

HOUSE BILL NO. 4895

September 03, 2019, Introduced by Reps. Sabo, LaGrand, Elder, Love, Sowerby, Clemente, Cherry, Sneller, Camilleri, Chirkun, Lasinski, Brixie, Brenda Carter, Liberati, Tate, Rabhi, Stone, Hope, Manoogian, Pohutsky, Kennedy, Shannon, Garza, Hood, Hertel, Gay-Dagnogo, Witwer, Ellison, Warren, Kuppa, Pagan, Guerra, Whitsett, Hammoud, Bolden, Cambensy, Hoadley, Jones, Coleman, Haadsma, Wittenberg, Garrett, Neeley, Cynthia Johnson, Anthony, Greig, Yancey and Robinson 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 section 27 (MCL 421.27), as amended by 2016 PA 522.

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 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



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1 the determination, redetermination, or decision is reversed ~~, or a~~
 2 determination, redetermination, or decision on a new issue holding
 3 the individual disqualified or ineligible is made. ~~, or, for~~
 4 ~~benefit years beginning before October 1, 2000, a new separation~~
 5 ~~issue arises resulting from subsequent work.~~

6 (2) Benefits are payable in person or by mail through
 7 employment security offices in accordance with rules promulgated by
 8 the unemployment agency.

9 (b)(1) Subject to subsection (f), ~~the weekly benefit rate for~~
 10 ~~an individual, with respect to benefit years beginning before~~
 11 ~~October 1, 2000, is 67% of the individual's average after tax~~
 12 ~~weekly wage, except that the individual's maximum weekly benefit~~
 13 ~~rate must not exceed \$300.00. However, with respect to for~~ benefit
 14 years beginning on or after October 1, 2000, ~~the an~~ individual's
 15 weekly benefit rate is 4.1% of the individual's wages paid in the
 16 calendar quarter of the base period in which the individual was
 17 paid the highest total wages, plus \$6.00 for each dependent as
 18 defined in subdivision (4), up to a maximum of 5 dependents,
 19 claimed by the individual at the time the individual files a new
 20 claim for benefits, except that the individual's maximum weekly
 21 benefit rate must not exceed ~~\$300.00~~ **\$362.00 for claims filed**
 22 ~~before April 26, 2002~~ **January 1, 2020** and ~~\$362.00~~ **\$542.00** for
 23 claims filed on and after ~~April 26, 2002~~. ~~The weekly benefit rate~~
 24 ~~for an individual claiming benefits on and after April 26, 2002~~
 25 ~~must be recalculated subject to the \$362.00 maximum weekly benefit~~
 26 ~~rate. January 1, 2020 and must be adjusted to the next lower~~
 27 **multiple of \$1.00.** The unemployment agency shall establish the
 28 procedures necessary to verify the number of dependents claimed. If
 29 ~~a person an individual~~ fraudulently claims a dependent, ~~that person~~



1 **he or she** is subject to the penalties set forth in sections 54 and
 2 54c. ~~For benefit years beginning on or after October 2, 1983, the~~
 3 **For benefit years beginning on or after January 1, 2021, the**
 4 **unemployment agency shall adjust the maximum weekly benefit rate to**
 5 **an amount equal to 58% of the state average weekly wage. The** weekly
 6 benefit rate must be adjusted to the next lower multiple of \$1.00.

7 (2) For benefit years beginning ~~before October 1, 2000, on or~~
 8 **after January 1, 2020**, the state average weekly wage for a calendar
 9 year is computed on the basis of the 12 months ending the June 30
 10 immediately ~~before~~ **preceding** that calendar year.

11 (3) For benefit years beginning before October 1, 2000, a
 12 dependent means any of the following ~~persons~~ **individuals** who are
 13 receiving and for at least 90 consecutive days immediately before
 14 the week for which benefits are claimed, or, in the case of a
 15 dependent husband, wife, or child, for the duration of the marital
 16 or parental relationship, if the relationship has existed less than
 17 90 days, has received more than 1/2 the cost of his or her support
 18 from the individual claiming benefits:

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

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

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



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

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

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

(b) The husband or wife of the individual.

(c) The legal father or mother of the individual if that parent is either more than 65 years of age or is permanently 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) The number of dependents established for an individual at
11 the beginning of the benefit year ~~shall remain~~ **remains** in effect
12 during the entire benefit year.

13 (6) Dependency status of a dependent, child or otherwise, once
14 established or fixed in favor of ~~a person~~ **an individual** is not
15 transferable to or usable by another ~~person~~ **individual** with respect
16 to the same week.

17 Failure on the part of an individual, ~~due to~~ **because of**
18 misinformation or lack of information, to furnish all information
19 material for determination of the number of the individual's
20 dependents is good cause to issue a redetermination as to the
21 amount of benefits based on the number of the individual's
22 dependents as of the beginning of the benefit year.

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

25 (1) Each eligible individual must be paid a weekly benefit
26 rate ~~with respect to the~~ **for a** week ~~for which~~ **that** the individual
27 earns or receives no remuneration. Notwithstanding the definition
28 of week in section 50, if within 2 consecutive weeks in which an
29 individual was not unemployed within the meaning of section 48



1 there was a period of 7 or more consecutive days for which the
2 individual did not earn or receive remuneration, that period is
3 considered a week for benefit purposes under this act if a claim
4 for benefits for that period is filed not later than 30 days after
5 the end of the period.

6 ~~(2) The weekly benefit rate is reduced with respect to each~~
7 ~~week in which the eligible individual earns or receives~~
8 ~~remuneration at the rate of 40 cents for each whole \$1.00 of~~
9 ~~remuneration earned or received during that week. Beginning October~~
10 ~~1, 2015, an~~ An eligible individual's weekly benefit rate is reduced
11 at the rate of 50 cents for each whole \$1.00 of remuneration in
12 which the eligible individual earns or receives remuneration in
13 that benefit week. The weekly benefit rate is not reduced under
14 this subdivision for remuneration received for on-call or training
15 services as a volunteer firefighter, if the volunteer firefighter
16 receives less than \$10,000.00 in a calendar year for services as a
17 volunteer firefighter.

18 ~~(3) An individual who receives or earns partial remuneration~~
19 ~~may not receive a total of benefits and earnings that exceeds 1-3/5~~
20 ~~times his or her weekly benefit amount. For each dollar of total~~
21 ~~benefits and earnings that exceeds 1-3/5 times the individual's~~
22 ~~weekly benefit amount, benefits are reduced by \$1.00. Beginning~~
23 ~~October 1, 2015, the~~ The total benefits and earnings for an
24 individual who receives or earns partial remuneration may not
25 exceed 1-1/2 times his or her weekly benefit amount. The
26 individual's benefits are reduced by \$1.00 for each dollar by which
27 the total benefits and earnings exceed 1-1/2 times the individual's
28 weekly benefit amount.

29 (4) If the reduction in a claimant's benefit rate for a week



1 in accordance with subdivision (2) or (3) results in a benefit rate
2 greater than zero for that week, the claimant's balance of weeks of
3 benefit payments is reduced by 1 week.

4 (5) All remuneration for work performed during a shift that
5 terminates on ~~1-one~~ day but that began on the preceding day is
6 considered to have been earned by the eligible individual on the
7 preceding day.

8 (6) The unemployment agency shall report annually to the
9 legislature the following information with regard to subdivisions
10 (2) and (3):

11 (a) The number of individuals whose weekly benefit rate was
12 reduced at the rate of ~~40-or-50~~ cents for each whole \$1.00 of
13 remuneration earned or received over the immediately preceding
14 calendar year.

15 (b) The number of individuals who received or earned partial
16 remuneration at or exceeding the applicable limit of $1\frac{1}{2}$ ~~or 1-3/5~~
17 times their weekly benefit amount prescribed in subdivision (3) for
18 any 1 or more weeks during the immediately preceding calendar year.

19 (7) The unemployment agency shall not use prorated quarterly
20 wages to establish a reduction in benefits under this subsection.

21 (d) Subject to subsection (f) and this subsection, the maximum
22 benefit amount payable to an individual in a benefit year for
23 purposes of this section and section 20(d) is the number of weeks
24 of benefits payable to an individual during the benefit year,
25 multiplied by the individual's weekly benefit rate. The number of
26 weeks of benefits payable to an individual ~~shall be~~ **is** calculated
27 by taking 43% of the individual's base period wages and dividing
28 the result by the individual's weekly benefit rate. If the quotient
29 is not a whole or half number, the result is rounded down to the



1 nearest half number. ~~However, for each eligible individual filing~~
 2 ~~an initial claim before January 15, 2012, not more than 26 weeks of~~
 3 ~~benefits or less than 14 weeks of benefits are payable to an~~
 4 ~~individual in a benefit year.~~ For each eligible individual filing
 5 an initial claim on or after January 15, 2012, not more than 20
 6 weeks of benefits or less than 14 weeks of benefits are payable to
 7 an individual in a benefit year. The limitation of total benefits
 8 set forth in this subsection does not apply to claimants declared
 9 eligible for training benefits ~~in accordance with~~ **pursuant to**
 10 subsection (g).

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

20 (f) (1) For benefit years beginning before October 1, 2000, and
 21 notwithstanding any inconsistent provisions of this act, the weekly
 22 benefit rate of each individual who is receiving or will receive a
 23 "retirement benefit", as defined in subdivision (4), is adjusted as
 24 provided in subparagraphs (a), (b), and (c). However, an
 25 individual's extended benefit account and an individual's weekly
 26 extended benefit rate under section 64 is established without
 27 reduction under this subsection unless subdivision (5) is in
 28 effect. Except as otherwise provided in this subsection, all other
 29 provisions of this act continue to apply in connection with the



1 benefit claims of those retired ~~persons~~**individuals**.

2 (a) If and to the extent that unemployment benefits payable
3 under this act would be chargeable to an employer who has
4 contributed to the financing of a retirement plan under which the
5 claimant is receiving or will receive a retirement benefit yielding
6 a pro rata weekly amount equal to or larger than the claimant's
7 weekly benefit rate as otherwise established under this act, the
8 claimant must not receive unemployment benefits that would be
9 chargeable to the employer under this act.

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

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

28 (d) If the unemployment benefit payable under this act is
29 computed on the basis of multiemployer credit weeks and a portion



1 of the benefit is allocable under section 20(e) to an employer who
 2 has contributed to the financing of a retirement plan under which
 3 the claimant is receiving or will receive a retirement benefit, the
 4 adjustments required by subparagraph (a) or (b) apply only to that
 5 portion of the weekly benefit rate that would otherwise be
 6 allocable and chargeable to the employer.

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

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

22 (4) (a) As used in this subsection, "retirement benefit" means
 23 a benefit, annuity, or pension of any type or ~~that a~~ part thereof
 24 ~~that is as~~ described in subparagraph (b) that is both:

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

28 (ii) Payable to an individual because the individual has
 29 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 are not retirement benefits.

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

9 (i) ~~Less~~**If the individual has contributed less** than 1/2 of the
10 cost of the benefit, then only 1/2 of the benefit is treated as a
11 retirement benefit.

12 (ii) ~~One-half~~**If the individual has contributed 1/2** or more of
13 the cost of the benefit, then none of the benefit is treated as a
14 retirement benefit.

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

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



(6) For benefit years beginning on or after October 1, 2000, notwithstanding any inconsistent provisions of this act, the weekly benefit rate of each individual who is receiving or will receive a retirement benefit, as defined in subdivision (4), is adjusted as provided in subparagraphs (a), (b), and (c). However, an individual's extended benefit account and an individual's weekly extended benefit rate under section 64 is established without reduction under this subsection, unless subdivision (5) is in effect. Except as otherwise provided in this subsection, all the other provisions of this act apply to the benefit claims of those retired ~~persons~~ **individuals**. However, if the reduction would impair the full tax credit against the tax imposed by the federal unemployment tax act, 26 USC 3301 to 3311, unemployment benefits are not reduced as provided in subparagraphs (a), (b), and (c) for receipt of any governmental or other pension, retirement or retired pay, annuity, or other similar payment that was not includable in the gross income of the individual for the taxable year in which it was received because it was a part of a rollover distribution.

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

(b) If any base period employer or chargeable employer has contributed to the financing of a retirement plan under which the claimant is receiving or will receive a retirement benefit yielding a pro rata weekly amount less than the claimant's weekly benefit rate as otherwise established under this act, then the weekly



1 benefit rate otherwise payable to the claimant is reduced by an
2 amount equal to the pro rata weekly amount, adjusted to the next
3 lower multiple of \$1.00, ~~which~~**that** the claimant is receiving or
4 will receive as a retirement benefit.

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

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

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



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

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

24 (2) ~~With respect to~~ **For** service performed in other than an
25 instructional, research, or principal administrative capacity for
26 an institution of higher education as defined in section 53(2) or
27 for an educational institution other than an institution of higher
28 education as defined in section 53(3), benefits are not payable
29 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 the~~
 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~~ **For** any service described in subdivision
 9 (1) or (2), benefits are not payable to an individual based ~~upon on~~
 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.~~ **unemployment agency.**

27 (5) ~~Benefits~~ **The unemployment agency shall not deny benefits**
 28 **that are** based ~~upon on~~ services in other than an instructional,
 29 research, or principal administrative capacity for an institution



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

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

28 (7) For benefit years beginning on or after October 1, 2000,
29 and notwithstanding subdivisions (1), (2), and (3), the denial of



benefits does not prevent an individual from completing
requalifying weeks in accordance with section 29(3) and does not
prevent an individual from receiving benefits based on service with
another base period employer other than an educational institution
for any week of unemployment occurring between academic years or
terms, whether or not successive, or during an established and
customary vacation period or holiday recess. However, if benefits
are paid based on service with 1 or more base period employers
other than an educational institution, the individual's weekly
benefit rate is calculated in accordance with subsection (b)(1) but
during the denial period the individual's weekly benefit payment is
reduced by the portion of the payment attributable to base period
wages paid by an educational institution and the account or
experience account of the educational institution is not charged
for benefits payable to the individual. When a denial of benefits
under subdivision (1) is no longer applicable, benefits are paid
and charged on the basis of base period wages with each of the base
period employers including the educational institution.

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

(9) In accordance with subdivisions (1), (2), and (3),
benefits for any week of unemployment are denied to an individual
who performed services described in subdivision (1), (2), or (3) in
an educational institution while in the employ of an educational
service agency. For the purpose of this subdivision, "educational



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

4 (j) Benefits are not payable to an individual on the basis of
5 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 are not payable on the basis of services
14 performed by an alien unless the alien is an individual who was
15 lawfully admitted for permanent residence at the time the services
16 were performed, was lawfully present for the purpose of performing
17 the services, or was permanently residing in the United States
18 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, 8
21 USC 1182.

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.

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



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

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

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

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

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

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

(4) The unemployment agency shall pay any amount deducted and



1 withheld under subdivision (2) to the appropriate state or local
2 child support enforcement agency.

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

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

18 (7) As used in this subsection:

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

24 (b) "Child support obligations" ~~includes~~**means** only
25 obligations that are being enforced pursuant to a plan described in
26 42 USC 654 that has been approved by the Secretary of Health and
27 Human Services under 42 USC 651 to 669b.

28 (c) "State or local child support enforcement agency" means
29 any agency of this state or a political subdivision of this state



1 operating pursuant to a plan described in subparagraph (b).

2 (n) Subsection (i)(2) applies to services performed by school
3 bus drivers employed by a private contributing employer holding a
4 contractual relationship with an educational institution, but only
5 if at least 75% of the individual's base period wages with that
6 employer are attributable to services performed as a school bus
7 driver. Subsection (i)(1) and (2) but not subsection (i)(3) applies
8 to other services described in those subdivisions that are
9 performed by any employees under an employer's contract with an
10 educational institution or an educational service agency.

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



subsection ~~in accordance with~~ **pursuant to** R 421.210 of the Michigan Administrative Code.

(2) Not less than 20 days before the estimated beginning date of a normal seasonal work period, an employer may apply to the ~~commission~~ **unemployment agency** in writing for designation as a seasonal employer. At the time of application, the employer shall conspicuously display a copy of the application on the employer's premises. Within 90 days after receipt of the application, the ~~commission~~ **unemployment agency** shall determine if the employer is a seasonal employer. A determination or redetermination of the ~~commission~~ **unemployment agency** concerning the status of an employer as a seasonal employer, or a decision of an administrative law judge, the Michigan compensation appellate commission, or the courts of this state concerning the status of an employer as a seasonal employer, ~~which~~ **that** has become final, together with the record, ~~thereof,~~ may be introduced in any proceeding involving a claim for benefits, and the facts found and decision issued in the determination, redetermination, or decision ~~is~~ **are** conclusive unless substantial evidence to the contrary is introduced by or on behalf of the claimant.

(3) If the ~~employer is determined to be~~ **unemployment agency determines that an employer is** a seasonal employer, the employer shall conspicuously display on its premises a notice ~~of that~~ **includes** the determination, ~~and the beginning and ending dates of~~ the employer's normal seasonal work periods, ~~. The commission shall furnish the notice. The notice must additionally specify and a~~ **statement** that an employee must timely apply for unemployment benefits at the end of a first seasonal work period to preserve his or her right to receive retroactive unemployment benefits if he or



1 she is not reemployed by the seasonal employer in the second of the
 2 normal seasonal work periods. **The unemployment agency shall provide**
 3 **the notice to the employer.**

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

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

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

27 (7) A successor of a seasonal employer is considered to be a
 28 seasonal employer unless the successor provides the ~~commission,~~
 29 **unemployment agency**, within 120 days after the transfer, with a



1 written request for termination of its status as a seasonal
2 employer ~~in accordance with~~ **pursuant to** subdivision (4).

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

11 (9) As used in this subsection:

12 (a) "Construction industry" means the work activity designated
13 in sector group 23 - construction of the North American
14 classification system - United States Office of Management and
15 Budget, 1997 edition.

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

20 (c) "Seasonal employment" means the employment of 1 or more
21 individuals primarily hired to perform services during regularly
22 recurring periods of 26 weeks or less in any 52-week period other
23 than services in the construction industry.

24 (d) "Seasonal employer" means an employer, other than an
25 employer in the construction industry, who applies to the
26 unemployment agency for designation as a seasonal employer and who
27 the unemployment agency determines is an employer whose operations
28 and business require employees engaged in seasonal employment. A
29 seasonal employer designation under this act need not correspond to



1 a category assigned under the North American classification system
 2 — United States Office of Management and Budget.

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

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

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

22 Enacting section 1. This amendatory act takes effect 90 days
 23 after the date it is enacted into law.

