

SENATE BILL No. 185

February 10, 2005, Introduced by Senators BASHAM, CLARK-COLEMAN, PRUSI,
SCHAUER, CHERRY and GOSCHKA and referred to the Committee on Commerce and
Labor.

A bill to amend 1936 (Ex Sess) PA 1, entitled
"Michigan employment security act,"
by amending section 27 (MCL 421.27), as amended by 2002 PA 192.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 27. (a) (1) When a determination, redetermination, or
2 decision is made that benefits are due an unemployed individual,
3 the benefits ~~shall~~ become payable from the fund and continue to
4 be payable to the unemployed individual, subject to the 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

1 years beginning before ~~the conversion date prescribed in section~~
2 ~~75~~ **OCTOBER 1, 2000**, a new separation issue arises resulting from
3 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 ~~the~~
9 ~~conversion date prescribed in section 75, shall be~~ **OCTOBER 1,**
10 **2000, IS** 67% of the individual's average after tax weekly wage,
11 except that the individual's maximum weekly benefit rate shall not
12 exceed \$300.00. However, with respect to benefit years beginning
13 ~~after the conversion date as prescribed in section 75~~ **ON OR AFTER**
14 **OCTOBER 1, 2000**, the individual's weekly benefit rate ~~shall be~~ **IS**
15 4.1% of the individual's wages paid in the calendar quarter of the
16 base period in which the individual was paid the highest total
17 wages, plus \$6.00 for each dependent as defined in subdivision ~~(3)~~
18 **(4)**, up to a maximum of 5 dependents, claimed by the individual at
19 the time the individual files a new claim for benefits, except that
20 the individual's maximum weekly benefit rate shall not exceed
21 \$300.00 before ~~the effective date of the amendatory act that added~~
22 ~~section 13/~~ **APRIL 26, 2002** and \$362.00 for claims filed on and
23 after ~~the effective date of the amendatory act that added section~~
24 ~~13/~~ **APRIL 26, 2002**. The weekly benefit rate for an individual
25 claiming benefits on and after ~~the effective date of the~~
26 ~~amendatory act that added section 13/~~ **APRIL 26, 2002** shall be
27 recalculated subject to the \$362.00 maximum weekly benefit rate.

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

7 (2) For benefit years beginning before ~~the conversion date~~
8 ~~prescribed in section 75~~ **OCTOBER 1, 2000**, the state average weekly
9 wage for a calendar year shall be computed on the basis of the 12
10 months ending the June 30 immediately ~~preceding~~ **BEFORE** that
11 calendar year. The commission shall prepare a table of weekly
12 benefit rates based on an "average after tax weekly wage"
13 calculated by subtracting, from an individual's average weekly wage
14 as determined in accordance with section 51, a reasonable
15 approximation of the weekly amount required to be withheld by the
16 employer from the remuneration of the individual based on
17 dependents and exemptions for income taxes under ~~chapter 24 of~~
18 ~~subtitle C of the internal revenue code of 1986,~~ 26 ~~U.S.C.~~ **USC**
19 3401 to 3406, and under section 351 of the income tax act of 1967,
20 1967 PA 281, MCL 206.351, and for old age and survivor's disability
21 insurance taxes under the federal insurance contributions act,
22 ~~chapter 21 of subtitle C of the internal revenue code of 1986,~~ 26
23 ~~U.S.C.~~ **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 ~~the conversion date~~
7 ~~prescribed in section 75~~ **OCTOBER 1, 2000**, a dependent means any of
8 the following persons who is receiving and for at least 90
9 consecutive days immediately ~~preceeding~~ **BEFORE** the week for which
10 benefits are claimed, or, in the case of a dependent husband, wife,
11 or child, for the duration of the marital or parental relationship,
12 if the relationship has existed less than 90 days, has received
13 more than half the cost of his or her support from the individual
14 claiming 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 or 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 or over if, because of physical or mental
3 infirmity, the brother or sister is unable to engage in a gainful
4 occupation, or is a full-time student as defined by the 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 (4) For benefit years beginning ~~after the conversion date~~
9 ~~prescribed in section 75~~ **ON OR AFTER OCTOBER 1, 2000**, a dependent
10 means any of the following persons who received for at least 90
11 consecutive days immediately ~~preceding~~ **BEFORE** the first week of
12 the benefit year or, in the case of a dependent husband, wife, or
13 child, for the duration of the marital or parental relationship if
14 the relationship existed less than 90 days before the beginning of
15 the benefit year, has received more than 1/2 the cost of his or her
16 support from the individual claiming the benefits:

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

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

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

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

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

22 (6) For benefit years beginning before ~~the conversion date~~
23 ~~prescribed in section 75~~ **OCTOBER 1, 2000**, failure on the part of
24 an individual, due to misinformation or lack of information, to
25 furnish all information material for determination of the number of
26 the individual's dependents when the individual files a claim for
27 benefits with respect to a week ~~shall be considered~~ **IS** good cause

1 ~~for the issuance of~~ **TO ISSUE** a redetermination as to the amount of
2 benefits based on the number of the individual's dependents as of
3 the beginning date of that week. Dependency status of a dependent,
4 child or otherwise, once established or fixed in favor of a person
5 is not transferable to or usable by another person with respect to
6 the same week.

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

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

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

27 (2) Each eligible individual shall have his or her weekly

1 benefit rate reduced with respect to each week in which the
2 individual earns or receives remuneration at the rate of 50 cents
3 for each whole \$1.00 of remuneration earned or received during that
4 week.

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

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

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

18 (d) For benefit years beginning before ~~the conversion date~~
19 ~~prescribed in section 75~~ **OCTOBER 1, 2000**, and subject to
20 subsection (f) and this subsection, the amount of benefits to which
21 an individual who is otherwise eligible is entitled during a
22 benefit year from an employer with respect to employment during the
23 base period is the amount obtained by multiplying the weekly
24 benefit rate with respect to that employment by 3/4 of the number
25 of credit weeks earned in the employment. For the purpose of this
26 subsection and section 20(c), if the resultant product is not an
27 even multiple of 1/2 the weekly benefit rate, the product shall be

1 raised to an amount equal to the next higher multiple of 1/2 the
2 weekly benefit rate, and, for an individual who was employed by
3 only 1 employer in the individual's base period and earned 34
4 credit weeks with that employer, the product shall be raised to the
5 next higher multiple of the weekly benefit rate. The maximum amount
6 of benefits payable to an individual within a benefit year, with
7 respect to employment by an employer, shall not exceed ~~26~~ 39
8 times the weekly benefit rate with respect to that employment. The
9 maximum amount of benefits payable to an individual within a
10 benefit year shall not exceed the amount to which the individual
11 would be entitled for ~~26~~ 39 weeks of unemployment in which
12 remuneration was not earned or received. The limitation of total
13 benefits set forth in this subsection does not apply to claimants
14 declared eligible for training benefits in accordance with
15 subsection (g). For benefit years beginning ~~after the conversion~~
16 ~~date prescribed in section 75~~ **ON OR AFTER OCTOBER 1, 2000**, and
17 subject to subsection (f) and this subsection, the maximum benefit
18 amount payable to an individual in a benefit year for purposes of
19 this section and section ~~20(e)~~ **20(D)** is the number of weeks of
20 benefits payable to an individual during the benefit year,
21 multiplied by the individual's weekly benefit rate. The number of
22 weeks of benefits payable to an individual shall be calculated by
23 taking 43% of the individual's base period wages and dividing the
24 result by the individual's weekly benefit rate. If the quotient is
25 not a whole or half number, the result shall be rounded down to the
26 nearest half number. However, not more than ~~26~~ 39 weeks of
27 benefits or less than 14 weeks of benefits shall be payable to an

1 individual in a benefit year. The limitation of total benefits set
2 forth in this subsection shall not apply to claimants declared
3 eligible for training benefits in accordance with 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 death,
7 insanity, or incompetency, but not paid, shall become due and
8 payable to the person who is the legal heir or guardian of the
9 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 date~~
14 ~~prescribed in section 75~~ **OCTOBER 1, 2000**, and notwithstanding any
15 inconsistent provisions of this act, the weekly benefit rate of
16 each 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 without
21 reduction under this subsection unless subdivision (5) is in
22 effect. Except as otherwise provided in this subsection, all other
23 provisions of this act continue to apply in connection with the
24 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 yielding
2 a pro rata weekly amount equal to or larger than the claimant's
3 weekly benefit rate as otherwise established under this act, the
4 claimant shall not receive unemployment benefits that would be
5 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
8 contributed to the financing of a retirement plan under which the
9 claimant is receiving or will receive a retirement benefit yielding
10 a pro rata weekly amount less than the claimant's weekly benefit
11 rate as otherwise established under this act, then the weekly
12 benefit rate otherwise payable to the claimant and chargeable to
13 the employer under this act shall be reduced by an amount equal to
14 the pro rata weekly amount, adjusted to the next lower multiple of
15 \$1.00, which the claimant is receiving or will receive as a
16 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 who
26 has contributed to the financing of a retirement plan under which
27 the claimant is receiving or will receive a retirement benefit, the

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

4 (2) If an individual's weekly benefit rate under this act was
5 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
8 accordance 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 an
11 individual's retirement benefit based on the best information
12 currently available to it. In the absence of fraud, a determination
13 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
17 information on which the reconsideration is based was received by
18 the commission.

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

22 (i) Provided as an incident of employment under an established
23 retirement plan, policy, or agreement, including federal social
24 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 **ARE NOT** 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 has
8 contributed:

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

11 (ii) Half or more of the cost of the benefit, then none of the
12 benefit ~~shall be~~ **IS** 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
16 contributed 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 to
19 which an individual is receiving a governmental or other pension
20 and claiming unemployment compensation, the weekly benefit amount
21 payable to the individual for those weeks shall be reduced, but not
22 below zero, by the entire prorated weekly amount of any
23 governmental or other pension, retirement or retired pay, annuity,
24 or any other similar payment that is based on any previous work of
25 the individual. This reduction shall be made only if it is required
26 as a condition for full tax credit against the tax imposed by the
27 federal unemployment tax act, ~~chapter 23 of subtitle C of the~~

1 ~~internal revenue code of 1986,~~ 26 ~~U.S.C.~~ **USC** 3301 to 3311.

2 (6) For benefit years beginning ~~after the conversion date~~
3 ~~prescribed in section 75~~ **ON OR AFTER OCTOBER 1, 2000,**

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

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, ~~chapter 23 of subtitle C of the~~
12 ~~internal revenue code of 1986,~~ 26 ~~U.S.C.~~ **USC** 3301 to 3311.

13 (6) For benefit years established before ~~the conversion date~~
14 ~~prescribed in section 75~~ **OCTOBER 1, 2000**, and notwithstanding
15 subdivisions (1), (2), and (3), the denial of benefits does not
16 prevent an individual from completing requalifying weeks in
17 accordance with section 29(3) nor does the denial prevent an
18 individual from receiving benefits based on service with an
19 employer other than an educational institution for any week of
20 unemployment occurring between academic years or terms, whether or
21 not successive, or during an established and customary vacation
22 period or holiday recess, even though the employer is not the most
23 recent chargeable employer in the individual's base period.
24 However, in that case section 20(b) applies to the sequence of
25 benefit charging, except for the employment with the educational
26 institution, and section 50(b) applies to the calculation of credit
27 weeks. When a denial of benefits under subdivision (1) no longer

1 applies, benefits shall be charged in accordance with the normal
2 sequence of charging as provided in section 20(b).

3 (7) For benefit years beginning ~~after the conversion date~~
4 ~~prescribed in section 75~~ **ON OR AFTER OCTOBER 1, 2000**, and
5 notwithstanding subdivisions (1), (2), and (3), the denial of
6 benefits shall not prevent an individual from completing
7 requalifying weeks in accordance with section 29(3) nor shall the
8 denial prevent an individual from receiving benefits based on
9 service with another base period employer other than an educational
10 institution for any week of unemployment occurring between academic
11 years or terms, whether or not successive, or during an established
12 and customary vacation period or holiday recess. However, when
13 benefits are paid based on service with 1 or more base period
14 employers other than an educational institution, the individual's
15 weekly benefit rate shall be calculated in accordance with
16 subsection (b)(1) but during the denial period the individual's
17 weekly benefit payment shall be reduced by the portion of the
18 payment attributable to base period wages paid by an educational
19 institution and the account or experience account of the
20 educational institution shall not be charged for benefits payable
21 to the individual. When a denial of benefits under subdivision (1)
22 is no longer applicable, benefits shall be paid and charged on the
23 basis of base period wages with each of the base period employers
24 including the educational institution.

25 (8) For the purposes of this subsection, "academic year" means
26 that period, as defined by the educational institution, when
27 classes are in session for that length of time required for

1 students to receive sufficient instruction or earn sufficient
2 credit to complete academic requirements for a particular grade
3 level or to complete instruction in a noncredit course.

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

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

22 (k)(1) Benefits shall not be payable on the basis of services
23 performed by an alien unless the alien is an individual who was
24 lawfully admitted for permanent residence at the time the services
25 were performed, was lawfully present for the purpose of performing
26 the services, or was permanently residing in the United States
27 under color of law at the time the services were performed,

1 including an alien who was lawfully present in the United States
2 under ~~section 212(d)(5) of the immigration and nationality act,~~
3 ~~chapter 477, 66 Stat. 182, 8 U.S.C. 1182~~ **8 USC 1182(D)(5)** .

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

8 (3) ~~Where~~ **IF** an ~~individual whose~~ **INDIVIDUAL'S** application
9 for benefits would otherwise be approved, a determination that
10 benefits to that individual are not payable because of the
11 individual's alien status shall not be made except upon a
12 preponderance of the evidence.

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

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

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

1 (b) The amount, if any, determined pursuant to an agreement
2 submitted to the commission under ~~section 454(19)(B)(i) of part D~~
3 ~~of title IV of the social security act, 42 U.S.C. 654~~ **42 USC**
4 **654(19)(B)(i)**, by the state or local child support enforcement
5 agency.

6 (c) Any amount otherwise required to be deducted and withheld
7 from unemployment compensation pursuant to legal process, as that
8 term is defined in ~~section 462(e) of part D of title IV of the~~
9 ~~social security act, 42 U.S.C. 662~~ **42 USC 659(I)(5)**, properly
10 served upon the commission.

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

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

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

24 (6) ~~This~~ **PROVISIONS CONCERNING DEDUCTIONS UNDER THIS**
25 subsection ~~applies~~ **APPLY** only if the state or local child support
26 enforcement agency agrees in writing to reimburse and does
27 reimburse the commission for the administrative costs incurred by

1 the commission under this subsection that are attributable to child
2 support obligations being enforced by the state or local child
3 support enforcement agency. The administrative costs incurred shall
4 be determined by the commission. The commission, in its discretion,
5 may require payment of administrative costs in advance.

6 (7) As used in this subsection:

7 (a) "Unemployment compensation", for purposes of subdivisions
8 (1) ~~through~~ **TO** (5), means any compensation payable under this
9 act, including amounts payable by the commission pursuant to an
10 agreement under any federal law providing for compensation,
11 assistance, or allowances with respect to unemployment.

12 (b) "Child support obligations" includes only obligations that
13 are being enforced pursuant to a plan described in ~~section 454 of~~
14 ~~part D of title IV of the social security act,~~ 42 ~~U.S.C.~~ **USC**
15 654, that has been approved by the secretary of health and human
16 services under ~~part D of title IV of the social security act,~~
17 ~~chapter 531, 49 Stat. 620,~~ 42 ~~U.S.C.~~ **USC** 651 to ~~655, 656 to~~
18 ~~660, and 663 to~~ 669b.

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

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

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

21 (2) Not less than 20 days before the estimated beginning date
22 of a normal seasonal work period, an employer may apply to the
23 commission in writing for designation as a seasonal employer. At
24 the time of application, the employer shall conspicuously display a
25 copy of the application on the employer's premises. Within 90 days
26 after receipt of the application, the commission shall determine if
27 the employer is a seasonal employer. A determination or

1 redetermination of the commission concerning the status of an
2 employer as a seasonal employer, or a decision of a referee or the
3 board of review, or of the courts of this state concerning the
4 status of an employer as a seasonal employer, which has become
5 final, together with the record thereof, may be introduced in any
6 proceeding involving a claim for benefits, and the facts found and
7 decision issued in the determination, redetermination, or decision
8 shall be conclusive unless substantial evidence to the contrary is
9 introduced by or on behalf of the claimant.

10 (3) If the employer is determined to be a seasonal employer,
11 the employer shall conspicuously display on its premises a notice
12 of the determination and the beginning and ending dates of the
13 employer's normal seasonal work periods. The notice shall be
14 furnished by the commission. The notice shall additionally specify
15 that an employee must timely apply for unemployment benefits at the
16 end of a first seasonal work period to preserve his or her right to
17 receive retroactive unemployment benefits ~~in the event that~~ **IF** he
18 or she is not reemployed by the seasonal employer in the second of
19 the normal seasonal work periods.

20 (4) The commission may issue a determination terminating an
21 employer's status as a seasonal employer on the commission's own
22 motion for good cause, or upon the written request of the employer.
23 A termination determination under this subdivision terminates an
24 employer's status as a seasonal employer, and ~~shall become~~
25 **BECOMES** effective on the beginning date of the normal seasonal work
26 period that would have immediately followed the date the commission
27 issues the determination. A determination under this subdivision is

1 subject to review in the same manner and to the same extent as any
2 other determination under this act.

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

7 (6) If a seasonal employer informs an employee who received
8 assurance of being rehired that, despite the assurance, the
9 employee will not be rehired at the beginning of the employer's
10 next normal seasonal work period, this subsection ~~shall~~ **DOES** not
11 prevent the employee from receiving unemployment benefits in the
12 same manner and to the same extent he or she would receive benefits
13 under this act from an employer who has not been determined to be a
14 seasonal employer.

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

20 (8) At the time an employee is hired by a seasonal employer,
21 the employer shall notify the employee in writing ~~whether~~ **IF** the
22 employee will be a seasonal worker. The employer shall provide the
23 worker with written notice of any subsequent change in the
24 employee's status as a seasonal worker. If an employee of a
25 seasonal employer is denied benefits because that employee is a
26 seasonal worker, the employee may contest that designation in
27 accordance with section 32a.

1 (9) As used in this subsection:

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

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

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

14 (1) Customarily operates during regularly recurring periods of
15 26 weeks or less in any 52-consecutive-week period.

16 (2) Customarily employs at least 50% of its employees for
17 regularly recurring periods of 26 weeks or less within a period of
18 52 consecutive weeks.

19 (d) "Seasonal employer" means an employer, other than an
20 employer in the construction industry, who applies to the
21 commission for designation as a seasonal employer and who the
22 commission determines to be an employer whose operations and
23 business are substantially engaged in seasonal employment.

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

27 (10) If this subsection is found by the United States

1 department of labor to be contrary to the federal unemployment tax
2 act, ~~chapter 23 of the internal revenue code of 1986,~~ 26 ~~U.S.C.~~
3 **USC** 3301 to 3311, or the social security act, chapter 531, 49 Stat.
4 620, and if conformity with the federal law is required as a
5 condition for full tax credit against the tax imposed under the
6 federal unemployment tax act or as a condition for receipt by the
7 commission of federal administrative grant funds under the social
8 security act, this subsection shall be invalid.

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

16 Enacting section 1. This amendatory act takes effect April 4,
17 2005.