

# SENATE BILL No. 525

September 29, 2015, Introduced by Senators HOOD, YOUNG, KNEZEK, ANANICH, HOPGOOD and GREGORY and referred to the Committee on Commerce.

A bill to amend 1936 (Ex Sess) PA 1, entitled "Michigan employment security act," by amending section 27 (MCL 421.27), as amended by 2012 PA 496.

**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 ~~shall~~ become payable from the fund and continue to be  
4 payable to the unemployed individual, subject to the limitations  
5 imposed by the individual's monetary entitlement, if the individual  
6 continues to be unemployed and to file claims for benefits, until  
7 the determination, redetermination, or decision is reversed ~~—OR~~ a  
8 determination, redetermination, or decision on a new issue holding  
9 the individual disqualified or ineligible is made. ~~—or, for~~

1 ~~benefit years beginning before October 1, 2000, a new separation~~  
2 ~~issue arises resulting from subsequent work.~~

3 (2) Benefits shall be paid in person or by mail through  
4 Employment offices in accordance with rules promulgated by the  
5 commission.

6 (b)(1) Subject to subsection (f), ~~the weekly benefit rate for~~  
7 ~~an individual, with respect to benefit years beginning before~~  
8 ~~October 1, 2000, shall be 67% of the individual's average after tax~~  
9 ~~weekly wage, except that the individual's maximum weekly benefit~~  
10 ~~rate shall not exceed \$300.00. However, with respect to benefit~~  
11 ~~years beginning on or after October 1, 2000, the individual's~~  
12 weekly benefit rate is 4.1% of the individual's wages paid in the  
13 calendar quarter of the base period in which the individual was  
14 paid the highest total wages, plus \$6.00 for each dependent as  
15 defined in subdivision (4), up to a maximum of 5 dependents,  
16 claimed by the individual at the time the individual files a new  
17 claim for benefits, except that the individual's maximum weekly  
18 benefit rate shall not exceed \$300.00 before April 26, 2002, and  
19 \$362.00 for claims filed ~~on and after~~ **FROM** April 26, 2002 **TO**  
20 **SEPTEMBER 30, 2015, AND \$471.00 FOR CLAIMS FILED ON AND AFTER**  
21 **OCTOBER 1, 2015, SUBJECT TO THE INDEXING ADJUSTMENT UNDER THIS**  
22 **SECTION.** The weekly benefit rate for an individual claiming  
23 benefits on and after April 26, 2002 shall be recalculated subject  
24 to the \$362.00 maximum weekly benefit rate. **THE STATE TREASURER**  
25 **SHALL ADJUST THE \$471.00 MAXIMUM RATE EACH SUCCEEDING OCTOBER 1 BY**  
26 **AN AMOUNT DETERMINED BY THE STATE TREASURER AT THE END OF EACH**  
27 **CALENDAR YEAR TO REFLECT THE CUMULATIVE ANNUAL PERCENTAGE CHANGE IN**

1 THE CONSUMER PRICE INDEX. AS USED IN THIS SUBSECTION, "CONSUMER  
2 PRICE INDEX" MEANS THE MOST COMPREHENSIVE INDEX OF CONSUMER PRICES  
3 AVAILABLE FOR THIS STATE FROM THE BUREAU OF LABOR STATISTICS OF THE  
4 UNITED STATES DEPARTMENT OF LABOR. The unemployment agency shall  
5 establish the procedures necessary to verify the number of  
6 dependents claimed. If a person fraudulently claims a dependent,  
7 that person is subject to the penalties set forth in sections 54  
8 and 54c. For benefit years beginning on or after October 2, 1983,  
9 the weekly benefit rate shall be adjusted to the next lower  
10 multiple of \$1.00.

11 (2) For benefit years beginning before October 1, 2000, the  
12 state average weekly wage for a calendar year shall be computed on  
13 the basis of the 12 months ending the June 30 immediately before  
14 that calendar year. ~~The commission shall prepare a table of weekly  
15 benefit rates based on an "average after tax weekly wage"  
16 calculated by subtracting, from an individual's average weekly wage  
17 as determined in accordance with section 51, a reasonable  
18 approximation of the weekly amount required to be withheld by the  
19 employer from the remuneration of the individual based on  
20 dependents and exemptions for income taxes under 26 USC 3401 to  
21 3406, and under section 351 of the income tax act of 1967, 1967 PA  
22 281, MCL 206.351, and for old age and survivor's disability  
23 insurance taxes under the federal insurance contributions act, 26  
24 USC 3101 to 3128. For purposes of applying the table to an  
25 individual's claim, a dependent shall be as defined in subdivision  
26 (3). The table applicable to an individual's claim shall be the  
27 table reflecting the number of dependents claimed by the individual~~

1 ~~under subdivision (3). The commission shall adjust the tables based~~  
2 ~~on changes in withholding schedules published by the United States~~  
3 ~~department of treasury, internal revenue service, and by the~~  
4 ~~department of treasury. The number of dependents allowed shall be~~  
5 ~~determined with respect to each week of unemployment for which an~~  
6 ~~individual is claiming benefits.~~

7 (3) For benefit years beginning before October 1, 2000, a  
8 dependent means **THE PERSONS DESCRIBED IN SUBDIVISION (4)**. ~~any of~~  
9 ~~the following persons who are receiving and for at least 90~~  
10 ~~consecutive days immediately before the week for which benefits are~~  
11 ~~claimed, or, in the case of a dependent husband, wife, or child,~~  
12 ~~for the duration of the marital or parental relationship, if the~~  
13 ~~relationship has existed less than 90 days, has received more than~~  
14 ~~1/2 the cost of his or her support from the individual claiming~~  
15 ~~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~~

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

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

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

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

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

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

10 ~~(5) For benefit years beginning before October 1, 2000,~~  
11 ~~dependency status of a dependent, child or otherwise, once~~  
12 ~~established or fixed in favor of an individual continues during the~~  
13 ~~individual's benefit year until terminated. Dependency status of a~~  
14 ~~dependent terminates at the end of the week in which the dependent~~  
15 ~~ceases to be an individual described in subdivision (3)(a), (b),~~  
16 ~~(c), or (d) because of age, death, or divorce. For benefit years~~  
17 ~~beginning on or after October 1, 2000, the number of dependents~~  
18 ~~established for an individual at the beginning of the benefit year~~  
19 ~~shall remain in effect during the entire benefit year.~~

20 ~~——(6) For benefit years beginning before October 1, 2000,~~  
21 ~~failure on the part of an individual, due to misinformation or lack~~  
22 ~~of information, to furnish all information material for~~  
23 ~~determination of the number of the individual's dependents when the~~  
24 ~~individual files a claim for benefits with respect to a week is~~  
25 ~~good cause to issue a redetermination as to the amount of benefits~~  
26 ~~based on the number of the individual's dependents as of the~~  
27 ~~beginning date of that week. Dependency status of a dependent,~~

1 ~~child or otherwise, once established or fixed in favor of a person~~  
2 ~~is not transferable to or usable by another person with respect to~~  
3 ~~the same week.~~

4 (6) For benefit years beginning on or after October 1, 2000,  
5 failure on the part of an individual, due to misinformation or lack  
6 of information, to furnish all information material for  
7 determination of the number of the individual's dependents is good  
8 cause to issue a redetermination as to the amount of benefits based  
9 on the number of the individual's dependents as of the beginning of  
10 the benefit year.

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

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

23 (2) Each eligible individual shall have his or her weekly  
24 benefit rate reduced with respect to each week in which the  
25 individual earns or receives remuneration at the rate of 40 cents  
26 for each whole \$1.00 of remuneration earned or received during that  
27 week. Beginning October 1, 2015, an eligible individual's weekly

1 benefit rate shall be reduced at the rate of 50 cents for each  
2 whole \$1.00 of remuneration in which the eligible individual earns  
3 or receives remuneration in that benefit week. The weekly benefit  
4 rate shall not be reduced under this subdivision for remuneration  
5 received for on-call or training services as a volunteer  
6 firefighter, if the volunteer firefighter receives less than  
7 \$10,000.00 in a calendar year for services as a volunteer  
8 firefighter.

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

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

24 (5) All remuneration for work performed during a shift that  
25 terminates on 1 day but that began on the preceding day shall be  
26 considered to have been earned by the eligible individual on the  
27 preceding day.



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

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

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

12           ~~(d) For benefit years beginning before October 1, 2000, and~~  
13 ~~subject to subsection (f) and this subsection, the amount of~~  
14 ~~benefits to which an individual who is otherwise eligible is~~  
15 ~~entitled during a benefit year from an employer with respect to~~  
16 ~~employment during the base period is the amount obtained by~~  
17 ~~multiplying the weekly benefit rate with respect to that employment~~  
18 ~~by 3/4 of the number of credit weeks earned in the employment. For~~  
19 ~~the purpose of this subsection and section 20(e), if the resultant~~  
20 ~~product is not an even multiple of 1/2 the weekly benefit rate, the~~  
21 ~~product shall be raised to an amount equal to the next higher~~  
22 ~~multiple of 1/2 the weekly benefit rate, and, for an individual who~~  
23 ~~was employed by only 1 employer in the individual's base period and~~  
24 ~~earned 34 credit weeks with that employer, the product shall be~~  
25 ~~raised to the next higher multiple of the weekly benefit rate. The~~  
26 ~~maximum amount of benefits payable to an individual within a~~  
27 ~~benefit year, with respect to employment by an employer, shall not~~

1 ~~exceed 26 times the weekly benefit rate with respect to that~~  
2 ~~employment. The maximum amount of benefits payable to an individual~~  
3 ~~within a benefit year shall not exceed the amount to which the~~  
4 ~~individual would be entitled for 26 weeks of unemployment in which~~  
5 ~~remuneration was not earned or received. The limitation of total~~  
6 ~~benefits set forth in this subsection does not apply to claimants~~  
7 ~~declared eligible for training benefits in accordance with~~  
8 ~~subsection (g).~~ For benefit years beginning on or after October 1,  
9 2000, and subject to subsection (f) and this subsection, the  
10 maximum benefit amount payable to an individual in a benefit year  
11 for purposes of this section and section 20(d) is the number of  
12 weeks of benefits payable to an individual during the benefit year,  
13 multiplied by the individual's weekly benefit rate. The number of  
14 weeks of benefits payable to an individual shall be calculated by  
15 taking 43% of the individual's base period wages and dividing the  
16 result by the individual's weekly benefit rate. If the quotient is  
17 not a whole or half number, the result shall be rounded down to the  
18 nearest half number. However, for each eligible individual, ~~filing~~  
19 ~~an initial claim before January 15, 2012,~~ not more than 26 weeks of  
20 benefits or less than 14 weeks of benefits shall be payable to an  
21 individual in a benefit year. ~~For each eligible individual filing~~  
22 ~~an initial claim on or after January 15, 2012, not more than 20~~  
23 ~~weeks of benefits or less than 14 weeks of benefits shall be~~  
24 ~~payable to an individual in a benefit year.~~ The limitation of total  
25 benefits set forth in this subsection does not apply to claimants  
26 declared eligible for training benefits in accordance with  
27 subsection (g).

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

10 (f) (1) For benefit years beginning before October 1, 2000, and  
11 notwithstanding any inconsistent provisions of this act, ~~the weekly~~  
12 ~~benefit rate of each individual who is receiving or will receive a~~  
13 ~~"retirement benefit", as defined in subdivision (4), shall be~~  
14 ~~adjusted as provided in subparagraphs (a), (b), and (c). However,~~  
15 an individual's extended benefit account and an individual's weekly  
16 extended benefit rate under section 64 shall be established without  
17 reduction ~~under this subsection~~ **BASED ON THE RECEIPT OF RETIREMENT**  
18 **BENEFITS UNDER A PLAN TO WHICH AN EMPLOYER CHARGEABLE FOR THE**  
19 **BENEFITS CONTRIBUTED** unless subdivision (5) is in effect. ~~Except as~~  
20 ~~otherwise provided in this subsection, all other provisions of this~~  
21 ~~act continue to apply in connection with the benefit claims of~~  
22 ~~those retired persons.~~

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

1 ~~weekly benefit rate as otherwise established under this act, the~~  
2 ~~claimant shall not receive unemployment benefits that would be~~  
3 ~~chargeable to the employer under this act.~~

4 ~~—— (b) If and to the extent that unemployment benefits payable~~  
5 ~~under this act would be chargeable to an employer who has~~  
6 ~~contributed to the financing of a retirement plan under which the~~  
7 ~~claimant is receiving or will receive a retirement benefit yielding~~  
8 ~~a pro rata weekly amount less than the claimant's weekly benefit~~  
9 ~~rate as otherwise established under this act, then the weekly~~  
10 ~~benefit rate otherwise payable to the claimant and chargeable to~~  
11 ~~the employer under this act shall be reduced by an amount equal to~~  
12 ~~the pro rata weekly amount, adjusted to the next lower multiple of~~  
13 ~~\$1.00, which the claimant is receiving or will receive as a~~  
14 ~~retirement benefit.~~

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

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

1 ~~allocable and chargeable to the employer.~~

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

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

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

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

23 (ii) Payable to an individual because the individual has  
24 qualified on the basis of attained age, length of service, or  
25 disability, whether or not the individual retired or was retired  
26 from employment. Amounts paid to individuals in the course of  
27 liquidation of a private pension or retirement fund because of

1 termination of the business or of a plant or department of the  
2 business of the employer involved are not retirement benefits.

3 (b) If a benefit as described in subparagraph (a) is payable  
4 or paid to the individual under a plan to which the individual has  
5 contributed:

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

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

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

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

25 (6) For benefit years beginning on or after October 1, 2000,  
26 notwithstanding any inconsistent provisions of this act, the weekly  
27 benefit rate of each individual who is receiving or will receive a

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

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

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

1 an amount equal to the pro rata weekly amount, adjusted to the next  
2 lower multiple of \$1.00, which the claimant is receiving or will  
3 receive as a retirement benefit.

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

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

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



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

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

24 (2) With respect to service performed in other than an  
25 instructional, research, or principal administrative capacity for  
26 an institution of higher education as defined in section 53(2) or  
27 for an educational institution other than an institution of higher

1 education as defined in section 53(3), benefits shall not be paid  
2 based on those services for any week of unemployment beginning  
3 after December 31, 1977 that commences during the period between 2  
4 successive academic years or terms to any individual if that  
5 individual performs the service in the first of the academic years  
6 or terms and if there is a reasonable assurance that the individual  
7 will perform the service for an institution of higher education or  
8 an educational institution other than an institution of higher  
9 education in the second of the academic years or terms.

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

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

1 commission.

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

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

1 ~~applies, benefits shall be charged in accordance with the normal~~  
2 ~~sequence of charging as provided in section 20(b).~~

3 (7) For benefit years beginning on or after October 1, 2000,  
4 and notwithstanding subdivisions (1), (2), and (3), the denial of  
5 benefits shall not prevent an individual from completing  
6 requalifying weeks in accordance with section 29(3) nor shall the  
7 denial prevent an individual from receiving benefits based on  
8 service with another base period employer other than an educational  
9 institution for any week of unemployment occurring between academic  
10 years or terms, whether or not successive, or during an established  
11 and customary vacation period or holiday recess. However, when  
12 benefits are paid based on service with 1 or more base period  
13 employers other than an educational institution, the individual's  
14 weekly benefit rate shall be calculated in accordance with  
15 subsection (b)(1) but during the denial period the individual's  
16 weekly benefit payment shall be reduced by the portion of the  
17 payment attributable to base period wages paid by an educational  
18 institution and the account or experience account of the  
19 educational institution shall not be charged for benefits payable  
20 to the individual. When a denial of benefits under subdivision (1)  
21 is no longer applicable, benefits shall be paid and charged on the  
22 basis of base period wages with each of the base period employers  
23 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

1 credit to complete academic requirements for a particular grade  
2 level or to complete instruction in a noncredit course.

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

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

21 (k) (1) Benefits are not payable on the basis of services  
22 performed by an alien unless the alien is an individual who was  
23 lawfully admitted for permanent residence at the time the services  
24 were performed, was lawfully present for the purpose of performing  
25 the services, or was permanently residing in the United States  
26 under color of law at the time the services were performed,  
27 including an alien who was lawfully present in the United States

1 under section 212(d)(5) of the immigration and nationality act, 8  
2 USC 1182.

3 (2) Any data or information required of individuals applying  
4 for benefits to determine whether benefits are payable because of  
5 their alien status are uniformly required from all applicants for  
6 benefits.

7 (3) If an individual's application for benefits would  
8 otherwise be approved, a determination that benefits to that  
9 individual are not payable because of the individual's alien status  
10 shall not be made except upon a preponderance of the evidence.

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

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

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

26 (b) The amount, if any, determined pursuant to an agreement  
27 submitted to the commission under ~~42 USC 654(19)(b)(i)~~, **42 USC**

1 654(19)(B)(I), by the state or local child support enforcement  
2 agency.

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

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

11 (4) Any amount deducted and withheld under subdivision (2)  
12 shall be paid by the commission to the appropriate state or local  
13 child support enforcement agency.

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

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

1 (7) As used in this subsection:

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

7 (b) "Child support obligations" includes only obligations that  
8 are being enforced pursuant to a plan described in 42 USC 654 that  
9 has been approved by the secretary of health and human services  
10 under 42 USC 651 to 669b.

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

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

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

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

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

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

26           (5) An employer whose status as a seasonal employer is  
27  terminated under subdivision (4) may not reapply for a seasonal

1 employer status determination until after a regularly recurring  
2 normal seasonal work period has begun and ended.

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

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

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

24 (9) As used in this subsection:

25 (a) "Construction industry" means the work activity designated  
26 in sector group 23 - construction of the North American  
27 classification system - United States ~~office of management and~~

1 ~~budget,~~ **OFFICE OF MANAGEMENT AND BUDGET**, 1997 edition.

2 (b) "Normal seasonal work period" means that period or those  
3 periods of time determined under rules promulgated by the  
4 commission during which an individual is employed in seasonal  
5 employment.

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

10 (d) "Seasonal employer" means an employer, other than an  
11 employer in the construction industry, who applies to the  
12 commission for designation as a seasonal employer and who the  
13 commission determines is an employer whose operations and business  
14 require employees engaged in seasonal employment. A seasonal  
15 employer designation under this act need not correspond to a  
16 category assigned under the North American classification system –  
17 United States ~~office of management and budget.~~ **OFFICE OF MANAGEMENT**  
18 **AND BUDGET.**

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

22 (10) This subsection does not apply if the United States  
23 ~~department of labor~~ **DEPARTMENT OF LABOR** finds it to be contrary to  
24 the federal unemployment tax act, 26 USC 3301 to 3311, or the  
25 social security act, chapter 531, 49 Stat. 620, and if conformity  
26 with the federal law is required as a condition for full tax credit  
27 against the tax imposed under the federal unemployment tax act, 26

1 USC 3301 to 3311, or as a condition for receipt by the commission  
2 of federal administrative grant funds under the social security  
3 act, chapter 531, 49 Stat. 620.

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

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