

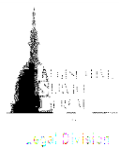
HOUSE BILL NO. 6104

August 12, 2020, Introduced by Reps. Love and Hope 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, a
2 determination, redetermination, or decision on a new issue holding
3 the individual disqualified or ineligible is made, or, for benefit
4 years beginning before October 1, 2000, a new separation issue
5 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 benefit
14 years beginning on or after October 1, 2000, the 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 before April 26, 2002 and
22 \$362.00 for claims filed on and after April 26, 2002. The weekly
23 benefit rate for an individual claiming benefits on and after April
24 26, 2002 must be recalculated subject to the \$362.00 maximum weekly
25 benefit rate. The unemployment agency shall establish the
26 procedures necessary to verify the number of dependents claimed. If
27 a person fraudulently claims a dependent, that person is subject to
28 the penalties set forth in sections 54 and 54c. For benefit years
29 beginning on or after October 2, 1983, the weekly benefit rate must



1 be adjusted to the next lower multiple of \$1.00.

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

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

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

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

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

25 (d) A brother or sister of the individual if the brother or
26 sister is orphaned or the living parents are dependent parents of
27 an individual, and the brother or sister is under 18 years of age,
28 or 18 years of age or 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 (4) For benefit years beginning on or after October 1, 2000, a
6 dependent means any of the following persons who received for at
7 least 90 consecutive days immediately before the first week of the
8 benefit year or, in the case of a dependent husband, wife, or
9 child, for the duration of the marital or parental relationship if
10 the relationship existed less than 90 days before the beginning of
11 the benefit year, has received more than 1/2 the cost of his or her
12 support from the individual claiming the benefits:

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

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

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

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

1 educational institution, at a high school, vocational school,
2 community or junior college, or college or university and is less
3 than 22 years of age.

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

7 (6) Dependency status of a dependent, child or otherwise, once
8 established or fixed in favor of a person is not transferable to or
9 usable by another person with respect to the same week. 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 is good cause to issue
13 a redetermination as to the amount of benefits based on the number
14 of the individual's dependents as of the beginning of the benefit
15 year.

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

18 (1) Each eligible individual must 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 is considered a week
25 for benefit purposes under this act if a claim for benefits for
26 that period is filed not later than 30 days after the end of the
27 period.

28 (2) The weekly benefit rate is reduced with respect to each
29 week in which the eligible individual earns or receives



1 remuneration at the rate of 40 cents for each whole \$1.00 of
2 remuneration earned or received during that week. Beginning October
3 1, 2015, an eligible individual's weekly benefit rate is reduced at
4 the rate of 50 cents for each whole \$1.00 of remuneration in which
5 the eligible individual earns or receives remuneration in that
6 benefit week. The weekly benefit rate is not reduced under this
7 subdivision for remuneration received for ~~on-call~~ **either of the**
8 **following:**

9 (a) **On-call** or training services as a volunteer firefighter,
10 if the volunteer firefighter receives less than \$10,000.00 in a
11 calendar year for services as a volunteer firefighter.

12 (b) **Serving as a precinct election inspector. As used in this**
13 **subparagraph, "precinct election inspector" means an individual as**
14 **described in section 677 of the Michigan election law, 1954 PA 116,**
15 **MCL 168.677.**

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

27 (4) If the reduction in a claimant's benefit rate for a week
28 in accordance with subdivision (2) or (3) results in a benefit rate
29 greater than zero for that week, the claimant's balance of weeks of



1 benefit payments is reduced by 1 week.

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

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

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

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

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

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



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

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

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

28 (a) If and to the extent that unemployment benefits payable
29 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 must 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 is reduced by an amount equal to the
15 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 is not 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
28 the claimant is receiving or will receive a retirement benefit, the
29 adjustments required by subparagraph (a) or (b) apply only to that

1 portion of the weekly benefit rate that would otherwise be
2 allocable and chargeable to the employer.

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

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

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

21 (i) Provided as an incident of employment under an established
22 retirement plan, policy, or agreement, including federal ~~social~~
23 ~~security~~**Social Security** if subdivision (5) is in effect.

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

1 business of the employer involved are not retirement benefits.

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

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

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

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

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

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



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

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

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

28 (c) If no base period or separating employer has contributed
29 to the financing of a retirement plan under which the claimant is



1 receiving or will receive a retirement benefit, then the weekly
2 benefit rate of the claimant as otherwise established under this
3 act ~~shall~~**must** not be reduced due to receipt of a retirement
4 benefit.

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

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

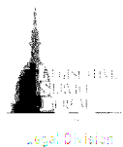
24 (i) Benefits based on service in employment described in
25 section 42(8), (9), and (10) are payable in the same amount, on the
26 same terms, and subject to the same conditions as compensation
27 payable on the basis of other service subject to this act, except
28 that:

29 (1) With respect to service performed in an instructional,



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

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



1 **defined in section 53(2)** or an educational institution other than
2 an institution of higher education **as defined in section 53(3)** in
3 the second of the academic years or terms.

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

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

23 (5) Benefits based upon services in other than an
24 instructional, research, or principal administrative capacity for
25 an institution of higher education **as defined in section 53(2)** are
26 not denied for any week of unemployment commencing during the
27 period between 2 successive academic years or terms solely because
28 the individual had performed the service in the first of the
29 academic years or terms and there is reasonable assurance that the



1 individual will perform the service for an institution of higher
2 education **as defined in section 53(2)** or an educational institution
3 other than an institution of higher education **as defined in section**
4 **53(3)** in the second of the academic years or terms, unless a denial
5 is required as a condition for full tax credit against the tax
6 imposed by the federal unemployment tax act, 26 USC 3301 to 3311.

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

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



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

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

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

28 (j) Benefits are not payable to an individual on the basis of
29 any base period services, substantially all of which consist of



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

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

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

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

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

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

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

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

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

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

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

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

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



1 or local child support enforcement agency in satisfaction of the
2 individual's child support obligations.

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

13 (7) As used in this subsection:

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

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

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

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



1 employer are attributable to services performed as a school bus
2 driver. Subsection (i)(1) and (2) but not subsection (i)(3) applies
3 to other services described in those subdivisions that are
4 performed by any employees under an employer's contract with an
5 educational institution or an educational service agency.

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

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

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

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

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

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

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

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

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

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

1 employee may contest that designation in accordance with section
2 32a.

3 (9) As used in this subsection:

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

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

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

16 (d) "Seasonal employer" means an employer, other than an
17 employer in the construction industry, who applies to the
18 unemployment agency for designation as a seasonal employer and who
19 the unemployment agency determines is an employer whose operations
20 and business require employees engaged in seasonal employment. A
21 seasonal employer designation under this act need not correspond to
22 a category assigned under the North American ~~classification system~~
23 **Classification System** - United States Office of Management and
24 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,~~ **42 USC 301 to 1397mm**, and if
 3 conformity with the federal law is required as a condition for full
 4 tax credit against the tax imposed under the federal unemployment
 5 tax act, 26 USC 3301 to 3311, or as a condition for receipt by the
 6 ~~commission~~ **unemployment agency** of federal administrative grant
 7 funds under the social security act, ~~chapter 531, 49 Stat 620.~~ **42**
 8 **USC 301 to 1397mm.**

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

