



SENATE BILL No. 831

January 30, 1996, Introduced by Senators BENNETT, GAST, STEIL, DUNASKISS, GEAKE and SHUGARS and referred to the Committee on Human Resources, Labor and Veterans Affairs.

A bill to amend section 27 of Act No. 1 of the Public Acts of the Extra Session of 1936, entitled as amended "Michigan employment security act," as amended by Act No. 181 of the Public Acts of 1995, being section 421.27 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 27 of Act No. 1 of the Public Acts of
2 the Extra Session of 1936, as amended by Act No. 181 of the
3 Public Acts of 1995, being section 421.27 of the Michigan
4 Compiled Laws, is amended to read as follows:

5 Sec. 27. (a)(1) When a determination, redetermination, or
6 decision is made that benefits are due an unemployed individual,
7 the benefits shall immediately become payable from the fund and
8 continue to be payable to the unemployed individual, subject to
9 the limitations imposed by the individual's monetary entitlement,

1 as long as the individual continues to be unemployed and to file
2 claims for benefits, until the determination, redetermination, or
3 decision is reversed, a determination, redetermination, or deci-
4 sion on a new issue holding the individual disqualified or ineli-
5 gible is made, or, for benefit years beginning before the conver-
6 sion date prescribed in section 75, a new separation issue arises
7 resulting from subsequent work.

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

11 (b)(1) Subject to subsection (f), the weekly benefit rate
12 for an individual, with respect to benefit years beginning before
13 the conversion date prescribed in section 75, shall be 67% of the
14 individual's average after tax weekly wage, except that the
15 individual's maximum weekly benefit rate shall not exceed
16 \$300.00. However, with respect to benefit years beginning after
17 the conversion date as prescribed in section 75, the individual's
18 weekly benefit rate shall be 4.1% of the individual's wages paid
19 in the calendar quarter of the base period in which the individ-
20 ual was paid the highest total wages, plus \$6.00 for each depen-
21 dent as defined in subdivision (3), up to a maximum of 5 depen-
22 dents, claimed by the individual at the time the individual files
23 a new claim for benefits, except that the individual's maximum
24 weekly benefit rate shall not exceed \$300.00. With respect to
25 benefit years beginning on or after October 2, 1983, the weekly
26 benefit rate shall be adjusted to the next lower multiple of
27 \$1.00.

1 (2) For benefit years beginning before the conversion date
2 prescribed in section 75, the state average weekly wage for a
3 calendar year shall be computed on the basis of the 12 months
4 ending the June 30 immediately preceding that calendar year. The
5 commission shall prepare a table of weekly benefit rates based on
6 an "average after tax weekly wage" calculated by subtracting,
7 from an individual's average weekly wage as determined in accord-
8 ance with section 51, a reasonable approximation of the weekly
9 amount required to be withheld by the employer from the remunera-
10 tion of the individual based on dependents and exemptions for
11 income taxes under chapter 24 of subtitle C of the internal reve-
12 nue code of 1986, 26 U.S.C. 3401 to 3406, and under section 351
13 of the income tax act of 1967, Act No. 281 of the Public Acts of
14 1967, being section 206.351 of the Michigan Compiled Laws, and
15 for old age and survivor's disability insurance taxes under the
16 federal insurance contributions act, chapter 21 of subtitle C of
17 the internal revenue code of 1986, 26 U.S.C. 3101 TO 3128. For
18 purposes of applying the table to an individual's claim, a depen-
19 dent shall be as defined in subdivision (3). The table applica-
20 ble to an individual's claim shall be the table reflecting the
21 number of dependents claimed by the individual under
22 subdivision (3). The commission shall adjust the tables based on
23 changes in withholding schedules published by the United States
24 department of treasury, internal revenue service, and by the
25 department of treasury. The number of dependents allowed shall
26 be determined with respect to each week of unemployment for which
27 an individual is claiming benefits.

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

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

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

19 (c) The legal father or mother of the individual if that
20 parent is either more than 65 years of age or is permanently dis-
21 abled from engaging in a gainful occupation.

22 (d) A brother or sister of the individual if the brother or
23 sister is orphaned or the living parents are dependent parents of
24 an individual, and the brother or sister is under 18 years of
25 age, or 18 years of age or over if, because of physical or mental
26 infirmity, the brother or sister is unable to engage in a gainful
27 occupation, or is a full-time student as defined by the

1 particular educational institution, at a high school, vocational
2 school, community or junior college, or college or university and
3 is less than 22 years of age.

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

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

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

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

25 (d) A brother or sister of the individual if the brother or
26 sister is orphaned or the living parents are dependent parents of
27 an individual, and the brother or sister is under 18 years of

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

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

18 (6) For benefit years beginning before the conversion date
19 prescribed in section 75, failure on the part of an individual,
20 due to misinformation or lack of information, to furnish all
21 information material for determination of the number of the
22 individual's dependents when the individual files a claim for
23 benefits with respect to a week shall be considered good cause
24 for the issuance of a redetermination as to the amount of bene-
25 fits based on the number of the individual's dependents as of the
26 beginning date of that week. Dependency status of a dependent,
27 child or otherwise, once established or fixed in favor of a

1 person is not transferable to or usable by another person with
2 respect to the same week.

3 For benefit years beginning after the conversion date as
4 prescribed in section 75, failure on the part of an individual,
5 due to misinformation or lack of information, to furnish all
6 information material for determination of the number of the
7 individual's dependents shall be considered good cause for the
8 issuance of a redetermination as to the amount of benefits based
9 on the number of the individual's dependents as of the beginning
10 of the benefit year.

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

13 (1) Each eligible individual shall be paid a weekly benefit
14 rate with respect to the week for which the individual earns or
15 receives no remuneration.

16 Notwithstanding the definition of week as contained in sec-
17 tion 50, if within 2 consecutive weeks in which an individual was
18 not unemployed within the meaning of section 48 there was a
19 period of 7 or more consecutive days for which the individual did
20 not earn or receive remuneration, that period shall be considered
21 a week for benefit purposes under this act if a claim for bene-
22 fits for that period is filed not later than 30 days subsequent
23 to the end of the period.

24 (2) Each eligible individual shall have his or her weekly
25 benefit rate reduced with respect to each week in which the indi-
26 vidual earns or receives remuneration at the rate of 50 cents for

1 each whole \$1.00 of remuneration earned or received during that
2 week.

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

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

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

17 (d) For benefit years beginning before the conversion date
18 prescribed in section 75, and subject to subsection (f) and this
19 subsection, the amount of benefits to which an individual who is
20 otherwise eligible is entitled during a benefit year from an
21 employer with respect to employment during the base period is the
22 amount obtained by multiplying the weekly benefit rate with
23 respect to that employment by 3/4 of the number of credit weeks
24 earned in the employment. For the purpose of this subsection and
25 section 20(c), if the resultant product is not an even multiple
26 of 1/2 the weekly benefit rate, the product shall be raised to an
27 amount equal to the next higher multiple of 1/2 the weekly

1 benefit rate, and, for an individual who was employed by only 1
2 employer in the individual's base period and earned 34 credit
3 weeks with that employer, the product shall be raised to the next
4 higher multiple of the weekly benefit rate. The maximum amount
5 of benefits payable to an individual within a benefit year, with
6 respect to employment by an employer, shall not exceed 26 times
7 the weekly benefit rate with respect to that employment. The
8 maximum amount of benefits payable to an individual within a ben-
9 efit year shall not exceed the amount to which the individual
10 would be entitled for 26 weeks of unemployment in which remunera-
11 tion was not earned or received. The limitation of total bene-
12 fits set forth in this subsection does not apply to claimants
13 declared eligible for training benefits in accordance with sub-
14 section (g). For benefit years beginning after the conversion
15 date prescribed in section 75, and subject to subsection (f) and
16 this subsection, the maximum benefit amount payable to an indi-
17 vidual in a benefit year for purposes of this section and
18 section 20(c) is the number of weeks of benefits payable to an
19 individual during the benefit year, multiplied by the
20 individual's weekly benefit rate. The number of weeks of bene-
21 fits payable to an individual shall be calculated by taking 40%
22 of the individual's base period wages and dividing the result by
23 the individual's weekly benefit rate. If the quotient is not a
24 whole or half number, the result shall be rounded down to the
25 nearest half number. However, not more than 26 weeks of benefits
26 or less than 14 weeks of benefits shall be payable to an
27 individual in a benefit year. The limitation of total benefits

1 set forth in this subsection shall not apply to claimants
2 declared eligible for training benefits in accordance with
3 subsection (g).

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

13 (f)(1) For benefit years beginning before the conversion
14 date prescribed in section 75, and notwithstanding any inconsis-
15 tent provisions of this act, the weekly benefit rate of each
16 individual who is receiving or will receive a "retirement
17 benefit", as defined in subdivision (4), shall be adjusted as
18 provided in subparagraphs (a), (b), and (c). However, an
19 individual's extended benefit account and an individual's weekly
20 extended benefit rate under section 64 shall be established with-
21 out reduction under this subsection unless subdivision (5) is in
22 effect. Except as otherwise provided in this subsection, all
23 other provisions of this act continue to apply in connection with
24 the benefit claims of those retired persons.

25 (a) If and to the extent that unemployment benefits payable
26 under this act would be chargeable to an employer who has
27 contributed to the financing of a retirement plan under which the

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

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

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

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

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

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

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

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

22 (i) Provided as an incident of employment under an estab-
23 lished retirement plan, policy, or agreement, including federal
24 social security if subdivision (5) is in effect.

25 (ii) Payable to an individual because the individual has
26 qualified on the basis of attained age, length of service, or
27 disability, whether or not the individual retired or was retired

1 from employment. Amounts paid to individuals in the course of
2 liquidation of a private pension or retirement fund because of
3 termination of the business or of a plant or department of the
4 business of the employer involved shall not be considered to be
5 retirement benefits.

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

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

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

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

17 (5) Notwithstanding any other provision of this subsection,
18 for any week that begins after March 31, 1980, and with respect
19 to which an individual is receiving a governmental or other pen-
20 sion and claiming unemployment compensation, the weekly benefit
21 amount payable to the individual for those weeks shall be
22 reduced, but not below zero, by the entire prorated weekly amount
23 of any governmental or other pension, retirement or retired pay,
24 annuity, or any other similar payment that is based on any previ-
25 ous work of the individual. This reduction shall be made only if
26 it is required as a condition for full tax credit against the tax
27 imposed by the federal unemployment tax act, chapter 23 of

1 subtitle C of the internal revenue code of 1986, 26 U.S.C. 3301
2 to 3311.

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

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

21 (b) If any base period employer or chargeable employer has
22 contributed to the financing of a retirement plan under which the
23 claimant is receiving or will receive a retirement benefit yield-
24 ing a pro rata weekly amount less than the claimant's weekly ben-
25 efit rate as otherwise established under this act, then the
26 weekly benefit rate otherwise payable to the claimant shall be
27 reduced by an amount equal to the pro rata weekly amount,

1 adjusted to the next lower multiple of \$1.00, which the claimant
2 is receiving or will receive as a retirement benefit.

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

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

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

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

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

24 (2) With respect to service performed in other than an
25 instructional, research, or principal administrative capacity for
26 an institution of higher education as defined in section 53(2) or
27 for an educational institution other than an institution of

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

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

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

1 under this subdivision may apply for those benefits by mail in
2 accordance with R 421.210 as promulgated by the commission.

3 (5) The amendments to subdivision (2) made by Act No. 219 of
4 the Public Acts of 1983 apply to all claims for unemployment com-
5 pensation that are filed on and after October 31, 1983. However,
6 the amendments are retroactive to September 5, 1982 only if, as a
7 condition for full tax credit against the tax imposed by the fed-
8 eral unemployment tax act, chapter 23 of subtitle C of the inter-
9 nal revenue code of 1986, 26 U.S.C. 3301 to 3311, the United
10 States secretary of labor determines that retroactivity is
11 required by federal law.

12 (6) Notwithstanding subdivision (2), on and after April 1,
13 1984 benefits based upon services in other than an instructional,
14 research, or principal administrative capacity for an institution
15 of higher education shall not be denied for any week of unemploy-
16 ment commencing during the period between 2 successive academic
17 years or terms solely because the individual had performed the
18 service in the first of the academic years or terms and there is
19 reasonable assurance that the individual will perform the service
20 for an institution of higher education or an educational institu-
21 tion other than an institution of higher education in the second
22 of the academic years or terms, unless a denial is required as a
23 condition for full tax credit against the tax imposed by the fed-
24 eral unemployment tax act, chapter 23 of subtitle C of the inter-
25 nal revenue code of 1986, 26 U.S.C. 3301 to 3311.

26 (7) For benefit years established before the conversion date
27 prescribed in section 75, and notwithstanding subdivisions (1),

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

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

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

11 (9) 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 (10) Benefits shall be denied, as provided in subdivisions
18 (1), (2), and (3), for any week of unemployment beginning on and
19 after April 1, 1984, to an individual who performed those serv-
20 ices in an educational institution while in the employ of an edu-
21 cational service agency. For the purpose of this subdivision,
22 "educational service agency" means a governmental agency or gov-
23 ernmental entity that is established and operated exclusively for
24 the purpose of providing the services to 1 or more educational
25 institutions.

26 (j) For weeks of unemployment beginning after December 31,
27 1977, benefits shall not be paid to an individual on the basis of

1 any base period services, substantially all of which consist of
2 participating in sports or athletic events or training or prepar-
3 ing to so participate, for a week that commences during the
4 period between 2 successive sport seasons or similar periods if
5 the individual performed the services in the first of the seasons
6 or similar periods and there is a reasonable assurance that the
7 individual will perform the services in the later of the seasons
8 or similar periods.

9 (k)(1) For weeks of unemployment beginning after
10 December 31, 1977, benefits shall not be payable on the basis of
11 services performed by an alien unless the alien is an individual
12 who was lawfully admitted for permanent residence at the time the
13 services were performed, was lawfully present for the purpose of
14 performing the services, or was permanently residing in the
15 United States under color of law at the time the services were
16 performed, including an alien who was lawfully present in the
17 United States under section ~~203(a)(7) or section~~ 212(d)(5) of
18 the immigration and nationality act, 8 U.S.C. 1153 and 1182.

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

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

1 (m)(1) An individual filing a new claim for unemployment
2 compensation under this act after September 30, 1982, at the time
3 of filing the claim, shall disclose whether the individual owes
4 child support obligations as defined in this subsection. If an
5 individual discloses that he or she owes child support obliga-
6 tions and is determined to be eligible for unemployment compensa-
7 tion, the commission shall notify the state or local child sup-
8 port enforcement agency enforcing the obligation that the indi-
9 vidual has been determined to be eligible for unemployment
10 compensation.

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

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

17 (b) The amount, if any, determined pursuant to an agreement
18 submitted to the commission under section 454(19)(B)(i) of part D
19 of title IV of the social security act, chapter 531, 49
20 Stat. 620, 42 U.S.C. 654, by the state or local child support
21 enforcement agency.

22 (c) Any amount otherwise required to be so deducted and
23 withheld from unemployment compensation pursuant to legal pro-
24 cess, as that term is defined in section 462(e) of part D of
25 title IV of the social security act, chapter 531, 49 Stat. 620,
26 42 U.S.C. 662, properly served upon the commission.

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

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

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

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

23 (7) As used in this subsection:

24 (a) "Unemployment compensation", for purposes of
25 subdivisions (1) through (5), means any compensation payable
26 under this act, including amounts payable by the commission
27 pursuant to an agreement under any federal law providing for

1 compensation, assistance, or allowances with respect to
2 unemployment.

3 (b) "Child support obligations" includes only obligations
4 that are being enforced pursuant to a plan described in
5 section 454 of part D of title IV of the social security act,
6 chapter 531, 49 Stat. 620, 42 U.S.C. 654, that has been approved
7 by the secretary of health and human services under part D of
8 title IV of the social security act, chapter 531, 49 Stat. 620,
9 42 U.S.C. 651 to 669.

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

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

19 (o)(1) For weeks of unemployment beginning after July 1,
20 1996, unemployment benefits based on services by a seasonal
21 worker performed in seasonal employment shall be payable only for
22 weeks of unemployment that occur during the normal seasonal work
23 period. Benefits shall not be paid based on services performed
24 in seasonal employment for any week of unemployment beginning
25 after the effective date of this subdivision that begins during
26 the period between 2 successive normal seasonal work periods to
27 any individual if that individual performs the service in the

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

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

1 unless substantial evidence to the contrary is introduced by or
2 on behalf of the claimant.

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

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

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

1 (6) If a seasonal employer informs an employee who received
2 assurance of being rehired that, despite the assurance, the
3 employee will not be rehired at the beginning of the employer's
4 next normal seasonal work period, this subsection shall not pre-
5 vent the employee from receiving unemployment benefits in the
6 same manner and to the same extent he or she would receive bene-
7 fits under this act from an employer who has not been determined
8 to be a seasonal employer.

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

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

22 (9) As used in this subsection:

23 (a) "Construction industry" means the work activity desig-
24 nated in major groups 15, 16, and 17 of the standard industrial
25 classification manual, United States office of management and
26 budget, 1987 edition.

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

5 (c) "Seasonal employment" means the employment of 1 or more
6 individuals primarily hired to perform services, ~~in an~~
7 ~~industry,~~ other than SERVICES IN the construction industry, FOR
8 AN EMPLOYER that does either of the following:

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

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

14 (d) "Seasonal employer" means an employer, other than an
15 employer in the construction industry, who applies to the commis-
16 sion for designation as a seasonal employer and who the commis-
17 sion determines to be an employer whose operations and business
18 are substantially engaged in seasonal employment.

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

22 (10) If this subsection is found by the United States
23 department of labor to be contrary to the federal unemployment
24 tax act, chapter 23 of SUBTITLE C OF the internal revenue code of
25 1986, 26 U.S.C. 3301 to 3311, or the social security act, chapter
26 531, 49 Stat. 620, and if conformity with the federal law is
27 required as a condition for full tax credit against the tax

1 imposed under the federal unemployment tax act or as a condition
2 for receipt by the commission of federal administrative grant
3 funds under the social security act, this subsection shall be
4 invalid.

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