

HOUSE BILL No. 4781

June 16, 2011, Introduced by Reps. Wayne Schmidt, Lyons, MacGregor, Haveman, Foster and Lund and referred to the Committee on Commerce.

A bill to amend 1936 (Ex Sess) PA 1, entitled "Michigan employment security act," by amending section 27 (MCL 421.27), as amended by 2011 PA 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
9 the individual disqualified or ineligible is made, or, for benefit
10 years beginning before 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 October 1, 2000, shall be 67% of the individual's average after tax
8 weekly wage, except that the individual's maximum weekly benefit
9 rate shall not exceed \$300.00. However, with respect to benefit
10 years beginning on or after October 1, 2000 **AND BEFORE JANUARY 15,**
11 **2012,** the individual's weekly benefit rate is 4.1% of the
12 individual's wages paid in the calendar quarter of the base period
13 in which the individual was paid the highest total wages, plus
14 \$6.00 for each dependent as defined in subdivision (4), up to a
15 maximum of 5 dependents, claimed by the individual at the time the
16 individual files a new claim for benefits, except that the
17 individual's maximum weekly benefit rate shall not exceed \$300.00
18 before April 26, 2002 and \$362.00 for claims filed on and after
19 April 26, 2002. **THE WEEKLY BENEFIT RATE FOR AN INDIVIDUAL WITH**
20 **RESPECT TO BENEFIT YEARS BEGINNING ON OR AFTER JANUARY 15, 2012**
21 **SHALL BE 47% OF THE INDIVIDUAL'S PRIOR AVERAGE WEEKLY WAGE, PLUS**
22 **\$6.00 FOR EACH DEPENDENT AS DEFINED IN SUBDIVISION (4), UP TO A**
23 **MAXIMUM OF 5 DEPENDENTS, CLAIMED BY THE INDIVIDUAL AT THE TIME THE**
24 **INDIVIDUAL FILES A NEW CLAIM FOR BENEFITS, EXCEPT THAT THE**
25 **INDIVIDUAL'S MAXIMUM WEEKLY BENEFIT RATE SHALL NOT EXCEED \$362.00.**
26 **FOR PURPOSES OF THIS DETERMINATION, "PRIOR AVERAGE WEEKLY WAGE"**
27 **MEANS THE INDIVIDUAL'S TOTAL WAGES CREDITED DURING THE INDIVIDUAL'S**

1 **BASE PERIOD, DIVIDED BY 52.** The weekly benefit rate for an
2 individual claiming benefits on and after April 26, 2002 shall be
3 recalculated subject to the \$362.00 maximum weekly benefit rate.
4 The unemployment agency shall establish the procedures necessary to
5 verify the number of dependents claimed. If a person fraudulently
6 claims a dependent, that person is subject to the penalties set
7 forth in sections 54 and 54c. For benefit years beginning on or
8 after October 2, 1983, the weekly benefit rate shall be adjusted to
9 the next lower multiple of \$1.00.

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

1 on 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 be
4 determined with respect to each week of unemployment for which an
5 individual is claiming benefits.

6 (3) For benefit years beginning before October 1, 2000, a
7 dependent means any of the following persons who are receiving and
8 for at least 90 consecutive days immediately before the week for
9 which benefits are claimed, or, in the case of a dependent husband,
10 wife, or child, for the duration of the marital or parental
11 relationship, if the relationship has existed less than 90 days,
12 has received more than 1/2 the cost of his or her support from the
13 individual claiming benefits:

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

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

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

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

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

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

26 (d) A brother or sister of the individual if the brother or
27 sister is orphaned or the living parents are dependent parents of

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

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

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

1 the same week.

2 For benefit years beginning on or after October 1, 2000,
3 failure on the part of an individual, due to misinformation or lack
4 of information, to furnish all information material for
5 determination of the number of the individual's dependents is good
6 cause to issue a redetermination as to the amount of benefits based
7 on the number of the individual's dependents as of the beginning of
8 the benefit year.

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

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

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

26 (3) An individual who receives or earns partial remuneration
27 may not receive a total of benefits and earnings that exceeds 1-1/2

1 times his or her weekly benefit amount. For each dollar of total
2 benefits and earnings that exceeds 1-1/2 times the individual's
3 weekly benefit amount, benefits shall be reduced by \$1.00.

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

8 (5) All remuneration for work performed during a shift that
9 terminates on 1 day but that began on the preceding day shall be
10 considered to have been earned by the eligible individual on the
11 preceding day.

12 (d) For benefit years beginning before October 1, 2000, and
13 subject to subsection (f) and this subsection, the amount of
14 benefits to which an individual who is otherwise eligible is
15 entitled during a benefit year from an employer with respect to
16 employment during the base period is the amount obtained by
17 multiplying the weekly benefit rate with respect to that employment
18 by 3/4 of the number of credit weeks earned in the employment. For
19 the purpose of this subsection and section 20(c), if the resultant
20 product is not an even multiple of 1/2 the weekly benefit rate, the
21 product shall be raised to an amount equal to the next higher
22 multiple of 1/2 the weekly benefit rate, and, for an individual who
23 was employed by only 1 employer in the individual's base period and
24 earned 34 credit weeks with that employer, the product shall be
25 raised to the next higher multiple of the weekly benefit rate. The
26 maximum amount of benefits payable to an individual within a
27 benefit year, with respect to employment by an employer, shall not

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

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

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

21 (a) 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 equal to or larger than the claimant's
26 weekly benefit rate as otherwise established under this act, the
27 claimant shall not receive unemployment benefits that would be

1 chargeable to the employer under this act.

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

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

19 (d) If the unemployment benefit payable under this act is
20 computed on the basis of multiemployer credit weeks and a portion
21 of the benefit is allocable under section 20(e) to an employer who
22 has contributed to the financing of a retirement plan under which
23 the claimant is receiving or will receive a retirement benefit, the
24 adjustments required by subparagraph (a) or (b) apply only to that
25 portion of the weekly benefit rate that would otherwise be
26 allocable and chargeable to the employer.

27 (2) If an individual's weekly benefit rate under this act was

1 established before the period for which the individual first
2 receives a retirement benefit, any benefits received after a
3 retirement benefit becomes payable shall be determined in
4 accordance with the formula stated in this subsection.

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

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

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

21 (ii) Payable to an individual because the individual has
22 qualified on the basis of attained age, length of service, or
23 disability, whether or not the individual retired or was retired
24 from employment. Amounts paid to individuals in the course of
25 liquidation of a private pension or retirement fund because of
26 termination of the business or of a plant or department of the
27 business of the employer involved are not retirement benefits.

1 (b) If a benefit as described in subparagraph (a) is payable
2 or paid to the individual under a plan to which the individual has
3 contributed:

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

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

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

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

23 (6) For benefit years beginning on or after October 1, 2000,
24 notwithstanding any inconsistent provisions of this act, the weekly
25 benefit rate of each individual who is receiving or will receive a
26 retirement benefit, as defined in subdivision (4), shall be
27 adjusted as provided in subparagraphs (a), (b), and (c). However,

1 an individual's extended benefit account and an individual's weekly
2 extended benefit rate under section 64 shall be established without
3 reduction under this subsection, unless subdivision (5) is in
4 effect. Except as otherwise provided in this subsection, all the
5 other provisions of this act apply to the benefit claims of those
6 retired persons. However, if the reduction would impair the full
7 tax credit against the tax imposed by the federal unemployment tax
8 act, 26 USC 3301 to 3311, unemployment benefits shall not be
9 reduced as provided in subparagraphs (a), (b), and (c) for receipt
10 of any governmental or other pension, retirement or retired pay,
11 annuity, or other similar payment that was not includable in the
12 gross income of the individual for the taxable year in which it was
13 received because it was a part of a rollover distribution.

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

20 (b) If any base period employer or chargeable employer has
21 contributed to the financing of a retirement plan under which the
22 claimant is receiving or will receive a retirement benefit yielding
23 a pro rata weekly amount less than the claimant's weekly benefit
24 rate as otherwise established under this act, then the weekly
25 benefit rate otherwise payable to the claimant shall be reduced by
26 an amount equal to the pro rata weekly amount, adjusted to the next
27 lower multiple of \$1.00, which the claimant is receiving or will

1 receive as a retirement benefit.

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

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

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

26 (i) Benefits based on service in employment described in
27 section 42(8), (9), and (10) are payable in the same amount, on the

1 same terms, and subject to the same conditions as compensation
2 payable on the basis of other service subject to this act, except
3 that:

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

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

1 after December 31, 1977 that commences during the period between 2
2 successive academic years or terms to any individual if that
3 individual performs the service in the first of the academic years
4 or terms and if there is a reasonable assurance that the individual
5 will perform the service for an institution of higher education or
6 an educational institution other than an institution of higher
7 education in the second of the academic years or terms.

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

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

27 (5) Benefits based upon services in other than an

1 instructional, research, or principal administrative capacity for
2 an institution of higher education shall not be denied for any week
3 of unemployment commencing during the period between 2 successive
4 academic years or terms solely because the individual had performed
5 the service in the first of the academic years or terms and there
6 is reasonable assurance that the individual will perform the
7 service for an institution of higher education or an educational
8 institution other than an institution of higher education in the
9 second of the academic years or terms, unless a denial is required
10 as a condition for full tax credit against the tax imposed by the
11 federal unemployment tax act, 26 USC 3301 to 3311.

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

1 (7) For benefit years beginning on or after October 1, 2000,
2 and notwithstanding subdivisions (1), (2), and (3), the denial of
3 benefits shall not prevent an individual from completing
4 requalifying weeks in accordance with section 29(3) nor shall the
5 denial prevent an individual from receiving benefits based on
6 service with another base period employer other than an educational
7 institution for any week of unemployment occurring between academic
8 years or terms, whether or not successive, or during an established
9 and customary vacation period or holiday recess. However, when
10 benefits are paid based on service with 1 or more base period
11 employers other than an educational institution, the individual's
12 weekly benefit rate shall be calculated in accordance with
13 subsection (b)(1) but during the denial period the individual's
14 weekly benefit payment shall be reduced by the portion of the
15 payment attributable to base period wages paid by an educational
16 institution and the account or experience account of the
17 educational institution shall not be charged for benefits payable
18 to the individual. When a denial of benefits under subdivision (1)
19 is no longer applicable, benefits shall be paid and charged on the
20 basis of base period wages with each of the base period employers
21 including the educational institution.

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

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

10 (j) Benefits shall not be paid to an individual on the basis
11 of any base period services, substantially all of which consist of
12 participating in sports or athletic events or training or preparing
13 to participate, for a week that commences during the period between
14 2 successive sport seasons or similar periods if the individual
15 performed the services in the first of the seasons or similar
16 periods and there is a reasonable assurance that the individual
17 will perform the services in the later of the seasons or similar
18 periods.

19 (k) (1) Benefits are not payable on the basis of services
20 performed by an alien unless the alien is an individual who was
21 lawfully admitted for permanent residence at the time the services
22 were performed, was lawfully present for the purpose of performing
23 the services, or was permanently residing in the United States
24 under color of law at the time the services were performed,
25 including an alien who was lawfully present in the United States
26 under section 212(d) (5) of the immigration and nationality act, 8
27 USC 1182.

1 (2) Any data or information required of individuals applying
2 for benefits to determine whether benefits are payable because of
3 their alien status are uniformly required from all applicants for
4 benefits.

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

9 (m)(1) An individual filing a new claim for unemployment
10 compensation under this act, at the time of filing the claim, shall
11 disclose whether the individual owes child support obligations as
12 defined in this subsection. If an individual discloses that he or
13 she owes child support obligations and is determined to be eligible
14 for unemployment compensation, the commission shall notify the
15 state or local child support enforcement agency enforcing the
16 obligation that the individual has been determined to be eligible
17 for unemployment compensation.

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

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

24 (b) The amount, if any, determined pursuant to an agreement
25 submitted to the commission under 42 USC 654(19)(b)(i), by the
26 state or local child support enforcement agency.

27 (c) Any amount otherwise required to be deducted and withheld

1 from unemployment compensation by legal process, as that term is
2 defined in 42 USC 659(i)(5), properly served upon the commission.

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

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

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

16 (6) Provisions concerning deductions under this subsection
17 apply only if the state or local child support enforcement agency
18 agrees in writing to reimburse and does reimburse the commission
19 for the administrative costs incurred by the commission under this
20 subsection that are attributable to child support obligations being
21 enforced by the state or local child support enforcement agency.
22 The administrative costs incurred shall be determined by the
23 commission. The commission, in its discretion, may require payment
24 of administrative costs in advance.

25 (7) As used in this subsection:

26 (a) "Unemployment compensation", for purposes of subdivisions
27 (1) to (5), means any compensation payable under this act,

1 including amounts payable by the commission pursuant to an
2 agreement under any federal law providing for compensation,
3 assistance, or allowances with respect to unemployment.

4 (b) "Child support obligations" includes only obligations that
5 are being enforced pursuant to a plan described in 42 USC 654 that
6 has been approved by the secretary of health and human services
7 under 42 USC 651 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 only
14 if at least 75% of the individual's base period wages with that
15 employer are attributable to services performed as a school bus
16 driver.

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

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

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

26 (3) If the employer is determined to be a seasonal employer,
27 the employer shall conspicuously display on its premises a notice

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

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

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

23 (6) If a seasonal employer informs an employee who received
24 assurance of being rehired that, despite the assurance, the
25 employee will not be rehired at the beginning of the employer's
26 next normal seasonal work period, this subsection does not prevent
27 the employee from receiving unemployment benefits in the same

1 manner and to the same extent he or she would receive benefits
2 under this act from an employer who has not been determined to be a
3 seasonal employer.

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

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

17 (9) As used in this subsection:

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

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

26 (c) "Seasonal employment" means the employment of 1 or more
27 individuals primarily hired to perform services ~~in an industry,~~ **FOR**

1 AN EMPLOYER other than AN EMPLOYER IN the construction industry,
2 that ~~does either of the following:~~

3 ~~—— (1) Customarily operates during regularly recurring periods of~~
4 ~~26 weeks or less in any 52 consecutive week period.~~

5 ~~—— (2) MEETS EITHER OF THE FOLLOWING CONDITIONS:~~

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

9 (2) CUSTOMARILY REQUIRES EMPLOYEES FOR PEAK EMPLOYMENT
10 PERIODS, SUCH AS HOLIDAY WORK OR WORK WITH A PREDETERMINED
11 BEGINNING AND ENDING DATE THAT DOES NOT EXCEED 26 WEEKS.

12 (d) "Seasonal employer" means an employer, other than an
13 employer in the construction industry, who applies to the
14 commission for designation as a seasonal employer and who the
15 commission determines to be an employer whose operations and
16 business are substantially engaged in seasonal employment. A
17 SEASONAL EMPLOYER DESIGNATION UNDER THIS ACT NEED NOT CORRESPOND TO
18 A CATEGORY ASSIGNED UNDER THE NORTH AMERICAN CLASSIFICATION SYSTEM
19 - UNITED STATES OFFICE OF MANAGEMENT AND BUDGET.

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

23 (10) This subsection does not apply if the United States
24 department of labor finds it to be contrary to the federal
25 unemployment tax act, 26 USC 3301 to 3311, or the social security
26 act, chapter 531, 49 Stat. 620, and if conformity with the federal
27 law is required as a condition for full tax credit against the tax

1 imposed under the federal unemployment tax act, 26 USC 3301 to
2 3311, or as a condition for receipt by the commission of federal
3 administrative grant funds under the social security act, chapter
4 531, 49 Stat. 620.

5 (p) Benefits shall not be paid to an individual based upon his
6 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 has
10 a reasonable assurance that he or she will perform those services
11 in the second of the academic years or terms.