

HOUSE BILL No. 5742

March 22, 2018, Introduced by Reps. Sabo, Hertel, LaGrand, Bellino, Elder, Cambensy, Guerra, Green, Yanez, Wittenberg, Gay-Dagnogo, Dianda, Cochran, Peterson, Chirkun, Rabhi, Lasinski, Pagan, Garrett, Sowerby, Singh, Faris, Moss, Camilleri, Greig, Geiss, Hammoud, Hoadley, Durhal, Jones and Love and referred to the Committee on Commerce and Trade.

A bill to amend 1936 (Ex Sess) PA 1, entitled
"Michigan employment security act,"
by amending section 27 (MCL 421.27), as amended by 2016 PA 522.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 27. (a) (1) When a determination, redetermination, or
2 decision is made that benefits are due an unemployed individual,
3 the benefits become payable from the fund and continue to be
4 payable to the unemployed individual, subject to the limitations
5 imposed by the individual's monetary entitlement, if the individual
6 continues to be unemployed and to file claims for benefits, until
7 the determination, redetermination, or decision is reversed ~~—OR~~ a
8 determination, redetermination, or decision on a new issue holding
9 the individual disqualified or ineligible is made. ~~—or, for~~
10 ~~benefit years beginning before October 1, 2000, a new separation~~

~~issue arises resulting from subsequent work.~~

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

(b)(1) Subject to subsection (f), ~~the weekly benefit rate for an individual, with respect to benefit years beginning before October 1, 2000, is 67% of the individual's average after tax weekly wage, except that the individual's maximum weekly benefit rate must not exceed \$300.00. However, with respect to~~ **FOR** benefit years beginning on or after October 1, 2000, ~~the~~ **AN** individual's weekly benefit rate is 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 (4), 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~~ **AN** individual's maximum weekly benefit rate must not exceed ~~\$300.00~~ **\$362.00 FOR CLAIMS FILED** before ~~April 26, 2002~~ **JANUARY 1, 2019** and ~~\$362.00~~ **\$542.00** for claims filed on and after ~~April 26, 2002~~. The weekly benefit rate for an individual claiming benefits on and after April 26, 2002 must be recalculated subject to the \$362.00 maximum weekly benefit rate. **JANUARY 1, 2019 AND MUST BE ADJUSTED TO THE NEXT LOWER MULTIPLE OF \$1.00. IN ADDITION, AN INDIVIDUAL SHALL RECEIVE \$20.00 PER WEEK FOR EACH DEPENDENT, UP TO A MAXIMUM OF 6 DEPENDENTS, CLAIMED BY THE INDIVIDUAL AT THE TIME THE INDIVIDUAL FILES A NEW CLAIM FOR BENEFITS.** The unemployment agency shall establish the procedures necessary to verify the number of dependents claimed. If

1 ~~a person~~ **AN INDIVIDUAL** fraudulently claims a dependent, ~~that person~~
2 **HE OR SHE** is subject to the penalties set forth in sections 54 and
3 54c. ~~For benefit years beginning on or after October 2, 1983, the~~
4 ~~weekly benefit rate must be adjusted to the next lower multiple of~~
5 ~~\$1.00.~~ **FOR BENEFIT YEARS BEGINNING ON OR AFTER JANUARY 1, 2020, THE**
6 **UNEMPLOYMENT AGENCY SHALL ADJUST THE MAXIMUM WEEKLY BENEFIT RATE TO**
7 **AN AMOUNT EQUAL TO 58% OF THE STATE AVERAGE WEEKLY WAGE.**

8 (2) For benefit years beginning ~~before October 1, 2000,~~ **ON OR**
9 **AFTER JANUARY 1, 2019,** the state average weekly wage for a calendar
10 year is computed on the basis of the 12 months ending the June 30
11 immediately ~~before~~ **PRECEDING** that calendar year.

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

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

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

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

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

13 (4) For benefit years beginning on or after October 1, 2000, a
14 dependent means any of the following ~~persons~~**INDIVIDUALS** who
15 received for at least 90 consecutive days immediately before the
16 first week of the benefit year or, in the case of a dependent
17 husband, wife, or child, for the duration of the marital or
18 parental relationship if the relationship existed less than 90 days
19 before the beginning of the benefit year, has received more than
20 1/2 the cost of his or her support from the individual claiming the
21 benefits:

22 (a) A child, including stepchild, adopted child, or grandchild
23 of the individual who is under 18 years of age, or 18 years of age
24 and over if, because of physical or mental infirmity, the child is
25 unable to engage in a gainful occupation, or is a full-time student
26 as defined by the particular educational institution, at a high
27 school, vocational school, community or junior college, or college

1 or university and has not attained the age of 22.

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

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

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

15 (5) The number of dependents established for an individual at
16 the beginning of the benefit year ~~shall remain~~ **REMAINS** in effect
17 during the entire benefit year.

18 (6) Dependency status of a dependent, child or otherwise, once
19 established or fixed in favor of ~~a person~~ **AN INDIVIDUAL** is not
20 transferable to or usable by another ~~person~~ **INDIVIDUAL** with respect
21 to the same week.

22 Failure on the part of an individual, ~~due to~~ **BECAUSE OF**
23 misinformation or lack of information, to furnish all information
24 material for determination of the number of the individual's
25 dependents is good cause to issue a redetermination as to the
26 amount of benefits based on the number of the individual's
27 dependents as of the beginning of the benefit year.

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

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

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

25 ~~(3) An individual who receives or earns partial remuneration~~
26 ~~may not receive a total of benefits and earnings that exceeds 1-3/5~~
27 ~~times his or her weekly benefit amount. For each dollar of total~~

~~benefits and earnings that exceeds 1-3/5 times the individual's weekly benefit amount, benefits are reduced by \$1.00. Beginning October 1, 2015, the~~ **THE** total benefits and earnings for an individual who receives or earns partial remuneration may not exceed 1-1/2 times his or her weekly benefit amount. The individual's benefits are reduced by \$1.00 for each dollar by which the total benefits and earnings exceed 1-1/2 times the individual's weekly benefit amount.

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

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

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

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

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

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

(d) 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(d) 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~~ **IS** 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 is rounded down to the nearest half number. ~~However, for each eligible individual filing an initial claim before January 15, 2012, not more than 26 weeks of benefits or less than 14 weeks of benefits are payable to an individual in a benefit year. For each eligible individual filing an initial claim on or after January 15, 2012, _____, not more than 20-26 weeks of benefits or less than 14 weeks of benefits are payable to an individual in a benefit year. The limitation of total benefits set forth in this subsection does not apply to claimants declared eligible for training benefits in accordance with-~~ **PURSUANT TO** subsection (g).

(e) When a claimant dies or is judicially declared insane or mentally incompetent, unemployment compensation benefits accrued and payable to ~~that person~~ **THE CLAIMANT** for weeks of unemployment before death, insanity, or incompetency, but not paid, 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~~

1 **UNEMPLOYMENT AGENCY** to be equitably entitled to the benefits by
2 reason of having incurred expense in behalf of the claimant for the
3 claimant's burial or other necessary expenses.

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

15 (a) If and to the extent that unemployment benefits payable
16 under this act would be chargeable to an employer who has
17 contributed to the financing of a retirement plan under which the
18 claimant is receiving or will receive a retirement benefit yielding
19 a pro rata weekly amount equal to or larger than the claimant's
20 weekly benefit rate as otherwise established under this act, the
21 claimant must not receive unemployment benefits that would be
22 chargeable to the employer under this act.

23 (b) If and to the extent that unemployment benefits payable
24 under this act would be chargeable to an employer who has
25 contributed to the financing of a retirement plan under which the
26 claimant is receiving or will receive a retirement benefit yielding
27 a pro rata weekly amount less than the claimant's weekly benefit

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

7 (c) If the unemployment benefit payable under this act would
8 be chargeable to an employer who has not contributed to the
9 financing of a retirement plan under which the claimant is
10 receiving or will receive a retirement benefit, then the weekly
11 benefit rate of the claimant as otherwise established under this
12 act is not reduced ~~due to receipt of~~ **BECAUSE THE CLAIMANT IS**
13 **RECEIVING OR WILL RECEIVE** a retirement benefit.

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

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

27 (3) When necessary to assure prompt payment of benefits, the

1 ~~commission~~**UNEMPLOYMENT AGENCY** shall determine the pro rata weekly
 2 amount yielded by an individual's retirement benefit based on the
 3 best information currently available to it. In the absence of
 4 fraud, a determination must not be reconsidered unless it is
 5 established that the individual's actual retirement benefit in fact
 6 differs from the amount determined by \$2.00 or more per week. The
 7 reconsideration applies only to benefits that may be claimed after
 8 the information on which the reconsideration is based was received
 9 by the ~~commission~~**UNEMPLOYMENT AGENCY**.

10 (4) (a) As used in this subsection, "retirement benefit" means
 11 a benefit, annuity, or pension of any type or ~~that~~**A** part thereof
 12 ~~that is~~**AS** described in subparagraph (b) that is both:

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

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

23 (b) If a benefit as described in subparagraph (a) is payable
 24 or paid to ~~the~~**AN** individual under a plan to which the individual
 25 has contributed, **THE BENEFIT IS TREATED AS FOLLOWS:**

26 (i) ~~Less~~**IF THE INDIVIDUAL HAS CONTRIBUTED LESS** than 1/2 of
 27 the cost of the benefit, then only 1/2 of the benefit is treated as

1 a retirement benefit.

2 (ii) ~~One-half~~ **IF THE INDIVIDUAL HAS CONTRIBUTED 1/2** or more of
3 the cost of the benefit, then none of the benefit is treated as a
4 retirement benefit.

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

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

20 (6) For benefit years beginning on or after October 1, 2000,
21 notwithstanding any inconsistent provisions of this act, the weekly
22 benefit rate of each individual who is receiving or will receive a
23 retirement benefit, as defined in subdivision (4), is adjusted as
24 provided in subparagraphs (a), (b), and (c). However, an
25 individual's extended benefit account and an individual's weekly
26 extended benefit rate under section 64 is established without
27 reduction under this subsection, unless subdivision (5) is in

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

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

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

26 (c) If no base period **EMPLOYER** or separating employer has
27 contributed to the financing of a retirement plan under which the

1 claimant is receiving or will receive a retirement benefit, then
2 the weekly benefit rate of the claimant as otherwise established
3 under this act ~~shall~~ **IS** not ~~be reduced due to receipt of~~ **BECAUSE**
4 **THE CLAIMANT IS RECEIVING OR WILL RECEIVE** a retirement benefit.

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

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

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

1 that **THE FOLLOWING APPLY:**

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

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

1 individual performs the service in the first of the academic years
2 or terms and if there is a reasonable assurance that the individual
3 will perform the service for an institution of higher education or
4 an educational institution other than an institution of higher
5 education in the second of the academic years or terms.

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

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

25 (5) ~~Benefits~~ **THE UNEMPLOYMENT AGENCY SHALL NOT DENY BENEFITS**
26 **THAT ARE** based ~~upon~~ **ON** services in other than an instructional,
27 research, or principal administrative capacity for an institution

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

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

1 (7) For benefit years beginning on or after October 1, 2000,
2 and notwithstanding subdivisions (1), (2), and (3), the denial of
3 benefits does not prevent an individual from completing
4 requalifying weeks in accordance with section 29(3) and does not
5 prevent an individual from receiving benefits based on service with
6 another base period employer other than an educational institution
7 for any week of unemployment occurring between academic years or
8 terms, whether or not successive, or during an established and
9 customary vacation period or holiday recess. However, if benefits
10 are paid based on service with 1 or more base period employers
11 other than an educational institution, the individual's weekly
12 benefit rate is calculated in accordance with subsection (b)(1) but
13 during the denial period the individual's weekly benefit payment is
14 reduced by the portion of the payment attributable to base period
15 wages paid by an educational institution and the account or
16 experience account of the educational institution is not charged
17 for benefits payable to the individual. When a denial of benefits
18 under subdivision (1) is no longer applicable, benefits are paid
19 and charged on the basis of base period wages with each of the base
20 period employers including the educational institution.

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

27 (9) In accordance with subdivisions (1), (2), and (3),

1 benefits for any week of unemployment are denied to an individual
2 who performed services described in subdivision (1), (2), or (3) in
3 an educational institution while in the employ of an educational
4 service agency. For the purpose of this subdivision, "educational
5 service agency" means a governmental agency or governmental entity
6 that is established and operated exclusively for the purpose of
7 providing the services to 1 or more educational institutions.

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

17 (k) (1) Benefits are not payable on the basis of services
18 performed by an alien unless the alien is an individual who was
19 lawfully admitted for permanent residence at the time the services
20 were performed, was lawfully present for the purpose of performing
21 the services, or was permanently residing in the United States
22 under color of law at the time the services were performed,
23 including an alien who was lawfully present in the United States
24 under section 212(d)(5) of the immigration and nationality act, 8
25 USC 1182.

26 (2) Any data or information required of individuals applying
27 for benefits to determine whether benefits are payable because of

1 their alien status are uniformly required from all applicants for
2 benefits.

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

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

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

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

22 (b) The amount, if any, determined pursuant to an agreement
23 submitted to the ~~commission~~ **UNEMPLOYMENT AGENCY** under 42 USC
24 654(19)(B)(i), by the state or local child support enforcement
25 agency.

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

1 defined in 42 USC 659(i)(5), properly served upon the
2 ~~commission~~. **UNEMPLOYMENT AGENCY.**

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

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

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

16 (6) Provisions concerning deductions under this subsection
17 apply only if the state or local child support enforcement agency
18 agrees in writing to reimburse and does reimburse the unemployment
19 agency for the administrative costs incurred by the unemployment
20 agency under this subsection that are attributable to child support
21 obligations being enforced by the state or local child support
22 enforcement agency. The administrative costs incurred are
23 determined by the unemployment agency. The unemployment agency, in
24 its discretion, may require payment of administrative costs in
25 advance.

26 (7) As used in this subsection:

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

(1) to (5), means any compensation payable under this act, including amounts payable by the unemployment agency pursuant to an agreement under any federal law providing for compensation, assistance, or allowances with respect to unemployment.

(b) "Child support obligations" ~~includes~~ **MEANS** only obligations that are being enforced pursuant to a plan described in 42 USC 654 that has been approved by the Secretary of Health and Human Services under 42 USC 651 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. Subsection (i)(1) and (2) but not subsection (i)(3) applies to other services described in those subdivisions that are performed by any employees under an employer's contract with an educational institution or an educational service agency.

~~(o)(1) For weeks of unemployment beginning after July 1, 1996,~~
~~unemployment~~ **UNEMPLOYMENT** benefits based on services by a seasonal worker performed in seasonal employment are payable only for weeks of unemployment that occur during the normal seasonal work period. Benefits are not payable 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

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

15 (2) Not less than 20 days before the estimated beginning date
16 of a normal seasonal work period, an employer may apply to the
17 ~~commission~~ **UNEMPLOYMENT AGENCY** in writing for designation as a
18 seasonal employer. At the time of application, the employer shall
19 conspicuously display a copy of the application on the employer's
20 premises. Within 90 days after receipt of the application, the
21 ~~commission~~ **UNEMPLOYMENT AGENCY** shall determine if the employer is a
22 seasonal employer. A determination or redetermination of the
23 ~~commission~~ **UNEMPLOYMENT AGENCY** concerning the status of an employer
24 as a seasonal employer, or a decision of an administrative law
25 judge, the Michigan compensation appellate commission, or the
26 courts of this state concerning the status of an employer as a
27 seasonal employer, ~~which~~ **THAT** has become final, together with the

1 record, ~~thereof~~, may be introduced in any proceeding involving a
2 claim for benefits, and the facts found and decision issued in the
3 determination, redetermination, or decision ~~is~~ **ARE** conclusive
4 unless substantial evidence to the contrary is introduced by or on
5 behalf of the claimant.

6 (3) If the ~~employer is determined to be~~ **UNEMPLOYMENT AGENCY**
7 **DETERMINES THAT AN EMPLOYER IS** a seasonal employer, the employer
8 shall conspicuously display on its premises a notice ~~of~~ **THAT**
9 **INCLUDES** the determination, ~~and the~~ beginning and ending dates of
10 the employer's normal seasonal work periods, ~~. The commission shall~~
11 ~~furnish the notice. The notice must additionally specify~~ **AND A**
12 **STATEMENT** that an employee must timely apply for unemployment
13 benefits at the end of a first seasonal work period to preserve his
14 or her right to receive retroactive unemployment benefits if he or
15 she is not reemployed by the seasonal employer in the second of the
16 normal seasonal work periods. **THE UNEMPLOYMENT AGENCY SHALL PROVIDE**
17 **THE NOTICE TO THE EMPLOYER.**

18 (4) The ~~commission~~ **UNEMPLOYMENT AGENCY** may issue a
19 determination terminating an employer's status as a seasonal
20 employer on the ~~commission's~~ **UNEMPLOYMENT AGENCY'S** own motion for
21 good cause, or upon the written request of the employer. A
22 termination determination under this subdivision terminates an
23 employer's status as a seasonal employer, and becomes effective on
24 the beginning date of the normal seasonal work period that would
25 have immediately followed the date the ~~commission~~ **UNEMPLOYMENT**
26 **AGENCY** issues the determination. A determination under this
27 subdivision is subject to review in the same manner and to the same

1 extent as any other determination under this act.

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

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

14 (7) A successor of a seasonal employer is considered to be a
15 seasonal employer unless the successor provides the ~~commission,~~
16 **UNEMPLOYMENT AGENCY**, within 120 days after the transfer, with a
17 written request for termination of its status as a seasonal
18 employer ~~in accordance with~~ **PURSUANT TO** subdivision (4).

19 (8) At the time an employee is hired by a seasonal employer,
20 the employer shall notify the employee in writing if the employee
21 will be a seasonal worker. The employer shall provide the worker
22 with written notice of any subsequent change in the employee's
23 status as a seasonal worker. If an employee of a seasonal employer
24 is denied benefits because that employee is a seasonal worker, the
25 employee may contest that designation in accordance with section
26 32a.

27 (9) As used in this subsection:

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

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

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

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

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

24 (10) This subsection does not apply if the United States
25 Department of Labor finds it to be contrary to the federal
26 unemployment tax act, 26 USC 3301 to 3311, or the social security
27 act, chapter 531, 49 Stat 620, and if conformity with the federal

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

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

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