

SENATE BILL No. 1291

June 9, 2004, Introduced by Senators BASHAM, SWITALSKI, JACOBS, PRUSI, BARCIA, CLARK-COLEMAN, GOSCHKA, CHERRY, SCOTT, OLSHOVE, CLARKE, EMERSON and SCHAUER and referred to the Committee on Commerce and Labor.

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~~ **October 1, 2000**, a new separation issue

1 arises resulting from subsequent work.

2 (2) Benefits shall be paid in person or by mail through
3 employment 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
7 ~~the conversion date prescribed in section 75, shall be~~ **October**
8 **1, 2000, is** 67% of the individual's average after tax weekly
9 wage, except that the individual's maximum weekly benefit rate
10 shall not exceed \$300.00. However, with respect to benefit years
11 beginning ~~after the conversion date as prescribed in section 75~~
12 **on or after October 1, 2000**, the individual's weekly benefit rate
13 ~~shall be~~ **is** 4.1% of the individual's wages paid in the calendar
14 quarter of the base period in which the individual was paid the
15 highest total wages, plus \$6.00 for each dependent as defined in
16 subdivision (3), up to a maximum of 5 dependents, claimed by the
17 individual at the time the individual files a new claim for
18 benefits, except that the individual's maximum weekly benefit
19 rate shall not exceed \$300.00 before ~~the effective date of the~~
20 ~~amendatory act that added section 13/~~ **April 26, 2002** and \$362.00
21 for claims filed on and after ~~the effective date of the~~
22 ~~amendatory act that added section 13/~~ **April 26, 2002**. The
23 weekly benefit rate for an individual claiming benefits on and
24 after ~~the effective date of the amendatory act that added~~
25 ~~section 13/~~ **April 26, 2002** shall be recalculated subject to the
26 \$362.00 maximum weekly benefit rate. The unemployment agency
27 shall establish the procedures necessary to verify the number of

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

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

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

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

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

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

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

27 (d) A brother or sister of the individual if the brother or

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

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

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

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

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

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

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

25 (6) For benefit years beginning before ~~the conversion date~~
26 ~~prescribed in section 75~~ **October 1, 2000**, failure on the part of
27 an individual, due to misinformation or lack of information, to

1 furnish all information material for determination of the number
2 of the individual's dependents when the individual files a claim
3 for benefits with respect to a week shall be considered good
4 cause for the issuance of a redetermination as to the amount of
5 benefits based on the number of the individual's dependents as of
6 the beginning date of that week. Dependency status of a
7 dependent, child or otherwise, once established or fixed in favor
8 of a person is not transferable to or usable by another person
9 with respect to the same week.

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

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

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

1 a claim for benefits for that period is filed not later than 30
2 days after the end of the period.

3 (2) Each eligible individual shall have his or her weekly
4 benefit rate reduced with respect to each week in which the
5 individual earns or receives remuneration at the rate of 50 cents
6 for each whole \$1.00 of remuneration earned or received during
7 that week.

8 (3) An individual who receives or earns partial remuneration
9 may not receive a total of benefits and earnings that exceeds
10 1-1/2 times his or her weekly benefit amount. For each dollar of
11 total benefits and earnings that exceeds 1-1/2 times the
12 individual's weekly benefit amount, benefits shall be reduced by
13 \$1.00.

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

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

22 (d) For benefit years beginning before ~~the conversion date~~
23 ~~prescribed in section 75~~ **October 1, 2000**, and subject to
24 subsection (f) and this subsection, the amount of benefits to
25 which an individual who is otherwise eligible is entitled during
26 a benefit year from an employer with respect to employment during
27 the base period is the amount obtained by multiplying the weekly

1 benefit rate with respect to that employment by $\frac{3}{4}$ of the number
2 of credit weeks earned in the employment. For the purpose of
3 this subsection and section 20(c), if the resultant product is
4 not an even multiple of $\frac{1}{2}$ the weekly benefit rate, the product
5 shall be raised to an amount equal to the next higher multiple of
6 $\frac{1}{2}$ the weekly benefit rate, and, for an individual who was
7 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.
10 The maximum amount of benefits payable to an individual within a
11 benefit year, with respect to employment by an employer, shall
12 not exceed ~~26~~ 39 times the weekly benefit rate with respect to
13 that employment. The maximum amount of benefits payable to an
14 individual within a benefit year shall not exceed the amount to
15 which the individual would be entitled for ~~26~~ 39 weeks of
16 unemployment in which remuneration was not earned or received.
17 The limitation of total benefits set forth in this subsection
18 does not apply to claimants declared eligible for training
19 benefits in accordance with subsection (g). For benefit years
20 beginning ~~after the conversion date prescribed in section 75~~ on
21 **or after October 1, 2000**, and subject to subsection (f) and this
22 subsection, the maximum benefit amount payable to an individual
23 in a benefit year for purposes of this section and section 20(c)
24 is the number of weeks of benefits payable to an individual
25 during the benefit year, multiplied by the individual's weekly
26 benefit rate. The number of weeks of benefits payable to an
27 individual shall be calculated by taking 43% of the individual's

1 base period wages and dividing the result by the individual's
2 weekly benefit rate. If the quotient is not a whole or half
3 number, the result shall be rounded down to the nearest half
4 number. However, not more than ~~26~~ **39** weeks of benefits or less
5 than 14 weeks of benefits shall be payable to an individual in a
6 benefit year. The limitation of total benefits set forth in this
7 subsection shall not apply to claimants declared eligible for
8 training benefits in accordance with subsection (g).

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

18 (f) (1) For benefit years beginning before ~~the conversion~~
19 ~~date prescribed in section 75~~ **October 1, 2000**, and
20 notwithstanding any inconsistent provisions of this act, the
21 weekly benefit rate of each individual who is receiving or will
22 receive a "retirement benefit", as defined in subdivision (4),
23 shall be adjusted as provided in subparagraphs (a), (b), and
24 (c). However, an individual's extended benefit account and an
25 individual's weekly extended benefit rate under section 64 shall
26 be established without reduction under this subsection unless
27 subdivision (5) is in effect. Except as otherwise provided in

1 this subsection, all other provisions of this act continue to
2 apply in connection with the benefit claims of those retired
3 persons.

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

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

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

1 act shall not be reduced due to receipt of a retirement benefit.

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

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

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

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

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

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

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

17 (ii) Half or more of the cost of the benefit, then none of
18 the benefit shall be 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
25 to which an individual is receiving a governmental or other
26 pension and claiming unemployment compensation, the weekly
27 benefit amount payable to the individual for those weeks shall be

1 reduced, but not below zero, by the entire prorated weekly amount
2 of any governmental or other pension, retirement or retired pay,
3 annuity, or any other similar payment that is based on any
4 previous work of the individual. This reduction shall be made
5 only if it is required as a condition for full tax credit against
6 the tax imposed by ~~the federal unemployment tax act, chapter 23~~
7 ~~of subtitle C of the internal revenue code of 1986,~~ 26 ~~U.S.C.~~
8 **USC** 3301 to 3311.

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

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

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

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

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

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

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

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

1 other than an institution of higher education in the second of
2 the academic years or terms, whether or not the terms are
3 successive.

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

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

27 (4) If benefits are denied to an individual for any week

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

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

24 (6) For benefit years established before ~~the conversion date~~
25 ~~prescribed in section 75~~ **October 1, 2000**, and notwithstanding
26 subdivisions (1), (2), and (3), the denial of benefits does not
27 prevent an individual from completing requalifying weeks in

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

15 (7) For benefit years beginning ~~after the conversion date~~
16 ~~prescribed in section 75~~ **on or after October 1, 2000**, and
17 notwithstanding subdivisions (1), (2), and (3), the denial of
18 benefits shall not prevent an individual from completing
19 requalifying weeks in accordance with section 29(3) nor shall the
20 denial prevent an individual from receiving benefits based on
21 service with another base period employer other than an
22 educational institution for any week of unemployment occurring
23 between academic years or terms, whether or not successive, or
24 during an established and customary vacation period or holiday
25 recess. However, when benefits are paid based on service with 1
26 or more base period employers other than an educational
27 institution, the individual's weekly benefit rate shall be

1 calculated in accordance with subsection (b) (1) but during the
2 denial period the individual's weekly benefit payment shall be
3 reduced by the portion of the payment attributable to base period
4 wages paid by an educational institution and the account or
5 experience account of the educational institution shall not be
6 charged for benefits payable to the individual. When a denial of
7 benefits under subdivision (1) is no longer applicable, benefits
8 shall be paid and charged on the basis of base period wages with
9 each of the base period employers including the educational
10 institution.

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

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

26 (j) Benefits shall not be paid to an individual on the basis
27 of any base period services, substantially all of which consist

1 of participating in sports or athletic events or training or
2 preparing to participate, for a week that commences during the
3 period between 2 successive sport seasons or similar periods if
4 the individual performed the services in the first of the seasons
5 or similar periods and there is a reasonable assurance that the
6 individual will perform the services in the later of the seasons
7 or similar periods.

8 (k) (1) Benefits shall not be payable on the basis of services
9 performed by an alien unless the alien is an individual who was
10 lawfully admitted for permanent residence at the time the
11 services were performed, was lawfully present for the purpose of
12 performing the services, or was permanently residing in the
13 United States under color of law at the time the services were
14 performed, including an alien who was lawfully present in the
15 United States under ~~section 212(d)(5) of the immigration and~~
16 ~~nationality act, chapter 477, 66 Stat. 182, 8 U.S.C. 1182~~ **8 USC**
17 **1182 (d) (5) .**

18 (2) Any data or information required of individuals applying
19 for benefits to determine whether benefits are payable because of
20 their alien status are uniformly required from all applicants for
21 benefits.

22 (3) Where an individual whose application for benefits would
23 otherwise be approved, a determination that benefits to that
24 individual are not payable because of the individual's alien
25 status shall not be made except upon a preponderance of the
26 evidence.

27 (m) (1) An individual filing a new claim for unemployment

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

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

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

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

21 (c) Any amount otherwise required to be deducted and withheld
22 from unemployment compensation pursuant to legal process, as that
23 term is defined in ~~section 462(c) of part D of title IV of the~~
24 ~~social security act, 42 U.S.C. 662~~ **42 USC 659(i)(5)**, properly
25 served upon the commission.

26 (3) The amount of unemployment compensation subject to
27 deduction under subdivision (2) is that portion that remains

1 payable to the individual after application of the recoupment
2 provisions of section 62(a) and the reduction provisions of
3 subsections (c) and (f).

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

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

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

21 (7) As used in this subsection:

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

1 (b) "Child support obligations" includes only obligations
2 that are being enforced pursuant to a plan described in
3 ~~section 454 of part D of title IV of the social security act,~~
4 42 ~~U.S.C.~~ **USC** 654, that has been approved by the secretary of
5 health and human services under ~~part D of title IV of the social~~
6 ~~security act, chapter 531, 49 Stat. 620,~~ 42 ~~U.S.C.~~ **USC** 651 to
7 655, 656 to 660, and 663 to 669b.

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

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

17 (o)(1) For weeks of unemployment beginning after July 1,
18 1996, unemployment benefits based on services by a seasonal
19 worker performed in seasonal employment shall be payable only for
20 weeks of unemployment that occur during the normal seasonal work
21 period. Benefits shall not be paid based on services performed
22 in seasonal employment for any week of unemployment beginning
23 after March 28, 1996 that begins during the period between 2
24 successive normal seasonal work periods to any individual if that
25 individual performs the service in the first of the normal
26 seasonal work periods and if there is a reasonable assurance that
27 the individual will perform the service for a seasonal employer

1 in the second of the normal seasonal work periods. If benefits
2 are denied to an individual for any week solely as a result of
3 this subsection and the individual is not offered an opportunity
4 to perform in the second normal seasonal work period for which
5 reasonable assurance of employment had been given, the individual
6 is entitled to a retroactive payment of benefits under this
7 subsection for each week that the individual previously filed a
8 timely claim for benefits. An individual may apply for any
9 retroactive benefits under this subsection in accordance with
10 R 421.210 of the Michigan administrative code.

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

1 (3) If the employer is determined to be a seasonal employer,
2 the employer shall conspicuously display on its premises a notice
3 of the determination and the beginning and ending dates of the
4 employer's normal seasonal work periods. The notice shall be
5 furnished by the commission. The notice shall additionally
6 specify that an employee must timely apply for unemployment
7 benefits at the end of a first seasonal work period to preserve
8 his or her right to receive retroactive unemployment benefits ~~in~~
9 ~~the event that~~ if he or she is not reemployed by the seasonal
10 employer in the second of the normal seasonal work periods.

11 (4) The commission may issue a determination terminating an
12 employer's status as a seasonal employer on the commission's own
13 motion for good cause, or upon the written request of the
14 employer. A termination determination under this subdivision
15 terminates an employer's status as a seasonal employer, and shall
16 become effective on the beginning date of the normal seasonal
17 work period that would have immediately followed the date the
18 commission issues the determination. A determination under this
19 subdivision is subject to review in the same manner and to the
20 same extent as any other determination under this act.

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

25 (6) If a seasonal employer informs an employee who received
26 assurance of being rehired that, despite the assurance, the
27 employee will not be rehired at the beginning of the employer's

1 next normal seasonal work period, this subsection shall not
2 prevent the employee from receiving unemployment benefits in the
3 same manner and to the same extent he or she would receive
4 benefits under this act from an employer who has not been
5 determined to be a seasonal employer.

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

11 (8) At the time an employee is hired by a seasonal employer,
12 the employer shall notify the employee in writing whether the
13 employee will be a seasonal worker. The employer shall provide
14 the worker with written notice of any subsequent change in the
15 employee's status as a seasonal worker. If an employee of a
16 seasonal employer is denied benefits because that employee is a
17 seasonal worker, the employee may contest that designation in
18 accordance with section 32a.

19 (9) As used in this subsection:

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

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

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

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

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

10 (d) "Seasonal employer" means an employer, other than an
11 employer in the construction industry, who applies to the
12 commission for designation as a seasonal employer and who the
13 commission determines to be an employer whose operations and
14 business are substantially engaged in seasonal employment.

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

18 (10) If this subsection is found by the United States
19 department of labor to be contrary to the federal unemployment
20 tax act, ~~chapter 23 of the internal revenue code of 1986,~~ 26
21 ~~U.S.C.~~ USC 3301 to 3311, or the social security act, chapter
22 531, 49 Stat. 620, and if conformity with the federal law is
23 required as a condition for full tax credit against the tax
24 imposed under the federal unemployment tax act or as a condition
25 for receipt by the commission of federal administrative grant
26 funds under the social security act, this subsection shall be
27 invalid.

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

8 Enacting section 1. This amendatory act takes effect April
9 4, 2004.