

HOUSE BILL NO. 5887

June 23, 2020, Introduced by Reps. Guerra, Sabo, Rabhi, Peterson, Elder, Pohutsky, Gay-Dagnogo, Yancey, Tate, Kennedy, Lasinski, Brixie, Hood, Hertel, Cherry, Hoadley, Ellison, Manoogian, LaGrand, Stone, Hammoud, Koleszar, Sneller, Hope, Haadsma, Wittenberg, Tyrone Carter, Bolden, Garza, Chirkun, Kuppa, Pagan, Warren, Cambensy, Shannon, Brenda Carter, Clemente, Jones and Anthony and referred to the Committee on Government Operations.

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



1 continues to be unemployed and to file claims for benefits, until
2 the determination, redetermination, or decision is reversed, a
3 determination, redetermination, or decision on a new issue holding
4 the individual disqualified or ineligible is made, or, for benefit
5 years beginning before October 1, 2000, a new separation issue
6 arises resulting from subsequent work.

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

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



1 beginning on or after October 2, 1983, the weekly benefit rate must
2 be adjusted to the next lower multiple of \$1.00.

3 (2) For benefit years beginning before October 1, 2000, the
4 state average weekly wage for a calendar year is computed on the
5 basis of the 12 months ending the June 30 immediately before that
6 calendar year.

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

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

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

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

26 (d) A brother or sister of the individual if the brother or
27 sister is orphaned or the living parents are dependent parents of
28 an individual, and the brother or sister is under 18 years of age,
29 or 18 years of age or over if, because of physical or mental



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

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

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

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

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

25 (d) A brother or sister of the individual if the brother or
26 sister is orphaned or the living parents are dependent parents of
27 an individual, and the brother or sister is under 18 years of age,
28 or 18 years of age and over if, because of physical or mental
29 infirmity, the brother or sister is unable to engage in a gainful



1 occupation, or is a full-time student as defined by the particular
2 educational institution, at a high school, vocational school,
3 community or junior college, or college or university and is less
4 than 22 years of age.

5 (5) The number of dependents established for an individual at
6 the beginning of the benefit year shall remain in effect during the
7 entire benefit year.

8 (6) Dependency status of a dependent, child or otherwise, once
9 established or fixed in favor of a person is not transferable to or
10 usable by another person with respect to the same week.

11 Failure on the part of an individual, due to misinformation or
12 lack of information, to furnish all information material for
13 determination of the number of the individual's dependents is good
14 cause to issue a redetermination as to the amount of benefits based
15 on the number of the individual's dependents as of the beginning of
16 the benefit year.

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

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

29 (2) The weekly benefit rate is reduced with respect to each



1 week in which the eligible individual earns or receives
2 remuneration at the rate of 40 cents for each whole \$1.00 of
3 remuneration earned or received during that week. Beginning October
4 1, 2015, an eligible individual's weekly benefit rate is reduced at
5 the rate of 50 cents for each whole \$1.00 of remuneration in which
6 the eligible individual earns or receives remuneration in that
7 benefit week. The weekly benefit rate is not reduced under this
8 subdivision for remuneration received for on-call or training
9 services as a volunteer firefighter, if the volunteer firefighter
10 receives less than \$10,000.00 in a calendar year for services as a
11 volunteer firefighter.

12 (3) An individual who receives or earns partial remuneration
13 may not receive a total of benefits and earnings that exceeds $1\frac{3}{5}$
14 times his or her weekly benefit amount. For each dollar of total
15 benefits and earnings that exceeds $1\frac{3}{5}$ times the individual's
16 weekly benefit amount, benefits are reduced by \$1.00. Beginning
17 October 1, 2015, the total benefits and earnings for an individual
18 who receives or earns partial remuneration may not exceed $1\frac{1}{2}$
19 times his or her weekly benefit amount. The individual's benefits
20 are reduced by \$1.00 for each dollar by which the total benefits
21 and earnings exceed $1\frac{1}{2}$ times the individual's weekly benefit
22 amount.

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

27 (5) All remuneration for work performed during a shift that
28 terminates on 1 day but that began on the preceding day is
29 considered to have been earned by the eligible individual on the



1 preceding day.

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

5 (a) The number of individuals whose weekly benefit rate was
6 reduced at the rate of 40 or 50 cents for each whole \$1.00 of
7 remuneration earned or received over the immediately preceding
8 calendar year.

9 (b) The number of individuals who received or earned partial
10 remuneration at or exceeding the applicable limit of 1-1/2 or 1-3/5
11 times their weekly benefit amount prescribed in subdivision (3) for
12 any 1 or more weeks during the immediately preceding calendar year.

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

15 (d) Subject to subsection (f) and this subsection, the maximum
16 benefit amount payable to an individual in a benefit year for
17 purposes of this section and section 20(d) is the number of weeks
18 of benefits payable to an individual during the benefit year,
19 multiplied by the individual's weekly benefit rate. The number of
20 weeks of benefits payable to an individual shall be calculated by
21 taking 43% of the individual's base period wages and dividing the
22 result by the individual's weekly benefit rate. If the quotient is
23 not a whole or half number, the result is rounded down to the
24 nearest half number. However, for each eligible individual filing
25 an initial claim before January 15, 2012, not more than 26 weeks of
26 benefits or less than 14 weeks of benefits are payable to an
27 individual in a benefit year. For each eligible individual filing
28 an initial claim on or after January 15, 2012, not more than 20
29 weeks of benefits or less than 14 weeks of benefits are payable to



1 an individual in a benefit year. The limitation of total benefits
2 set forth in this subsection does not apply to claimants declared
3 eligible for training benefits in accordance with subsection (g).

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

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

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



1 claimant must not receive unemployment benefits that would be
2 chargeable to the employer under this act.

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

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

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

28 (2) If an individual's weekly benefit rate under this act was
29 established before the period for which the individual first



1 receives a retirement benefit, any benefits received after a
 2 retirement benefit becomes payable must be determined in accordance
 3 with the formula stated in this subsection.

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

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

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

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

27 (b) If a benefit as described in subparagraph (a) is payable
 28 or paid to the individual under a plan to which the individual has
 29 contributed:



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

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

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

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

20 (6) For benefit years beginning on or after October 1, 2000,
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 the
29 other provisions of this act apply to the benefit claims of those



1 retired persons. However, if the reduction would impair the full
2 tax credit against the tax imposed by the federal unemployment tax
3 act, 26 USC 3301 to 3311, unemployment benefits are not reduced as
4 provided in subparagraphs (a), (b), and (c) for receipt of any
5 governmental or other pension, retirement or retired pay, annuity,
6 or other similar payment that was not includable in the gross
7 income of the individual for the taxable year in which it was
8 received because it was a part of a rollover distribution.

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

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

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

29 (g) Notwithstanding any other provision of this act, an



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

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

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

24 (1) ~~With~~ **Except as provided in subdivision (5), with** respect
 25 to service performed in an instructional, research, or principal
 26 administrative capacity for an institution of higher education as
 27 defined in section 53(2), or for an educational institution other
 28 than an institution of higher education as defined in section
 29 53(3), benefits are not payable to an individual based on those



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

13 (2) ~~With~~ **Except as provided in subdivision (5), with** respect
14 to service performed in other than an instructional, research, or
15 principal administrative capacity for an institution of higher
16 education as defined in section 53(2) or for an educational
17 institution other than an institution of higher education as
18 defined in section 53(3), benefits are not payable based on those
19 services for any week of unemployment ~~beginning after December 31,~~
20 ~~1977~~ that commences during the period between 2 successive academic
21 years or terms to any individual if that individual performs the
22 service in the first of the academic years or terms and if there is
23 a reasonable assurance that the individual will perform the service
24 for an institution of higher education or an educational
25 institution other than an institution of higher education in the
26 second of the academic years or terms.

27 (3) With respect to any service described in subdivision (1)
28 or (2), benefits are not payable to an individual based upon
29 service for any week of unemployment that commences during an



1 established and customary vacation period or holiday recess if the
 2 individual performs the service in the period immediately before
 3 the vacation period or holiday recess and there is a contract or
 4 reasonable assurance that the individual will perform the service
 5 in the period immediately following the vacation period or holiday
 6 recess.

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

17 (5) Benefits based upon services in other than an
 18 instructional, research, or principal administrative capacity **or,**
 19 **if the individual receives an annual salary that is less than the**
 20 **federal poverty level for a family of 4 individuals, based upon**
 21 **services in an instructional, research, or principal administrative**
 22 **capacity** for an institution of higher education **or for an**
 23 **educational institution other than an institution of higher**
 24 **education** are not denied for any week of unemployment commencing
 25 during the period between 2 successive academic years or terms
 26 solely because the individual had performed the service in the
 27 first of the academic years or terms and there is reasonable
 28 assurance that the individual will perform the service for an
 29 institution of higher education or an educational institution other



1 than an institution of higher education in the second of the
2 academic years or terms, unless a denial is required as a condition
3 for full tax credit against the tax imposed by the federal
4 unemployment tax act, 26 USC 3301 to 3311. **As used in this**
5 **subdivision, "federal poverty level" means that term as defined in**
6 **section 2 of the individual or family development account program**
7 **act, 2006 PA 513, MCL 206.902.**

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

24 (7) For benefit years beginning on or after October 1, 2000,
25 and notwithstanding subdivisions (1), (2), and (3), the denial of
26 benefits does not prevent an individual from completing
27 requalifying weeks in accordance with section 29(3) and does not
28 prevent an individual from receiving benefits based on service with
29 another base period employer other than an educational institution



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

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

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

29 (j) Benefits are not payable to an individual on the basis of



1 any base period services, substantially all of which consist of
2 participating in sports or athletic events or training or preparing
3 to participate, for a week that commences during the period between
4 2 successive sport seasons or similar periods if the individual
5 performed the services in the first of the seasons or similar
6 periods and there is a reasonable assurance that the individual
7 will perform the services in the later of the seasons or similar
8 periods.

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

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

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

26 (m) (1) An individual filing a new claim for unemployment
27 compensation under this act, at the time of filing the claim, shall
28 disclose whether the individual owes child support obligations as
29 defined in this subsection. If an individual discloses that he or



1 she owes child support obligations and is determined to be eligible
2 for unemployment compensation, the unemployment agency shall notify
3 the state or local child support enforcement agency enforcing the
4 obligation that the individual has been determined to be eligible
5 for unemployment compensation.

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

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

12 (b) The amount, if any, determined pursuant to an agreement
13 submitted to the ~~commission~~**unemployment agency** under 42 USC
14 654(19)(B)(i), by the state or local child support enforcement
15 agency.

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

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

25 (4) The unemployment agency shall pay any amount deducted and
26 withheld under subdivision (2) to the appropriate state or local
27 child support enforcement agency.

28 (5) Any amount deducted and withheld under subdivision (2) is
29 treated for all purposes as if it were paid to the individual as



1 unemployment compensation and paid by the individual to the state
2 or local child support enforcement agency in satisfaction of the
3 individual's child support obligations.

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

14 (7) As used in this subsection:

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

20 (b) "Child support obligations" includes only obligations that
21 are being enforced pursuant to a plan described in 42 USC 654 that
22 has been approved by the Secretary of Health and Human Services
23 under 42 USC 651 to 669b.

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

27 (n) Subsection (i)(2) applies to services performed by school
28 bus drivers employed by a private contributing employer holding a
29 contractual relationship with an educational institution, but only



1 if at least 75% of the individual's base period wages with that
 2 employer are attributable to services performed as a school bus
 3 driver. Subsection (i) (1), ~~and (2)~~, **and (5)** but not subsection
 4 (i) (3) applies to other services described in those subdivisions
 5 that are performed by any employees under an employer's contract
 6 with an educational institution or an educational service agency.

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

27 (2) Not less than 20 days before the estimated beginning date
 28 of a normal seasonal work period, an employer may apply to the
 29 ~~commission~~ **unemployment agency** in writing for designation as a



1 seasonal employer. At the time of application, the employer shall
 2 conspicuously display a copy of the application on the employer's
 3 premises. Within 90 days after receipt of the application, the
 4 ~~commission~~**unemployment agency** shall determine if the employer is a
 5 seasonal employer. A determination or redetermination of the
 6 ~~commission~~**unemployment agency** concerning the status of an employer
 7 as a seasonal employer, or a decision of an administrative law
 8 judge, the Michigan compensation appellate ~~commission~~**unemployment**
 9 **agency**, or the courts of this state concerning the status of an
 10 employer as a seasonal employer, which has become final, together
 11 with the record thereof, may be introduced in any proceeding
 12 involving a claim for benefits, and the facts found and decision
 13 issued in the determination, redetermination, or decision is
 14 conclusive unless substantial evidence to the contrary is
 15 introduced by or on behalf of the claimant.

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

26 (4) The ~~commission~~**unemployment agency** may issue a
 27 determination terminating an employer's status as a seasonal
 28 employer on the ~~commission's~~**unemployment agency's** own motion for
 29 good cause, or upon the written request of the employer. A



1 termination determination under this subdivision terminates an
2 employer's status as a seasonal employer, and becomes effective on
3 the beginning date of the normal seasonal work period that would
4 have immediately followed the date the ~~commission~~**unemployment**
5 **agency** issues the determination. A determination under this
6 subdivision is subject to review in the same manner and to the same
7 extent as any other determination under this act.

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

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

20 (7) A successor of a seasonal employer is considered to be a
21 seasonal employer unless the successor provides the ~~commission~~,
22 **unemployment agency**, within 120 days after the transfer, with a
23 written request for termination of its status as a seasonal
24 employer in accordance with subdivision (4).

25 (8) At the time an employee is hired by a seasonal employer,
26 the employer shall notify the employee in writing if the employee
27 will be a seasonal worker. The employer shall provide the worker
28 with written notice of any subsequent change in the employee's
29 status as a seasonal worker. If an employee of a seasonal employer



1 is denied benefits because that employee is a seasonal worker, the
2 employee may contest that designation in accordance with section
3 32a.

4 (9) As used in this subsection:

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

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

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

17 (d) "Seasonal employer" means an employer, other than an
18 employer in the construction industry, who applies to the
19 unemployment agency for designation as a seasonal employer and who
20 the unemployment agency determines is an employer whose operations
21 and business require employees engaged in seasonal employment. A
22 seasonal employer designation under this act need not correspond to
23 a category assigned under the North American classification system
24 - United States Office of Management and Budget.

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

28 (10) This subsection does not apply if the United States
29 Department of Labor finds it to be contrary to the federal



1 unemployment tax act, 26 USC 3301 to 3311, or the social security
2 act, chapter 531, 49 Stat 620, and if conformity with the federal
3 law is required as a condition for full tax credit against the tax
4 imposed under the federal unemployment tax act, 26 USC 3301 to
5 3311, or as a condition for receipt by the ~~commission~~**unemployment**
6 **agency** of federal administrative grant funds under the social
7 security act, chapter 531, 49 Stat 620.

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

