the amount to which the individual would be
12 entitled for 26 weeks of unemployment in which remuneration was not
13 earned or received. The limitation of total benefits set forth in
14 this subsection does not apply to claimants declared eligible for
15 training benefits in accordance with subsection (g). For benefit
16 years beginning ~~after the conversion date prescribed in section 75~~
17 **ON OR AFTER OCTOBER 1, 2000**, and subject to subsection (f) and this
18 subsection, the maximum benefit amount payable to an individual in
19 a benefit year for purposes of this section and section ~~20(e)~~
20 **20(D)** is the number of weeks of benefits payable to an individual
21 during the benefit year, multiplied by the individual's weekly
22 benefit rate. The number of weeks of benefits payable to an
23 individual shall be calculated by taking 43% of the individual's
24 base period wages and dividing the result by the individual's
25 weekly benefit rate. If the quotient is not a whole or half number,
26 the result shall be rounded down to the nearest half number.
27 However, not more than 26 weeks of benefits or less than 14 weeks

1 of benefits shall be payable to an individual in a benefit year.
2 The limitation of total benefits set forth in this subsection shall
3 not apply to claimants declared eligible for training benefits in
4 accordance with subsection (g).

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

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

26 (a) If and to the extent that unemployment benefits payable
27 under this act would be chargeable to an employer who has

1 contributed to the financing of a retirement plan under which the
2 claimant is receiving or will receive a retirement benefit yielding
3 a pro rata weekly amount equal to or larger than the claimant's
4 weekly benefit rate as otherwise established under this act, the
5 claimant shall not receive unemployment benefits that would be
6 chargeable to the employer under this act.

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

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

24 (d) If the unemployment benefit payable under this act is
25 computed on the basis of multiemployer credit weeks and a portion
26 of the benefit is allocable under section 20(e) to an employer who
27 has contributed to the financing of a retirement plan under which

1 the claimant is receiving or will receive a retirement benefit, the
2 adjustments required by subparagraph (a) or (b) apply only to that
3 portion of the weekly benefit rate that would otherwise be
4 allocable and chargeable to the employer.

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

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

20 (4)(a) As used in this ~~subdivision~~ **SUBSECTION**, "retirement
21 benefit" means a benefit, annuity, or pension of any type, ~~or that~~
22 ~~part thereof that is described~~ **EXCEPT AS LIMITED** in subparagraph
23 (b), that is:

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

27 (ii) Payable to an individual because the individual has

1 qualified on the basis of attained age, length of service, or
2 disability, whether or not the individual retired or was retired
3 from employment. Amounts paid to individuals in the course of
4 liquidation of a private pension or retirement fund because of
5 termination of the business or of a plant or department of the
6 business of the employer involved ~~shall not be considered to be~~
7 **ARE NOT** retirement benefits.

8 (b) If a benefit, **ANNUNITY, OR PENSION** as described in
9 subparagraph (a) is payable or paid to the individual under a plan
10 to which the individual has contributed:

11 (i) Less than half of the cost of the benefit, then only half
12 of the ~~benefit shall be treated as~~ **AMOUNT PAYABLE OR PAID IS** a
13 retirement benefit.

14 (ii) Half or more of the cost of the benefit, then none of the
15 ~~benefit shall be treated as~~ **AMOUNT PAYABLE OR PAID IS** a retirement
16 benefit.

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

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

1 governmental or other pension, retirement or retired pay, annuity,
2 or any other similar payment that is based on any previous work of
3 the individual. This reduction shall be made only if it is required
4 as a condition for full tax credit against the tax imposed by the
5 federal unemployment tax act, ~~chapter 23 of subtitle C of the~~
6 ~~internal revenue code of 1986,~~ 26 ~~U.S.C.~~ **USC** 3301 to 3311.

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

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

26 (b) If any base period employer or chargeable employer has
27 contributed to the financing of a retirement plan under which the

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

8 (c) If no base period or separating employer has contributed
9 to the 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 (g) Notwithstanding any other provision of this act, an
14 individual pursuing vocational training or retraining pursuant to
15 section 28(2) who has exhausted all benefits available under
16 subsection (d) may be paid for each week of approved vocational
17 training pursued beyond the date of exhaustion a benefit amount in
18 accordance with subsection (c), but not in excess of the
19 individual's most recent weekly benefit rate. However, an
20 individual shall not be paid training benefits totaling more than
21 18 times the individual's most recent weekly benefit rate. The
22 expiration or termination of a benefit year shall not stop or
23 interrupt payment of training benefits if the training for which
24 the benefits were granted began before expiration or termination of
25 the benefit year.

26 (h) A payment of accrued unemployment benefits shall not be
27 made to an eligible individual or in behalf of that individual as

1 provided in subsection (e) more than 6 years after the ending date
2 of the benefit year covering the payment or 2 calendar years after
3 the calendar year in which there is final disposition of a
4 contested case, whichever is later.

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

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

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

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

23 (4) If benefits are denied to an individual for any week
24 solely as a result of subdivision (2) and the individual was not
25 offered an opportunity to perform in the second academic year or
26 term the service for which reasonable assurance had been given, the
27 individual is entitled to a retroactive payment of benefits for

1 each week for which the individual had previously filed a timely
2 claim for benefits. An individual entitled to benefits under this
3 subdivision may apply for those benefits by mail in accordance with
4 R 421.210 **OF THE MICHIGAN ADMINISTRATIVE CODE** as promulgated by the
5 commission.

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

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

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

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

1 is no longer applicable, benefits shall be paid and charged on the
2 basis of base period wages with each of the base period employers
3 including the educational institution.

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

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

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

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

10 (2) ~~Any data or information required of individuals applying~~
11 ~~for benefits to determine whether benefits are payable because of~~
12 ~~their alien status are uniformly required from all applicants for~~
13 ~~benefits.~~ **THE UNEMPLOYMENT AGENCY SHALL REQUIRE EACH INDIVIDUAL**
14 **WHO APPLIES FOR BENEFITS TO SUPPLY INFORMATION SUFFICIENT TO**
15 **DETERMINE CITIZENSHIP OR ALIEN STATUS ELIGIBILITY.**

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

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

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

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

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

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

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

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

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

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

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

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

14 (7) As used in this subsection:

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

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

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

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

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

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

1 accordance with R 421.210 of the Michigan administrative code.

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

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

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

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

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

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

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

9 (9) As used in this subsection:

10 (a) "Construction industry" means the work activity designated
11 in sector group 23 -- construction of the North American **INDUSTRY**
12 classification system -- United States office of management and
13 budget, ~~1997~~ 2002 edition.

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

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

22 (1) Customarily operates during regularly recurring periods of
23 26 weeks or less in any 52-consecutive-week period.

24 (2) Customarily employs at least 50% of its employees for
25 regularly recurring periods of 26 weeks or less within a period of
26 52 consecutive weeks.

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

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

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

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