

SENATE BILL No. 444

April 21, 2009, Introduced by Senators CHERRY, PRUSI, WHITMER, OLSHOVE, BARCIA, GLEASON, BASHAM, JACOBS, SWITALSKI, CLARK-COLEMAN, ANDERSON, THOMAS, BRATER, SCOTT, CLARKE and HUNTER and referred to the Committee on Commerce and Tourism.

A bill to amend 1936 (Ex Sess) PA 1, entitled
"Michigan employment security act,"
by amending sections 27 and 28 (MCL 421.27 and 421.28), section 27
as amended by 2002 PA 192 and section 28 as amended by 1994 PA 422.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

1 the individual disqualified or ineligible is made, or, for benefit
 2 years beginning before ~~the conversion date prescribed in section 75~~
 3 **OCTOBER 1, 2000**, a new separation issue arises resulting from
 4 subsequent work.

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

8 (b)(1) Subject to subsection (f), the weekly benefit rate for
 9 an individual, with respect to benefit years beginning before ~~the~~
 10 ~~conversion date prescribed in section 75, shall be~~ **OCTOBER 1, 2000**,
 11 **IS** 67% of the individual's average after tax weekly wage, except
 12 that the individual's maximum weekly benefit rate shall not exceed
 13 \$300.00. However, with respect to benefit years beginning ~~after the~~
 14 ~~conversion date as prescribed in section 75~~ **ON OR AFTER OCTOBER 1,**
 15 **2000**, the individual's weekly benefit rate ~~shall be~~ **IS** 4.1% of the
 16 individual's wages paid in the calendar quarter of the base period
 17 in which the individual was paid the highest total wages, plus
 18 ~~\$6.00~~ **\$20.00** for each dependent as defined in subdivision ~~(3)~~ **(4)**,
 19 up to a maximum of 5 dependents, claimed by the individual at the
 20 time the individual files a new claim for benefits, except that the
 21 individual's maximum weekly benefit rate shall not exceed \$300.00
 22 before ~~the effective date of the amendatory act that added section~~
 23 ~~13/~~ **APRIL 26, 2002** and \$362.00 for claims filed on and after ~~the~~
 24 ~~effective date of the amendatory act that added section 13/~~ **APRIL**
 25 **26, 2002**. The weekly benefit rate for an individual claiming
 26 benefits on ~~and~~ **OR** after ~~the effective date of the amendatory act~~
 27 ~~that added section 13/~~ **APRIL 26, 2002** shall be recalculated subject

1 to the \$362.00 maximum weekly benefit rate. The unemployment agency
2 shall establish the procedures necessary to verify the number of
3 dependents claimed. If a person fraudulently claims a dependent,
4 that person is subject to the penalties set forth in sections 54
5 and 54c. ~~With respect to~~ **FOR** benefit years beginning on or after
6 October 2, 1983, the weekly benefit rate shall be adjusted to the
7 next lower multiple of \$1.00.

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

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

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

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

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

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

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

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

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

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

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

26 (c) The legal father or mother of the individual if that
27 parent is either more than 65 years of age or is permanently

1 disabled from engaging in a gainful occupation.

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

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

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

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

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

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

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

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

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

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

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

20 (d) For benefit years beginning before ~~the conversion date~~
21 ~~prescribed in section 75~~ **OCTOBER 1, 2000**, and subject to subsection
22 (f) and this subsection, the amount of benefits to which an
23 individual who is otherwise eligible is entitled during a benefit
24 year from an employer with respect to employment during the base
25 period is the amount obtained by multiplying the weekly benefit
26 rate with respect to that employment by 3 of the number of credit
27 weeks earned in the employment. For the purpose of this subsection

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

1 benefits or less than 14 weeks of benefits shall be payable to an
2 individual in a benefit year. The limitation of total benefits set
3 forth in this subsection ~~shall~~ **DOES** not apply to claimants declared
4 eligible for training benefits in accordance with subsection (g).

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

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

26 (a) If and to the extent that unemployment benefits payable
27 under this act would be chargeable to an employer who has

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

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

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

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

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

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

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

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

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

26 (ii) Payable to an individual because the individual has
27 qualified on the basis of attained age, length of service, or

1 disability, whether or not the individual retired or was retired
2 from employment. Amounts paid to individuals in the course of
3 liquidation of a private pension or retirement fund because of
4 termination of the business or of a plant or department of the
5 business of the employer involved ~~shall not be considered to be~~ **ARE**
6 **NOT** retirement benefits.

7 (b) If a benefit, **ANNUITY, OR PENSION** as described in
8 subparagraph (a) is payable or paid to the individual under a plan
9 to which the individual has contributed:

10 (i) Less than half of the cost of the benefit, then only half
11 of the ~~benefit shall be treated as~~ **AMOUNT PAYABLE OR PAID IS** a
12 retirement benefit.

13 (ii) Half or more of the cost of the benefit, then none of the
14 ~~benefit shall be treated as~~ **AMOUNT PAYABLE OR PAID IS** a retirement
15 benefit.

16 (c) The burden of establishing the extent of an individual's
17 contribution to the cost of his or her ~~retirement benefit,~~ **ANNUITY,**
18 **OR PENSION PLAN** for the purpose of subparagraph (b) is upon the
19 employer who has contributed to the plan. ~~under which a benefit is~~
20 ~~provided.~~

21 (5) Notwithstanding any other provision of this subsection,
22 for any week that begins after March 31, 1980, and with respect to
23 which an individual is receiving a governmental or other pension
24 and claiming unemployment compensation, the weekly benefit amount
25 payable to the individual for those weeks shall be reduced, but not
26 below zero, by the entire prorated weekly amount of any
27 governmental or other pension, retirement or retired pay, annuity,

1 or any other similar payment that is based on any previous work of
2 the individual. This reduction shall be made only if it is required
3 as a condition for full tax credit against the tax imposed by the
4 federal unemployment tax act, ~~chapter 23 of subtitle C of the~~
5 ~~internal revenue code of 1986,~~ 26 U.S.C. USC 3301 to 3311.

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

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

25 (b) If any base period employer or chargeable employer has
26 contributed to the financing of a retirement plan under which the
27 claimant is receiving or will receive a retirement benefit yielding

1 a pro rata weekly amount less than the claimant's weekly benefit
2 rate as otherwise established under this act, then the weekly
3 benefit rate otherwise payable to the claimant shall be reduced by
4 an amount equal to the pro rata weekly amount, adjusted to the next
5 lower multiple of \$1.00, which the claimant is receiving or will
6 receive as a retirement benefit.

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

12 (g) Notwithstanding any other provision of this act, an
13 **UNEMPLOYED individual WHO IS SATISFACTORILY** pursuing vocational
14 training or retraining pursuant to section 28(2) **OR THE WORKFORCE**
15 **INVESTMENT ACT OF 1998, PUBLIC LAW 105-220, IN PREPARATION FOR**
16 **ENTRY INTO A HIGH-DEMAND OCCUPATION FOLLOWING SEPARATION FROM A**
17 **DECLINING OCCUPATION OR INVOLUNTARY AND INDEFINITE SEPARATION FROM**
18 **EMPLOYMENT IN WHICH PERMANENT OPERATIONS HAVE BEEN REDUCED, AND** who
19 has exhausted all benefits available under subsection (d) ~~may~~**-SHALL**
20 be paid for each week of **PARTICIPATION IN** approved vocational
21 training pursued beyond the date of exhaustion a benefit amount in
22 accordance with subsection (c), but not in excess of the
23 individual's most recent weekly benefit rate. However, an
24 individual shall not be paid training benefits totaling more than
25 ~~18-26~~ times the individual's most recent weekly benefit rate. The
26 expiration or termination of a benefit year shall not stop or
27 interrupt payment of training benefits if the training for which

1 the benefits were granted began before expiration or termination of
2 the benefit year. TRAINING BENEFITS SHALL NOT BE PAID UNDER THIS
3 SUBSECTION, HOWEVER, TO AN INDIVIDUAL WHO IS RECEIVING A SIMILAR
4 STIPEND OR OTHER TRAINING ALLOWANCE FOR NONTRAINING COSTS. TRAINING
5 BENEFITS SHALL NOT BE PAID UNDER THIS SUBSECTION IF THE INDIVIDUAL
6 IS ENTITLED TO UNEMPLOYMENT COMPENSATION UNDER ANY FEDERAL
7 UNEMPLOYMENT COMPENSATION PROGRAM OR UNDER THE FEDERAL-STATE
8 EXTENDED UNEMPLOYMENT COMPENSATION PROGRAM OR IF THE INDIVIDUAL IS
9 ENTITLED TO ESTABLISH A NEW CLAIM FOR REGULAR STATE UNEMPLOYMENT
10 BENEFITS UNDER THIS ACT.

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

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

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

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

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

26 (3) With respect to any service described in subdivision (1)
27 or (2), benefits shall not be paid to an individual based upon

1 service for any week of unemployment that commences during an
2 established and customary vacation period or holiday recess if the
3 individual performs the service in the period immediately before
4 the vacation period or holiday recess and there is a contract or
5 reasonable assurance that the individual will perform the service
6 in the period immediately following the vacation period or holiday
7 recess.

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

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

1 as a condition for full tax credit against the tax imposed by the
2 federal unemployment tax act, ~~chapter 23 of subtitle C of the~~
3 ~~internal revenue code of 1986,~~ 26 U.S.C. USC 3301 to 3311.

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

21 (7) For benefit years beginning ~~after the conversion date~~
22 ~~prescribed in section 75~~ **ON OR AFTER OCTOBER 1, 2000**, and
23 notwithstanding subdivisions (1), (2), and (3), the denial of
24 benefits shall not prevent an individual from completing
25 requalifying weeks in accordance with section 29(3) nor shall the
26 denial prevent an individual from receiving benefits based on
27 service with another base period employer other than an educational

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

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

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

1 governmental entity that is established and operated exclusively
2 for the purpose of providing the services to 1 or more educational
3 institutions.

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

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

22 (2) ~~Any data or information required of individuals applying~~
23 ~~for benefits to determine whether benefits are payable because of~~
24 ~~their alien status are uniformly required from all applicants for~~
25 ~~benefits.~~ **THE UNEMPLOYMENT AGENCY SHALL REQUIRE EACH INDIVIDUAL WHO**
26 **APPLIES FOR BENEFITS TO SUPPLY INFORMATION SUFFICIENT TO DETERMINE**
27 **CITIZENSHIP OR ALIEN STATUS ELIGIBILITY.**

1 ~~(3) Where an individual whose application for benefits would~~
2 ~~otherwise be approved, a~~ **A** ~~determination that~~ **TO DENY** ~~benefits to~~
3 ~~that individual are not payable because of the~~ **AN** ~~individual's~~
4 alien status shall ~~not be made except~~ **ONLY** upon a preponderance of
5 the evidence.

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

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

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

21 (b) The amount, if any, determined pursuant to an agreement
22 submitted to the commission under ~~section 454(19)(B)(i) of part D of~~
23 ~~title IV of the social security act, 42 U.S.C. 654~~ **42 USC**
24 **654(19)(B)(i)**, by the state or local child support enforcement
25 agency.

26 (c) Any amount otherwise required to be deducted and withheld
27 from unemployment compensation pursuant to legal process, as that

1 term is defined in ~~section 462(e) of part D of title IV of the~~
2 ~~social security act, 42 U.S.C. 662-42 USC 659(I)(5)~~, properly
3 served upon the commission.

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

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

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

17 (6) ~~This subsection applies~~ **PROVISIONS CONCERNING DEDUCTIONS**
18 **UNDER THIS SUBSECTION APPLY** only if the state or local child
19 support enforcement agency agrees in writing to reimburse and does
20 reimburse the commission for the administrative costs incurred by
21 the commission under this subsection that are attributable to child
22 support obligations being enforced by the state or local child
23 support enforcement agency. The administrative costs incurred shall
24 be determined by the commission. The commission, in its discretion,
25 may require payment of administrative costs in advance.

26 (7) As used in this subsection:

27 (a) "Unemployment compensation", for purposes of subdivisions

1 (1) ~~through~~ **TO** (5), means any compensation payable under this act,
2 including amounts payable by the commission pursuant to an
3 agreement under any federal law providing for compensation,
4 assistance, or allowances with respect to unemployment.

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

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

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

21 (o)(1) For weeks of unemployment beginning after July 1, 1996,
22 unemployment benefits based on services by a seasonal worker
23 performed in seasonal employment ~~shall be~~ **ARE** payable only for
24 weeks of unemployment that occur during the normal seasonal work
25 period. Benefits shall not be paid based on services performed in
26 seasonal employment for any week of unemployment beginning after
27 March 28, 1996 that begins during the period between 2 successive

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

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

1 decision issued in the determination, redetermination, or decision
2 shall be conclusive unless substantial evidence to the contrary is
3 introduced by or on behalf of the claimant.

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

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

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

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

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

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

22 (9) As used in this subsection:

23 (a) "Construction industry" means the work activity designated
24 in sector group 23 -- construction of the North American **INDUSTRY**
25 classification system -- United States office of management and
26 budget, ~~1997~~**2002** edition.

27 (b) "Normal seasonal work period" means that period or those

1 periods of time determined pursuant to rules promulgated by the
2 commission during which an individual is employed in seasonal
3 employment.

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

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

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

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

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

21 (10) ~~If this subsection is found by~~ **THIS SUBSECTION DOES NOT**
22 **APPLY IF** the United States department of labor **FINDS IT** to be
23 contrary to the federal unemployment tax act, ~~chapter 23 of the~~
24 ~~internal revenue code of 1986,~~ 26 U.S.C. **USC** 3301 to 3311, or the
25 social security act, chapter 531, 49 Stat. 620, and if conformity
26 with the federal law is required as a condition for full tax credit
27 against the tax imposed under the federal unemployment tax act, 26

1 **USC 3301 TO 3311**, or as a condition for receipt by the commission
2 of federal administrative grant funds under the social security
3 act, ~~this subsection shall be invalid~~ **CHAPTER 531, 49 STAT. 620.**

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

11 Sec. 28. (1) An unemployed individual ~~shall be~~ **IS** eligible to
12 receive benefits with respect to any week only if the commission
13 finds that:

14 (a) For benefit years established before ~~the conversion date~~
15 ~~prescribed in section 75~~ **OCTOBER 1, 2000**, the individual has
16 registered for work at and thereafter has continued to report at an
17 employment office in accordance with such rules as the commission
18 may prescribe and is seeking work. The requirements that the
19 individual must report at an employment office, must register for
20 work, must be available to perform suitable full-time work, and
21 must seek work may be waived by the commission if the individual is
22 laid off and the employer who laid the individual off notifies the
23 commission in writing or by computerized data exchange that the
24 layoff is temporary and that work is expected to be available for
25 the individual within a declared number of days, not to exceed 45
26 calendar days following the last day the individual worked. This
27 waiver ~~shall~~ **IS** not be effective unless the notification from the

1 employer has been received by the commission before the individual
2 has completed his or her first compensable week following layoff.
3 If the individual is not recalled within the specified period, the
4 waiver shall cease to be operative with respect to that layoff.
5 Except for a period of disqualification, the requirement that the
6 individual ~~shall seek~~ work may be waived by the commission ~~where~~ **IF**
7 it finds that suitable work is unavailable both in the locality
8 where the individual resides and in those localities in which the
9 individual has earned base period credit weeks. This waiver shall
10 not apply, for weeks of unemployment beginning on or after March 1,
11 1981, to a claimant enrolled and attending classes as a full-time
12 student. An individual ~~shall have~~ **HAS** satisfied the requirement of
13 personal reporting at an employment office, as applied to a week in
14 a period during which the requirements of registration and seeking
15 work have been waived by the commission pursuant to this
16 subdivision, if the individual has satisfied the personal reporting
17 requirement with respect to a preceding week in that period and the
18 individual has reported with respect to the week by mail in
19 accordance with the rules promulgated by the commission. For
20 benefit years established **ON OR** after ~~the conversion date~~
21 ~~prescribed in section 75~~ **OCTOBER 1, 2000**, the individual has
22 registered for work and has continued to report in accordance with
23 ~~such rules as~~ **THAT** the commission ~~may prescribe~~ **PRESCRIBES** and is
24 seeking work. The requirements that the individual must report,
25 must register for work, must be available to perform suitable full-
26 time work, and must seek work may be waived by the commission if
27 the individual is laid off and the employer who laid the individual

1 off notifies the commission in writing or by computerized data
2 exchange that the layoff is temporary and that work is expected to
3 be available for the individual within a declared number of days,
4 not to exceed 45 calendar days following the last day the
5 individual worked. This waiver ~~shall~~**IS** not ~~be~~ effective unless the
6 notification from the employer ~~has been~~**IS** received by the
7 commission before the individual has completed his or her first
8 compensable week following layoff. If the individual is not
9 recalled within the specified period, the waiver shall cease to be
10 operative with respect to that layoff. Except for a period of
11 disqualification, the requirement that the individual shall seek
12 work may be waived by the commission ~~where~~**IF** it finds that
13 suitable work is unavailable both in the locality where the
14 individual resides and in those localities in which the individual
15 has earned wages during or after the base period. This waiver ~~shall~~
16 **DOES** not apply to a claimant enrolled **IN** and attending classes as a
17 full-time student. An individual ~~shall be~~**IS** considered to have
18 satisfied the requirement of personal reporting at an employment
19 office, as applied to a week in a period during which the
20 requirements of registration and seeking work have been waived by
21 the commission pursuant to this subdivision, if the individual has
22 satisfied the personal reporting requirement with respect to a
23 preceding week in that period and the individual has reported with
24 respect to the week by mail in accordance with the rules
25 promulgated by the commission.

26 (b) The individual has made a claim for benefits in accordance
27 with section 32 and has provided the commission with his or her

1 social security number.

2 (c) The individual is able and available to perform suitable
3 full-time work of a character ~~which~~ **THAT** the individual is
4 qualified to perform by past experience or training, which is of a
5 character generally similar to work for which the individual has
6 previously received wages, and for which the individual is
7 available, full time, either at a locality at which the individual
8 earned wages for insured work during his or her base period or at a
9 locality where ~~it is found by~~ the commission **FINDS** that such work
10 is available.

11 (d) In the event of the death of an individual's immediate
12 family member, the eligibility requirements of availability and
13 reporting shall be waived for the day of the death and for 4
14 consecutive calendar days thereafter. As used in this subdivision,
15 "immediate family member" means a spouse, child, stepchild, adopted
16 child, grandchild, parent, grandparent, brother, or sister of the
17 individual or his or her spouse. It shall also include the spouse
18 of any of the persons specified in the previous sentence.

19 (e) The individual participates in reemployment services, such
20 as job search assistance services, if the individual has been
21 determined or redetermined by the commission to be likely to
22 exhaust regular benefits and need reemployment services pursuant to
23 a profiling system established by the commission.

24 (2) The commission may authorize an individual with an
25 unexpired benefit year to pursue vocational training or retraining
26 only if the commission finds that:

27 (a) Reasonable opportunities for employment in occupations for

1 which the individual is fitted by training and experience do not
2 exist in the locality in which the individual is claiming benefits.

3 (b) The vocational training course relates to an occupation or
4 skill for which there are, or are expected to be in the immediate
5 future, reasonable employment opportunities.

6 (c) The training course has been approved by a local advisory
7 council on which both management and labor are represented, or if
8 there is no local advisory council, by the commission.

9 (d) The individual has the required qualifications and
10 aptitudes to complete the course successfully.

11 (e) The vocational training course has been approved by the
12 state board of education and is maintained by a public or private
13 school or by the commission.

14 (3) Notwithstanding any other provision of this act, an
15 otherwise eligible individual shall not be ineligible for benefits
16 because he or she is participating in training with the approval of
17 the commission **OR IN A JOB TRAINING PROGRAM AUTHORIZED UNDER THE**
18 **WORKFORCE INVESTMENT ACT OF 1998, PUBLIC LAW 105-220.** For each week
19 that the commission finds that an individual who is claiming
20 benefits under this act and who is ~~participating in training with~~
21 ~~the approval of the commission, is satisfactorily pursuing an~~
22 ~~approved course of vocational training~~ **SATISFACTORILY PURSUING THE**
23 **APPROVED OR AUTHORIZED TRAINING,** it shall waive the requirements
24 that he or she be available for work and be seeking work as
25 prescribed in subsection (1)(a) and (c), and it shall find good
26 cause for his or her failure to apply for suitable work, report to
27 a former employer for an interview concerning suitable work, or

1 accept suitable work as required in section 29(1)(c), (d), and (e).

2 (4) The waiver of the requirement that a claimant seek work,
3 as provided in subsection (1)(a), ~~shall not be applicable~~ **DOES NOT**
4 **APPLY** to weeks of unemployment for which the claimant is claiming
5 extended benefits if section ~~64(8)(a)(ii)~~ **64(7)(A)(ii)** is in effect,
6 unless the individual is participating in training approved by the
7 commission.

8 (5) Notwithstanding any other provisions of this act, an
9 otherwise eligible individual shall not be denied benefits for any
10 week beginning after October 30, 1982 solely because the individual
11 is in training approved under section 236(a)(1) of the trade act of
12 1974, as amended, 19 ~~U.S.C.~~ **USC** 2296, nor shall the individual be
13 denied benefits by reason of leaving work to enter such training if
14 the work left is not suitable employment. Furthermore, an otherwise
15 eligible individual shall not be denied benefits because of the
16 application to any such week in training of provisions of this act,
17 or any applicable federal unemployment compensation law, relating
18 to availability for work, active search for work, or refusal to
19 accept work. For purposes of this subsection, "suitable employment"
20 means, with respect to an individual, work of a substantially equal
21 or higher skill level than the individual's past adversely affected
22 employment, as defined for purposes of the trade act of 1974, 19
23 ~~U.S.C.~~ **USC** 2101 to 2495, and wages for that work at not less than
24 80% of the individual's average weekly wage as determined for the
25 purposes of the trade act of 1974.