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STATE OF MICHIGAN
91ST LEGISLATURE
REGULAR SESSION OF 2002

Introduced by Reps. Richardville, Hummel, Raczkowski, Pappageorge, Stewart, Caul, Vander Veen, Vear, Bradstreet, Hager, Kuipers, Gilbert, Meyer, Kooiman, Howell, Jelinek, Mortimer, Tabor, Cassis and Scranton

ENROLLED HOUSE BILL No. 5763

AN ACT to amend 1936 (Ex Sess) PA 1, entitled "An act to protect the welfare of the people of this state through the establishment of an unemployment compensation fund, and to provide for the disbursement thereof; to create certain other funds; to create the Michigan employment security commission, and to prescribe its powers and duties; to provide for the protection of the people of this state from the hazards of unemployment; to levy and provide for contributions from employers; to provide for the collection of such contributions; to enter into reciprocal agreements and to cooperate with agencies of the United States and of other states charged with the administration of any unemployment insurance law; to furnish certain information to certain governmental agencies for use in administering public benefit and child support programs and investigating and prosecuting fraud; to provide for the payment of benefits; to provide for appeals from redeterminations, decisions and notices of assessments; and for referees and a board of review to hear and decide the issues arising from redeterminations, decisions and notices of assessment; to provide for the cooperation of this state and compliance with the provisions of the social security act and the Wagner-Peyser act passed by the Congress of the United States of America; to provide for the establishment and maintenance of free public employment offices; to provide for the transfer of funds; to make appropriations for carrying out the provisions of this act; to prescribe remedies and penalties for the violation of the provisions of this act; and to repeal all acts and parts of acts inconsistent with the provisions of this act," by amending sections 3, 4, 4a, 10, 19, 20, 27, 29, 32, 44, 48, 54, and 54c (MCL 421.3, 421.4, 421.4a, 421.10, 421.19, 421.20, 421.27, 421.29, 421.32, 421.44, 421.48, 421.54, and 421.54c), section 4 as amended by 1996 PA 498, section 10 as amended by 1989 PA 224, section 19 as amended by 1996 PA 535, sections 20 and 54 as amended by 1994 PA 162, section 27 as amended by 1995 PA 181, section 29 as amended by 1995 PA 25, section 32 as amended by 1996 PA 503, section 44 as amended by 1996 PA 504, section 48 as amended by 1983 PA 164, and section 54c as amended by 1993 PA 277, and by adding sections 5b, 13*l*, and 32b; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

Sec. 3. (1) The bureau of worker's and unemployment compensation shall establish policies in conformity with this act to do all of the following:

(a) Reduce and prevent unemployment.

(b) Promote the reemployment of unemployed workers throughout this state in every other way that may be feasible.

(c) Carry on and publish the results of investigations and research studies.

(d) Investigate, recommend, advise, and assist in the establishment and operation, by municipalities, counties, school districts, and this state, of reserves for public works to be used in times of business depression and unemployment.

(2) As used in this act:

(a) "Bureau", "commission", and "unemployment agency" mean the bureau of worker's and unemployment compensation created in section 5b.

(b) "Director" means the director of the bureau of worker's and unemployment compensation.

Sec. 4. (1) The bureau may promulgate rules and regulations that it determines necessary, and that are not inconsistent with this act, to carry out this act.

(2) The bureau shall cause to be printed for distribution to the public the text of this act, and all rules and regulations of the bureau, and shall make available to the public upon request statements of all informal rules or criteria of decision, administrative policies, or interpretations, which may be utilized by the bureau or any of its agents or employees in any manner.

(3) No rule or regulation shall be made or changed until after public hearing, notice of which shall first be given not less than 20 days before the hearing, by publication in at least 3 newspapers of general circulation in different parts of this state, 1 of which shall be in the Upper Peninsula. Copies of proposed rules or regulations shall be furnished by the bureau upon application by any interested parties. Rules and regulations shall become effective in accordance with the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

Sec. 4a. The bureau may acquire, purchase, erect, or improve land or buildings, within funds available for that purpose, as it considers necessary for use as a parking facility in Detroit for the state administrative office. No land or buildings shall be acquired, purchased, erected, or improved until the approval of the state administrative board is obtained. Title to the land or buildings shall be in the name of this state.

Sec. 5b. (1) The bureau of worker's and unemployment compensation is created within the department of consumer and industry services.

(2) The bureau shall be headed by a director who shall be appointed by the governor.

(3) All of the authority, powers, functions, duties, and responsibilities of the unemployment agency provided under this act are transferred to the bureau as provided in Executive Order No. 2002-1.

(4) All of the powers, functions, duties, and responsibilities of the director of the unemployment agency, defined as the director of employment security in Executive Order No. 1997-12, provided under this act are transferred to the director as provided in Executive Order No. 2002-1.

Sec. 10. (1) There is created in the department of treasury a special fund to be known and designated as the administration fund (Michigan employment security act). Any balances in the administration fund at the end of any fiscal year of this state shall be carried over as a part of the administration fund and shall not revert to the general fund of this state. Except as otherwise provided in subsection (3), all money deposited into the administration fund under this act shall be appropriated by the legislature to the unemployment agency to pay the expenses of the administration of this act.

(2) The administration fund shall be credited with all money appropriated to the fund by the legislature, all money received from the United States or any agency of the United States for that purpose, and all money received by this state for the fund. All money in the administration fund that is received from the federal government or any agency of the federal government or that is appropriated by this state for the purposes of this act, except money requisitioned from the account of this state in the unemployment trust fund pursuant to a specific appropriation made by the legislature in accordance with section 903(c)(2) of title IX of the social security act, 42 U.S.C. 1103, and with section 17(3)(f), shall be expended solely for the purposes and in the amounts found necessary by the appropriate agency of the United States and the legislature for the proper and efficient administration of this act.

(3) All money requisitioned from the account of this state in the unemployment trust fund pursuant to a specific appropriation made by the legislature in accordance with section 903(c)(2) of title IX of the social security act, 42 U.S.C. 1103, and with section 17(3)(f), shall be deposited in the administration fund. Any money that remains unexpended at the close of the 2-year period beginning on the date of enactment of a specific appropriation shall be immediately redeposited with the secretary of the treasury of the United States to the credit of this state's account in the unemployment trust fund; or any money that for any reason cannot be expended or is not to be expended for the purpose for which appropriated before the close of this 2-year period shall be redeposited at the earliest practicable date.

(4) If any money received after June 30, 1941, from the appropriate agency of the United States under title III of the social security act, 42 U.S.C. 501 to 504, or any unencumbered balances in the administration fund (Michigan employment security act) as of that date, or any money granted after that date to this state pursuant to the Wagner-Peyser act, chapter 49, 48 Stat. 113, or any money made available by this state or its political subdivisions and matched by money granted to this state pursuant to the Wagner-Peyser act, chapter 49, 48 Stat. 113, is found by the appropriate agency of the United States, because of any action or contingency, to have been lost or been expended for purposes

other than, or in amounts in excess of, those found necessary by that agency of the United States for the proper administration of this act, the money shall be replaced by money appropriated for that purpose from the general funds of this state to the administration fund (Michigan employment security act) for expenditure as provided in this act. Upon receipt of notice of such a finding by the appropriate agency of the United States, the commission shall promptly report the amount required for replacement to the governor and the governor shall, at the earliest opportunity, submit to the legislature a request for the appropriation of that amount. This subsection shall not be construed to relieve this state of its obligation with respect to funds received prior to July 1, 1941, pursuant to the provisions of title III of the social security act, 42 U.S.C. 501 to 504.

(5) If any funds expended or disbursed by the commission are found by the appropriate agency of the United States to have been lost or expended for purposes other than, or in amounts in excess of, those found necessary by that agency of the United States for the proper administration of this act, and if these funds are replaced as provided in subsection (4) by money appropriated for that purpose from the general fund of this state, then the director who approved the expenditure or disbursement of those funds for those purposes or in those amounts, shall be liable to this state in an amount equal to the sum of money appropriated to replace those funds. The director shall be required by the governor to post a proper bond in a sum not less than $25,000.00 to cover his or her liability as prescribed in this section, the cost of the bond to be paid from the general fund of this state.

(6) There is created in the department of treasury a separate fund to be known as the contingent fund (Michigan employment security act) into which shall be deposited all solvency taxes collected under section 19a and all interest on contributions, penalties, and damages collected under this act. Except as otherwise provided in subsections (7) and (8), all amounts in the contingent fund (Michigan employment security act) and all earnings on those amounts are continuously appropriated without regard to fiscal year for the administration of the unemployment agency and for the payment of interest on advances from the federal government to the unemployment compensation fund under section 1201 of title XII of the social security act, 42 U.S.C. 1321, to be expended only if authorized by the unemployment agency. Money deposited from the solvency taxes collected pursuant to section 19a shall not be used for the administration of the unemployment agency, except for the repayment of loans from the state treasury and interest on loans made under section 19a(3). However, an authorization or expenditure shall not be made as a substitution for a grant of federal funds or for any portion of a grant that, in the absence of an authorization, would be available to the commission. Immediately upon receipt of administrative grants from the appropriate agency of the United States to cover administrative costs for which the commission has authorized and made expenditures from the contingent fund, those grants shall be transferred to the contingent fund to the extent necessary to reimburse the contingent fund for the amount of those expenditures. Amounts needed to refund interest, damages, and penalties erroneously collected shall be withdrawn and expended for those purposes from the contingent fund upon order of the unemployment agency. Any amount authorized to be expended for administration pursuant to this section may be transferred to the administration fund. An amount not needed for the purpose for which authorized shall, upon order of the unemployment agency, be returned to the contingent fund. Amounts needed to refund erroneously collected solvency taxes shall be withdrawn and expended for that purpose upon order of the unemployment agency.

(7) On June 30, 2002, the unemployment agency shall authorize the withdrawal of $79,500,000.00 from the contingent fund (Michigan employment security act) for deposit into the general fund.

(8) At the close of the state fiscal year in 2002 and each year after 2002, all funds in the contingent fund (Michigan employment security act) in excess of $15,000,000.00 shall lapse to the unemployment trust fund.

Sec. 13*l*. (1) An Indian tribe or tribal unit liable as an employer under section 41 shall pay reimbursements in lieu of contributions under the same terms and conditions as all other reimbursing employers liable under section 41, unless the Indian tribe or tribal unit elects to pay contributions.

(2) An Indian tribe or tribal unit that elects to make contributions shall file with the unemployment agency a written request for that election before January 1 of the calendar year in which the election will be effective or within 30 days of the effective date of the amendatory act that added this section. The Indian tribe or tribal unit shall determine if the election to pay contributions will apply to the tribe as a whole, will apply only to individual tribal units, or will apply to stated combinations of individual tribal units.

(3) An Indian tribe or tribal unit paying reimbursements in lieu of contributions shall be billed for the full amount of benefits attributable to service in the employ of the Indian tribe or tribal unit. An Indian tribe or tribal unit shall reimburse the fund annually within 30 calendar days after the mailing of the final billing for the immediately preceding calendar year.

(4) If an Indian tribe or tribal unit fails to make payments in lieu of contributions, including assessments of interest and penalties, within 90 calendar days after the mailing of the notice of delinquency, the Indian tribe will lose the ability to make payments in lieu of contributions immediately unless the payment in full or collection on the security is received by the unemployment agency by December 1 of that calendar year. An Indian tribe that loses the ability to make payments in lieu of contributions shall be made a contributing employer and shall not have the ability to make payments in lieu of contributions until all contributions, payments in lieu of contributions, interest, or penalties have been paid.

The ability to make payments in lieu of contributions shall be reinstated effective the January 1 immediately succeeding the year in which the Indian tribe has paid in full all contributions, payments in lieu of contributions, interest, and penalties. If an Indian tribe fails to pay in full all contributions, payments in lieu of contributions, interest, and penalties within 90 calendar days of a notice of delinquency, the unemployment agency shall immediately notify the United States department of labor and the internal revenue service of the United States department of treasury of that delinquency. If that delinquency is satisfied, the unemployment agency shall immediately notify the United States department of labor and the internal revenue service of the United States department of treasury that all contributions, payments in lieu of contributions, interest, and penalties have been paid.

(5) A notice of delinquency to an Indian tribe or tribal unit shall include information that failure to make full payment within 90 days of the date of mailing of the notice of delinquency will result in the Indian tribe losing the ability to make payments in lieu of contributions until the delinquency and all contributions, payments in lieu of contributions, interest, and penalties have been paid in full.

(6) Any Indian tribe or tribal unit that makes reimbursement payments in lieu of contributions shall be required to post a security, subject to all of the following conditions:

(a) A reimbursing tribe or tribal unit must either post the security within 30 days of the effective date of the amendatory act that added this section or by November 30 of the year before the year for which the security is required.

(b) The security shall be in the form of a surety bond, irrevocable letter of credit, or other banking device that is acceptable to the unemployment agency and that provides for payment to the unemployment agency, on demand, of an amount equal to the security that is required to be posted. The required security may be posted by a third-party guarantor.

(c) The requirement for a security does not apply to an Indian tribe or tribal unit that is expected to have less than $100,000.00 per calendar year in total wage payments, as determined by the unemployment agency. An Indian tribe or tribal unit is required to provide security if the payment of gross wages in a calendar year is equal to or greater than $100,000.00. The employer shall notify the unemployment agency within 60 days from the date its payroll equals or exceeds $100,000.00. The security shall be posted within 30 days of notice by the unemployment agency of a requirement to post a security.

(d) The amount of the security required is 4.0% of the employer's estimated total annual wage payments, as determined by the unemployment agency. Indian tribes or tribal units that have a previous wage payment history shall be required to file a security that is equal to 4.0% of the gross wages paid for the 12-month period ending June 30 of the year immediately preceding the year for which the security is required or 4.0% of the employer's estimated total annual wages, whichever is greater.

(7) Any Indian tribe or tribal unit that is liable for reimbursements in lieu of contributions may form a group account with another tribe or tribal unit, in the same manner and with the same restrictions provided in section 13e(3).

(8) Notwithstanding section 41(1), after December 20, 2000, "employer" includes an Indian tribe or tribal unit for which services are performed in employment as defined in subsection (9).

(9) After December 20, 2000, "employment" includes service performed in the employ of an Indian tribe or tribal unit, if the service is excluded from employment as that term is defined in the federal unemployment tax act, chapter 23 of subtitle C of the internal revenue code of 1986, 26 U.S.C. 3301 to 3311, solely by reason of section 3306(c)(7) of the federal unemployment tax act, chapter 23 of subtitle C of the internal revenue code of 1986, and is not otherwise excluded from the definition of employment under section 43.

(10) As used in this act:

(a) "Indian tribe" means that term as defined in section 3306(u) of the federal unemployment tax act, chapter 23 of subtitle C of the internal revenue code of 1986, 26 U.S.C. 3306.

(b) "Tribal unit" includes any subdivision, subsidiary, or business enterprise, wholly owned by an Indian tribe.

Sec. 19. (a) The commission shall determine the contribution rate of each contributing employer for each calendar year after 1977 as follows:

(1) (*i*) Except as provided in paragraph (*ii*), an employer's rate shall be calculated as described in table A with respect to wages paid by the employer in each calendar year for employment. If an employer's coverage is terminated under section 24, or at the conclusion of 8 or more consecutive calendar quarters during which the employer has not had workers in covered employment, and if the employer becomes liable for contributions, the employer shall be considered as newly liable for contributions for the purposes of table A or table B of this subsection.

(*ii*) To provide against the high risk of net loss to the fund in such cases, an employing unit that becomes newly liable for contributions under this act in a calendar year beginning on or after January 1, 1983 in which it employs in "employment", not necessarily simultaneously but in any 1 week 2 or more individuals in the performance of 1 or more contracts or subcontracts for construction in the state of roads, bridges, highways, sewers, water mains, utilities, public

buildings, factories, housing developments, or similar construction projects, shall be liable for contributions to that employer's account under this act for the first 4 years of operations in this state at a rate equal to the average rate paid by employers engaged in the construction business as determined by contractor type in the manner provided in table B.

(*iii*) For the calendar years 1983 and 1984, the contribution rate of a construction employer shall not exceed its 1982 contribution rate with respect to wages, paid by that employer, related to the execution of a fixed price construction contract that was entered into prior to January 1, 1983. Furthermore, that contribution rate shall be reduced, by the solvency tax rate assessed against the employer under section 19a, for the year in which the solvency tax rate is applicable. Furthermore, notwithstanding section 44, the taxable wage limit, for calendar years 1983 and 1984, with respect to wages paid under a fixed price contract, shall be the maximum amount of remuneration paid within a calendar year by an employer subject to the federal unemployment tax act, chapter 23 of subtitle C of the internal revenue code of 1986, 26 U.S.C. 3301 to 3311, to an individual with respect to employment as defined in that act which is subject to tax under that act during that year.

Table A

Year of Contribution Liability	Contribution Rate
1	2.7%
2	2.7%
3	1/3 (chargeable benefits component) + 1.8%
4	2/3 (chargeable benefits component) + 1.0%
5 and over	(chargeable benefits component) + (account building component) + (nonchargeable benefits component)

Table B

Year of Contribution Liability	Contribution Rate
1	average construction contractor rate as determined by the commission
2	average construction contractor rate as determined by the commission
3	1/3 (chargeable benefits component) + 2/3 average construction contractor rate as determined by the commission
4	2/3 (chargeable benefits component) + 1/3 average construction contractor rate as determined by the commission
5 and over	(chargeable benefits component) + (account building component) + (nonchargeable benefits component)

(2) With the exception of employers who are in the first 4 consecutive years of liability, each employer's contribution rate for each calendar year after 1977 shall be the sum of the following components, all of which are determined as of the computation date: a chargeable benefits component determined under subdivision (3), an account building component determined under subdivision (4), and a nonchargeable benefits component determined under subdivision (5). Each employer's contribution rate for calendar years before 1978 shall be determined by the provisions of this act in effect during the years in question.

(3) (*i*) The chargeable benefits component of an employer's contribution rate is the percentage determined by dividing: the total amount of benefits charged to the employer's experience account within the lesser of 60 consecutive months ending on the computation date or the number of consecutive months ending on the computation date with respect to which the employer has been continuously liable for contributions; by the amount of wages, subject to contributions, paid by the employer within the same period. If the resulting quotient is not an exact multiple of 1/10 of 1%, it shall be increased to the next higher multiple of 1/10 of 1%.

(*ii*) For benefit years established before the conversion date prescribed in section 75, the chargeable benefits component shall not exceed 6.0%, unless there is a statutory change in the maximum duration of regular benefit

payments or the statutory ratio of regular benefit payments to credit weeks. In the event of a change in the maximum duration of regular benefit payments, the maximum chargeable benefits component shall increase by the same percentage as the statutory percentage change in the duration of regular benefit payments between computation dates. In the event of an increase in the statutory ratio of regular benefit payments to credit weeks, as described in section 27(d), the maximum chargeable benefits component determined as of the computation dates occurring after the effective date of the increased ratio shall increase by 1/2 the same percentage as the increase in the ratio of regular benefit payments to credit weeks. If the resulting increase is not already an exact multiple of 1/10 of 1%, it shall be adjusted to the next higher multiple of 1/10 of 1%. For benefit years established after the conversion date prescribed in section 75, the chargeable benefits component shall not exceed 6.0%, unless there is a statutory change in the maximum duration of regular benefit payments or the percentage factor of base period wages, which defines maximum duration, as provided in section 27(d). If there is a statutory change in the maximum duration of regular benefit payments, the maximum chargeable benefits component shall increase by the same percentage as the statutory percentage change in the duration of regular benefit payments between computation dates. If there is an increase in the statutory percentage factor of base period wages, as described in section 27(d), the maximum chargeable benefits component determined as of the computation dates occurring after the effective date of the increased ratio shall increase by 1/2 the same percentage as the increase in the percentage factor of base period wages. If the resulting increase is not already an exact multiple of 1/10 of 1%, it shall be adjusted to the next higher multiple of 1/10 of 1%.

(4) The account building component of an employer's contribution rate is the percentage arrived at by the following calculations: (*i*) Multiply the amount of the employer's total payroll for the 12 months ending on the computation date, by the cost criterion; (*ii*) Subtract the amount of the balance in the employer's experience account as of the computation date from the product determined under (*i*); and (*iii*) if the remainder is zero or a negative quantity, the account building component of the employer's contribution rate shall be zero; but (*iv*) if the remainder is a positive quantity, the account building component of the employer's contribution rate shall be determined by dividing that remainder by the employer's total payroll paid within the 12 months ending on the computation date. The account building component shall not exceed the lesser of 1/4 of the percentage calculated or 2%. However, except as otherwise provided in this subdivision, the account building component shall not exceed the lesser of 1/2 of the percentage calculated or 3%, if on the June 30 of the preceding calendar year the balance in the unemployment compensation fund was less than 50% of an amount equal to the aggregate of all contributing employers' annual payrolls, for the 12 months ending March 31, times the cost criterion. For calendar years after 1993 and before 1996, the account building component shall not exceed the lesser of .69 of the percentage calculated, or 3%, if on the June 30 of the preceding calendar year the balance in the unemployment compensation fund was less than 50% of an amount equal to the aggregate of all contributing employers' annual payrolls, for the 12 months ending March 31, as defined in section 18(f), times the cost criterion; selected for the computation date under section 18(e). If the account building component determined under this subdivision is not an exact multiple of 1/10 of 1%, it shall be adjusted to the next higher multiple of 1/10 of 1%.

(5) The nonchargeable benefits component of employers' contribution rates is the percentage arrived at by the following calculations: (*i*) multiply the aggregate amount of all contributing employers' annual payrolls, for the 12 months ending March 31, as defined in section 18(f), by the cost criterion selected for the computation date under section 18(e); (*ii*) subtract the balance of the unemployment fund on the computation date, net of federal advances, from the product determined under (*i*); and (*iii*) if the remainder is zero or a negative quantity, the nonchargeable benefits component of employers' contribution rates shall be zero; but (*iv*) if the remainder is a positive quantity, the nonchargeable benefits component of employers' contribution rates shall be determined by dividing that remainder by the total of wages subject to contributions under this act paid by all contributing employers within the 12 months ending on March 31 and adjusting the quotient, if not an exact multiple of 1/10 of 1%, to the next higher multiple of 1/10 of 1%. The maximum nonchargeable benefits component shall be 1%. However, for calendar years after 1993, if there are no benefit charges against an employer's account for the 60 months ending as of the computation date, or for calendar years after 1995, if the employer's chargeable benefits component is less than 2/10 of 1%, the maximum nonchargeable benefit component shall not exceed 1/2 of 1%. For calendar years after 1995, if there are no benefit charges against an employer's account for the 72 months ending as of the computation date, the maximum nonchargeable benefits component shall not exceed 4/10 of 1%. For calendar years after 1996, if there are no benefit charges against an employer's account for the 84 months ending as of the computation date, the maximum nonchargeable benefits component shall not exceed 3/10 of 1%. For calendar years after 1997, if there are no benefit charges against an employer's account for the 96 months ending as of the computation date, the maximum nonchargeable benefits component shall not exceed 2/10 of 1%. For calendar years after 1998, if there are no benefit charges against an employer's account for the 108 months ending as of the computation date, the maximum nonchargeable benefits component shall not exceed 1/10 of 1%. For calendar years after 2002, the maximum nonchargeable benefits component shall not exceed 1/10 of 1% if there are no benefit charges against an employer's account for the 60 months ending as of the computation date; 9/100 of 1% if there are no benefit charges against an employer's account for the 72 months ending as of the computation date; 8/100 of 1% if there are no benefit charges against an employer's account for the 84 months ending as of the computation date; 7/100 of 1% if there are no benefit charges against an employer's account for the 96 months ending as of the computation date; or 6/100 of 1% if there are no benefit charges against an employer's account for the 108 months ending as of the computation date. For purposes of determining a nonchargeable benefits

component under this subsection, an employer account shall not be considered to have had a charge if claim for benefits is denied or determined to be fraudulent pursuant to section 54 or 54c. An employer with a positive balance in its experience account on the June 30 computation date preceding the calendar year shall receive for that calendar year a credit in an amount equal to 1/2 of the extra federal unemployment tax paid in the preceding calendar year under section 3302(c)(2) of the federal unemployment tax act, 26 U.S.C. 3302, because of an outstanding balance of unrepaid advances from the federal government to the unemployment compensation fund under section 1201 of title XII of the social security act, 42 U.S.C. 1321. However, the credit for any calendar year shall not exceed an amount determined by multiplying the employer's nonchargeable benefit component for that calendar year times the employer's taxable payroll for that year. Contributions paid by an employer shall be credited to the employer's experience account, in accordance with the provisions of section 17(5), without regard to any credit given under this subsection. The amount credited to an employer's experience account shall be the amount of the employer's tax before deduction of the credit provided in this subsection.

(6) The total of the chargeable benefits and account building components of an employer's contribution rate shall not exceed by more than 1% in the 1983 calendar year, 1.5% in the calendar year 1984, or 2% in the 1985 calendar year the higher of 4% or the total of the chargeable benefits and the account building components that applied to the employer during the preceding calendar year. For calendar years after 1985, the total of the chargeable benefits and account building components of the employer's contribution rate shall be computed without regard to the foregoing limitation provided in this subdivision. During a year in which this subdivision limits an employer's contribution rate, the resulting reduction shall be considered to be entirely in the experience component of the employer's contribution rate, as defined in section 18(d).

(7) Unless an employer's contribution rate is 1/10 of 1% for calendar years beginning after December 31, 1995, the employer's contribution rate shall be reduced by any of the following calculation methods that results in the lowest rate:

(*i*) The chargeable benefits component, the account building component, and the nonchargeable benefits component of the contribution rate calculated under this section shall each be reduced by 10% and if the resulting quotient is not an exact multiple of 1/10 of 1%, that quotient shall be increased to the next higher multiple of 1/10 of 1%. The 3 components as increased shall then be added together.

(*ii*) One-tenth of 1% shall be deducted from the contribution rate.

(*iii*) The contribution rate shall be reduced by 10% and if the resulting quotient is not an exact multiple of 1/10 of 1%, that quotient shall be increased to the next higher multiple of 1/10 of 1%.

The contribution rate reduction described in this section applies to employers who have been liable for the payment of contributions in accordance with this act for more than 4 consecutive years, if the balance of money in the unemployment compensation fund established under section 26, excluding money borrowed from the federal unemployment trust fund, is equal to or greater than 1.2% of the aggregate amount of all contributing employers' payrolls for the 12-month period ending on the computation date. If the employer's contribution rate is reduced by a 1/10 of 1% deduction in accordance with this subdivision, the employer's contributions shall be credited to each of the components of the contribution rate on a pro rata basis. As used in this subdivision:

(*i*) "Federal unemployment trust fund" means the fund created under section 904 of title IX of the social security act, 42 U.S.C. 1104.

(*ii*) "Payroll" means that term as defined in section 18(f).

(b) An employer previously liable for contributions under this act which on or after January 1, 1978 filed a petition for arrangement under the bankruptcy act of July 1, 1898, chapter 541, 30 Stat. 544, or on or after October 1, 1979 filed a petition for reorganization under title 11 of the United States Code, 11 U.S.C. 101 to 1330, pursuant to which a plan of arrangement or reorganization for rehabilitation purposes has been confirmed by order of the United States bankruptcy court, shall be considered as a reorganized employer and shall have a reserve fund balance of zero as of the first calendar year immediately following court confirmation of the plan of arrangement or reorganization, but not earlier than the calendar year beginning January 1, 1983, if the employer meets each of the following requirements:

(1) An employer whose plan of arrangement or reorganization has been confirmed as of January 1, 1983 shall, within 60 days after January 1, 1983, notify the commission of its intention to elect the status of a reorganized employer. An employer that has not had a plan of arrangement or reorganization confirmed as of January 1, 1983 shall, within 60 days after the entry by the bankruptcy court of the order of confirmation of the plan of arrangement or reorganization, notify the commission of its intention to elect the status of a reorganized employer. An employer shall not make an election under this subdivision after December 31, 1985.

(2) The employer has paid to the commission all contributions previously owed by the employer pursuant to this act for all calendar years prior to the calendar year as to which the employer elects to begin its status as a reorganized employer.

(3) More than 50% of the employer's total payroll is paid for services rendered in this state during the employer's fiscal year immediately preceding the date the employer notifies the fund administrator of its intention to elect the status of a reorganized employer.

(4) The employer, within 180 days after notifying the commission of its intention to elect the status of a reorganized employer, makes a cash payment to the commission, for the unemployment compensation fund, equal to: .20 times the first $2,000,000.00 of the employer's negative balance, .35 times the amount of the employer's negative balance above $2,000,000.00 and up to $5,000,000.00, and .50 times the amount of the negative balance above $5,000,000.00. The total amount determined by the commission shall be based on the employer's negative balance existing as of the end of the calendar month immediately preceding the calendar year in which the employer will begin its status as a reorganized employer. If the employer fails to pay the amount determined, within 180 days of electing status as a reorganized employer, the commission shall reinstate the employer's negative balance previously reduced and redetermine the employer's rate on the basis of the reinstated negative balance. The redetermined rate shall then be used to redetermine the employer's quarterly contributions for that calendar year. The redetermined contributions shall be subject to the interest provisions of section 15 as of the date the redetermined quarterly contributions were originally due.

(5) Except as provided in subdivision (6), the employer contribution rates for a reorganized employer beginning with the first calendar year of the employer's status as a reorganized employer shall be as follows:

Year of Contribution Liability	Contribution Rate
1	2.7% of total taxable wages paid
2	2.7%
3	2.7%
4 and over	(chargeable benefits component based upon 3-year experience) plus (account building component based upon 3-year experience) plus (nonchargeable benefits component)

(6) To provide against the high risk of net loss to the fund in such cases, any reorganized employer that employs in "employment", not necessarily simultaneously but in any 1 week 25 or more individuals in the performance of 1 or more contracts or subcontracts for construction in the state of roads, bridges, highways, sewers, water mains, utilities, public buildings, factories, housing developments, or similar major construction projects, shall be liable beginning the first calendar year of the employer's status as a reorganized employer for contribution rates as follows:

Year of Contribution Liability	Contribution Rate
1	average construction contractor rate as determined by the commission
2	average construction contractor rate as determined by the commission
3	1/3 (chargeable benefits component) + 2/3 average construction contractor rate as determined by the commission
4	2/3 (chargeable benefits component) + 1/3 average construction contractor rate as determined by the commission
5 and over	(chargeable benefits component) + (account building component) + (nonchargeable benefits component)

(c) Upon application by an employer to the commission for designation as a distressed employer, the commission, within 60 days after receipt of the application, shall make a determination whether the employer meets the conditions set forth in this subsection. Upon finding that the conditions are met, the commission shall notify the legislature of the determination and request legislative acquiescence in the determination. If the legislature approves the determination by concurrent resolution, the employer shall be considered to be a "distressed employer" as of January 1 of the year in which the determination is made. The commission shall notify the employer of that determination and notify the employer of its contribution rate as a distressed employer and the contribution rate that would apply if the employer was not a distressed employer. The distressed employer shall determine its tax contribution using the 2 rates furnished by the commission and shall pay its tax contribution based on the lower of the 2 rates. If the determination of distressed employer status is made during the calendar year, the employer shall be entitled to a credit on future quarterly installments for any excess contributions paid during that initial calendar year. The employer shall notify the commission of the difference between the amount paid and the amount that would have been paid if the employer were not determined to be a distressed employer and the difference will be owed to the unemployment compensation fund,

payable in accordance with this subsection. Cumulative totals of the difference must be reported to the commission with each return required to be filed. The commission may periodically determine continued eligibility of an employer under this subsection. When the commission makes a determination that an employer no longer qualifies as a distressed employer, the commission shall notify the employer of that determination. After notice by the commission that the employer no longer qualifies as a distressed employer, the employer will be liable for contributions, beginning with the first quarter occurring after receipt of notification of disqualification, on the basis of the rate that would apply if the employer was not a distressed employer. The contribution rate for a distressed employer shall be calculated under the law in effect for the 1982 calendar year except that the rate determined shall be reduced by the applicable solvency tax rate assessed against the employer under section 19a. The taxable wage limit of a distressed employer for the 1983, 1984, and 1985 calendar years shall be the maximum amount of remuneration paid within a calendar year by a distressed employer subject to the federal unemployment tax act, 26 U.S.C. 3301 to 3311, to an individual with respect to employment as defined in that act which is subject to tax under that act during that year. Commencing with the fourth quarter of 1986, the distressed employer will pay in 10 equal annual installments the amount of the unpaid contributions owed to the unemployment compensation fund due to the application of this subsection, without interest. Each installment shall be made with the fourth quarterly return for the respective year. As used in this subsection, "distressed employer" means an employer whose continued presence in this state is considered essential to the state's economic well-being and who meets the following criteria:

(1) The employer's average annual Michigan payroll in the 5 previous years exceeded $500,000,000.00.

(2) The employer's average quarterly number of employees in Michigan in the 5 previous years exceeded 25,000.

(3) The employer's business income as defined in section 3 of the single business tax act, 1975 PA 228, MCL 208.3, has resulted in an aggregate loss of $1,000,000,000.00 or more during the 5-year period ending in the second year prior to the year for which the application is being made.

(4) The employer has received from this state loans totaling $50,000,000.00 or more or loan guarantees from the federal government in excess of $500,000,000.00, either of which are still outstanding.

(5) Failure to give an employer designation as a distressed employer would adversely impair the employer's ability to repay the outstanding loans owed to this state or that are guaranteed by the federal government.

(d) An employer may at any time make payments to that employer's experience account in the fund in excess of the requirements of this section, but these payments, when accepted by the commission, shall be irrevocable. A payment made by an employer within 30 days after mailing to the employer by the commission of a notice of the adjusted contribution rate of the employer shall be credited to the employer's account as of the computation date for which the adjusted contribution rate was computed, and the employer's contribution rate shall be further adjusted accordingly. However, a payment made more than 120 days after the beginning of a calendar year shall not affect the employer's contribution rate for that year.

Sec. 20. (a) Benefits paid shall be charged against the employer's account as of the quarter in which the payments are made. If the unemployment agency determines that any benefits charged against an employer's account were improperly paid, an amount equal to the charge based on those benefits shall be credited to the employer's account and a corresponding charge shall be made to the nonchargeable benefits account as of the current period or, in the discretion of the unemployment agency as of the date of the charge. Benefits paid to an individual as a result of an employer's failure to provide the unemployment agency with separation, employment, and wage data as required by section 32 shall be considered as benefits properly paid to the extent that the benefits are chargeable to the noncomplying employer.

(b) For benefit years established before the conversion date prescribed in section 75, benefits paid to an individual shall be based upon the credit weeks earned during the individual's base period and shall be charged against the experience accounts of the contributing employers or charged to the accounts of the reimbursing employers from whom the individual earned credit weeks. If the individual earned credit weeks from more than 1 employer, a separate determination shall be made of the amount and duration of benefits based upon the total credit weeks and wages earned with each employer. Benefits paid in accordance with the determinations shall be charged against the experience account of a contributing employer or charged to the account of a reimbursing employer beginning with the most recent employer first and thereafter as necessary against other base period employers in inverse order to that in which the claimant earned his or her last credit week with those employers. If there is any disqualifying act or discharge under section 29(1) with an employer, benefits based upon credit weeks earned from that employer before the disqualifying act or discharge shall be charged only after the exhaustion of charges as provided above. Benefits based upon those credit weeks shall be charged first against the experience account of the contributing employer involved or to the account of the reimbursing employer involved in the most recent disqualifying act or discharge and thereafter as necessary in similar inverse order against other base period employers involved in disqualifying acts or discharges. The order of charges determined as of the beginning date of a benefit year shall remain fixed during the benefit year. For benefit years established after the conversion date prescribed in section 75, the claimant's full weekly benefit rate shall be charged to the account or experience account of the claimant's most recent separating employer for each of the first 2 weeks of benefits payable to the claimant in the benefit year in accordance with the monetary determination issued

pursuant to section 32. However, if the total sum of wages paid by an employer totals $200.00 or less, those wages shall be used for purposes of benefit payment, but any benefit charges attributable to those wages shall be charged to the nonchargeable benefits account. Thereafter, remaining weeks of benefits payable in the benefit year shall be paid in accordance with the monetary determination and shall be charged proportionally to all base period employers, with the charge to each base period employer being made on the basis of the ratio that total wages paid by the employer in the base period bears to total wages paid by all employers in the base period. However, if the claimant did not perform services for the most recent separating employer or employing entity and receive earnings for performing the services of at least the amount a claimant must earn, in the manner prescribed in section 29(3), to requalify for benefits following a disqualification under section 29(1)(a), (b), (i), or (k) during the claimant's most recent period of employment with the employer or employing entity, then all weeks of benefits payable in the benefit year shall be charged proportionally to all base period employers, with the charge to each base period employer being made on the basis of the ratio that total wages paid by the employer in the base period bears to total wages paid by all employers in the base period. If the claimant performed services for the most recent separating employing entity and received earnings for performing the services of at least the amount a claimant must earn, in the manner prescribed in section 29(3), to requalify for benefits following a disqualification under section 29(1)(a), (b), (i), or (k) during the claimant's most recent period of employment for the employing entity but the separating employing entity was not a liable employer, the first 2 weeks of benefits payable to the claimant shall be charged proportionally to all base period employers, with the charge to each base period employer being made on the basis of the ratio that total wages paid by the employer in the base period bears to total wages paid by all employers in the base period. The "separating employer" is the employer that caused the individual to be unemployed as defined in section 48.

(c) For benefit years established before the conversion date prescribed in section 75, and except as otherwise provided in section 11(d) or (g) or section 46a, the charges for regular benefits to any reimbursing employer or to any contributing employer's experience account shall not exceed the weekly benefit rate multiplied by 3/4 the number of credit weeks earned by the individual during his or her base period from that employer. If the resultant product is not an even multiple of 1/2 the weekly benefit rate, the amount shall be raised to an amount equal to the next higher multiple of 1/2 the weekly benefit rate, and in the case of an individual who was employed by only 1 employer in his or her base period and who earned 34 credit weeks with that employer, the product shall be raised to the next higher multiple of the weekly benefit rate.

(d) For benefit years beginning after the conversion date prescribed in section 75, and except as otherwise provided in section 11(d) or (g) or section 46, the charges for regular benefits to any reimbursing employer's account or to any contributing employer's experience account shall not exceed either the amount derived by multiplying by 2 the weekly benefit rate chargeable to the employer in accordance with subsection (b) if the employer is the separating employer and is chargeable for the first 2 weeks of benefits, or the amount derived from the percentage of the weekly benefit rate chargeable to the employer in accordance with subsection (b), multiplied by the number of weeks of benefits chargeable to base period employers based on base period wages, to which the individual is entitled as provided in section 27(d), if the employer is a base period employer, or both of these amounts if the employer was both the chargeable separating employer and a base period employer.

(e) For benefit years beginning before the conversion date prescribed in section 75:

(1) When an individual has multiemployer credit weeks in his or her base period, and when it becomes necessary to use those credit weeks as a basis for benefit payments, a single determination shall be made of the individual's weekly benefit rate and maximum amount of benefits based on the individual's multiemployer credit weeks and the wages earned in those credit weeks. Each employer involved in the individual's multiemployer credit weeks shall be an interested party to the determination. The proviso in section 29(2) shall not be applicable to multiemployer credit weeks, nor shall the reduction provision of section 29(4) apply to benefit entitlement based upon those credit weeks.

(2) The charge for benefits based on multiemployer credit weeks shall be allocated to each employer involved on the basis of the ratio that the total wages earned during the total multiemployer credit weeks counted under section 50(b) with the employer bears to the total amount of wages earned during the total multiemployer credit weeks counted under section 50(b) with all such employers, computed to the nearest cent. However, if an adjusted weekly benefit rate is determined in accordance with section 27(f), the charge to the employer who has contributed to the financing of the retirement plan shall be reduced by the same amount by which the weekly benefit rate was adjusted under section 27(f). Benefits for a week of unemployment allocated under this subsection to a contributing employer shall be charged to the nonchargeable benefits account if the claimant during that week earns remuneration with that employer that equals or exceeds the amount of benefits allocated to that employer.

(3) Benefits paid in accordance with the determination based on multiemployer credit weeks shall be allocated to each employer involved and charged as of the quarter in which the payments are made. Notice of charges made under this subsection shall be given to each employer by means of a current listing of charges, at least weekly, or of a quarterly statement of charges. The listing or statement shall specify the weeks for which benefits were paid based on multiemployer credit weeks and the amount of benefits paid chargeable to that employer for each week. The notice shall be considered to satisfy the requirements of sections 21(a) and 32(d) that notification be given each employer of benefits charged against that employer's account by means of a copy or listing of the benefit check, and all protest and appeal

rights applicable to benefit check copies or listings shall also be applicable to the notice of charges. If an employer receives both a current listing of charges and a quarterly statement of charges under this subsection, all protest and appeal rights shall only be applicable to the first notice given.

(f) For benefit years beginning after the conversion date prescribed in section 75, if benefits for a week of unemployment are charged to 2 or more base period employers, the share of the benefits allocated and charged under this section to a contributing employer shall be charged to the nonchargeable benefits account if the claimant during that week earns remuneration with that employer that equals or exceeds the amount of benefits charged to that employer.

(g) For benefit years beginning before the conversion date prescribed in section 75:

(1) Training benefits as provided in section 27(g), and extended benefits as provided in section 64, shall be allocated to each reimbursing employer involved in the individual's base period of the claim to which the benefits are related, on the basis of the ratio that the total wages earned during the total credit weeks counted under section 50(b) with a reimbursing employer bears to the total amount of wages earned during the total credit weeks counted under section 50(b) with all employers.

(2) Training benefits and extended benefits, to the extent that they are not reimbursable by the federal government and have been allocated to a reimbursing employer, shall be charged to that reimbursing employer. A contributing employer's experience account shall not be charged with training benefits. Training benefits based on service with a contributing employer, to the extent that they are not reimbursable by the federal government, shall be charged to the nonchargeable benefits account. Extended benefits paid and based on service with a contributing employer, to the extent that they are not reimbursable by the federal government, shall be charged to that employer's experience account.

(3) If the training benefits or extended benefits are chargeable only to a single reimbursing employer, the benefits shall be charged in accordance with subsection (a). If the training benefits or extended benefits are chargeable to more than 1 reimbursing employer, or to 1 or more reimbursing employers and the nonchargeable benefits account, the benefits shall be charged as of the quarter in which the payments are made.

(4) Notice of charges made under this subsection shall be given to each employer by means of a current listing of charges, at least weekly, and subsequently by a quarterly summary statement of charges. The listing shall specify the name and social security number of each claimant paid benefits during the week, the weeks for which the benefits were paid, and the amount of benefits chargeable to that employer paid for each week. The quarterly statement of charges shall list each claimant by name and social security number and shall show total benefit payments chargeable to that employer and made to each claimant during the calendar quarter. The listing shall be considered to satisfy the requirements of sections 21(a) and 32(d) that notification be given each employer of benefits charged against that employer's account by means of a listing of the benefit check. All protest and appeal rights applicable to benefit check listings shall also be applicable to the notice of charges. If an employer receives both a current listing of charges and a quarterly statement of charges under this subsection, all protest and appeal rights shall only be applicable to the first notice given.

(h) For benefit years beginning after the conversion date prescribed in section 75:

(1) Training benefits as provided in section 27(g), and extended benefits as provided in section 64, shall be charged to each reimbursing employer in the base period of the claim to which the benefits are related, on the basis of the ratio that the total wages paid by a reimbursing employer during the base period bears to the total wages paid by all reimbursing employers in the base period.

(2) Training benefits, and extended benefits to the extent they are not reimbursable by the federal government and have been allocated to a reimbursing employer, shall be charged to that reimbursing employer. A contributing employer's experience account shall not be charged with training benefits. Training benefits based on service with a contributing employer, to the extent they are not reimbursable by the federal government, shall be charged to the nonchargeable benefits account. Extended benefits paid and based on service with a contributing employer, to the extent they are not reimbursable by the federal government, shall be charged to that employer's experience account.

(3) If the training benefits or extended benefits are chargeable only to a single reimbursing employer, the benefits shall be charged in accordance with subsection (a). If the training benefits or extended benefits are chargeable to more than 1 reimbursing employer, or to 1 or more reimbursing employers and the nonchargeable benefits account, the benefits shall be charged as of the quarter in which the payments are made.

(4) Notice of charges made under this subsection shall be given to each employer by means of a current listing of charges, at least weekly, and subsequently by a quarterly summary statement of charges. The listing shall specify the name and social security number of each claimant paid benefits in the week, the weeks for which the benefits were paid, and the amount of benefits chargeable to that employer paid for each week. The quarterly summary statement of charges shall list each claimant by name and social security number and shall show total benefit payments chargeable to that employer and made to each claimant during the calendar quarter. The listing shall be considered to satisfy the requirements of sections 21(a) and 32(d) that notification be given to each employer of benefits charged against that

employer's account by means of a listing of the benefit check. All protest and appeal rights applicable to benefit check listings shall also be applicable to the notice of charges. If an employer receives both a current listing of charges and a quarterly summary statement of charges under this subsection, all protest and appeal rights shall only be applicable to the first notice given.

(i) If a benefit year is established after the conversion date prescribed in section 75, the portion of benefits paid in that benefit year that are based on wages used to establish the immediately preceding benefit year that began before the conversion date shall not be charged to the employer or employers who paid those wages but shall be charged instead to the nonchargeable benefits account.

Sec. 27. (a)(1) When a determination, redetermination, or decision is made that benefits are due an unemployed individual, the benefits shall become payable from the fund and continue to be payable to the unemployed individual, subject to the limitations imposed by the individual's monetary entitlement, if the individual continues to be unemployed and to file claims for benefits, until the determination, redetermination, or decision is reversed, a determination, redetermination, or decision on a new issue holding the individual disqualified or ineligible is made, or, for benefit years beginning before the conversion date prescribed in section 75, a new separation issue arises resulting from subsequent work.

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

(b)(1) Subject to subsection (f), the weekly benefit rate for an individual, with respect to benefit years beginning before the conversion date prescribed in section 75, shall be 67% of the individual's average after tax weekly wage, except that the individual's maximum weekly benefit rate shall not exceed $300.00. However, with respect to benefit years beginning after the conversion date as prescribed in section 75, the individual's weekly benefit rate shall be 4.1% of the individual's wages paid in the calendar quarter of the base period in which the individual was paid the highest total wages, plus $6.00 for each dependent as defined in subdivision (3), up to a maximum of 5 dependents, claimed by the individual at the time the individual files a new claim for benefits, except that the individual's maximum weekly benefit rate shall not exceed $300.00 before the effective date of the amendatory act that added section 13*l* and $362.00 for claims filed on and after the effective date of the amendatory act that added section 13*l*. The weekly benefit rate for an individual claiming benefits on and after the effective date of the amendatory act that added section 13*l* shall be recalculated subject to the $362.00 maximum weekly benefit rate. The unemployment agency shall establish the procedures necessary to verify the number of dependents claimed. If a person fraudulently claims a dependent, that person is subject to the penalties set forth in sections 54 and 54c. With respect to benefit years beginning on or after October 2, 1983, the weekly benefit rate shall be adjusted to the next lower multiple of $1.00.

(2) For benefit years beginning before the conversion date prescribed in section 75, the state average weekly wage for a calendar year shall be computed on the basis of the 12 months ending the June 30 immediately preceding that calendar year. The commission shall prepare a table of weekly benefit rates based on an "average after tax weekly wage" calculated by subtracting, from an individual's average weekly wage as determined in accordance with section 51, a reasonable approximation of the weekly amount required to be withheld by the employer from the remuneration of the individual based on dependents and exemptions for income taxes under chapter 24 of subtitle C of the internal revenue code of 1986, 26 U.S.C. 3401 to 3406, and under section 351 of the income tax act of 1967, 1967 PA 281, MCL 206.351, and for old age and survivor's disability insurance taxes under the federal insurance contributions act, chapter 21 of subtitle C of the internal revenue code of 1986, 26 U.S.C. 3128. For purposes of applying the table to an individual's claim, a dependent shall be as defined in subdivision (3). The table applicable to an individual's claim shall be the table reflecting the number of dependents claimed by the individual under subdivision (3). The commission shall adjust the tables based on changes in withholding schedules published by the United States department of treasury, internal revenue service, and by the department of treasury. The number of dependents allowed shall be determined with respect to each week of unemployment for which an individual is claiming benefits.

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

(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 after the conversion date prescribed in section 75, a dependent means any of the following persons who received for at least 90 consecutive days immediately preceding 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.

(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 and 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.

(5) For benefit years beginning before the conversion date prescribed in section 75, dependency status of a dependent, child or otherwise, once established or fixed in favor of an individual continues during the individual's benefit year until terminated. Dependency status of a dependent terminates at the end of the week in which the dependent ceases to be an individual described in subdivision (3)(a), (b), (c), or (d) because of age, death, or divorce. For benefit years beginning after the conversion date prescribed in section 75, the number of dependents established for an individual at the beginning of the benefit year shall remain in effect during the entire benefit year.

(6) For benefit years beginning before the conversion date prescribed in section 75, failure on the part of an individual, due to misinformation or lack of information, to furnish all information material for determination of the number of the individual's dependents when the individual files a claim for benefits with respect to a week shall be considered good cause for the issuance of a redetermination as to the amount of benefits based on the number of the individual's dependents as of the beginning date of that week. Dependency status of a dependent, child or otherwise, once established or fixed in favor of a person is not transferable to or usable by another person with respect to the same week.

For benefit years beginning after the conversion date as prescribed in section 75, failure on the part of an individual, due to misinformation or lack of information, to furnish all information material for determination of the number of the individual's dependents shall be considered good cause for the issuance of a redetermination as to the amount of benefits based on the number of the individual's dependents as of the beginning of the benefit year.

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

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

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

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

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

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

(d) For benefit years beginning before the conversion date prescribed in section 75, and subject to subsection (f) and this subsection, the amount of benefits to which an individual who is otherwise eligible is entitled during a benefit year from an employer with respect to employment during the base period is the amount obtained by multiplying the weekly benefit rate with respect to that employment by 3/4 of the number of credit weeks earned in the employment. For the purpose of this subsection and section 20(c), if the resultant product is not an even multiple of 1/2 the weekly benefit rate, the product shall be raised to an amount equal to the next higher multiple of 1/2 the weekly benefit rate, and, for an individual who was employed by only 1 employer in the individual's base period and earned 34 credit weeks with that employer, the product shall be raised to the next higher multiple of the weekly benefit rate. The maximum amount of benefits payable to an individual within a benefit year, with respect to employment by an employer, shall not exceed 26 times the weekly benefit rate with respect to that employment. The maximum amount of benefits payable to an individual within a benefit year shall not exceed the amount to which the individual would be entitled for 26 weeks of unemployment in which remuneration was not earned or received. The limitation of total benefits set forth in this subsection does not apply to claimants declared eligible for training benefits in accordance with subsection (g). For benefit years beginning after the conversion date prescribed in section 75, and subject to subsection (f) and this subsection, the maximum benefit amount payable to an individual in a benefit year for purposes of this section and section 20(c) is the number of weeks of benefits payable to an individual during the benefit year, multiplied by the individual's weekly benefit rate. The number of weeks of benefits payable to an individual shall be calculated by taking 43% of the individual's base period wages and dividing the result by the individual's weekly benefit rate. If the quotient is not a whole or half number, the result shall be rounded down to the nearest half number. However, not more than 26 weeks of benefits or less than 14 weeks of benefits shall be payable to an individual in a benefit year. The limitation of total benefits set forth in this subsection shall not apply to claimants declared eligible for training benefits in accordance with subsection (g).

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

(f)(1) For benefit years beginning before the conversion date prescribed in section 75, and 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), shall be 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 shall be established without reduction under this subsection unless subdivision (5) is in effect. Except as otherwise provided in this subsection, all other provisions of this act continue to apply in connection with the benefit claims of those retired persons.

(a) If and to the extent that unemployment benefits payable under this act would be chargeable to an employer who 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 shall not receive unemployment benefits that would be chargeable to the employer under this act.

(b) If and to the extent that unemployment benefits payable under this act would be chargeable to an employer who 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 benefit rate otherwise payable to the claimant and chargeable to the employer under this act shall be reduced by an amount equal to the pro rata weekly amount, adjusted to the next lower multiple of $1.00, which the claimant is receiving or will receive as a retirement benefit.

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

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

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

(3) When necessary to assure prompt payment of benefits, the commission shall determine the pro rata weekly amount yielded by an individual's retirement benefit based on the best information currently available to it. In the

absence of fraud, a determination shall not be reconsidered unless it is established that the individual's actual retirement benefit in fact differs from the amount determined by $2.00 or more per week. The reconsideration shall apply only to benefits as may be claimed after the information on which the reconsideration is based was received by the commission.

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

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

(*ii*) Payable to an individual because the individual has qualified on the basis of attained age, length of service, or disability, whether or not the individual retired or was retired from employment. Amounts paid to individuals in the course of liquidation of a private pension or retirement fund because of termination of the business or of a plant or department of the business of the employer involved shall not be considered to be retirement benefits.

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

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

(*ii*) Half or more of the cost of the benefit, then none of the benefit shall be treated as a retirement benefit.

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

(5) Notwithstanding any other provision of this subsection, for any week that begins after March 31, 1980, and with respect to which an individual is receiving a governmental or other pension and claiming unemployment compensation, the weekly benefit amount payable to the individual for those weeks shall be reduced, but not below zero, by the entire prorated weekly amount of any governmental or other pension, retirement or retired pay, annuity, or any other similar payment that is based on any previous work of the individual. This reduction shall be made only if it is required as a condition for full tax credit against the tax imposed by the federal unemployment tax act, chapter 23 of subtitle C of the internal revenue code of 1986, 26 U.S.C. 3301 to 3311.

(6) For benefit years beginning after the conversion date prescribed in section 75, 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), shall be 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 shall be 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 shall continue to be applicable in connection with the benefit claims of those retired persons.

(a) If any base period 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 shall not 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 benefit rate otherwise payable to the claimant shall be reduced by an amount equal to the pro rata weekly amount, adjusted to the next lower multiple of $1.00, which the claimant is receiving or will receive as a retirement benefit.

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

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

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

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

(1) With respect to service performed in an instructional, research, or principal administrative capacity for an institution of higher education as defined in section 53(2), or for an educational institution other than an institution of higher education as defined in section 53(3), benefits shall not be paid to an individual based on those services for any week of unemployment beginning after December 31, 1977 that commences during the period between 2 successive academic years or during a similar period between 2 regular terms, whether or not successive, or during a period of paid sabbatical leave provided for in the individual's contract, to an individual if the individual performs the service in the first of the academic years or terms and if there is a contract or a reasonable assurance that the individual will perform service in an instructional, research, or principal administrative capacity for an institution of higher education or an educational institution other than an institution of higher education in the second of the academic years or terms, whether or not the terms are successive.

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

(3) With respect to any service described in subdivision (1) or (2), benefits shall not be paid to an individual based upon service for any week of unemployment that commences during an established and customary vacation period or holiday recess if the individual performs the service in the period immediately before the vacation period or holiday recess and there is a contract or reasonable assurance that the individual will perform the service in the period immediately following the vacation period or holiday recess.

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

(5) Benefits based upon services in other than an instructional, research, or principal administrative capacity for an institution of higher education shall not be denied for any week of unemployment commencing during the period between 2 successive academic years or terms solely because the individual had performed the service in the first of the academic years or terms and there is reasonable assurance that the individual will perform the service for an institution of higher education or an educational institution other than an institution of higher education in the second of the academic years or terms, unless a denial is required as a condition for full tax credit against the tax imposed by the federal unemployment tax act, chapter 23 of subtitle C of the internal revenue code of 1986, 26 U.S.C. 3301 to 3311.

(6) For benefit years established before the conversion date prescribed in section 75, 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) nor does the denial prevent an individual from receiving benefits based on service with an 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, even though the employer is not the most recent chargeable employer in the individual's base period. However, in that case section 20(b) applies to the sequence of benefit charging, except for the employment with the educational institution, and section 50(b) applies to the calculation of credit weeks. When a denial of benefits under subdivision (1) no longer applies, benefits shall be charged in accordance with the normal sequence of charging as provided in section 20(b).

(7) For benefit years beginning after the conversion date prescribed in section 75, and notwithstanding subdivisions (1), (2), and (3), the denial of benefits shall not prevent an individual from completing requalifying weeks in accordance with section 29(3) nor shall the denial 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, when benefits are paid based on service with 1 or more base period employers other than an educational institution, the individual's weekly benefit rate shall be calculated in accordance with subsection (b)(1) but during the denial period the individual's weekly benefit payment shall be 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 shall not be charged for benefits payable to the individual. When a denial of benefits under subdivision (1) is no longer applicable, benefits shall be 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 shall be 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 service agency" means a governmental agency or governmental entity that is established and operated exclusively for the purpose of providing the services to 1 or more educational institutions.

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

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

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

(3) Where an individual whose application for benefits would otherwise be approved, a determination that benefits to that individual are not payable because of the individual's alien status shall 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 commission 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 commission 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 under section 454(19)(B)(*i*) of part D of title IV of the social security act, 42 U.S.C. 654, by the state or local child support enforcement agency.

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

(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 provisions of section 62(a) and the reduction provisions of subsections (c) and (f).

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

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

(6) This subsection applies only if the state or local child support enforcement agency agrees in writing to reimburse and does reimburse the commission for the administrative costs incurred by the commission under this subsection that are attributable to child support obligations being enforced by the state or local child support enforcement agency. The administrative costs incurred shall be determined by the commission. The commission, in its discretion, may require payment of administrative costs in advance.

(7) As used in this subsection:

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

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

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

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

(o)(1) For weeks of unemployment beginning after July 1, 1996, unemployment benefits based on services by a seasonal worker performed in seasonal employment shall be payable only for weeks of unemployment that occur during the normal seasonal work period. Benefits shall not be paid based on services performed in seasonal employment for any week of unemployment beginning after March 28, 1996 that begins during the period between 2 successive normal seasonal work periods to any individual if that individual performs the service in the first of the normal seasonal work periods and if there is a reasonable assurance that the individual will perform the service for a seasonal employer in the second of the normal seasonal work periods. If benefits are denied to an individual for any week solely as a result of this subsection and the individual is not offered an opportunity to perform in the second normal seasonal work period for which reasonable assurance of employment had been given, the individual is entitled to a retroactive payment of benefits under this subsection for each week that the individual previously filed a timely claim for benefits. An individual may apply for any retroactive benefits under this subsection in accordance with 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 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 shall determine if the employer is a seasonal employer. A determination or redetermination of the commission concerning the status of an employer as a seasonal employer, or a decision of a referee or the board of review, or of the courts of this state concerning the status of an employer as a seasonal employer, which 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 shall be conclusive unless substantial evidence to the contrary is introduced by or on behalf of the claimant.

(3) If the employer is determined to be a seasonal employer, the employer shall conspicuously display on its premises a notice of the determination and the beginning and ending dates of the employer's normal seasonal work periods. The notice shall be furnished by the commission. The notice shall additionally specify 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 in the event that he or she is not reemployed by the seasonal employer in the second of the normal seasonal work periods.

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

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

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

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

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

(9) As used in this subsection:

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

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

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

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

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

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

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

(10) If this subsection is found by the United States department of labor to be contrary to the federal unemployment tax act, chapter 23 of the internal revenue code of 1986, 26 U.S.C. 3301 to 3311, or the social security act, chapter 531, 49 Stat. 620, and if conformity with the federal law is required as a condition for full tax credit against the tax imposed under the federal unemployment tax act or as a condition for receipt by the commission of federal administrative grant funds under the social security act, this subsection shall be invalid.

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

Sec. 29. (1) An individual is disqualified from receiving benefits if he or she:

(a) Left work voluntarily without good cause attributable to the employer or employing unit. An individual who left work is presumed to have left work voluntarily without good cause attributable to the employer or employing unit. An individual claiming benefits under this act has the burden of proof to establish that he or she left work involuntarily or for good cause that was attributable to the employer or employing unit. However, if the individual has an established benefit year in effect and during that benefit year leaves unsuitable work within 60 days after the beginning of that work, the leaving does not disqualify the individual.

(b) Was suspended or discharged for misconduct connected with the individual's work or for intoxication while at work.

(c) Failed without good cause to apply for available suitable work after receiving from the employment office or the commission notice of the availability of that work.

(d) Failed without good cause while unemployed to report to the individual's former employer or employing unit within a reasonable time after that employer or employing unit provided notice of the availability of an interview concerning available suitable work with the former employer or employing unit.

(e) Failed without good cause to accept suitable work offered to the individual or to return to the individual's customary self-employment, if any, when directed by the employment office or the commission. An employer that receives a monetary determination under section 32 may notify the unemployment agency regarding the availability of suitable work with the employer on the monetary determination or other form provided by the unemployment agency. Upon receipt of the notice of the availability of suitable work, the unemployment agency shall notify the claimant of the availability of suitable work.

(f) Lost his or her job due to absence from work resulting from a violation of law for which the individual was convicted and sentenced to jail or prison. This subdivision does not apply if conviction of an individual results in a sentence to county jail under conditions of day parole as provided in 1962 PA 60, MCL 801.251 to 801.258, or if the conviction was for a traffic violation that resulted in an absence of less than 10 consecutive work days from the individual's place of employment.

(g) Is discharged, whether or not the discharge is subsequently reduced to a disciplinary layoff or suspension, for participation in either of the following:

(*i*) A strike or other concerted action in violation of an applicable collective bargaining agreement that results in curtailment of work or restriction of or interference with production.

(*ii*) A wildcat strike or other concerted action not authorized by the individual's recognized bargaining representative.

(h) Was discharged for an act of assault and battery connected with the individual's work.

(i) Was discharged for theft connected with the individual's work.

(j) Was discharged for willful destruction of property connected with the individual's work.

(k) Committed a theft after receiving notice of a layoff or discharge, but before the effective date of the layoff or discharge, resulting in loss or damage to the employer who would otherwise be chargeable for the benefits, regardless of whether the individual qualified for the benefits before the theft.

(*l*) Was employed by a temporary help firm, which as used in this section means an employer whose primary business is to provide a client with the temporary services of 1 or more individuals under contract with the employer, to perform services for a client of that firm if each of the following conditions is met:

(*i*) The temporary help firm provided the employee with a written notice before the employee began performing services for the client stating in substance both of the following:

(A) That within 7 days after completing services for a client of the temporary help firm, the employee is under a duty to notify the temporary help firm of the completion of those services.

(B) That a failure to provide the temporary help firm with notice of the employee's completion of services pursuant to sub-subparagraph (A) constitutes a voluntary quit that will affect the employee's eligibility for unemployment compensation should the employee seek unemployment compensation following completion of those services.

(*ii*) The employee did not provide the temporary help firm with notice that the employee had completed his or her services for the client within 7 days after completion of his or her services for the client.

(m) Was discharged for (*i*) Illegally ingesting, injecting, inhaling, or possessing a controlled substance on the premises of the employer, (*ii*) Refusing to submit to a drug test that was required to be administered in a nondiscriminatory manner, or (*iii*) Testing positive on a drug test, if the test was administered in a nondiscriminatory manner. If the worker disputes the result of the testing, a generally accepted confirmatory test shall be administered and shall also indicate a positive result for the presence of a controlled substance before a disqualification of the worker under this subdivision. As used in this subdivision:

(A) "Controlled substance" means that term as defined in section 7104 of the public health code, 1978 PA 368, MCL 333.7104.

(B) "Drug test" means a test designed to detect the illegal use of a controlled substance.

(C) "Nondiscriminatory manner" means administered impartially and objectively in accordance with a collective bargaining agreement, rule, policy, a verbal or written notice, or a labor-management contract.

(2) A disqualification under subsection (1) begins the week in which the act or discharge that caused the disqualification occurs and continues until the disqualified individual requalifies under subsection (3), except that for benefit years beginning before the conversion date prescribed in section 75, the disqualification does not prevent the payment of benefits if there are credit weeks, other than multiemployer credit weeks, after the most recent disqualifying act or discharge.

(3) After the week in which the disqualifying act or discharge described in subsection (1) occurs, an individual who seeks to requalify for benefits is subject to all of the following:

(a) For benefit years established before the conversion date described in section 75, the individual shall complete 6 requalifying weeks if he or she was disqualified under subsection (1)(c), (d), (e), (f), (g), or (*l*), or 13 requalifying weeks if he or she was disqualified under subsection (1)(h), (i), (j), (k), or (m). A requalifying week required under this subsection shall be each week in which the individual does any of the following:

(*i*) Earns or receives remuneration in an amount at least equal to an amount needed to earn a credit week, as that term is defined in section 50.

(*ii*) Otherwise meets all of the requirements of this act to receive a benefit payment if the individual were not disqualified under subsection (1).

(*iii*) Receives a benefit payment based on credit weeks subsequent to the disqualifying act or discharge.

(b) For benefit years established before the conversion date prescribed in section 75, if the individual is disqualified under subsection (1)(a) or (b), he or she shall requalify, after the week in which the disqualifying discharge occurred by earning in employment for an employer liable under this act or the unemployment compensation act of another state an amount equal to, or in excess of, 7 times the individual's potential weekly benefit rate, calculated on the basis of employment with the employer involved in the disqualification, or by earning in employment for an employer liable under this act or the unemployment compensation act of another state an amount equal to, or in excess of, 40 times the state minimum hourly wage times 7, whichever is the lesser amount.

(c) For benefit years established before the conversion date prescribed in section 75, a benefit payable to an individual disqualified under subsection (1)(a) or (b), shall be charged to the nonchargeable benefits account, and not to the account of the employer with whom the individual was involved in the disqualification.

(d) For benefit years beginning after the conversion date prescribed in section 75, subsequent to the week in which the disqualifying act or discharge occurred, an individual shall complete 13 requalifying weeks if he or she was

disqualified under subsection (1)(c), (d), (e), (f), (g), or (*l*), or 26 requalifying weeks if he or she was disqualified under subsection (1)(h), (i), (j), (k), or (m). A requalifying week required under this subsection shall be each week in which the individual does any of the following:

(*i*) Earns or receives remuneration in an amount equal to at least 1/13 of the minimum amount needed in a calendar quarter of the base period for an individual to qualify for benefits, rounded down to the nearest whole dollar.

(*ii*) Otherwise meets all of the requirements of this act to receive a benefit payment if the individual were not disqualified under subsection (1).

(e) For benefit years beginning after the conversion date prescribed in section 75 and beginning before the effective date of the amendatory act that added section 13*l*, if the individual is disqualified under subsection (1)(a) or (b), he or she shall requalify, after the week in which the disqualifying act or discharge occurred by earning in employment for an employer liable under this act or the unemployment compensation law of another state at least the lesser of the following:

(*i*) Seven times the individual's weekly benefit rate.

(*ii*) Forty times the state minimum hourly wage times 7.

(f) For benefit years beginning after the conversion date prescribed in section 75 and after the effective date of the amendatory act that added section 13*l*, if the individual is disqualified under subsection (1)(a), he or she shall requalify, after the week in which the disqualifying act or discharge occurred by earning in employment for an employer liable under this act or the unemployment compensation law of another state at least 12 times the individual's weekly benefit rate.

(g) For benefit years beginning after the conversion date prescribed in section 75 and after the effective date of the amendatory act that added section 13*l*, if the individual is disqualified under subsection (1)(b), he or she shall requalify, after the week in which the disqualifying act or discharge occurred by earning in employment for an employer liable under this act or the unemployment compensation law of another state at least 17 times the individual's weekly benefit rate.

(h) A benefit payable to the individual disqualified or separated under disqualifying circumstances under subsection (1)(a) or (b), shall be charged to the nonchargeable benefits account, and not to the account of the employer with whom the individual was involved in the separation. Benefits payable to an individual determined by the commission to be separated under disqualifying circumstances shall not be charged to the account of the employer involved in the disqualification for any period after the employer notifies the commission of the claimant's possible ineligibility or disqualification. If a disqualifying act or discharge occurs during the individual's benefit year, any benefits that may become payable to the individual in a later benefit year based on employment with the employer involved in the disqualification shall be charged to the nonchargeable benefits account.

(4) The maximum amount of benefits otherwise available under section 27(d) to an individual disqualified under subsection (1) is subject to all of the following conditions:

(a) For benefit years established before the conversion date prescribed in section 75, if the individual is disqualified under subsection (1)(c), (d), (e), (f), (g), or (*l*) and the maximum amount of benefits is based on wages and credit weeks earned from an employer before an act or discharge involving that employer, the amount shall be reduced by an amount equal to the individual's weekly benefit rate as to that employer multiplied by the lesser of either of the following:

(*i*) The number of requalifying weeks required of the individual under this section.

(*ii*) The number of weeks of benefit entitlement remaining with that employer.

(b) If the individual has insufficient or no potential benefit entitlement remaining with the employer involved in the disqualification in the benefit year in existence on the date of the disqualifying determination, a reduction of benefits described in this subsection shall apply in a succeeding benefit year with respect to any benefit entitlement based upon credit weeks earned with the employer before the disqualifying act or discharge.

(c) For benefit years established before the conversion date prescribed in section 75, an individual disqualified under subsection (1)(h), (i), (j), (k), or (m) is not entitled to benefits based on wages and credit weeks earned before the disqualifying act or discharge with the employer involved in the disqualification.

(d) The benefit entitlement of an individual disqualified under subsection (1)(a) or (b) is not subject to reduction as a result of that disqualification.

(e) A denial or reduction of benefits under this subsection does not apply to benefits based upon multiemployer credit weeks.

(f) For benefit years established after the conversion date prescribed in section 75, if the individual is disqualified under subsection (1)(c), (d), (e), (f), (g), or (*l*), the maximum number of weeks otherwise applicable in calculating benefits for the individual under section 27(d) shall be reduced by the lesser of the following:

(*i*) The number of requalifying weeks required of the individual under this subsection.

(*ii*) The number of weeks of benefit entitlement remaining on the claim.

(g) For benefit years beginning after the conversion date prescribed in section 75, the benefits of an individual disqualified under subsection (1)(h), (i), (j), (k), or (m) shall be reduced by 13 weeks and any weekly benefit payments made to the claimant thereafter shall be reduced by the portion of the payment attributable to base period wages paid by the base period employer involved in a disqualification under subsection (1)(h), (i), (j), (k), or (m).

(5) If an individual leaves work to accept permanent full-time work with another employer and performs services for that employer, or if an individual leaves work to accept a recall from a former employer:

(a) Subsection (1) does not apply.

(b) Wages earned with the employer whom the individual last left, including wages previously transferred under this subsection to the last employer, for the purpose of computing and charging benefits, are wages earned from the employer with whom the individual accepted work or recall, and benefits paid based upon those wages shall be charged to that employer.

(c) When issuing a determination covering the period of employment with a new or former employer described in this subsection, the commission shall advise the chargeable employer of the name and address of the other employer, the period covered by the employment, and the extent of the benefits that may be charged to the account of the chargeable employer.

(6) In determining whether work is suitable for an individual, the commission shall consider the degree of risk involved to the individual's health, safety, and morals, the individual's physical fitness and prior training, the individual's length of unemployment and prospects for securing local work in the individual's customary occupation, and the distance of the available work from the individual's residence. Additionally, the commission shall consider the individual's experience and prior earnings, but an unemployed individual who refuses an offer of work determined to be suitable under this section shall be denied benefits if the pay rate for that work is at least 70% of the gross pay rate he or she received immediately before becoming unemployed.

(7) Work is not suitable and benefits shall not be denied under this act to an otherwise eligible individual for refusing to accept new work under any of the following conditions:

(a) If the position offered is vacant due directly to a strike, lockout, or other labor dispute.

(b) If the remuneration, hours, or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality.

(c) If as a condition of being employed, the individual would be required to join a company union or to resign from or refrain from joining a bona fide labor organization.

(8) All of the following apply to an individual who seeks benefits under this act:

(a) An individual is disqualified from receiving benefits for a week in which the individual's total or partial unemployment is due to either of the following:

(*i*) A labor dispute in active progress at the place at which the individual is or was last employed, or a shutdown or start-up operation caused by that labor dispute.

(*ii*) A labor dispute, other than a lockout, in active progress or a shutdown or start-up operation caused by that labor dispute in any other establishment within the United States that is both functionally integrated with the establishment described in subparagraph (*i*) and operated by the same employing unit.

(b) An individual's disqualification imposed or imposable under this subsection is terminated if the individual performs services in employment with an employer in at least 2 consecutive weeks falling wholly within the period of the individual's total or partial unemployment due to the labor dispute, and in addition earns wages in each of those weeks in an amount equal to or greater than the individual's actual or potential weekly benefit rate with respect to those weeks based on the individual's employment with the employer involved in the labor dispute.

(c) An individual is not disqualified under this subsection if the individual is not directly involved in the labor dispute. An individual is not directly involved in a labor dispute unless any of the following are established:

(*i*) At the time or in the course of a labor dispute in the establishment in which the individual was then employed, the individual in concert with 1 or more other employees voluntarily stopped working other than at the direction of the individual's employing unit.

(*ii*) The individual is participating in, financing, or directly interested in the labor dispute that causes the individual's total or partial unemployment. The payment of regular union dues, in amounts and for purposes established before the inception of the labor dispute, is not financing a labor dispute within the meaning of this subparagraph.

(*iii*) At any time a labor dispute in the establishment or department in which the individual was employed does not exist, and the individual voluntarily stops working, other than at the direction of the individual's employing unit, in sympathy with employees in some other establishment or department in which a labor dispute is in progress.

(*iv*) The individual's total or partial unemployment is due to a labor dispute that was or is in progress in a department, unit, or group of workers in the same establishment.

(d) As used in this subsection, "directly interested" shall be construed and applied so as not to disqualify individuals unemployed as a result of a labor dispute the resolution of which may not reasonably be expected to affect their wages, hours, or other conditions of employment, and to disqualify individuals whose wages, hours, or conditions of employment may reasonably be expected to be affected by the resolution of the labor dispute. A "reasonable expectation" of an effect on an individual's wages, hours, or other conditions of employment exists, in the absence of a substantial preponderance of evidence to the contrary, in any of the following situations:

(*i*) If it is established that there is in the particular establishment or employing unit a practice, custom, or contractual obligation to extend within a reasonable period to members of the individual's grade or class of workers in the establishment in which the individual is or was last employed changes in terms and conditions of employment that are substantially similar or related to some or all of the changes in terms and conditions of employment that are made for the workers among whom there exists the labor dispute that has caused the individual's total or partial unemployment.

(*ii*) If it is established that l of the issues in or purposes of the labor dispute is to obtain a change in the terms and conditions of employment for members of the individual's grade or class of workers in the establishment in which the individual is or was last employed.

(*iii*) If a collective bargaining agreement covers both the individual's grade or class of workers in the establishment in which the individual is or was last employed and the workers in another establishment of the same employing unit who are actively participating in the labor dispute, and that collective bargaining agreement is subject by its terms to modification, supplementation, or replacement, or has expired or been opened by mutual consent at the time of the labor dispute.

(e) In determining the scope of the grade or class of workers, evidence of the following is relevant:

(*i*) Representation of the workers by the same national or international organization or by local affiliates of that national or international organization.

(*ii*) Whether the workers are included in a single, legally designated, or negotiated bargaining unit.

(*iii*) Whether the workers are or within the past 6 months have been covered by a common master collective bargaining agreement that sets forth all or any part of the terms and conditions of the workers' employment, or by separate agreements that are or have been bargained as a part of the same negotiations.

(*iv*) Any functional integration of the work performed by those workers.

(*v*) Whether the resolution of those issues involved in the labor dispute as to some of the workers could directly or indirectly affect the advancement, negotiation, or settlement of the same or similar issues in respect to the remaining workers.

(*vi*) Whether the workers are currently or have been covered by the same or similar demands by their recognized or certified bargaining agent or agents for changes in their wages, hours, or other conditions of employment.

(*vii*) Whether issues on the same subject matter as those involved in the labor dispute have been the subject of proposals or demands made upon the employing unit that would by their terms have applied to those workers.

(9) Notwithstanding subsections (1) to (8), if the employing unit submits notice to the commission of possible ineligibility or disqualification beyond the time limits prescribed by commission rule, the notice shall not form the basis of a determination of ineligibility or disqualification for a claim period compensated before the receipt of the notice by the commission.

(10) An individual is disqualified from receiving benefits for any week or part of a week in which the individual has received, is receiving, or is seeking unemployment benefits under an unemployment compensation law of another state or of the United States. If the appropriate agency of the other state or of the United States finally determines that the individual is not entitled to unemployment benefits, the disqualification described in this subsection does not apply.

Sec. 32. (a) Claims for benefits shall be made pursuant to regulations prescribed by the unemployment agency. The unemployment agency shall designate representatives who shall promptly examine claims and make a determination on the facts. The unemployment agency may establish rules providing for the examination of claims, the determination of the validity of the claims, and the amount and duration of benefits to be paid. The claimant and other interested parties shall be promptly notified of the determination and the reasons for the determination.

(b)(1) For benefit years established before the conversion date prescribed in section 75, the unemployment agency may prescribe regulations for notifying and shall notify the employer, whose experience account may be charged, and the employing unit where the claimant last worked that the claimant has filed an application for benefits. The notice shall require the employer and employing unit to furnish information to the unemployment agency necessary to determine the claimant's benefit rights.

(2) Upon receipt of the employer's reports, the unemployment agency shall promptly make a determination based upon the available information. The claimant and the employer, whose experience account may be charged pursuant to the determination, shall be promptly notified of the determination. The notice shall show the name and account number

of the employer whose experience account may be charged pursuant to the determination, the weekly benefit amount and the maximum number of credit weeks against which the claimant may draw benefits, and whether or not the claimant is eligible and qualified to draw benefits. An employer may designate in writing to the unemployment agency an individual or another employer or an employing unit to receive any notice required to be given by the unemployment agency to that employer or to represent that employer in any proceeding before the unemployment agency as provided in section 31.

(3) If an employer or employing unit fails to respond within 10 days after mailing of the request for information, the unemployment agency shall make a determination upon the available information. In the absence of a showing by the employer satisfying the unemployment agency that the employer reasonably could not submit the requested information, the determination shall be final as to the noncomplying employer, as to benefits paid before the week following the receipt of the employer's reply, and chargeable against the employer's experience account as a result of the employer's late reply, and the payments shall be considered to have been proper payments. The unemployment agency may require an employer who consistently fails to meet the unemployment agency's requirements, as to submission of reports covering employment of individuals, to provide the reports automatically upon the separation of individuals from employment, in the manner and within the time limits the unemployment agency prescribes by regulation necessary to carry out this section. An employer may be permitted to provide the reports automatically upon separation of individuals from employment, in the manner and within the time limits prescribed by the unemployment agency.

(4) After an application for benefits is filed, the unemployment agency's determination shall include only the most recent employer. Subsequently, as necessary, the unemployment agency shall issue determinations covering other base period employers, individually in inverse order to that in which the claimant earned his or her last credit week with the employers.

(5) For benefit years established after the conversion date prescribed in section 75, the unemployment agency shall mail to the claimant, to each base period employer or employing unit, and to the separating employer or employing unit, a monetary determination. The monetary determination shall notify each of these employers or employing units that the claimant has filed an application for benefits and the amount the claimant reported as earned with the separating employer or employing unit, and shall state the name of each employer or employing unit in the base period and the name of the separating employer or employing unit. The monetary determination shall also state the claimant's weekly benefit rate, the amount of base period wages paid by each base period employer, the maximum benefit amount that could be charged to each employer's account or experience account, and the reason for separation reported by the claimant. The monetary determination shall also state whether the claimant is monetarily eligible to receive unemployment benefits. Except for separations under section 29(1)(a), no further reconsideration of a separation from any base period employer will be made unless the base period employer notifies the unemployment agency of a possible disqualifying separation within 30 days of the separation in accordance with this subsection. Benefits paid in accordance with the monetary determination shall be considered proper payments and shall not be changed unless the unemployment agency receives new, corrected, or additional information from the employer, within 10 calendar days after the mailing of the monetary determination, and the information results in a change in the monetary determination. New, additional, or corrected information received by the unemployment agency after the 10-day period shall be considered a request for reconsideration by the employer of the monetary determination and shall be reviewed as provided in section 32a.

(6) For the purpose of determining a claimant's nonmonetary eligibility and qualification for benefits, if the claimant's most recent base period or benefit year separation was for a reason other than the lack of work, then a determination shall be issued concerning that separation to the claimant and to the separating employer. If a claimant is not disqualified based on his or her most recent separation from employment and has satisfied the requirements of section 29, the unemployment agency shall issue a nonmonetary determination as to that separation only. If a claimant is not disqualified based on his or her most recent separation from employment and has not satisfied the requirements of section 29, the unemployment agency shall issue 1 or more nonmonetary determinations necessary to establish the claimant's qualification for benefits based on any prior separation in inverse chronological order. The unemployment agency shall consider all base period separations involving disqualifications under section 29(1)(h), (j), (*l*), or (m) in determining a claimant's nonmonetary eligibility and qualification for benefits. An employer may designate in writing to the unemployment agency an individual or another employer or an employing unit to receive any notice required to be given by the unemployment agency to that employer or to represent that employer in any proceeding before the unemployment agency as provided in section 31.

(7) If the unemployment agency requests additional monetary or nonmonetary information from an employer or employing unit and the unemployment agency fails to receive a written response from the employer or employing unit within 10 calendar days after the date of mailing the request for information, the unemployment agency shall make a determination based upon the available information at the time the determination is made. The determination shall be final and any payment made shall be considered a proper payment with respect to benefits paid before the week following the receipt of the employer's reply and chargeable against the employer's account or experience account as a result of the employer's late reply.

(c) The claimant or interested party may file an application with an office of the unemployment agency for a redetermination in accordance with section 32a.

(d) The issuance of each benefit check shall be considered a determination by the unemployment agency that the claimant receiving the check was covered during the compensable period, and eligible and qualified for benefits. A chargeable employer, upon receipt of a listing of the check as provided in section 21(a), may protest by requesting a redetermination of the claimant's eligibility or qualification as to that period and a determination as to later weeks and benefits still unpaid that are affected by the protest. Upon receipt of the protest or request, the unemployment agency shall investigate and redetermine whether the claimant is eligible and qualified as to that period. If, upon the redetermination, the claimant is found ineligible or not qualified, the unemployment agency shall investigate and determine whether the claimant obtained benefits, for 1 or more preceding weeks within the series of consecutive weeks that includes the week covered by the redetermination, improperly as the result of administrative error, false statement, misrepresentation, or nondisclosure of a material fact. If the unemployment agency finds that the claimant has obtained benefits through administrative error, false statement, misrepresentation, or nondisclosure of a material fact, the unemployment agency shall proceed under the appropriate provisions of section 62.

(e) If a claimant commences to file continued claims through a different state claim office in this state or elsewhere, the unemployment agency promptly shall issue written notice of that fact to the chargeable employer.

(f) If a claimant refuses an offer of work, or fails to apply for work of which the claimant has been notified, as provided in section 29(1)(c) or (e), the unemployment agency shall promptly make a written determination as to whether or not the refusal or failure requires disqualification under section 29. Notice of the determination, specifying the name and address of the employing unit offering or giving notice of the work and of the chargeable employer, shall be sent to the claimant, the employing unit offering or giving notice of the work, and the chargeable employer.

Sec. 32b. (1) Not later than 6 months after the effective date of the amendatory act that added this section, the unemployment agency shall establish and provide access to a secure internet site to enable employers to determine if correspondence sent to the unemployment agency by the employer has been received.

(2) Within 10 days of receiving a request for redetermination or a protest from an employer or employing unit, the unemployment agency shall post a statement confirming receipt of the request for redetermination or protest from that employer or employing unit on the internet site required under subsection (1).

Sec. 44. (1) "Remuneration" means all compensation paid for personal services, including commissions and bonuses, and except for agricultural and domestic services, the cash value of all compensation payable in a medium other than cash. Any remuneration payable to an individual that has not been actually received by that individual within 21 days after the end of the pay period in which the remuneration was earned, shall, for the purposes of subsections (2) to (5) and section 46, be considered to have been paid on the twenty-first day after the end of that pay period. For benefit years beginning after the conversion date prescribed in section 75, if back pay is awarded to an individual and is allocated by an employer or legal authority to a period of weeks within 1 or more calendar quarters, the back pay shall be considered paid in that calendar quarter or those calendar quarters for purposes of section 46. The reasonable cash value of compensation payable in a medium other than cash shall be estimated and determined in accordance with rules promulgated by the unemployment agency. Beginning January 1, 1986, remuneration shall include tips actually reported to an employer under section 6053(a) of the internal revenue code by an employee who receives tip income. Remuneration does not include either of the following:

(a) Money paid an individual by a unit of government for services rendered as a member of the national guard of this state, or for similar services to another state or the United States.

(b) Money paid by an employer to a worker under a supplemental unemployment benefit plan under section 501(c) of the internal revenue code of 1986, regardless of whether the benefits are paid from a trust or by the employer.

(2) "Wages", subject to subsections (3) to (5), means remuneration paid by employers for employment and, beginning January 1, 1986, includes tips actually reported to an employer under section 6053(a) of the internal revenue code by an employee who receives tip income. If any provision of this subsection prevents this state from qualifying for any federal interest relief provisions provided under section 1202 of title XII of the social security act, 42 U.S.C. 1322, or prevents employers in this state from qualifying for the limitation on the reduction of federal unemployment tax act credits as provided under section 3302(f) of the federal unemployment tax act, 26 U.S.C. 3302, that provision is invalid to the extent necessary to maintain qualification for the interest relief provisions and federal unemployment tax credits.

(3) For the purpose of determining the amount of contributions due from an employer under this act, wages shall be limited by the taxable wage limit applicable under subsection (4). For this purpose, wages shall exclude all remuneration paid within a calendar year to an individual by an employing unit after the individual was paid within that year by that employing unit remuneration equal to the taxable wage limit on which unemployment taxes were paid or were payable in this state and in any other states. If an employing unit, hereinafter referred to as successor, during any calendar year becomes a transferee in a transfer of business as defined in section 22 of another, hereinafter referred to as a predecessor, and immediately after the transfer employs in his or her trade or business an individual who immediately

before the transfer was employed in the trade or business of the predecessor, then for the purpose of determining whether the successor has paid remuneration with respect to employment equal to the taxable wage limit to that individual during the calendar year, any remuneration with respect to employment paid to that individual by the predecessor during the calendar year and before the transfer shall be considered as having been paid by the successor.

(4) The taxable wage limit for each calendar year shall be $8,000.00 in the 1983 calendar year, $8,500.00 in the 1984 calendar year, $9,000.00 in the 1985 calendar year, $9,500.00 in the 1986 calendar year, and $9,500.00 for calendar years after 1986 through 2002, and $9,000.00 for calendar years after 2002, or the maximum amount of remuneration paid within a calendar year by an employer subject to the federal unemployment tax act, 26 U.S.C. 3301 to 3311, to an individual with respect to employment as defined in that act that is subject to tax under that act during that year for each calendar year, whichever is greater.

(5) For the purposes of this act, the term "wages" shall not include any of the following:

(a) The amount of a payment, including an amount paid by an employer for insurance or annuities or into a fund, to provide for such a payment, made to, or on behalf of, an employee or any of the employee's dependents under a plan or system established by an employer that makes provision for the employer's employees generally, or for the employer's employees generally and their dependents, or for a class or classes of the employer's employees, or for a class or classes of the employer's employees and their dependents, on account of retirement, sickness or accident disability, medical or hospitalization expenses in connection with sickness or accident disability, or death.

(b) A payment made to an employee, including an amount paid by an employer for insurance or annuities, or into a fund, to provide for such a payment, on account of retirement.

(c) A payment on account of sickness or accident disability, or medical or hospitalization expenses in connection with sickness or accident disability, made by an employer to, or on behalf of, an employee after the expiration of 6 calendar months following the last calendar month in which the employee worked for the employer.

(d) A payment made to, or on behalf of, an employee or the employee's beneficiary from or to a trust described in section 401(a) of the internal revenue code of 1986 that is exempt from tax under section 501(a) of the internal revenue code of 1986 at the time of the payment, unless the payment is made to an employee of the trust as remuneration for services rendered as an employee and not as a beneficiary of the trust, or under or to an annuity plan which, at the time of the payment, is a plan described in section 403(a) of the internal revenue code of 1986, or under or to a bond purchase plan that at the time of the payment, is a qualified bond purchase plan described in former section 405(a) of the internal revenue code.

(e) The payment by an employer, without deduction from the remuneration of the employee, of the tax imposed upon an employee under section 3101 of the federal insurance contributions act, 26 U.S.C. 3101.

(f) Remuneration paid in any medium other than cash to an employee for service not in the course of the employer's trade or business.

(g) A payment, other than vacation or sick pay, made to an employee after the month in which the employee attains the age of 65, if the employee did not work for the employer in the period for which the payment is made.

(h) Remuneration paid to or on behalf of an employee as moving expenses if, and to the extent that, at the time of payment of the remuneration it is reasonable to believe that a corresponding deduction is allowable under section 217 of the internal revenue code of 1986.

(6) The amendments made to this section by amendatory act 1977 PA 155 shall apply to all remuneration paid after December 31, 1977.

(7) The amendments made in subsection (1) by the amendatory act that added this subsection shall first apply to remuneration paid after December 31, 1977.

Sec. 48. (1) An individual shall be considered unemployed for any week during which he or she performs no services and for which remuneration is not payable to the individual, or for any week of less than full-time work if the remuneration payable to the individual is less than his or her weekly benefit rate. However, any loss of remuneration incurred by an individual during any week resulting from any cause other than the failure of the individual's employing unit to furnish full-time, regular employment shall be included as remuneration earned for purposes of this section and section 27(c). The total amount of remuneration lost shall be determined pursuant to regulations prescribed by the commission. For the purposes of this act, an individual's weekly benefit rate means the weekly benefit rate determined pursuant to section 27(b).

(2) All amounts paid to a claimant by an employing unit or former employing unit for a vacation or a holiday, and amounts paid in the form of retroactive pay, pay in lieu of notice, severance payments, salary continuation, or other remuneration intended by the employing unit as continuing wages or other monetary consideration as the result of the separation, excluding SUB payments as described in section 44, shall be considered remuneration in determining whether an individual is unemployed under this section and also in determining his or her benefit payments under section 27(c), for the period designated by the contract or agreement providing for the payment, or if there is no contractual specification of the period to which payments shall be allocated, then for the period designated by the

employing unit or former employing unit. However, payments for a vacation or holiday, or the right to which has irrevocably vested, after 14 days following a vacation or holiday shall not be considered wages or remuneration within the meaning of this section.

(3) An individual shall not be considered to be unemployed during any leave of absence from work granted by an employer either at the request of the individual or pursuant to an agreement with the individual's duly authorized bargaining agent, or in accordance with law. An individual shall neither be considered not unemployed nor on a leave of absence solely because the individual elects to be laid off, pursuant to an option provided under a collective bargaining agreement or written employer plan that permits an election, if there is a temporary layoff because of lack of work and the employer has consented to the election.

Sec. 54. (a) A person who willfully violates or intentionally fails to comply with any of the provisions of this act, or a regulation of the commission promulgated under the authority of this act for which a penalty is not otherwise provided by this act is punishable as provided in subdivision (*i*), (*ii*), (*iii*), or (*iv*), notwithstanding any other statute of this state or of the United States:

(*i*) If the commission determines that an amount has been obtained or withheld as a result of the intentional failure to comply with this act, the commission may recover the amount obtained as a result of the intentional failure to comply plus damages equal to 3 times that amount.

(*ii*) The commission may refer the matter to the prosecuting attorney of the county in which the alleged violation occurred for prosecution. If the commission has not made its own determination under subdivision (*i*), the penalty sought by the prosecutor shall include the amount described in subdivision (*i*) and shall also include 1 or more of the following penalties:

(A) If the amount obtained or withheld from payment as a result of the intentional failure to comply is less than $25,000.00, then 1 of the following:

(I) Imprisonment for not more than 1 year.

(II) The performance of community service of not more than 1 year but not to exceed 2,080 hours.

(III) A combination of (I) and (II) that does not exceed 1 year.

(B) If the amount obtained or withheld from payment as a result of the intentional failure to comply is $25,000.00 or more but less than $100,000.00, then 1 of the following:

(I) Imprisonment for not more than 2 years.

(II) The performance of community service of not more than 2 years but not to exceed 4,160 hours.

(III) A combination of (I) and (II) that does not exceed 2 years.

(C) If the amount obtained or withheld from payment as a result of the intentional failure to comply is more than $100,000.00, then 1 of the following:

(I) Imprisonment for not more than 5 years.

(II) The performance of community service of not more than 5 years but not to exceed 10,400 hours.

(III) A combination of (I) and (II) that does not exceed 5 years.

(*iii*) If the commission determines that an amount has been obtained or withheld as a result of a knowing violation of this act, the commission may recover the amount obtained as a result of the knowing violation and may also recover damages equal to 3 times that amount.

(*iv*) The commission may refer a matter under subdivision (*iii*) to the prosecuting attorney of the county in which the alleged violation occurred for prosecution. If the commission has not made its own determination under subdivision (*iii*), the penalty sought by the prosecutor shall include the amount described in subdivision (*iii*) and shall also include 1 or more of the following penalties:

(A) If the amount obtained or withheld from payment as a result of the knowing violation is $100,000.00 or less, then 1 of the following:

(I) Imprisonment for not more than 1 year.

(II) The performance of community service of not more than 1 year but not to exceed 2,080 hours.

(III) A combination of (I) and (II) that does not exceed 1 year.

(B) If the amount obtained or withheld from payment as a result of the knowing violation is more than $100,000.00, then 1 of the following:

(I) Imprisonment for not more than 2 years.

(II) The performance of community service of not more than 2 years but not to exceed 4,160 hours.

(III) A combination of (I) and (II) that does not exceed 2 years.

(b) Any employing unit or an officer or agent of an employing unit, a claimant, an employee of the commission, or any other person who makes a false statement or representation knowing it to be false, or knowingly and willfully with intent to defraud fails to disclose a material fact, to obtain or increase a benefit or other payment under this act or under the unemployment compensation law of any state or of the federal government, either for himself or herself or any other person, to prevent or reduce the payment of benefits to an individual entitled thereto or to avoid becoming or remaining a subject employer, or to avoid or reduce a contribution or other payment required from an employing unit under this act or under the unemployment compensation law of any state or of the federal government, as applicable, is punishable as follows, notwithstanding any other penalties imposed under any other statute of this state or of the United States:

(*i*) If the amount obtained as a result of the knowing false statement or representation or the knowing and willful failure to disclose a material fact is less than $500.00, the commission may recover the amount obtained as a result of the knowing false statement or representation or the knowing and willful failure to disclose a material fact and may also recover damages equal to 2 times that amount.

(*ii*) If the amount obtained as a result of the knowing false statement or representation or the knowing and willful failure to disclose a material fact is $500.00 or more, the commission shall attempt to recover the amount obtained as a result of the knowing false statement or representation or the knowing and willful failure to disclose a material fact and may also recover damages equal to 4 times that amount. The commission may refer the matter to the prosecuting attorney of the county in which the alleged violation occurred for prosecution. If the commission has not made its own determination under this subdivision, the penalty sought by the prosecutor shall include the amount described in this subdivision and shall also include 1 or more of the following penalties if the amount obtained is $1,000.00 or more:

(A) If the amount obtained or withheld from payment as a result of the knowing false statement or representation or the knowing and willful failure to disclose a material fact is $1,000.00 or more but less than $25,000.00, then 1 of the following:

(I) Imprisonment for not more than 1 year.

(II) The performance of community service of not more than 1 year but not to exceed 2,080 hours.

(III) A combination of (I) and (II) that does not exceed 1 year.

(B) If the amount obtained or withheld from payment as a result of the knowing false statement or representation or the knowing and willful failure to disclose a material fact is $25,000.00 or more, then 1 of the following:

(I) Imprisonment for not more than 2 years.

(II) The performance of community service of not more than 2 years but not to exceed 4,160 hours.

(III) A combination of (I) and (II) that does not exceed 2 years.

(C) If the knowing false statement or representation or the knowing and willful failure to disclose a material fact made to obtain or withhold an amount from payment does not result in a loss to the commission, then a penalty shall be sought equal to 3 times the amount that would have been obtained by the knowing false statement or representation or the knowing and willful failure to disclose a material fact, but not less than $1,000.00, and 1 of the following:

(I) Imprisonment for not more than 2 years.

(II) The performance of community service of not more than 2 years but not to exceed 4,160 hours.

(III) A combination of (I) and (II) that does not exceed 2 years.

(c)(1) Any employing unit or an officer or agent of an employing unit or any other person failing to submit, when due, any contribution report, wage and employment report, or other reports lawfully prescribed and required by the commission shall be subject to the assessment of a penalty for each report not submitted within the time prescribed by the commission, as follows: In the case of contribution reports not received within 10 days after the end of the reporting month the penalty shall be 10% of the contributions due on the reports but not less than $5.00 or more than $25.00 for a report. However, if the tenth day falls on a Saturday, Sunday, legal holiday, or other commission nonwork day, the 10-day period shall run until the end of the next day which is not a Saturday, Sunday, legal holiday, or other commission nonwork day. In the case of all other reports referred to in this subsection the penalty shall be $10.00 for a report.

(2) Notwithstanding subdivision (1), any employer or an officer or agent of an employer or any other person failing to submit, when due, any quarterly wage detail report required by section 13(2) shall be subject to a penalty of $25.00 for each untimely report.

(3) When a report is filed after the prescribed time and it is shown to the satisfaction of the commission that the failure to submit the report was due to reasonable cause, a penalty shall not be imposed. The assessment of a penalty as provided in this subsection shall constitute a determination which shall be final unless the employer files with the commission an application for a redetermination of the assessment in accordance with section 32a.

(d) If any commissioner, employee, or agent of the commission or member of the appeal board willfully makes a disclosure of confidential information obtained from any employing unit or individual in the administration of this act for any purpose inconsistent with or contrary to the purposes of this act, or a person who having obtained a list of applicants for work, or of claimants or recipients of benefits, under this act shall use or permit the use of that list for a

political purpose or for a purpose inconsistent with or contrary to the purposes of this act, he or she is guilty of a misdemeanor and upon conviction shall be punished by imprisonment for not more than 90 days, or by a fine of not more than $1,000.00, or both. Notwithstanding the preceding sentence, if any commissioner, commission employee, agent of the commission, or member of the board of review knowingly, intentionally, and for financial gain, makes an illegal disclosure of confidential information obtained under section 13(2), he or she is guilty of a felony, punishable by imprisonment for not more than 1 year and 1 day.

(e) A person who, without proper authority from the commission, represents himself or herself to be an employee of the commission to an employing unit or person for the purpose of securing information regarding the unemployment or employment record of an individual is guilty of a misdemeanor and upon conviction shall be punished by imprisonment for not more than 90 days, or by a fine of not more than $1,000.00, or both.

(f) A person associated with a college, university, or public agency of this state who makes use of any information obtained from the commission in connection with a research project of a public service nature, in a manner as to reveal the identity of any individual or employing unit from or concerning whom the information was obtained by the commission, or for any purpose other than use in connection with that research project, is guilty of a misdemeanor and upon conviction shall be punished by imprisonment for not more than 90 days, or by a fine of not more than $1,000.00, or both.

(g) As used in this section, "person" includes an individual, copartnership, joint venture, corporation, receiver, or trustee in bankruptcy.

(h) This section shall apply even if the amount obtained or withheld from payment has been reported or reported and paid by an individual involved in a violation of subsection (a) or (b).

(i) If a determination is made that an individual has violated this section, the individual is subject to the penalty provisions of this section and, where applicable, the requirements of section 62.

(j) Amounts recovered by the commission under subsection (a) or (b) shall be credited first to the unemployment compensation fund and thereafter amounts recovered that are in excess of the amounts obtained or withheld as a result of the violation of subsection (a) and (b) shall be credited to the penalty and interest account of the contingent fund. Fines and penalties recovered by the commission under subsections (c), (d), (e), and (f) shall be credited to the penalty and interest account of the contingent fund in accordance with section 10(6).

(k) The revisions in the penalties in subsections (a) and (b) provided by the 1991 amendatory act that added this subsection shall apply to conduct that began before April 1, 1992, but that continued on or after April 1, 1992, and to conduct that began on or after April 1, 1992.

Sec. 54c. (1) An employing unit or an officer or agent of an employing unit, a claimant for unemployment benefits, an employee of the commission, or a third party that has knowingly or willfully appropriated or converted to his, her, or its own use money to be used for the payment of benefits under this act or money received as the payment of contribution liability under this act is guilty of embezzlement punishable as follows:

(a) If the amount obtained as a result of the knowing or willful appropriation or conversion of money is less than $500.00, the commission may recover the amount obtained as a result of the knowing or willful appropriation or conversion of money and may also recover damages equal to 2 times that amount.

(b) If the amount obtained as a result of the knowing or willful appropriation or conversion of money is $500.00 or more, the commission shall attempt to recover the amount obtained as a result of the knowing or willful appropriation or conversion of money and may also recover damages equal to 4 times that amount. The commission may refer the matter to the prosecuting attorney of the county in which the alleged violation occurred for prosecution. If the commission has not made its own determination under this subdivision, the penalty sought by the prosecutor shall include the amount described in this subdivision and shall also include 1 of the following applicable penalties if the amount obtained is $1,000.00 or more:

(*i*) If the amount obtained or withheld from payment as a result of the knowing or willful appropriation or conversion of money is $1,000.00 or more but less than $25,000.00, then 1 of the following:

(A) Imprisonment for not more than 1 year.

(B) The performance of community service of not more than 1 year but not to exceed 2,080 hours.

(C) A combination of (A) and (B) that does not exceed 1 year.

(*ii*) If the amount obtained or withheld from payment as a result of the knowing or willful appropriation or conversion of money is $25,000.00 or more but less than $100,000.00, then 1 of the following:

(A) Imprisonment for not more than 2 years.

(B) The performance of community service of not more than 2 years but not to exceed 4,160 hours.

(C) A combination of (A) and (B) that does not exceed 2 years.

(*iii*) If the amount obtained or withheld from payment as a result of the knowing or willful appropriation or conversion of money is $100,000.00 or more, then 1 of the following:

(A) Imprisonment for not more than 5 years.

(B) The performance of community service of not more than 5 years but not to exceed 10,400 hours.

(C) A combination of (A) and (B) that does not exceed 5 years.

(*iv*) If the knowing or willful appropriation or conversion of money made to obtain or withhold an amount from payment does not result in a loss to the commission, then a penalty shall be sought equal to 3 times the amount that would have been obtained by the knowing or willful appropriation or conversion of money, but not less than $1,000.00, and 1 of the following:

(A) Imprisonment for not more than 2 years.

(B) The performance of community service of not more than 2 years but not to exceed 4,160 hours.

(C) A combination of (A) and (B) that does not exceed 2 years.

(2) This section shall apply even if the amount obtained or withheld from payment has been reported or reported and paid by an individual involved in the embezzlement.

(3) This section applies to conduct that began before April 1, 1992 but that continued on or after April 1, 1992 and to conduct that began on or after April 1, 1992.

(4) The penalties provided in this section shall be in addition to any penalty provided in this act for a late filing.

(5) If a determination is made that an individual has violated this section, the individual is subject to the penalty provisions of this section and, where applicable, the requirements of section 62.

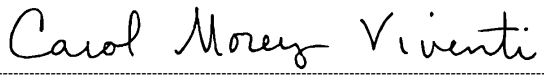
(6) The amount recovered by the commission pursuant to subsection (1)(a) or (b) shall be credited first to the unemployment compensation fund and thereafter amounts recovered that are in excess of the amounts obtained as a result of the embezzlement shall be credited to the penalty and interest account of the contingent fund.

(7) This section shall take effect April 1, 1992.

Enacting section 1. Section 3b of the Michigan employment security act, 1936 (Ex Sess) PA 1, MCL 421.3b, is repealed.

This act is ordered to take immediate effect.

Clerk of the House of Representatives.



Secretary of the Senate.

Approved _____

_____

Governor.