

# HOUSE BILL NO. 4894

September 03, 2019, Introduced by Reps. Lasinski, LaGrand, Elder, Love, Sowerby, Clemente, Cherry, Sneller, Camilleri, Chirkun, Sabo, Brixie, Brenda Carter, Liberati, Tate, Rabhi, Stone, Hope, Manoogian, Pohutsky, Kennedy, Shannon, Garza, Hood, Hertel, Gay-Dagnogo, Witwer, Ellison, Warren, Whitsett, Kuppa, Pagan, Guerra, Bolden, Hammoud, Cambensy, Hoadley, Jones, Wittenberg, Coleman, Haadsma, Garrett, Neeley, Cynthia Johnson, Anthony, Greig, Yancey and Robinson and referred to the Committee on Commerce and Tourism.

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

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

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



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

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

9 (b) (1) Subject to subsection (f), ~~the weekly benefit rate for~~  
 10 ~~an individual, with respect to benefit years beginning before~~  
 11 ~~October 1, 2000, is 67% of the individual's average after tax~~  
 12 ~~weekly wage, except that the individual's maximum weekly benefit~~  
 13 ~~rate must not exceed \$300.00. However, with respect to **for** benefit~~  
 14 years beginning on or after October 1, 2000, ~~the **an**~~ individual's  
 15 weekly benefit rate is 4.1% of the individual's wages paid in the  
 16 calendar quarter of the base period in which the individual was  
 17 paid the highest total wages. ~~, plus \$6.00 for each dependent as~~  
 18 ~~defined in subdivision (4), up to a maximum of 5 dependents,~~  
 19 ~~claimed by the individual at the time the individual files a new~~  
 20 ~~claim for benefits, except that the **An** individual's maximum weekly~~  
 21 benefit rate must not exceed \$300.00 before April 26, 2002 and  
 22 \$362.00 for claims filed on and after April 26, 2002. The weekly  
 23 benefit rate for an individual claiming benefits on and after April  
 24 26, 2002 must be recalculated subject to the \$362.00 maximum weekly  
 25 benefit rate. **In addition, an individual shall receive \$20.00 per**  
 26 **week for each dependent, up to a maximum of 6 dependents, claimed**  
 27 **by the individual at the time the individual files a new claim for**  
 28 **benefits.** The unemployment agency shall establish the procedures  
 29 necessary to verify the number of dependents claimed. If ~~a person~~



1 **an individual** fraudulently claims a dependent, ~~that person~~ **he or**  
 2 **she** is subject to the penalties set forth in sections 54 and 54c.  
 3 For benefit years beginning on or after October 2, 1983, the weekly  
 4 benefit rate must be adjusted to the next lower multiple of \$1.00.

5 (2) For benefit years beginning ~~before October 1, 2000,~~ **on or**  
 6 **after January 1, 2020,** the state average weekly wage for a calendar  
 7 year is computed on the basis of the 12 months ending the June 30  
 8 immediately ~~before~~ **preceding** that calendar year.

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

28 (d) A brother or sister of the individual if the brother or  
 29 sister is orphaned or the living parents are dependent parents of



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

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

28 (d) A brother or sister of the individual if the brother or  
29 sister is orphaned or the living parents are dependent parents of



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

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

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

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

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

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



1 considered a week for benefit purposes under this act if a claim  
2 for benefits for that period is filed not later than 30 days after  
3 the end of the period.

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

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

27 (4) If the reduction in a claimant's benefit rate for a week  
28 in accordance with subdivision (2) or (3) results in a benefit rate  
29 greater than zero for that week, the claimant's balance of weeks of



1 benefit payments is reduced by 1 week.

2 (5) All remuneration for work performed during a shift that  
3 terminates on ~~1-one~~ day but that began on the preceding day is  
4 considered to have been earned by the eligible individual on the  
5 preceding day.

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

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

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

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

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



1 ~~benefits or less than 14 weeks of benefits are payable to an~~  
 2 ~~individual in a benefit year.~~ For each eligible individual filing  
 3 an initial claim on or after January 15, 2012, not more than 20  
 4 weeks of benefits or less than 14 weeks of benefits are payable to  
 5 an individual in a benefit year. The limitation of total benefits  
 6 set forth in this subsection does not apply to claimants declared  
 7 eligible for training benefits ~~in accordance with~~ **pursuant to**  
 8 subsection (g). **For each eligible individual filing an initial**  
 9 **claim on or after January 15, 2020, not more than 26 weeks of**  
 10 **benefits or less than 14 weeks of benefits are payable to an**  
 11 **individual in a benefit year.**

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

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





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

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

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

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

29 (d) If the unemployment benefit payable under this act is



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

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

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

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

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

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



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

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

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

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

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

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



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

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

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

26 (b) If any base period employer or chargeable employer has  
 27 contributed to the financing of a retirement plan under which the  
 28 claimant is receiving or will receive a retirement benefit yielding  
 29 a pro rata weekly amount less than the claimant's weekly benefit



1 rate as otherwise established under this act, then the weekly  
 2 benefit rate otherwise payable to the claimant is reduced by an  
 3 amount equal to the pro rata weekly amount, adjusted to the next  
 4 lower multiple of \$1.00, ~~which-that~~ the claimant is receiving or  
 5 will receive as a retirement benefit.

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

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

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



1 contested case, whichever is later.

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

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

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



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

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

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

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



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

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

29 (7) For benefit years beginning on or after October 1, 2000,





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

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

26 (9) In accordance with subdivisions (1), (2), and (3),  
27 benefits for any week of unemployment are denied to an individual  
28 who performed services described in subdivision (1), (2), or (3) in  
29 an educational institution while in the employ of an educational



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

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

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

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

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



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

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

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

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

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

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

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



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

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

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

19 (7) As used in this subsection:

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

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

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



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

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

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



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

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

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



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

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

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

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

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



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

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

12 (9) As used in this subsection:

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

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

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

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





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

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

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

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

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

