

# HOUSE BILL NO. 5884

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

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

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 27. (a) (1) When a determination, redetermination, or  
2 decision is made that benefits are due an unemployed individual,  
3 the benefits become payable from the fund and continue to be  
4 payable to the unemployed individual, subject to the limitations  
5 imposed by the individual's monetary entitlement, if the individual  
6 continues to be unemployed and to file claims for benefits, until



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

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

9 (b) (1) Subject to subsection (f), ~~the weekly benefit rate for~~  
10 ~~an individual, with respect to benefit years beginning before~~  
11 ~~October 1, 2000, is 67% of the individual's average after tax~~  
12 ~~weekly wage, except that the individual's maximum weekly benefit~~  
13 ~~rate must not exceed \$300.00. However, with respect to **for** benefit~~  
14 years beginning on or after October 1, 2000, ~~the~~**an** individual's  
15 weekly benefit rate is 4.1% of the individual's wages paid in the  
16 calendar quarter of the base period in which the individual was  
17 paid the highest total wages, plus \$6.00 for each dependent as  
18 defined in subdivision (4), up to a maximum of 5 dependents,  
19 claimed by the individual at the time the individual files a new  
20 claim for benefits, except that the individual's maximum weekly  
21 benefit rate must not exceed \$300.00 before April 26, 2002 and  
22 \$362.00 for claims filed on and after April 26, 2002. The weekly  
23 benefit rate for an individual claiming benefits on and after April  
24 26, 2002 must be recalculated subject to the \$362.00 maximum weekly  
25 benefit rate. **For benefit years beginning on or after June 1, 2020,**  
26 **an individual's weekly benefit rate is 6.1% of the individual's**  
27 **wages paid in the calendar quarter of the base period in which the**  
28 **individual was paid the highest total wages, except that the**  
29 **individual's maximum weekly benefit rate must not exceed \$542.00.**



1 **Notwithstanding the \$542.00 maximum, an individual shall receive**  
2 **\$20.00 per week for each dependent, up to a maximum of 6**  
3 **dependents, claimed by the individual at the time the individual**  
4 **files a new claim for benefits.** The unemployment agency shall  
5 establish the procedures necessary to verify the number of  
6 dependents claimed. If a person fraudulently claims a dependent,  
7 that person is subject to the penalties set forth in sections 54  
8 and 54c. For benefit years beginning on or after October 2, 1983,  
9 the weekly benefit rate must be adjusted to the next lower multiple  
10 of \$1.00.

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

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

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



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

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

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

14 (4) For benefit years beginning on or after October 1, 2000, a  
15 dependent means any of the following persons who received for at  
16 least 90 consecutive days immediately before the first week of the  
17 benefit year or, in the case of a dependent husband, wife, or  
18 child, for the duration of the marital or parental relationship if  
19 the relationship existed less than 90 days before the beginning of  
20 the benefit year, has received more than 1/2 the cost of his or her  
21 support from the individual claiming the 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  
28 or university and has not attained the age of 22.

29 (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 and 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 (5) The number of dependents established for an individual at  
 14 the beginning of the benefit year shall remain in effect during the  
 15 entire benefit year.

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

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

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

27 (1) Each eligible individual must be paid a weekly benefit  
 28 rate with respect to the week for which the individual earns or  
 29 receives no remuneration. Notwithstanding the definition of week in



1 section 50, if within 2 consecutive weeks in which an individual  
2 was not unemployed within the meaning of section 48 there was a  
3 period of 7 or more consecutive days for which the individual did  
4 not earn or receive remuneration, that period is considered a week  
5 for benefit purposes under this act if a claim for benefits for  
6 that period is filed not later than 30 days after the end of the  
7 period.

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

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



1 amount.

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

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

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

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

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

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

23 (d) Subject to subsection (f) and this subsection, the maximum  
24 benefit amount payable to an individual in a benefit year for  
25 purposes of this section and section 20(d) is the number of weeks  
26 of benefits payable to an individual during the benefit year,  
27 multiplied by the individual's weekly benefit rate. The number of  
28 weeks of benefits payable to an individual shall be calculated by  
29 taking 43% of the individual's base period wages and dividing the



1 result by the individual's weekly benefit rate. If the quotient is  
2 not a whole or half number, the result is rounded down to the  
3 nearest half number. However, for each eligible individual filing  
4 an initial claim before January 15, 2012, not more than 26 weeks of  
5 benefits or less than 14 weeks of benefits are payable to an  
6 individual in a benefit year. For each eligible individual filing  
7 an initial claim on or after January 15, 2012, not more than 20  
8 weeks of benefits or less than 14 weeks of benefits are payable to  
9 an individual in a benefit year. The limitation of total benefits  
10 set forth in this subsection does not apply to claimants declared  
11 eligible for training benefits in accordance with subsection (g).

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

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



1 provisions of this act continue to apply in connection with the  
2 benefit claims of those retired persons.

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

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

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

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



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

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

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

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

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

28 (ii) Payable to an individual because the individual has  
 29 qualified on the basis of attained age, length of service, or



1 disability, whether or not the individual retired or was retired  
2 from employment. Amounts paid to individuals in the course of  
3 liquidation of a private pension or retirement fund because of  
4 termination of the business or of a plant or department of the  
5 business of the employer involved are not retirement benefits.

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

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

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

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

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

28 (6) For benefit years beginning on or after October 1, 2000,  
29 notwithstanding any inconsistent provisions of this act, the weekly



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

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

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



1 lower multiple of \$1.00, which the claimant is receiving or will  
2 receive as a retirement benefit.

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

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

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

27 (i) Benefits based on service in employment described in  
28 section 42(8), (9), and (10) are payable in the same amount, on the  
29 same terms, and subject to the same conditions as compensation



1 payable on the basis of other service subject to this act, except  
2 that:

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

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



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

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

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

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



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

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

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



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

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

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

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



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

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

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

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

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



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

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

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

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

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

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

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

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



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

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

13 (7) As used in this subsection:

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

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

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

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



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

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

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



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

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

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



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

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

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

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

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



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

3 (9) As used in this subsection:

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

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

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

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

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

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



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

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

