

HOUSE BILL No. 4166

February 5, 2003, Introduced by Reps. Minore, Dennis, Plakas, Zelenko, Murphy, Gielegem, Gleason, Condino, Adamini, Spade, Woronchak, Byrum, Phillips, Waters, Anderson, Woodward, Rivet, Gillard, Brown, Sak, Law, Daniels, Lipsey, Paletko, Stallworth, Jamnick, O'Neil, Hopgood, Tobocman, Elkins, Farrah, Accavitti, Clack, Bieda, Wojno and Hardman 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
5 limitations imposed by the individual's monetary entitlement, if
6 the individual continues to be unemployed and to file claims for
7 benefits, until the determination, redetermination, or decision
8 is reversed, a determination, redetermination, or decision on a
9 new issue holding the individual disqualified or ineligible is
10 made, or, for benefit years beginning before the conversion date
11 prescribed in section 75, a new separation issue arises resulting

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1 from subsequent work.

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

5 (b)(1) Subject to subsection (f), the weekly benefit rate for
6 an individual, with respect to benefit years beginning before the
7 conversion date prescribed in section 75, shall be 67% of the
8 individual's average after tax weekly wage, except that the
9 individual's maximum weekly benefit rate shall not exceed
10 \$300.00. However, with respect to benefit years beginning after
11 the conversion date as prescribed in section 75, the individual's
12 weekly benefit rate shall be ~~4.1%~~ 4.4% of the individual's
13 wages paid in the calendar quarter of the base period in which
14 the individual was paid the highest total wages, plus \$6.00 for
15 each dependent as defined in subdivision (3), up to a maximum of
16 5 dependents, claimed by the individual at the time the
17 individual files a new claim for benefits, except that the
18 individual's maximum weekly benefit rate shall not exceed \$300.00
19 before the effective date of the amendatory act that added
20 section 13/ and \$362.00 for claims filed on and after the
21 effective date of the amendatory act that added section 13/. The
22 weekly benefit rate for an individual claiming benefits on and
23 after the effective date of the amendatory act that added section
24 13/ shall be recalculated subject to the \$362.00 maximum weekly
25 benefit rate. The unemployment agency shall establish the
26 procedures necessary to verify the number of dependents claimed.
27 If a person fraudulently claims a dependent, that person is

1 subject to the penalties set forth in sections 54 and 54c. With
2 respect to benefit years beginning on or after October 2, 1983,
3 the weekly benefit rate shall be adjusted to the next lower
4 multiple of \$1.00.

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

1 revenue service, and by the department of treasury. The number
2 of dependents allowed shall be determined with respect to each
3 week of unemployment for which an individual is claiming
4 benefits.

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

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

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

17 (a) A child, including stepchild, adopted child, or
18 grandchild of the individual who is under 18 years of age, or 18
19 years of age and over if, because of physical or mental
20 infirmity, the child is unable to engage in a gainful occupation,
21 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 has not
24 attained the age of 22.

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

26 (c) The legal father or mother of the individual if that
27 parent is either more than 65 years of age or is permanently

1 disabled from engaging in a gainful occupation.

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

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

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

1 for the issuance of a redetermination as to the amount of
2 benefits based on the number of the individual's dependents as of
3 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
6 with respect to the same week.

7 For benefit years beginning after the conversion date as
8 prescribed in section 75, failure on the part of an individual,
9 due to misinformation or lack of information, to furnish all
10 information material for determination of the number of the
11 individual's dependents shall be considered good cause for the
12 issuance of a redetermination as to the amount of benefits based
13 on the number of the individual's dependents as of the beginning
14 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
20 in section 50, if within 2 consecutive weeks in which an
21 individual was not unemployed within the meaning of section 48
22 there was a period of 7 or more consecutive days for which the
23 individual did not earn or receive remuneration, that period
24 shall be considered a week for benefit purposes under this act if
25 a claim for benefits for that period is filed not later than 30
26 days after the end of 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
4 that week.

5 (3) An individual who receives or earns partial remuneration
6 may not receive a total of benefits and earnings that exceeds
7 1-1/2 times his or her weekly benefit amount. For each dollar of
8 total benefits and earnings that exceeds 1-1/2 times the
9 individual's weekly benefit amount, benefits shall be reduced by
10 \$1.00.

11 (4) If the reduction in a claimant's benefit rate for a week
12 in accordance with subparagraph (2) or (3) results in a benefit
13 rate greater than zero for that week, the claimant's balance of
14 weeks of benefit payments will be reduced by 1 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, and subject to subsection (f) and this
21 subsection, the amount of benefits to which an individual who is
22 otherwise eligible is entitled during a benefit year from an
23 employer with respect to employment during the base period is the
24 amount obtained by multiplying the weekly benefit rate with
25 respect to that employment by 3/4 of the number of credit weeks
26 earned in the employment. For the purpose of this subsection and
27 section 20(c), if the resultant product is not an even multiple

1 of 1/2 the weekly benefit rate, the product shall be raised to an
2 amount equal to the next higher multiple of 1/2 the weekly
3 benefit rate, and, for an individual who was employed by only 1
4 employer in the individual's base period and earned 34 credit
5 weeks with that employer, the product shall be raised to the next
6 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
9 the weekly benefit rate with respect to that employment. The
10 maximum amount of benefits payable to an individual within a
11 benefit year shall not exceed the amount to which the individual
12 would be entitled for 26 weeks of unemployment in which
13 remuneration was not earned or received. The limitation of total
14 benefits set forth in this subsection does not apply to claimants
15 declared eligible for training benefits in accordance with
16 subsection (g). For benefit years beginning after the conversion
17 date prescribed in section 75, and subject to subsection (f) and
18 this subsection, the maximum benefit amount payable to an
19 individual in a benefit year for purposes of this section and
20 section 20(c) is the number of weeks of benefits payable to an
21 individual during the benefit year, multiplied by the
22 individual's weekly benefit rate. The number of weeks of
23 benefits payable to an individual shall be calculated by taking
24 ~~43%~~ 45% of the individual's base period wages and dividing the
25 result by the individual's weekly benefit rate. If the quotient
26 is not a whole or half number, the result shall be rounded down
27 to the nearest half number. However, not more than 26 weeks of

1 benefits or less than 14 weeks of benefits shall be payable to an
2 individual in a benefit year. The limitation of total benefits
3 set forth in this subsection shall not apply to claimants
4 declared eligible for training benefits in accordance with
5 subsection (g).

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

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

27 (a) If and to the extent that unemployment benefits payable

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

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

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

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

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

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

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

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

24 (i) Provided as an incident of employment under an
25 established retirement plan, policy, or agreement, including
26 federal social 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 retirement benefits.

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

11 (i) Less than half of the cost of the benefit, then only half
12 of the benefit shall be treated as a retirement benefit.

13 (ii) Half or more of the cost of the benefit, then none of
14 the benefit shall be treated as a retirement benefit.

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

19 (5) Notwithstanding any other provision of this subsection,
20 for any week that begins after March 31, 1980, and with respect
21 to which an individual is receiving a governmental or other
22 pension and claiming unemployment compensation, the weekly
23 benefit amount payable to the individual for those weeks shall be
24 reduced, but not below zero, by the entire prorated weekly amount
25 of any governmental or other pension, retirement or retired pay,
26 annuity, or any other similar payment that is based on any
27 previous work of the individual. This reduction shall be made

1 only if it is required as a condition for full tax credit against
2 the tax imposed by the federal unemployment tax act, chapter 23
3 of subtitle C of the internal revenue code of 1986, 26
4 U.S.C. 3301 to 3311.

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

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

23 (b) If any base period employer or chargeable employer has
24 contributed to the financing of a retirement plan under which the
25 claimant is receiving or will receive a retirement benefit
26 yielding a pro rata weekly amount less than the claimant's weekly
27 benefit rate as otherwise established under this act, then the

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

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

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

23 (h) A payment of accrued unemployment benefits shall not be
24 made to an eligible individual or in behalf of that individual as
25 provided in subsection (e) more than 6 years after the ending
26 date of the benefit year covering the payment or 2 calendar years
27 after the calendar year in which there is final disposition of a

1 contested case, whichever is later.

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

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

26 (2) With respect to service performed in other than an
27 instructional, research, or principal administrative capacity for

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

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

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

1 timely claim for benefits. An individual entitled to benefits
2 under this subdivision may apply for those benefits by mail in
3 accordance with R 421.210 as promulgated by the commission.

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

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

1 chargeable employer in the individual's base period. However, in
2 that case section 20(b) applies to the sequence of benefit
3 charging, except for the employment with the educational
4 institution, and section 50(b) applies to the calculation of
5 credit weeks. When a denial of benefits under subdivision (1) no
6 longer applies, benefits shall be charged in accordance with the
7 normal sequence of charging as provided in section 20(b).

8 (7) For benefit years beginning after the conversion date
9 prescribed in section 75, and notwithstanding subdivisions (1),
10 (2), and (3), the denial of benefits shall not prevent an
11 individual from completing requalifying weeks in accordance with
12 section 29(3) nor shall the denial prevent an individual from
13 receiving benefits based on service with another base period
14 employer other than an educational institution for any week of
15 unemployment occurring between academic years or terms, whether
16 or not successive, or during an established and customary
17 vacation period or holiday recess. However, when benefits are
18 paid based on service with 1 or more base period employers other
19 than an educational institution, the individual's weekly benefit
20 rate shall be calculated in accordance with subsection (b)(1) but
21 during the denial period the individual's weekly benefit payment
22 shall be reduced by the portion of the payment attributable to
23 base period wages paid by an educational institution and the
24 account or experience account of the educational institution
25 shall not be charged for benefits payable to the individual.
26 When a denial of benefits under subdivision (1) is no longer
27 applicable, benefits shall be paid and charged on the basis of

1 base period wages with each of the base period employers
2 including the educational institution.

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

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

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

27 (k)(1) Benefits shall not be payable on the basis of services

1 performed by an alien unless the alien is an individual who was
2 lawfully admitted for permanent residence at the time the
3 services were performed, was lawfully present for the purpose of
4 performing the services, or was permanently residing in the
5 United States under color of law at the time the services were
6 performed, including an alien who was lawfully present in the
7 United States under section 212(d)(5) of the immigration and
8 nationality act, chapter 477, 66 Stat. 182, 8 U.S.C. 1182.

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

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

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

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

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

7 (b) The amount, if any, determined pursuant to an agreement
8 submitted to the commission under section 454(19)(B)(i) of part D
9 of title IV of the social security act, 42 U.S.C. 654, 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 pursuant to legal process ~~—, as~~
13 ~~that term is defined in section 462(e) of part D of title IV of~~
14 ~~the social security act, 42 U.S.C. 662,~~ properly served upon the
15 commission.

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

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

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

1 in satisfaction of the individual's child support obligations.

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

11 (7) As used in this subsection:

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

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

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

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

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

1 (2) Not less than 20 days before the estimated beginning date
2 of a normal seasonal work period, an employer may apply to the
3 commission in writing for designation as a seasonal employer. At
4 the time of application, the employer shall conspicuously display
5 a copy of the application on the employer's premises. Within 90
6 days after receipt of the application, the commission shall
7 determine if the employer is a seasonal employer. A
8 determination or redetermination of the commission concerning the
9 status of an employer as a seasonal employer, or a decision of a
10 referee or the board of review, or of the courts of this state
11 concerning the status of an employer as a seasonal employer,
12 which has become final, together with the record thereof, may be
13 introduced in any proceeding involving a claim for benefits, and
14 the facts found and decision issued in the determination,
15 redetermination, or decision shall be conclusive unless
16 substantial evidence to the contrary is introduced by or on
17 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
23 specify that an employee must timely apply for unemployment
24 benefits at the end of a first seasonal work period to preserve
25 his or her right to receive retroactive unemployment benefits in
26 the event that he or she is not reemployed by the seasonal
27 employer in the second of 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
4 employer. A termination determination under this subdivision
5 terminates an employer's status as a seasonal employer, and shall
6 become effective on the beginning date of the normal seasonal
7 work period that would have immediately followed the date the
8 commission issues the determination. A determination under this
9 subdivision is subject to review in the same manner and to the
10 same 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
19 prevent the employee from receiving unemployment benefits in the
20 same manner and to the same extent he or she would receive
21 benefits under this act from an employer who has not been
22 determined to be a 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
27 with 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
4 the 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
11 designated in sector group 23 -- construction of the North
12 American classification system -- United States office of
13 management and budget, 1997 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
23 of 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
26 of 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 the United States
9 department of labor to be contrary to the federal unemployment
10 tax act, chapter 23 **of subtitle C** of the internal revenue code of
11 1986, 26 U.S.C. 3301 to 3311, or the social security act, chapter
12 531, 49 Stat. 620, and if conformity with the federal law is
13 required as a condition for full tax credit against the tax
14 imposed under the federal unemployment tax act or as a condition
15 for receipt by the commission of federal administrative grant
16 funds under the social security act, this subsection shall be
17 invalid.

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