

# SENATE BILL No. 531

September 7, 2017, Introduced by Senators HOOD, KNEZEK, HOPGOOD, ANANICH, CONYERS, GREGORY, BIEDA, JOHNSON, HERTEL, WARREN and YOUNG and referred to the Committee on Government Operations.

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

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

1           Sec. 27. (a) (1) When a determination, redetermination, or  
2 decision is made that benefits are due an unemployed individual,  
3 the benefits become payable from the fund and continue to be  
4 payable to the unemployed individual, subject to the limitations  
5 imposed by the individual's monetary entitlement, if the individual  
6 continues to be unemployed and to file claims for benefits, until  
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~~  
10 ~~benefit years beginning before October 1, 2000, a new separation~~

1 ~~issue arises resulting from subsequent work.~~

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

5 (b) (1) Subject to subsection (f), ~~the weekly benefit rate for~~  
6 ~~an individual, with respect to benefit years beginning before~~  
7 ~~October 1, 2000, is 67% of the individual's average after tax~~  
8 ~~weekly wage, except that the individual's maximum weekly benefit~~  
9 ~~rate must not exceed \$300.00. However, with respect to benefit~~  
10 ~~years beginning on or after October 1, 2000, the AN individual's~~  
11 ~~weekly benefit rate is 4.1% of the individual's wages paid in the~~  
12 ~~calendar quarter of the base period in which the individual was~~  
13 ~~paid the highest total wages, plus \$6.00-\$20.00 for each dependent~~  
14 ~~as defined in subdivision (4), up to a maximum of 5-6 dependents,~~  
15 ~~claimed by the individual at the time the individual files a new~~  
16 ~~claim for benefits. , except that HOWEVER, the individual's maximum~~  
17 ~~weekly benefit rate must not exceed \$300.00 before April 26, 2002~~  
18 ~~and \$362.00 for claims filed on and after April 26, 2002. The~~  
19 ~~weekly benefit rate for an individual claiming benefits on and~~  
20 ~~after April 26, 2002 must be recalculated subject to the \$362.00~~  
21 ~~maximum weekly benefit rate.~~ **\$362.00 FOR CLAIMS FILED ON OR BEFORE**  
22 **SEPTEMBER 30, 2017 AND \$603.00 FOR CLAIMS FILED ON OR AFTER OCTOBER**  
23 **1, 2017 AND MUST BE ADJUSTED TO THE NEXT LOWER MULTIPLE OF \$1.00.**  
24 **THE STATE TREASURER SHALL ADJUST THE \$603.00 MAXIMUM RATE EACH**  
25 **SUCCEEDING OCTOBER 1 BY AN AMOUNT DETERMINED BY THE STATE TREASURER**  
26 **TO REFLECT THE CUMULATIVE ANNUAL PERCENTAGE CHANGE IN THE CONSUMER**  
27 **PRICE INDEX FROM JANUARY 1, 2017 TO THE DECEMBER 31 PRECEDING THE**

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

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

15 (3) For benefit years beginning before October 1, 2000, a  
16 dependent means any of the following ~~persons~~ **INDIVIDUALS** who are  
17 receiving and for at least 90 consecutive days immediately before  
18 the week for which benefits are claimed, or, in the case of a  
19 dependent husband, wife, or child, for the duration of the marital  
20 or parental relationship, if the relationship has existed less than  
21 90 days, has received more than 1/2 the cost of his or her support  
22 from the individual claiming benefits:

23 (a) A child, including stepchild, adopted child, or grandchild  
24 of the individual who is under 18 years of age, or 18 years of age  
25 or over if, because of physical or mental infirmity, the child is  
26 unable to engage in a gainful occupation, or is a full-time student  
27 as defined by the particular educational institution, at a high

1 school, vocational school, community or junior college, or college  
2 or university and has not attained the age of 22.

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

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

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

16 (4) For benefit years beginning on or after October 1, 2000, a  
17 dependent means any of the following ~~persons~~**INDIVIDUALS** who  
18 received for at least 90 consecutive days immediately before the  
19 first week of the benefit year or, in the case of a dependent  
20 husband, wife, or child, for the duration of the marital or  
21 parental relationship if the relationship existed less than 90 days  
22 before the beginning of the benefit year, has received more than  
23 1/2 the cost of his or her support from the individual claiming the  
24 benefits:

25 (a) A child, including stepchild, adopted child, or grandchild  
26 of the individual who is under 18 years of age, or 18 years of age  
27 and over if, because of physical or mental infirmity, the child is

1 unable to engage in a gainful occupation, or is a full-time student  
2 as defined by the particular educational institution, at a high  
3 school, vocational school, community or junior college, or college  
4 or university and has not attained the age of 22.

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

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

9 (d) A brother or sister of the individual if the brother or  
10 sister is orphaned or the living parents are dependent parents of  
11 an individual, and the brother or sister is under 18 years of age,  
12 or 18 years of age and over if, because of physical or mental  
13 infirmity, the brother or sister is unable to engage in a gainful  
14 occupation, or is a full-time student as defined by the particular  
15 educational institution, at a high school, vocational school,  
16 community or junior college, or college or university and is less  
17 than 22 years of age.

18 (5) The number of dependents established for an individual at  
19 the beginning of the benefit year ~~shall remain~~ **REMAINS** in effect  
20 during the entire benefit year.

21 (6) Dependency status of a dependent, child or otherwise, once  
22 established or fixed in favor of ~~a person~~ **AN INDIVIDUAL** is not  
23 transferable to or usable by another ~~person~~ **INDIVIDUAL** with respect  
24 to the same week.

25 Failure on the part of an individual, ~~due to~~ **BECAUSE OF**  
26 misinformation or lack of information, to furnish all information  
27 material for determination of the number of the individual's

1 dependents is good cause to issue a redetermination as to the  
2 amount of benefits based on the number of the individual's  
3 dependents as of the beginning of the benefit year.

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

6 (1) Each eligible individual must be paid a weekly benefit  
7 rate ~~with respect to the~~ **FOR A** week ~~for which~~ **THAT** the individual  
8 earns or receives no remuneration. Notwithstanding the definition  
9 of week in section 50, if within 2 consecutive weeks in which an  
10 individual was not unemployed within the meaning of section 48  
11 there was a period of 7 or more consecutive days for which the  
12 individual did not earn or receive remuneration, that period is  
13 considered a week for benefit purposes under this act if a claim  
14 for benefits for that period is filed not later than 30 days after  
15 the end of the period.

16 (2) ~~The weekly benefit rate is reduced with respect to each~~  
17 ~~week in which the eligible individual earns or receives~~  
18 ~~remuneration at the rate of 40 cents for each whole \$1.00 of~~  
19 ~~remuneration earned or received during that week. Beginning October~~  
20 ~~1, 2015, an~~ **AN** eligible individual's weekly benefit rate is reduced  
21 at the rate of 50 cents for each whole \$1.00 of remuneration in  
22 which the eligible individual earns or receives remuneration in  
23 that benefit week. The weekly benefit rate is not reduced under  
24 this subdivision for remuneration received for on-call or training  
25 services as a volunteer firefighter, if the volunteer firefighter  
26 receives less than \$10,000.00 in a calendar year for services as a  
27 volunteer firefighter.

1           (3) ~~An individual who receives or earns partial remuneration~~  
2 ~~may not receive a total of benefits and earnings that exceeds 1 3/5~~  
3 ~~times his or her weekly benefit amount. For each dollar of total~~  
4 ~~benefits and earnings that exceeds 1 3/5 times the individual's~~  
5 ~~weekly benefit amount, benefits are reduced by \$1.00. Beginning~~  
6 ~~October 1, 2015, the~~ **THE** total benefits and earnings for an  
7 individual who receives or earns partial remuneration may not  
8 exceed 1-1/2 times his or her weekly benefit amount. The  
9 individual's benefits are reduced by \$1.00 for each dollar by which  
10 the total benefits and earnings exceed 1-1/2 times the individual's  
11 weekly benefit amount.

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

16           (5) All remuneration for work performed during a shift that  
17 terminates on ~~1~~ **ONE** day but that began on the preceding day is  
18 considered to have been earned by the eligible individual on the  
19 preceding day.

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

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

27           (b) The number of individuals who received or earned partial

1 remuneration at or exceeding the applicable limit of 1-1/2 ~~or 1-3/5~~  
2 times their weekly benefit amount prescribed in subdivision (3) for  
3 any 1 or more weeks during the immediately preceding calendar year.

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

6 (d) Subject to subsection (f) and this subsection, the maximum  
7 benefit amount payable to an individual in a benefit year for  
8 purposes of this section and section 20(d) is the number of weeks  
9 of benefits payable to an individual during the benefit year,  
10 multiplied by the individual's weekly benefit rate. The number of  
11 weeks of benefits payable to an individual ~~shall be~~ **IS** calculated  
12 by taking 43% of the individual's base period wages and dividing  
13 the result by the individual's weekly benefit rate. If the quotient  
14 is not a whole or half number, the result is rounded down to the  
15 nearest half number. However, for each eligible individual filing  
16 an initial claim before January 15, 2012, not more than 26 weeks of  
17 benefits or less than 14 weeks of benefits are payable to an  
18 individual in a benefit year. For each eligible individual filing  
19 an initial claim on or after January 15, 2012, not more than 20  
20 weeks of benefits or less than 14 weeks of benefits are payable to  
21 an individual in a benefit year. The limitation of total benefits  
22 set forth in this subsection does not apply to claimants declared  
23 eligible for training benefits ~~in accordance with~~ **PURSUANT TO**  
24 subsection (g).

25 (e) When a claimant dies or is judicially declared insane or  
26 mentally incompetent, unemployment compensation benefits accrued  
27 and payable to ~~that person~~ **THE INDIVIDUAL** for weeks of unemployment

1 before death, insanity, or incompetency, but not paid, become due  
2 and payable to the person who is the legal heir or guardian of the  
3 claimant or to any other person found by the ~~commission~~  
4 **UNEMPLOYMENT AGENCY** to be equitably entitled to the benefits by  
5 reason of having incurred expense in behalf of the claimant for the  
6 claimant's burial or other necessary expenses.

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

18 (a) If and to the extent that unemployment benefits payable  
19 under this act would be chargeable to an employer who has  
20 contributed to the financing of a retirement plan under which the  
21 claimant is receiving or will receive a retirement benefit yielding  
22 a pro rata weekly amount equal to or larger than the claimant's  
23 weekly benefit rate as otherwise established under this act, the  
24 claimant must not receive unemployment benefits that would be  
25 chargeable to the employer under this act.

26 (b) If and to the extent that unemployment benefits payable  
27 under this act would be chargeable to an employer who has

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

10 (c) If the unemployment benefit payable under this act would  
11 be chargeable to an employer who has not contributed to the  
12 financing of a retirement plan under which the claimant is  
13 receiving or will receive a retirement benefit, then the weekly  
14 benefit rate of the claimant as otherwise established under this  
15 act is not reduced ~~due to receipt of~~ **BECAUSE THE CLAIMANT IS**  
16 **RECEIVING OR WILL RECEIVE** a retirement benefit.

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

25 (2) If an individual's weekly benefit rate under this act was  
26 established before the period for which the individual first  
27 receives a retirement benefit, any benefits received after a

1 retirement benefit becomes payable must be determined in accordance  
2 with the formula stated in this subsection.

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

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

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

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

26 (b) If a benefit as described in subparagraph (a) is payable  
27 or paid to ~~the~~**AN** individual under a plan to which the individual

1 has contributed, **THE BENEFIT IS TREATED AS FOLLOWS:**

2 (i) ~~Less~~-**IF THE INDIVIDUAL HAS CONTRIBUTED LESS** than 1/2 of  
3 the cost of the benefit, then only 1/2 of the benefit is treated as  
4 a retirement benefit.

5 (ii) ~~One-half~~-**IF THE INDIVIDUAL HAS CONTRIBUTED 1/2** or more of  
6 the cost of the benefit, then none of the benefit is treated as a  
7 retirement benefit.

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

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

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

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

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

20 (b) 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 less than the claimant's weekly benefit  
24 rate as otherwise established under this act, then the weekly  
25 benefit rate otherwise payable to the claimant is reduced by an  
26 amount equal to the pro rata weekly amount, adjusted to the next  
27 lower multiple of \$1.00, ~~which~~ **THAT** the claimant is receiving or

1 will receive as a retirement benefit.

2 (c) If no base period **EMPLOYER** or separating employer has  
3 contributed to the financing of a retirement plan under which the  
4 claimant is receiving or will receive a retirement benefit, then  
5 the weekly benefit rate of the claimant as otherwise established  
6 under this act ~~shall~~**IS** not be reduced due to receipt of **BECAUSE**  
7 **THE CLAIMANT IS RECEIVING OR WILL RECEIVE** a retirement benefit.

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

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

27 (i) Benefits based on service in employment described in

1 section 42(8), (9), and (10) are payable in the same amount, on the  
2 same terms, and subject to the same conditions as compensation  
3 payable on the basis of other service subject to this act, except  
4 that **THE FOLLOWING APPLY:**

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

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

1           (5) ~~Benefits~~ **THE UNEMPLOYMENT AGENCY SHALL NOT DENY BENEFITS**  
2 **THAT ARE** based ~~upon~~ **ON** services in other than an instructional,  
3 research, or principal administrative capacity for an institution  
4 of higher education are not denied for any week of unemployment  
5 commencing during the period between 2 successive academic years or  
6 terms solely because the individual had performed the service in  
7 the first of the academic years or terms and there is reasonable  
8 assurance that the individual will perform the service for an  
9 institution of higher education or an educational institution other  
10 than an institution of higher education in the second of the  
11 academic years or terms, unless a denial is required as a condition  
12 for full tax credit against the tax imposed by the federal  
13 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  
25 sequence of benefit charging, except for the employment with the  
26 educational institution. ~~, and section 50(b) applies to the~~  
27 ~~calculation of credit weeks.~~ When a denial of benefits under

1 subdivision (1) no longer applies, benefits are charged in  
2 accordance with the normal sequence of charging as provided in  
3 section 20(b).

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

24 (8) For the purposes of this subsection, "academic year" means  
25 that period, as defined by the educational institution, when  
26 classes are in session for that length of time required for  
27 students to receive sufficient instruction or earn sufficient

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 are denied to an individual  
5 who performed services described in subdivision (1), (2), or (3) in  
6 an educational institution while in the employ of an educational  
7 service agency. For the purpose of this subdivision, "educational  
8 service agency" means a governmental agency or governmental entity  
9 that is established and operated exclusively for the purpose of  
10 providing the services to 1 or more educational institutions.

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

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

1 USC 1182.

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

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

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

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

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

25 (b) The amount, if any, determined pursuant to an agreement  
26 submitted to the ~~commission~~ **UNEMPLOYMENT AGENCY** under 42 USC  
27 654(19)(B)(i), by the state or local child support enforcement

1 agency.

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

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 **RECOVERY** provisions of section 62(a) and the reduction provisions  
10 of subsections (c) and (f).

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

14 (5) Any amount deducted and withheld under subdivision (2) is  
15 treated for all purposes as if it were paid to the individual as  
16 unemployment compensation and paid by the individual to the state  
17 or local child support enforcement agency in satisfaction of the  
18 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 unemployment  
22 agency for the administrative costs incurred by the unemployment  
23 agency under this subsection that are attributable to child support  
24 obligations being enforced by the state or local child support  
25 enforcement agency. The administrative costs incurred are  
26 determined by the unemployment agency. The unemployment agency, in  
27 its discretion, may require payment of administrative costs in

1 advance.

2 (7) As used in this subsection:

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

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

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

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

24 (o) (1) ~~For weeks of unemployment beginning after July 1, 1996,~~  
25 ~~unemployment~~ **UNEMPLOYMENT** benefits based on services by a seasonal  
26 worker performed in seasonal employment are payable only for weeks  
27 of unemployment that occur during the normal seasonal work period.

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

18 (2) Not less than 20 days before the estimated beginning date  
19 of a normal seasonal work period, an employer may apply to the  
20 ~~commission~~ **UNEMPLOYMENT AGENCY** in writing for designation as a  
21 seasonal employer. At the time of application, the employer shall  
22 conspicuously display a copy of the application on the employer's  
23 premises. Within 90 days after receipt of the application, the  
24 ~~commission~~ **UNEMPLOYMENT AGENCY** shall determine if the employer is a  
25 seasonal employer. A determination or redetermination of the  
26 ~~commission~~ **UNEMPLOYMENT AGENCY** concerning the status of an employer  
27 as a seasonal employer, or a decision of an administrative law

1 judge, the Michigan compensation appellate commission, or the  
2 courts of this state concerning the status of an employer as a  
3 seasonal employer, ~~which~~**THAT** has become final, together with the  
4 record, ~~thereof~~, may be introduced in any proceeding involving a  
5 claim for benefits, and the facts found and decision issued in the  
6 determination, redetermination, or decision ~~is~~**ARE** conclusive  
7 unless substantial evidence to the contrary is introduced by or on  
8 behalf of the claimant.

9 (3) If the ~~employer is determined to be~~**UNEMPLOYMENT AGENCY**  
10 **DETERMINES THAT AN EMPLOYER IS** a seasonal employer, the employer  
11 shall conspicuously display on its premises a notice ~~of~~**THAT**  
12 **INCLUDES** the determination, ~~and~~ the beginning and ending dates of  
13 the employer's normal seasonal work periods, ~~The commission shall~~  
14 ~~furnish the notice. The notice must additionally specify~~**AND A**  
15 **STATEMENT** that an employee must timely apply for unemployment  
16 benefits at the end of a first seasonal work period to preserve his  
17 or her right to receive retroactive unemployment benefits if he or  
18 she is not reemployed by the seasonal employer in the second of the  
19 normal seasonal work periods. **THE UNEMPLOYMENT AGENCY SHALL PROVIDE**  
20 **THE NOTICE TO THE EMPLOYER.**

21 (4) The ~~commission~~**UNEMPLOYMENT AGENCY** may issue a  
22 determination terminating an employer's status as a seasonal  
23 employer on the ~~commission's~~**UNEMPLOYMENT AGENCY'S** own motion for  
24 good cause, or upon the written request of the employer. A  
25 termination determination under this subdivision terminates an  
26 employer's status as a seasonal employer, and becomes effective on  
27 the beginning date of the normal seasonal work period that would

1 have immediately followed the date the ~~commission~~ **UNEMPLOYMENT**  
2 **AGENCY** issues the determination. A determination under this  
3 subdivision is subject to review in the same manner and to the same  
4 extent as any other determination under this act.

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

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

17 (7) A successor of a seasonal employer is considered to be a  
18 seasonal employer unless the successor provides the ~~commission~~,  
19 **UNEMPLOYMENT AGENCY**, within 120 days after the transfer, with a  
20 written request for termination of its status as a seasonal  
21 employer ~~in accordance with~~ **PURSUANT TO** subdivision (4).

22 (8) At the time an employee is hired by a seasonal employer,  
23 the employer shall notify the employee in writing if the employee  
24 will be a seasonal worker. The employer shall provide the worker  
25 with written notice of any subsequent change in the employee's  
26 status as a seasonal worker. If an employee of a seasonal employer  
27 is denied benefits because that employee is a seasonal worker, the

1 employee may contest that designation in accordance with section  
2 32a.

3 (9) As used in this subsection:

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

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

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

16 (d) "Seasonal employer" means an employer, other than an  
17 employer in the construction industry, who applies to the  
18 unemployment agency for designation as a seasonal employer and who  
19 the unemployment agency determines is an employer whose operations  
20 and business require employees engaged in seasonal employment. A  
21 seasonal employer designation under this act need not correspond to  
22 a category assigned under the North American classification system  
23 - United States Office of Management and Budget.

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

27 (10) This subsection does not apply if the United States

1 Department of Labor finds it to be contrary to the federal  
2 unemployment tax act, 26 USC 3301 to 3311, or the social security  
3 act, chapter 531, 49 Stat 620, and if conformity with the federal  
4 law is required as a condition for full tax credit against the tax  
5 imposed under the federal unemployment tax act, 26 USC 3301 to  
6 3311, or as a condition for receipt by the ~~commission~~**UNEMPLOYMENT**  
7 **AGENCY** of federal administrative grant funds under the social  
8 security act, chapter 531, 49 Stat 620.

9 (p) Benefits are not payable to an individual based ~~upon~~**ON**  
10 his or her services as a school crossing guard for any week of  
11 unemployment that begins between 2 successive academic years or  
12 terms, if ~~that~~**THE** individual performs the services of a school  
13 crossing guard in the first of the academic years or terms and has  
14 a reasonable assurance that he or she will perform those services  
15 in the second of the academic years or terms.

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