

SENATE BILL No. 370

May 10, 2011, Introduced by Senators HUNTER, GLEASON, WHITMER, HOOD, YOUNG, HOPGOOD, WARREN, BIEDA, ANDERSON, SMITH, ROCCA, GREGORY and JOHNSON and referred to the Committee on Economic Development.

A bill to amend 1936 (Ex Sess) PA 1, entitled "Michigan employment security act," by amending section 27 (MCL 421.27), as amended by 2011 PA 14.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

1 the individual disqualified or ineligible is made, or, for benefit
2 years beginning before October 1, 2000, a new separation issue
3 arises resulting from subsequent work.

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

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

1 shall be adjusted to the next lower multiple of \$1.00.

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

25 (3) For benefit years beginning before October 1, 2000, a
26 dependent means any of the following persons who are receiving and
27 for at least 90 consecutive days immediately before the week for

1 which benefits are claimed, or, in the case of a dependent husband,
2 wife, or child, for the duration of the marital or parental
3 relationship, if the relationship has existed less than 90 days,
4 has received more than 1/2 the cost of his or her support from the
5 individual claiming benefits:

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

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

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

17 (d) A brother or sister of the individual if the brother or
18 sister is orphaned or the living parents are dependent parents of
19 an individual, and the brother or sister is under 18 years of age,
20 or 18 years of age or over if, because of physical or mental
21 infirmity, the brother or sister is unable to engage in a gainful
22 occupation, or is a full-time student as defined by the particular
23 educational institution, at a high school, vocational school,
24 community or junior college, or college or university and is less
25 than 22 years of age.

26 (4) For benefit years beginning on or after October 1, 2000, a
27 dependent means any of the following persons who received for at

1 least 90 consecutive days immediately before the first week of the
2 benefit year or, in the case of a dependent husband, wife, or
3 child, for the duration of the marital or parental relationship if
4 the relationship existed less than 90 days before the beginning of
5 the benefit year, has received more than 1/2 the cost of his or her
6 support from the individual claiming the benefits:

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

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

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

18 (d) A brother or sister of the individual if the brother or
19 sister is orphaned or the living parents are dependent parents of
20 an individual, and the brother or sister is under 18 years of age,
21 or 18 years of age and over if, because of physical or mental
22 infirmity, the brother or sister is unable to engage in a gainful
23 occupation, 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 is less
26 than 22 years of age.

27 (5) For benefit years beginning before October 1, 2000,

1 dependency status of a dependent, child or otherwise, once
2 established or fixed in favor of an individual continues during the
3 individual's benefit year until terminated. Dependency status of a
4 dependent terminates at the end of the week in which the dependent
5 ceases to be an individual described in subdivision (3) (a), (b),
6 (c), or (d) because of age, death, or divorce. For benefit years
7 beginning on or after October 1, 2000, the number of dependents
8 established for an individual at the beginning of the benefit year
9 shall remain in effect during the entire benefit year.

10 (6) For benefit years beginning before October 1, 2000,
11 failure on the part of an individual, due to misinformation or lack
12 of information, to furnish all information material for
13 determination of the number of the individual's dependents when the
14 individual files a claim for benefits with respect to a week is
15 good cause to issue a redetermination as to the amount of benefits
16 based on the number of the individual's dependents as of the
17 beginning date of that week. Dependency status of a dependent,
18 child or otherwise, once established or fixed in favor of a person
19 is not transferable to or usable by another person with respect to
20 the same week.

21 For benefit years beginning on or after October 1, 2000,
22 failure on the part of an individual, due to misinformation or lack
23 of information, to furnish all information material for
24 determination of the number of the individual's dependents is good
25 cause to issue a redetermination as to the amount of benefits based
26 on the number of the individual's dependents as of the beginning of
27 the benefit year.

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

3 (1) Each eligible individual shall be paid a weekly benefit
4 rate with respect to the week for which the individual earns or
5 receives no remuneration. Notwithstanding the definition of week in
6 section 50, if within 2 consecutive weeks in which an individual
7 was not unemployed within the meaning of section 48 there was a
8 period of 7 or more consecutive days for which the individual did
9 not earn or receive remuneration, that period shall be considered a
10 week for benefit purposes under this act if a claim for benefits
11 for that period is filed not later than 30 days after the end of
12 the period.

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

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

23 (4) If the reduction in a claimant's benefit rate for a week
24 in accordance with subdivision (2) or (3) results in a benefit rate
25 greater than zero for that week, the claimant's balance of weeks of
26 benefit payments shall be reduced by 1 week.

27 (5) All remuneration for work performed during a shift that

1 terminates on 1 day but that began on the preceding day shall be
2 considered to have been earned by the eligible individual on the
3 preceding day.

4 (d) For benefit years beginning before October 1, 2000, and
5 subject to subsection (f) and this subsection, the amount of
6 benefits to which an individual who is otherwise eligible is
7 entitled during a benefit year from an employer with respect to
8 employment during the base period is the amount obtained by
9 multiplying the weekly benefit rate with respect to that employment
10 by $\frac{3}{4}$ of the number of credit weeks earned in the employment. For
11 the purpose of this subsection and section 20(c), if the resultant
12 product is not an even multiple of $\frac{1}{2}$ the weekly benefit rate, the
13 product shall be raised to an amount equal to the next higher
14 multiple of $\frac{1}{2}$ the weekly benefit rate, and, for an individual who
15 was employed by only 1 employer in the individual's base period and
16 earned 34 credit weeks with that employer, the product shall be
17 raised to the next higher multiple of the weekly benefit rate. The
18 maximum amount of benefits payable to an individual within a
19 benefit year, with respect to employment by an employer, shall not
20 exceed 26 times the weekly benefit rate with respect to that
21 employment. The maximum amount of benefits payable to an individual
22 within a benefit year shall not exceed the amount to which the
23 individual would be entitled for 26 weeks of unemployment in which
24 remuneration was not earned or received. The limitation of total
25 benefits set forth in this subsection does not apply to claimants
26 declared eligible for training benefits in accordance with
27 subsection (g). For benefit years beginning on or after October 1,

1 2000, and subject to subsection (f) and this subsection, the
2 maximum benefit amount payable to an individual in a benefit year
3 for purposes of this section and section 20(d) is the number of
4 weeks of benefits payable to an individual during the benefit year,
5 multiplied by the individual's weekly benefit rate. The number of
6 weeks of benefits payable to an individual shall be calculated by
7 taking 43% of the individual's base period wages and dividing the
8 result by the individual's weekly benefit rate. If the quotient is
9 not a whole or half number, the result shall be rounded down to the
10 nearest half number. However, ~~for each eligible individual filing~~
11 ~~an initial claim before January 15, 2012,~~ not more than 26 weeks of
12 benefits or less than 14 weeks of benefits shall be payable to an
13 individual in a benefit year. ~~For each eligible individual filing~~
14 ~~an initial claim on or after January 15, 2012, not more than 20~~
15 ~~weeks of benefits or less than 14 weeks of benefits shall be~~
16 ~~payable to an individual in a benefit year.~~ The limitation of total
17 benefits set forth in this subsection does not apply to claimants
18 declared eligible for training benefits in accordance with
19 subsection (g).

20 (e) When a claimant dies or is judicially declared insane or
21 mentally incompetent, unemployment compensation benefits accrued
22 and payable to that person for weeks of unemployment before death,
23 insanity, or incompetency, but not paid, shall become due and
24 payable to the person who is the legal heir or guardian of the
25 claimant or to any other person found by the commission to be
26 equitably entitled to the benefits by reason of having incurred
27 expense in behalf of the claimant for the claimant's burial or

1 other necessary expenses.

2 (f) (1) For benefit years beginning before October 1, 2000, and
3 notwithstanding any inconsistent provisions of this act, the weekly
4 benefit rate of each individual who is receiving or will receive a
5 "retirement benefit", as defined in subdivision (4), shall be
6 adjusted as provided in subparagraphs (a), (b), and (c). However,
7 an individual's extended benefit account and an individual's weekly
8 extended benefit rate under section 64 shall be established without
9 reduction under this subsection unless subdivision (5) is in
10 effect. Except as otherwise provided in this subsection, all other
11 provisions of this act continue to apply in connection with the
12 benefit claims of those retired persons.

13 (a) If and to the extent that unemployment benefits payable
14 under this act would be chargeable to an employer who has
15 contributed to the financing of a retirement plan under which the
16 claimant is receiving or will receive a retirement benefit yielding
17 a pro rata weekly amount equal to or larger than the claimant's
18 weekly benefit rate as otherwise established under this act, the
19 claimant shall not receive unemployment benefits that would be
20 chargeable to the employer under this act.

21 (b) If and to the extent that unemployment benefits payable
22 under this act would be chargeable to an employer who has
23 contributed to the financing of a retirement plan under which the
24 claimant is receiving or will receive a retirement benefit yielding
25 a pro rata weekly amount less than the claimant's weekly benefit
26 rate as otherwise established under this act, then the weekly
27 benefit rate otherwise payable to the claimant and chargeable to

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

5 (c) If the unemployment benefit payable under this act would
6 be chargeable to an employer who has not contributed to the
7 financing of a retirement plan under which the claimant is
8 receiving or will receive a retirement benefit, then the weekly
9 benefit rate of the claimant as otherwise established under this
10 act shall not be reduced due to receipt of a retirement benefit.

11 (d) If the unemployment benefit payable under this act is
12 computed on the basis of multiemployer credit weeks and a portion
13 of the benefit is allocable under section 20(e) to an employer who
14 has contributed to the financing of a retirement plan under which
15 the claimant is receiving or will receive a retirement benefit, the
16 adjustments required by subparagraph (a) or (b) apply only to that
17 portion of the weekly benefit rate that would otherwise be
18 allocable and chargeable to the employer.

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

24 (3) When necessary to assure prompt payment of benefits, the
25 commission shall determine the pro rata weekly amount yielded by an
26 individual's retirement benefit based on the best information
27 currently available to it. In the absence of fraud, a determination

1 shall not be reconsidered unless it is established that the
2 individual's actual retirement benefit in fact differs from the
3 amount determined by \$2.00 or more per week. The reconsideration
4 shall apply only to benefits as may be claimed after the
5 information on which the reconsideration is based was received by
6 the commission.

7 (4) (a) As used in this subsection, "retirement benefit" means
8 a benefit, annuity, or pension of any type or that part thereof
9 that is described in subparagraph (b) that is both:

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

13 (ii) Payable to an individual because the individual has
14 qualified on the basis of attained age, length of service, or
15 disability, whether or not the individual retired or was retired
16 from employment. Amounts paid to individuals in the course of
17 liquidation of a private pension or retirement fund because of
18 termination of the business or of a plant or department of the
19 business of the employer involved are not retirement benefits.

20 (b) If a benefit as described in subparagraph (a) is payable
21 or paid to the individual under a plan to which the individual has
22 contributed:

23 (i) Less than 1/2 of the cost of the benefit, then only 1/2 of
24 the benefit is treated as a retirement benefit.

25 (ii) One-half or more of the cost of the benefit, then none of
26 the benefit is treated as a retirement benefit.

27 (c) The burden of establishing the extent of an individual's

1 contribution to the cost of his or her retirement benefit for the
2 purpose of subparagraph (b) is upon the employer who has
3 contributed to the plan under which a benefit is provided.

4 (5) Notwithstanding any other provision of this subsection,
5 for any week that begins after March 31, 1980, and with respect to
6 which an individual is receiving a governmental or other pension
7 and claiming unemployment compensation, the weekly benefit amount
8 payable to the individual for those weeks shall be reduced, but not
9 below zero, by the entire prorated weekly amount of any
10 governmental or other pension, retirement or retired pay, annuity,
11 or any other similar payment that is based on any previous work of
12 the individual. This reduction shall be made only if it is required
13 as a condition for full tax credit against the tax imposed by the
14 federal unemployment tax act, 26 USC 3301 to 3311.

15 (6) For benefit years beginning on or after October 1, 2000,
16 notwithstanding any inconsistent provisions of this act, the weekly
17 benefit rate of each individual who is receiving or will receive a
18 retirement benefit, as defined in subdivision (4), shall be
19 adjusted as provided in subparagraphs (a), (b), and (c). However,
20 an individual's extended benefit account and an individual's weekly
21 extended benefit rate under section 64 shall be established without
22 reduction under this subsection, unless subdivision (5) is in
23 effect. Except as otherwise provided in this subsection, all the
24 other provisions of this act apply to the benefit claims of those
25 retired persons. However, if the reduction would impair the full
26 tax credit against the tax imposed by the federal unemployment tax
27 act, 26 USC 3301 to 3311, unemployment benefits shall not be

1 reduced as provided in subparagraphs (a), (b), and (c) for receipt
2 of any governmental or other pension, retirement or retired pay,
3 annuity, or other similar payment that was not includable in the
4 gross income of the individual for the taxable year in which it was
5 received because it was a part of a rollover distribution.

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

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

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

26 (g) Notwithstanding any other provision of this act, an
27 individual pursuing vocational training or retraining pursuant to

1 section 28(2) who has exhausted all benefits available under
2 subsection (d) may be paid for each week of approved vocational
3 training pursued beyond the date of exhaustion a benefit amount in
4 accordance with subsection (c), but not in excess of the
5 individual's most recent weekly benefit rate. However, an
6 individual shall not be paid training benefits totaling more than
7 18 times the individual's most recent weekly benefit rate. The
8 expiration or termination of a benefit year shall not stop or
9 interrupt payment of training benefits if the training for which
10 the benefits were granted began before expiration or termination of
11 the benefit year.

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

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

23 (1) With respect to service performed in an instructional,
24 research, or principal administrative capacity for an institution
25 of higher education as defined in section 53(2), or for an
26 educational institution other than an institution of higher
27 education as defined in section 53(3), benefits shall not be paid

1 to an individual based on those services for any week of
2 unemployment beginning after December 31, 1977 that commences
3 during the period between 2 successive academic years or during a
4 similar period between 2 regular terms, whether or not successive,
5 or during a period of paid sabbatical leave provided for in the
6 individual's contract, to an individual if the individual performs
7 the service in the first of the academic years or terms and if
8 there is a contract or a reasonable assurance that the individual
9 will perform service in an instructional, research, or principal
10 administrative capacity for an institution of higher education or
11 an educational institution other than an institution of higher
12 education in the second of the academic years or terms, whether or
13 not the terms are successive.

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

27 (3) With respect to any service described in subdivision (1)

1 or (2), benefits shall not be paid to an individual based upon
2 service for any week of unemployment that commences during an
3 established and customary vacation period or holiday recess if the
4 individual performs the service in the period immediately before
5 the vacation period or holiday recess and there is a contract or
6 reasonable assurance that the individual will perform the service
7 in the period immediately following the vacation period or holiday
8 recess.

9 (4) If benefits are denied to an individual for any week
10 solely as a result of subdivision (2) and the individual was not
11 offered an opportunity to perform in the second academic year or
12 term the service for which reasonable assurance had been given, the
13 individual is entitled to a retroactive payment of benefits for
14 each week for which the individual had previously filed a timely
15 claim for benefits. An individual entitled to benefits under this
16 subdivision may apply for those benefits by mail in accordance with
17 R 421.210 of the Michigan administrative code as promulgated by the
18 commission.

19 (5) Benefits based upon services in other than an
20 instructional, research, or principal administrative capacity for
21 an institution of higher education shall not be denied for any week
22 of unemployment commencing during the period between 2 successive
23 academic years or terms solely because the individual had performed
24 the service in the first of the academic years or terms and there
25 is reasonable assurance that the individual will perform the
26 service for an institution of higher education or an educational
27 institution other than an institution of higher education in the

1 second of the academic years or terms, unless a denial is required
2 as a condition for full tax credit against the tax imposed by the
3 federal unemployment tax act, 26 USC 3301 to 3311.

4 (6) For benefit years established before October 1, 2000, and
5 notwithstanding subdivisions (1), (2), and (3), the denial of
6 benefits does not prevent an individual from completing
7 requalifying weeks in accordance with section 29(3) nor does the
8 denial prevent an individual from receiving benefits based on
9 service with an employer other than an educational institution for
10 any week of unemployment occurring between academic years or terms,
11 whether or not successive, or during an established and customary
12 vacation period or holiday recess, even though the employer is not
13 the most recent chargeable employer in the individual's base
14 period. However, in that case section 20(b) applies to the sequence
15 of benefit charging, except for the employment with the educational
16 institution, and section 50(b) applies to the calculation of credit
17 weeks. When a denial of benefits under subdivision (1) no longer
18 applies, benefits shall be charged in accordance with the normal
19 sequence of charging as provided in section 20(b).

20 (7) For benefit years beginning on or after October 1, 2000,
21 and notwithstanding subdivisions (1), (2), and (3), the denial of
22 benefits shall not prevent an individual from completing
23 requalifying weeks in accordance with section 29(3) nor shall the
24 denial prevent an individual from receiving benefits based on
25 service with another base period employer other than an educational
26 institution for any week of unemployment occurring between academic
27 years or terms, whether or not successive, or during an established

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

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

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

1 institutions.

2 (j) Benefits shall not be paid to an individual on the basis
3 of any base period services, substantially all of which consist of
4 participating in sports or athletic events or training or preparing
5 to participate, for a week that commences during the period between
6 2 successive sport seasons or similar periods if the individual
7 performed the services in the first of the seasons or similar
8 periods and there is a reasonable assurance that the individual
9 will perform the services in the later of the seasons or similar
10 periods.

11 (k) (1) Benefits are not payable on the basis of services
12 performed by an alien unless the alien is an individual who was
13 lawfully admitted for permanent residence at the time the services
14 were performed, was lawfully present for the purpose of performing
15 the services, or was permanently residing in the United States
16 under color of law at the time the services were performed,
17 including an alien who was lawfully present in the United States
18 under section 212(d) (5) of the immigration and nationality act, 8
19 USC 1182.

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

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

1 (m) (1) An individual filing a new claim for unemployment
2 compensation under this act, at the time of filing the claim, shall
3 disclose whether the individual owes child support obligations as
4 defined in this subsection. If an individual discloses that he or
5 she owes child support obligations and is determined to be eligible
6 for unemployment compensation, the commission shall notify the
7 state or local child support enforcement agency enforcing the
8 obligation that the individual has been determined to be eligible
9 for unemployment 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 of
13 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 42 USC 654(19)(b)(i), by the
18 state or local child support enforcement agency.

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

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

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

1 shall be paid by the commission to the appropriate state or local
2 child support enforcement agency.

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

8 (6) Provisions concerning deductions under this subsection
9 apply only if the state or local child support enforcement agency
10 agrees in writing to reimburse and does reimburse the commission
11 for the administrative costs incurred by the commission under this
12 subsection that are attributable to child support obligations being
13 enforced by the state or local child support enforcement agency.
14 The administrative costs incurred shall be determined by the
15 commission. The commission, in its discretion, may require payment
16 of administrative costs in advance.

17 (7) As used in this subsection:

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

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

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

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

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

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

1 accordance with R 421.210 of the Michigan administrative code.

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

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

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

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

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

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

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

9 (9) As used in this subsection:

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

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

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

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

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

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

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

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

8 (10) This subsection does not apply if the United States
9 department of labor finds it to be contrary to the federal
10 unemployment tax act, 26 USC 3301 to 3311, or the social security
11 act, chapter 531, 49 Stat. 620, and if conformity with the federal
12 law is required as a condition for full tax credit against the tax
13 imposed under the federal unemployment tax act, 26 USC 3301 to
14 3311, or as a condition for receipt by the commission of federal
15 administrative grant funds under the social security act, chapter
16 531, 49 Stat. 620.

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