

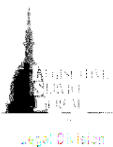
HOUSE BILL NO. 5886

June 23, 2020, Introduced by Reps. Kennedy, Sabo, Rabhi, Guerra, Gay-Dagnogo, Peterson, Elder, Pohutsky, Tate, Yancey, Lasinski, Brixie, Hood, Hertel, Cherry, Hoadley, Ellison, Manoogian, LaGrand, Stone, Koleszar, Hammoud, Sneller, Hope, Tyrone Carter, Bolden, Garza, Chirkun, Kuppa, Pagan, Haadsma, Warren, Cambensy, Shannon, Wittenberg, 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 sections 27 and 28b (MCL 421.27 and 421.28b), section 27 as amended by 2016 PA 522 and section 28b as added by 2012 PA 216.

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



1 imposed by the individual's monetary entitlement, if the individual
2 continues to be unemployed and to file claims for benefits, until
3 the determination, redetermination, or decision is reversed, a
4 determination, redetermination, or decision on a new issue holding
5 the individual disqualified or ineligible is made, or, for benefit
6 years beginning before October 1, 2000, a new separation issue
7 arises resulting from subsequent work.

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

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



1 the penalties set forth in sections 54 and 54c. For benefit years
2 beginning on or after October 2, 1983, the weekly benefit rate must
3 be adjusted to the next lower multiple of \$1.00.

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

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

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

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

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

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



1 or 18 years of age or over if, because of physical or mental
2 infirmity, the brother or sister is unable to engage in a gainful
3 occupation, or is a full-time student as defined by the particular
4 educational institution, at a high school, vocational school,
5 community or junior college, or college or university and is less
6 than 22 years of age.

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

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

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

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

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



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

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

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

28 (5) All remuneration for work performed during a shift that
29 terminates on 1 day but that began on the preceding day is



1 considered to have been earned by the eligible individual on the
2 preceding day.

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

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

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

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

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



1 weeks of benefits or less than 14 weeks of benefits are payable to
2 an individual in a benefit year. The limitation of total benefits
3 set forth in this subsection does not apply to claimants declared
4 eligible for training benefits in accordance with subsection (g).

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

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

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

3 (b) 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 less than the claimant's weekly benefit
8 rate as otherwise established under this act, then the weekly
9 benefit rate otherwise payable to the claimant and chargeable to
10 the employer under this act is reduced by an amount equal to the
11 pro rata weekly amount, adjusted to the next lower multiple of
12 \$1.00, which the claimant is receiving or will receive as a
13 retirement benefit.

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

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

28 (2) If an individual's weekly benefit rate under this act was
29 established before the period for which the individual first



1 receives a retirement benefit, any benefits received after a
2 retirement benefit becomes payable must be determined in accordance
3 with the formula stated in this subsection.

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

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

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

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

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



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

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

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

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

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



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

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

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

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

29 (g) Notwithstanding any other provision of this act, an



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

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

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

24 (1) With respect to service performed in an instructional,
25 research, or principal administrative capacity for an institution
26 of higher education as defined in section 53(2), or for an
27 educational institution other than an institution of higher
28 education as defined in section 53(3), benefits are not payable to
29 an individual based on those services for any week of unemployment



1 beginning after December 31, 1977 that commences during the period
2 between 2 successive academic years or during a similar period
3 between 2 regular terms, whether or not successive, or during a
4 period of paid sabbatical leave provided for in the individual's
5 contract, to an individual if the individual performs the service
6 in the first of the academic years or terms and if there is a
7 contract or a reasonable assurance that the individual will perform
8 service in an instructional, research, or principal administrative
9 capacity for an institution of higher education or an educational
10 institution other than an institution of higher education in the
11 second of the academic years or terms, whether or not the terms are
12 successive.

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

26 (3) With respect to any service described in subdivision (1)
27 or (2), benefits are not payable to an individual based upon
28 service for any week of unemployment that commences during an
29 established and customary vacation period or holiday recess if the



1 individual performs the service in the period immediately before
2 the vacation period or holiday recess and there is a contract or
3 reasonable assurance that the individual will perform the service
4 in the period immediately following the vacation period or holiday
5 recess.

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

16 (5) Benefits based upon services in other than an
17 instructional, research, or principal administrative capacity for
18 an institution of higher education are not denied for any week of
19 unemployment commencing during the period between 2 successive
20 academic years or terms solely because the individual had performed
21 the service in the first of the academic years or terms and there
22 is reasonable assurance that the individual will perform the
23 service for an institution of higher education or an educational
24 institution other than an institution of higher education in the
25 second of the academic years or terms, unless a denial is required
26 as a 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 established before October 1, 2000, and
29 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) nor does the
3 denial prevent an individual from receiving benefits based on
4 service with an employer other than an educational institution for
5 any week of unemployment occurring between academic years or terms,
6 whether or not successive, or during an established and customary
7 vacation period or holiday recess, even though the employer is not
8 the most recent chargeable employer in the individual's base
9 period. However, in that case section 20(b) applies to the sequence
10 of benefit charging, except for the employment with the educational
11 institution, and section 50(b) applies to the calculation of credit
12 weeks. When a denial of benefits under subdivision (1) no longer
13 applies, benefits are charged in accordance with the normal
14 sequence of charging as provided in section 20(b).

15 (7) For benefit years beginning on or after October 1, 2000,
16 and notwithstanding subdivisions (1), (2), and (3), the denial of
17 benefits does not prevent an individual from completing
18 requalifying weeks in accordance with section 29(3) and does not
19 prevent an individual from receiving benefits based on service with
20 another base period employer other than an educational institution
21 for any week of unemployment occurring between academic years or
22 terms, whether or not successive, or during an established and
23 customary vacation period or holiday recess. However, if benefits
24 are paid based on service with 1 or more base period employers
25 other than an educational institution, the individual's weekly
26 benefit rate is calculated in accordance with subsection (b)(1) but
27 during the denial period the individual's weekly benefit payment is
28 reduced by the portion of the payment attributable to base period
29 wages paid by an educational institution and the account or



1 experience account of the educational institution is not charged
2 for benefits payable to the individual. When a denial of benefits
3 under subdivision (1) is no longer applicable, benefits are paid
4 and charged on the basis of base period wages with each of the base
5 period employers including the educational institution.

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

12 (9) In accordance with subdivisions (1), (2), and (3),
13 benefits for any week of unemployment are denied to an individual
14 who performed services described in subdivision (1), (2), or (3) in
15 an educational institution while in the employ of an educational
16 service agency. For the purpose of this subdivision, "educational
17 service agency" means a governmental agency or governmental entity
18 that is established and operated exclusively for the purpose of
19 providing the services to 1 or more educational institutions.

20 (j) Benefits are not payable to an individual on the basis of
21 any base period services, substantially all of which consist of
22 participating in sports or athletic events or training or preparing
23 to participate, for a week that commences during the period between
24 2 successive sport seasons or similar periods if the individual
25 performed the services in the first of the seasons or similar
26 periods and there is a reasonable assurance that the individual
27 will perform the services in the later of the seasons or similar
28 periods.

29 (k) (1) Benefits are not payable on the basis of services



1 performed by an alien unless the alien is an individual who was
 2 lawfully admitted for permanent residence at the time the services
 3 were performed, was lawfully present for the purpose of performing
 4 the services, or was permanently residing in the United States
 5 under color of law at the time the services were performed,
 6 including an alien who was lawfully present in the United States
 7 under section 212(d)(5) of the immigration and nationality act, 8
 8 USC 1182.

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

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

17 (m)(1) An individual filing a new claim for unemployment
 18 compensation under this act, at the time of filing the claim, shall
 19 disclose whether the individual owes child support obligations as
 20 defined in this subsection. If an individual discloses that he or
 21 she owes child support obligations and is determined to be eligible
 22 for unemployment compensation, the unemployment agency shall notify
 23 the state or local child support enforcement agency enforcing the
 24 obligation that the individual has been determined to be eligible
 25 for unemployment compensation.

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



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

3 (b) The amount, if any, determined pursuant to an agreement
4 submitted to the commission under 42 USC 654(19)(B)(i), by the
5 state or local child support enforcement agency.

6 (c) Any amount otherwise required to be deducted and withheld
7 from unemployment compensation by legal process, as that term is
8 defined in 42 USC 659(i)(5), properly served upon the commission.

9 (3) The amount of unemployment compensation subject to
10 deduction under subdivision (2) is that portion that remains
11 payable to the individual after application of the recoupment
12 provisions of section 62(a) and the reduction provisions of
13 subsections (c) and (f).

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

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

22 (6) Provisions concerning deductions under this subsection
23 apply only if the state or local child support enforcement agency
24 agrees in writing to reimburse and does reimburse the unemployment
25 agency for the administrative costs incurred by the unemployment
26 agency under this subsection that are attributable to child support
27 obligations being enforced by the state or local child support
28 enforcement agency. The administrative costs incurred are
29 determined by the unemployment agency. The unemployment agency, in



1 its discretion, may require payment of administrative costs in
2 advance.

3 (7) As used in this subsection:

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

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

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

16 (n) Subsection (i)(2) applies to services performed by school
17 bus drivers employed by a private contributing employer holding a
18 contractual relationship with an educational institution, but only
19 if at least 75% of the individual's base period wages with that
20 employer are attributable to services performed as a school bus
21 driver. Subsection (i)(1) and (2) but not subsection (i)(3) applies
22 to other services described in those subdivisions that are
23 performed by any employees under an employer's contract with an
24 educational institution or an educational service agency.

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



1 ~~employment for any week of unemployment beginning after March 28,~~
2 ~~1996 that begins during the period between 2 successive normal~~
3 ~~seasonal work periods to any individual if that individual performs~~
4 ~~the service in the first of the normal seasonal work periods and if~~
5 ~~there is a reasonable assurance that the individual will perform~~
6 ~~the service for a seasonal employer in the second of the normal~~
7 ~~seasonal work periods. If benefits are denied to an individual for~~
8 ~~any week solely as a result of this subsection and the individual~~
9 ~~is not offered an opportunity to perform in the second normal~~
10 ~~seasonal work period for which reasonable assurance of employment~~
11 ~~had been given, the individual is entitled to a retroactive payment~~
12 ~~of benefits under this subsection for each week that the individual~~
13 ~~previously filed a timely claim for benefits. An individual may~~
14 ~~apply for any retroactive benefits under this subsection in~~
15 ~~accordance with R 421.210 of the Michigan Administrative Code.~~

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



1 ~~determination, redetermination, or decision is conclusive unless~~
2 ~~substantial evidence to the contrary is introduced by or on behalf~~
3 ~~of the claimant.~~

4 ~~(3) If the employer is determined to be a seasonal employer,~~
5 ~~the employer shall conspicuously display on its premises a notice~~
6 ~~of the determination and the beginning and ending dates of the~~
7 ~~employer's normal seasonal work periods. The commission shall~~
8 ~~furnish the notice. The notice must additionally specify that an~~
9 ~~employee must timely apply for unemployment benefits at the end of~~
10 ~~a first seasonal work period to preserve his or her right to~~
11 ~~receive retroactive unemployment benefits if he or she is not~~
12 ~~reemployed by the seasonal employer in the second of the normal~~
13 ~~seasonal work periods.~~

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

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

28 ~~(6) If a seasonal employer informs an employee who received~~
29 ~~assurance of being rehired that, despite the assurance, the~~



1 ~~employee will not be rehired at the beginning of the employer's~~
 2 ~~next normal seasonal work period, this subsection does not prevent~~
 3 ~~the employee from receiving unemployment benefits in the same~~
 4 ~~manner and to the same extent he or she would receive benefits~~
 5 ~~under this act from an employer who has not been determined to be a~~
 6 ~~seasonal employer.~~

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

12 ~~(8) At the time an employee is hired by a seasonal employer,~~
 13 ~~the employer shall notify the employee in writing if the employee~~
 14 ~~will be a seasonal worker. The employer shall provide the worker~~
 15 ~~with written notice of any subsequent change in the employee's~~
 16 ~~status as a seasonal worker. If an employee of a seasonal employer~~
 17 ~~is denied benefits because that employee is a seasonal worker, the~~
 18 ~~employee may contest that designation in accordance with section~~
 19 ~~32a.~~

20 ~~(9) As used in this subsection:~~

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

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

29 ~~(c) "Seasonal employment" means the employment of 1 or more~~



1 ~~individuals primarily hired to perform services during regularly~~
 2 ~~recurring periods of 26 weeks or less in any 52-week period other~~
 3 ~~than services in the construction industry.~~

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

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

15 ~~(10) This subsection does not apply if the United States~~
 16 ~~Department of Labor finds it to be contrary to the federal~~
 17 ~~unemployment tax act, 26 USC 3301 to 3311, or the social security~~
 18 ~~act, chapter 531, 49 Stat 620, and if conformity with the federal~~
 19 ~~law is required as a condition for full tax credit against the tax~~
 20 ~~imposed under the federal unemployment tax act, 26 USC 3301 to~~
 21 ~~3311, or as a condition for receipt by the commission of federal~~
 22 ~~administrative grant funds under the social security act, chapter~~
 23 ~~531, 49 Stat 620.~~

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



1 in the second of the academic years or terms.

2 Sec. 28b. As used in this section and sections 28c to 28m:

3 (a) "Affected unit" means a department, shift, or other
4 organizational unit of 2 or more employees that is designated by an
5 employer to participate in a shared-work plan.

6 (b) "Approved shared-work plan" means an employer's shared-
7 work plan that meets the requirements of section 28d and that the
8 unemployment agency approves in writing.

9 (c) "Fringe benefit" means health insurance, a retirement
10 benefit received under a pension plan or defined contribution plan,
11 a paid vacation day, a paid holiday, sick leave, or any other
12 similar employee benefit provided by an employer.

13 (d) "Normal weekly hours of work" means the established
14 standard work times and number of hours in the workweek for the
15 position or, if standard work times and number of hours have not
16 been established for the position, the work times and average
17 number of hours per week actually worked by the employee in that
18 position over the most recent 3 months before the employer files
19 the application for designation as a participating employer.

20 (e) "Participating employee" means an employee in the affected
21 unit whose hours of work are reduced by the reduction percentage
22 under the shared-work plan. Participating employee does not include
23 ~~a seasonal worker as defined in section 27(o)(9)(c) or a worker~~
24 employed on a temporary or intermittent basis.

25 (f) "Participating employer" means an employer that has a
26 shared-work plan in effect.

27 (g) "Reduction percentage" means the percentage by which each
28 participating employee's normal weekly hours of work are reduced
29 under a shared-work plan in accordance with section 28d(2).



1 (h) "Shared-work plan" means a plan for reducing unemployment
2 under which employees of an affected unit share a reduced workload
3 through reduction in their normal weekly hours of work.

