

HOUSE BILL No. 4023

January 22, 2013, Introduced by Rep. Darany and referred to the Committee on Commerce.

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

1 years beginning before October 1, 2000, a new separation issue
2 arises resulting from subsequent work.

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

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

1 (2) For benefit years beginning before October 1, 2000, the
2 state average weekly wage for a calendar year shall be computed on
3 the basis of the 12 months ending the June 30 immediately before
4 that calendar year. The commission shall prepare a table of weekly
5 benefit rates based on an "average after tax weekly wage"
6 calculated by subtracting, from an individual's average weekly wage
7 as determined in accordance with section 51, a reasonable
8 approximation of the weekly amount required to be withheld by the
9 employer from the remuneration of the individual based on
10 dependents and exemptions for income taxes under 26 USC 3401 to
11 3406, and under section 351 of the income tax act of 1967, 1967 PA
12 281, MCL 206.351, and for old age and survivor's disability
13 insurance taxes under the federal insurance contributions act, 26
14 USC 3101 to 3128. For purposes of applying the table to an
15 individual's claim, a dependent shall be as defined in subdivision
16 (3). The table applicable to an individual's claim shall be the
17 table reflecting the number of dependents claimed by the individual
18 under subdivision (3). The commission shall adjust the tables based
19 on changes in withholding schedules published by the United States
20 department of treasury, internal revenue service, and by the
21 department of treasury. The number of dependents allowed shall be
22 determined with respect to each week of unemployment for which an
23 individual is claiming 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 $\frac{3}{4}$ 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 $\frac{1}{2}$ the weekly benefit rate, the
5 product shall be raised to an amount equal to the next higher
6 multiple of $\frac{1}{2}$ 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 to be
18 equitably entitled to the benefits by reason of having incurred
19 expense in behalf of the claimant for the claimant's burial or
20 other necessary expenses.

21 (f)(1) For benefit years beginning before 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 shall determine the pro rata weekly amount yielded by an
18 individual's retirement benefit based on the best information
19 currently available to it. In the absence of fraud, a determination
20 shall not be reconsidered unless it is established that the
21 individual's actual retirement benefit in fact differs from the
22 amount determined by \$2.00 or more per week. The reconsideration
23 shall apply only to benefits as may be claimed after the
24 information on which the reconsideration is based was received by
25 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 the claimant is receiving or will
12 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 under 42 USC 654(19)(b)(i), by the
10 state or local child support enforcement agency.

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

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

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

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

27 (6) Provisions concerning deductions under this subsection

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

9 (7) As used in this subsection:

10 (a) "Unemployment compensation", for purposes of subdivisions
11 (1) to (5), means any compensation payable under this act,
12 including amounts payable by the commission pursuant to an
13 agreement under any federal law providing for compensation,
14 assistance, or allowances with respect to unemployment.

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

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

22 (n) Subsection (i)(2) applies to services performed by school
23 bus drivers employed by a private contributing employer holding a
24 contractual relationship with an educational institution, but only
25 if at least 75% of the individual's base period wages with that
26 employer are attributable to services performed as a school bus
27 driver. Subsection (i)(1) and (2) but not subsection (i)(3) applies

1 to other services described in those subdivisions that are
2 performed by any employees under an employer's contract with an
3 educational institution or an educational service agency.

4 (o) (1) For weeks of unemployment beginning after July 1, 1996,
5 unemployment benefits based on services by a seasonal worker
6 performed in seasonal employment are payable only for weeks of
7 unemployment that occur during the normal seasonal work period.
8 Benefits shall not be paid based on services performed in seasonal
9 employment for any week of unemployment beginning after March 28,
10 1996 that begins during the period between 2 successive normal
11 seasonal work periods to any individual if that individual performs
12 the service in the first of the normal seasonal work periods and if
13 there is a reasonable assurance that the individual will perform
14 the service for a seasonal employer in the second of the normal
15 seasonal work periods. If benefits are denied to an individual for
16 any week solely as a result of this subsection and the individual
17 is not offered an opportunity to perform in the second normal
18 seasonal work period for which reasonable assurance of employment
19 had been given, the individual is entitled to a retroactive payment
20 of benefits under this subsection for each week that the individual
21 previously filed a timely claim for benefits. An individual may
22 apply for any retroactive benefits under this subsection in
23 accordance with R 421.210 of the Michigan administrative code.

24 (2) Not less than 20 days before the estimated beginning date
25 of a normal seasonal work period, an employer may apply to the
26 commission in writing for designation as a seasonal employer. At
27 the time of application, the employer shall conspicuously display a

1 copy of the application on the employer's premises. Within 90 days
2 after receipt of the application, the commission shall determine if
3 the employer is a seasonal employer. A determination or
4 redetermination of the commission concerning the status of an
5 employer as a seasonal employer, or a decision of an administrative
6 law judge, the Michigan compensation appellate commission, or the
7 courts of this state concerning the status of an employer as a
8 seasonal employer, which has become final, together with the record
9 thereof, may be introduced in any proceeding involving a claim for
10 benefits, and the facts found and decision issued in the
11 determination, redetermination, or decision shall be conclusive
12 unless substantial evidence to the contrary is introduced by or on
13 behalf of the claimant.

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

24 (4) The commission may issue a determination terminating an
25 employer's status as a seasonal employer on the commission's own
26 motion for good cause, or upon the written request of the employer.
27 A termination determination under this subdivision terminates an

1 employer's status as a seasonal employer, and becomes effective on
2 the beginning date of the normal seasonal work period that would
3 have immediately followed the date the commission issues the
4 determination. A determination under this subdivision is subject to
5 review in the same manner and to the same extent as any other
6 determination under this act.

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

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

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

24 (8) At the time an employee is hired by a seasonal employer,
25 the employer shall notify the employee in writing if the employee
26 will be a seasonal worker. The employer shall provide the worker
27 with written notice of any subsequent change in the employee's

1 status as a seasonal worker. If an employee of a seasonal employer
2 is denied benefits because that employee is a seasonal worker, the
3 employee may contest that designation in accordance with section
4 32a.

5 (9) As used in this subsection:

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

10 (b) "Normal seasonal work period" means that period or those
11 periods of time determined under rules promulgated by the
12 commission during which an individual is employed in seasonal
13 employment.

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

18 (d) "Seasonal employer" means an employer, other than an
19 employer in the construction industry, who applies to the
20 commission for designation as a seasonal employer and who the
21 commission determines is an employer whose operations and business
22 require employees engaged in seasonal employment. A seasonal
23 employer designation under this act need not correspond to a
24 category assigned under the North American classification system -
25 United States office of management and budget.

26 (e) "Seasonal worker" means a worker who has been paid wages
27 by a seasonal employer for work performed only during the normal

1 seasonal work period.

2 (10) This subsection does not apply if the United States
3 department of labor finds it to be contrary to the federal
4 unemployment tax act, 26 USC 3301 to 3311, or the social security
5 act, chapter 531, 49 Stat. 620, and if conformity with the federal
6 law is required as a condition for full tax credit against the tax
7 imposed under the federal unemployment tax act, 26 USC 3301 to
8 3311, or as a condition for receipt by the commission of federal
9 administrative grant funds under the social security act, chapter
10 531, 49 Stat. 620.

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