

SENATE BILL NO. 2

January 13, 2021, Introduced by Senator WOJNO and referred to the Committee on Economic and Small Business Development.

A bill to amend 1936 (Ex Sess) PA 1, entitled
"Michigan employment security act,"
by amending section 27 (MCL 421.27), as amended by 2020 PA 229.

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). Notwithstanding any other provision of this act,
 11 with respect to benefit years and claims for weeks beginning before
 12 January 1, 2021, for each eligible individual who files a claim for
 13 benefits and establishes a benefit year, not more than 26 weeks of
 14 benefits or less than 14 weeks of benefits may be payable to an
 15 individual in a benefit year.

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

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

1 individual's extended benefit account and an individual's weekly
2 extended benefit rate under section 64 is established without
3 reduction under this subsection unless subdivision (5) is in
4 effect. Except as otherwise provided in this subsection, all other
5 provisions of this act continue to apply in connection with the
6 benefit claims of those retired ~~persons~~**individuals**.

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

15 (b) 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 less than the claimant's weekly benefit
20 rate as otherwise established under this act, then the weekly
21 benefit rate otherwise payable to the claimant and chargeable to
22 the employer under this act is reduced by an amount equal to the
23 pro rata weekly amount, adjusted to the next lower multiple of
24 \$1.00, which the claimant is receiving or will receive as a
25 retirement benefit.

26 (c) If the unemployment benefit payable under this act would
27 be chargeable to an employer who has not contributed to the
28 financing of a retirement plan under which the claimant is
29 receiving or will receive a retirement benefit, then the weekly

benefit rate of the claimant as otherwise established under this act is not reduced ~~due to receipt of~~ **because the claimant is receiving or will receive** a retirement benefit.

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

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

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

(4)(a) As used in this subsection, "retirement benefit" means a benefit, annuity, or pension of any type, or ~~that a~~ part thereof that is described in subparagraph (b) ~~that and~~ is both **of the**

1 **following:**

2 (i) Provided as an incident of employment under an established
3 retirement plan, policy, or agreement, including federal Social
4 Security if subdivision (5) is in effect.

5 (ii) Payable to an individual because the individual has
6 qualified on the basis of attained age, length of service, or
7 disability, whether or not the individual retired or was retired
8 from employment. Amounts paid to individuals in the course of
9 liquidation of a private pension or retirement fund because of
10 termination of the business or of a plant or department of the
11 business of the employer involved are not retirement benefits.

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

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

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

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

25 (5) Notwithstanding any other provision of this subsection,
26 for any week that ~~begins after March 31, 1980, and with respect to~~
27 ~~which~~**an individual is receiving a governmental or other pension**
28 **and claiming unemployment compensation, the weekly benefit amount**
29 **payable to the individual for those weeks is reduced, but not below**

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

25 (a) If any base period **employer** or chargeable employer has
26 contributed to the financing of a retirement plan under which the
27 claimant is receiving or will receive a retirement benefit yielding
28 a pro rata weekly amount equal to or larger than the claimant's
29 weekly benefit rate as otherwise established under this act, the

1 claimant is not eligible to receive unemployment benefits.

2 (b) If any base period employer or chargeable employer has
3 contributed to the financing of a retirement plan under which the
4 claimant is receiving or will receive a retirement benefit yielding
5 a pro rata weekly amount less than the claimant's weekly benefit
6 rate as otherwise established under this act, then the weekly
7 benefit rate otherwise payable to the claimant is reduced by an
8 amount equal to the pro rata weekly amount, adjusted to the next
9 lower multiple of \$1.00, ~~which~~**that** the claimant is receiving or
10 will receive as a retirement benefit.

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

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

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

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

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

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

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

23 (4) If benefits are denied to an individual for any week
24 solely as a result of subdivision (2) and the individual was not
25 offered an opportunity to perform in the second academic year or
26 term the service for which reasonable assurance had been given, the
27 individual is entitled to a retroactive payment of benefits for
28 each week for which the individual had previously filed a timely
29 claim for benefits. An individual entitled to benefits under this

1 subdivision may apply for those benefits by mail in accordance with
2 R 421.210 of the Michigan Administrative Code. ~~as promulgated by~~
3 ~~the commission.~~

4 (5) ~~Benefits~~ **The unemployment agency shall not deny benefits**
5 based ~~upon~~ **on** services in other than an instructional, research, or
6 principal administrative capacity for an institution of higher
7 education ~~are not denied~~ for any week of unemployment commencing
8 during the period between 2 successive academic years or terms
9 solely because the individual had performed the service in the
10 first of the academic years or terms and there is reasonable
11 assurance that the individual will perform the service for an
12 institution of higher education or an educational institution other
13 than an institution of higher education in the second of the
14 academic years or terms, unless a denial is required as a condition
15 for full tax credit against the tax imposed by the federal
16 unemployment tax act, 26 USC 3301 to 3311.

17 (6) For benefit years established before October 1, 2000, and
18 notwithstanding subdivisions (1), (2), and (3), the denial of
19 benefits does not prevent an individual from completing
20 requalifying weeks in accordance with section 29(3) nor does the
21 denial prevent an individual from receiving benefits based on
22 service with an employer other than an educational institution for
23 any week of unemployment occurring between academic years or terms,
24 whether or not successive, or during an established and customary
25 vacation period or holiday recess, even though the employer is not
26 the most recent chargeable employer in the individual's base
27 period. However, in that case section 20(b) applies to the sequence
28 of benefit charging, except for the employment with the educational
29 institution. ~~, and section 50(b) applies to the calculation of~~

1 ~~credit weeks.~~ When a denial of benefits under subdivision (1) no
2 longer applies, benefits are charged in accordance with the normal
3 sequence of charging as provided in section 20(b).

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

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

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

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

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

28 (2) Any data or information required of individuals applying
29 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
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
28 defined in 42 USC 659(i)(5), properly served upon the
29 ~~commission-unemployment~~ **agency**.

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

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

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

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

24 (7) As used in this subsection:

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

(b) "Child support obligations" includes 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 benefits~~ **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 seasonal work periods to any individual if that individual performs the service in the first of the normal seasonal work periods and if there is a reasonable assurance that the individual will perform the service for a seasonal employer in the second of the normal seasonal work periods. If benefits are denied to an individual for any week solely as a result of this subsection and the individual

1 is not offered an opportunity to perform in the second normal
 2 seasonal work period for which reasonable assurance of employment
 3 had been given, the individual is entitled to a retroactive payment
 4 of benefits under this subsection for each week that the individual
 5 previously filed a timely claim for benefits. An individual may
 6 apply for any retroactive benefits under this subsection ~~in~~
 7 ~~accordance with~~ **pursuant to** R 421.210 of the Michigan
 8 Administrative Code.

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

27 (3) If the **unemployment agency determines that an** employer is
 28 ~~determined to be~~ a seasonal employer, the employer shall
 29 conspicuously display on its premises a notice ~~of~~ **that includes** the

determination, ~~and~~ the beginning and ending dates of the employer's normal seasonal work periods, ~~-. The commission shall furnish the notice. The notice must additionally specify~~ **and a statement** that an employee must timely apply for unemployment benefits at the end of a first seasonal work period to preserve his or her right to receive retroactive unemployment benefits if he or she is not reemployed by the seasonal employer in the second of the normal seasonal work periods. **The unemployment agency shall provide the notice to the employer.**

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

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

(6) If a seasonal employer informs an employee who received assurance of being rehired that, despite the assurance, the employee will not be rehired at the beginning of the employer's next normal seasonal work period, this subsection does not prevent the employee from receiving unemployment benefits in the same

1 manner and to the same extent he or she would receive benefits
2 under this act from an employer who has not been determined to be a
3 seasonal employer.

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

9 (8) At the time an employee is hired by a seasonal employer,
10 the employer shall notify the employee in writing if the employee
11 will be a seasonal worker. The employer shall provide the worker
12 with written notice of any subsequent change in the employee's
13 status as a seasonal worker. If an employee of a seasonal employer
14 is denied benefits because that employee is a seasonal worker, the
15 employee may contest that designation in accordance with section
16 32a.

17 (9) As used in this subsection:

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

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

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

1 (d) "Seasonal employer" means an employer, other than an
2 employer in the construction industry, who applies to the
3 unemployment agency for designation as a seasonal employer and who
4 the unemployment agency determines is an employer whose operations
5 and business require employees engaged in seasonal employment. A
6 seasonal employer designation under this act need not correspond to
7 a category assigned under the North American classification system
8 — United States Office of Management and Budget.

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

12 (10) This subsection does not apply if the United States
13 Department of Labor finds it to be contrary to the federal
14 unemployment tax act, 26 USC 3301 to 3311, or the social security
15 act, chapter 531, 49 Stat 620, and if conformity with the federal
16 law is required as a condition for full tax credit against the tax
17 imposed under the federal unemployment tax act, 26 USC 3301 to
18 3311, or as a condition for receipt by the ~~commission~~**unemployment**
19 **agency** of federal administrative grant funds under the social
20 security act, chapter 531, 49 Stat 620.

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