

SENATE BILL NO. 453

August 20, 2019, Introduced by Senator WOJNO 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 ~~, or a~~
 2 determination, redetermination, or decision on a new issue holding
 3 the individual disqualified or ineligible is made. ~~, or, for~~
 4 benefit years beginning before October 1, 2000, a new separation
 5 issue 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. The unemployment agency shall establish the
 26 procedures necessary to verify the number of dependents claimed. If
 27 ~~a person~~ **an individual** fraudulently claims a dependent, that ~~person~~
 28 **individual** is subject to the penalties set forth in sections 54 and
 29 54c. For benefit years beginning on or after October 2, 1983, the

1 weekly benefit rate must be adjusted to the next lower multiple of
2 \$1.00.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 the end of the period.

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

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

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

29 (5) All remuneration for work performed during a shift that

1 terminates on 1 day but that began on the preceding day is
2 considered to have been earned by the eligible individual on the
3 preceding day.

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

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

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

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

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

1 an initial claim on or after January 15, 2012, not more than 20
2 weeks of benefits or less than 14 weeks of benefits are payable to
3 an individual in a benefit year. **For each eligible individual**
4 **filing an initial claim on or after the effective date of the**
5 **amendatory act that added this sentence, not more than 26 weeks of**
6 **benefits or less than 14 weeks of benefits are payable to an**
7 **individual in a benefit year.** The limitation of total benefits set
8 forth in this subsection does not apply to claimants declared
9 eligible for training benefits ~~in accordance with~~ **pursuant to**
10 subsection (g).

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

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

1 benefit claims of those retired ~~persons~~**individuals**.

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

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

21 (c) If the unemployment benefit payable under this act would
22 be chargeable to an employer who has not contributed to the
23 financing of a retirement plan under which the claimant is
24 receiving or will receive a retirement benefit, then the weekly
25 benefit rate of the claimant as otherwise established under this
26 act is not reduced ~~due to receipt of~~**because the claimant is**
27 **receiving or will receive** 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~~a part thereof,
24 that is described in subparagraph (b) ~~that~~**and** is both **of the**
25 **following:**

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

29 (ii) Payable to an individual because the individual has

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

7 (b) If a benefit as described in subparagraph (a) is payable
8 or paid to ~~the~~**an** individual under a plan to which the individual
9 has contributed, **the benefit is treated as follows:**

10 (i) ~~Less~~**If the individual has contributed less** than 1/2 of the
11 cost of the benefit, then only 1/2 of the benefit is treated as a
12 retirement benefit.

13 (ii) ~~One-half~~**If the individual has contributed 1/2** or more of
14 the cost of the benefit, then none of the benefit is treated as a
15 retirement benefit.

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

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

1 federal unemployment tax act, 26 USC 3301 to 3311.

2 (6) For benefit years beginning on or after October 1, 2000,
3 notwithstanding any inconsistent provisions of this act, the weekly
4 benefit rate of each individual who is receiving or will receive a
5 retirement benefit, as defined in subdivision (4), is adjusted as
6 provided in subparagraphs (a), (b), and (c). However, an
7 individual's extended benefit account and an individual's weekly
8 extended benefit rate under section 64 is established without
9 reduction under this subsection, unless subdivision (5) is in
10 effect. Except as otherwise provided in this subsection, all the
11 other provisions of this act apply to the benefit claims of those
12 retired ~~persons~~ **individuals**. However, if the reduction would
13 impair the full tax credit against the tax imposed by the federal
14 unemployment tax act, 26 USC 3301 to 3311, unemployment benefits
15 are not reduced as provided in subparagraphs (a), (b), and (c) for
16 receipt of any governmental or other pension, retirement or retired
17 pay, annuity, or other similar payment that was not includable in
18 the gross income of the individual for the taxable year in which it
19 was received because it was a part of a rollover distribution.

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

26 (b) If any base period employer or chargeable employer has
27 contributed to the financing of a retirement plan under which the
28 claimant is receiving or will receive a retirement benefit yielding
29 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 is reduced by an
3 amount equal to the pro rata weekly amount, adjusted to the next
4 lower multiple of \$1.00, ~~which-that~~ the claimant is receiving or
5 will receive as a retirement benefit.

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

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

25 (h) A payment of accrued unemployment benefits is not payable
26 to an eligible individual or in behalf of that individual as
27 provided in subsection (e) more than 6 years after the ending date
28 of the benefit year covering the payment or 2 calendar years after
29 the calendar year in which there is final disposition of a

1 contested case, whichever is later.

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

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

25 (2) ~~With respect to~~ **For** service performed in other than an
26 instructional, research, or principal administrative capacity for
27 an institution of higher education as defined in section 53(2) or
28 for an educational institution other than an institution of higher
29 education as defined in section 53(3), benefits are not payable

1 based on those services for any week of unemployment ~~beginning~~
 2 ~~after December 31, 1977~~ that commences during the period between 2
 3 successive academic years or terms to any individual if that
 4 individual performs the service in the first of the academic years
 5 or terms and if there is a reasonable assurance that the individual
 6 will perform the service for an institution of higher education or
 7 an educational institution other than an institution of higher
 8 education in the second of the academic years or terms.

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

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

28 (5) ~~Benefits~~ **The unemployment agency shall not deny benefits**
 29 based ~~upon on~~ services in other than an instructional, research, or

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

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

28 (7) For benefit years beginning on or after October 1, 2000,
29 and notwithstanding subdivisions (1), (2), and (3), the denial of

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

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

25 (9) ~~In accordance with~~ **Pursuant to** subdivisions (1), (2), and
26 (3), benefits for any week of unemployment are denied to an
27 individual who performed services described in subdivision (1),
28 (2), or (3) in an educational institution while in the employ of an
29 educational service agency. For the purpose of this subdivision,

1 "educational service agency" means a governmental agency or
2 governmental entity that is established and operated exclusively
3 for the purpose of providing the services to 1 or more educational
4 institutions.

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

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

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

27 (3) If an individual's application for benefits would
28 otherwise be approved, a determination that benefits to that
29 individual are not payable because of the individual's alien status

1 must ~~not~~ be made ~~except~~ upon a preponderance of the evidence.

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

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

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

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

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

25 (3) The amount of unemployment compensation subject to
26 deduction under subdivision (2) is that portion that remains
27 payable to the individual after application of the ~~recoupment~~
28 **recovery** provisions of section 62(a) and the reduction provisions
29 of subsections (c) and (f).

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

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

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

19 (7) As used in this subsection:

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

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

29 (c) "State or local child support enforcement agency" means

1 any agency of this state or a political subdivision of this state
2 operating pursuant to a plan described in subparagraph (b).

3 (n) Subsection (i)(2) applies to services performed by school
4 bus drivers employed by a private contributing employer holding a
5 contractual relationship with an educational institution, but only
6 if at least 75% of the individual's base period wages with that
7 employer are attributable to services performed as a school bus
8 driver. Subsection (i)(1) and (2) but not subsection (i)(3) applies
9 to other services described in those subdivisions that are
10 performed by any employees under an employer's contract with an
11 educational institution or an educational service agency.

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

1 apply for any retroactive benefits under this subsection ~~in~~
2 ~~accordance with~~ **pursuant to** R 421.210 of the Michigan
3 Administrative Code.

4 (2) Not less than 20 days before the estimated beginning date
5 of a normal seasonal work period, an employer may apply to the
6 ~~commission~~ **unemployment agency** in writing for designation as a
7 seasonal employer. At the time of application, the employer shall
8 conspicuously display a copy of the application on the employer's
9 premises. Within 90 days after receipt of the application, the
10 ~~commission~~ **unemployment agency** shall determine if the employer is a
11 seasonal employer. A determination or redetermination of the
12 ~~commission~~ **unemployment agency** concerning the status of an employer
13 as a seasonal employer, or a decision of an administrative law
14 judge, the Michigan compensation appellate commission, or the
15 courts of this state concerning the status of an employer as a
16 seasonal employer, ~~which~~ **that** has become final, together with the
17 record, ~~thereof,~~ may be introduced in any proceeding involving a
18 claim for benefits, and the facts found and decision issued in the
19 determination, redetermination, or decision ~~is~~ **are** conclusive
20 unless substantial evidence to the contrary is introduced by or on
21 behalf of the claimant.

22 (3) If the **unemployment agency determines that an** employer is
23 ~~determined to be~~ a seasonal employer, the employer shall
24 conspicuously display on its premises a notice ~~of~~ **that includes** the
25 determination, ~~and~~ the beginning and ending dates of the employer's
26 normal seasonal work periods, ~~. The commission shall furnish the~~
27 ~~notice. The notice must additionally specify~~ **and a statement** that
28 an employee must timely apply for unemployment benefits at the end
29 of a first seasonal work period to preserve his or her right to

1 receive retroactive unemployment benefits if he or she is not
2 reemployed by the seasonal employer in the second of the normal
3 seasonal work periods. **The unemployment agency shall provide the**
4 **notice to the employer.**

5 (4) The ~~commission~~**unemployment agency** may issue a
6 determination terminating an employer's status as a seasonal
7 employer on the ~~commission's~~**unemployment agency's** own motion for
8 good cause, or upon the written request of the employer. A
9 termination determination under this subdivision terminates an
10 employer's status as a seasonal employer, and becomes effective on
11 the beginning date of the normal seasonal work period that would
12 have immediately followed the date the ~~commission~~**unemployment**
13 **agency** issues the determination. A determination under this
14 subdivision is subject to review in the same manner and to the same
15 extent as any other determination under this act.

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

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

28 (7) A successor of a seasonal employer is considered to be a
29 seasonal employer unless the successor provides the ~~commission,~~

1 **unemployment agency**, within 120 days after the transfer, with a
2 written request for termination of its status as a seasonal
3 employer ~~in accordance with~~ **pursuant to** subdivision (4).

4 (8) At the time an employee is hired by a seasonal employer,
5 the employer shall notify the employee in writing if the employee
6 will be a seasonal worker. The employer shall provide the worker
7 with written notice of any subsequent change in the employee's
8 status as a seasonal worker. If an employee of a seasonal employer
9 is denied benefits because that employee is a seasonal worker, the
10 employee may contest that designation in accordance with section
11 32a.

12 (9) As used in this subsection:

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

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

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

25 (d) "Seasonal employer" means an employer, other than an
26 employer in the construction industry, who applies to the
27 unemployment agency for designation as a seasonal employer and who
28 the unemployment agency determines is an employer whose operations
29 and business require employees engaged in seasonal employment. A

1 seasonal employer designation under this act need not correspond to
2 a category assigned under the North American classification system
3 – United States Office of Management and Budget.

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

7 (10) This subsection does not apply if the United States
8 Department of Labor finds it to be contrary to the federal
9 unemployment tax act, 26 USC 3301 to 3311, or the social security
10 act, chapter 531, 49 Stat 620, and if conformity with the federal
11 law is required as a condition for full tax credit against the tax
12 imposed under the federal unemployment tax act, 26 USC 3301 to
13 3311, or as a condition for receipt by the ~~commission~~**unemployment**
14 **agency** of federal administrative grant funds under the social
15 security act, chapter 531, 49 Stat 620.

16 (p) Benefits are not payable to an individual based ~~upon~~**on**
17 his or her services as a school crossing guard for any week of
18 unemployment that begins between 2 successive academic years or
19 terms, if that individual performs the services of a school
20 crossing guard in the first of the academic years or terms and has
21 a reasonable assurance that he or she will perform those services
22 in the second of the academic years or terms.