

SUBSTITUTE FOR
HOUSE BILL NO. 4982

A bill to amend 1936 (Ex Sess) PA 1, entitled "Michigan employment security act," by amending sections 27, 32, 54, and 62 (MCL 421.27, 421.32, 421.54, and 421.62), section 27 as amended by 2012 PA 496, section 32 as amended by 2013 PA 144, section 54 as amended by 2013 PA 143, and section 62 as amended by 2013 PA 147.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

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

5 (2) Benefits ~~shall be paid~~ **ARE PAYABLE** in person or by mail
6 through ~~Employment~~ **EMPLOYMENT SECURITY** offices in accordance with
7 rules promulgated by the ~~commission~~ **UNEMPLOYMENT AGENCY**.

8 (b) (1) Subject to subsection (f), the weekly benefit rate for
9 an individual, with respect to benefit years beginning before
10 October 1, 2000, ~~shall be~~ **IS** 67% of the individual's average after
11 tax weekly wage, except that the individual's maximum weekly
12 benefit rate ~~shall~~ **MUST** not exceed \$300.00. However, with respect
13 to benefit years beginning on or after October 1, 2000, the
14 individual's weekly benefit rate is 4.1% of the individual's wages
15 paid in the calendar quarter of the base period in which the
16 individual was paid the highest total wages, plus \$6.00 for each
17 dependent as defined in subdivision (4), up to a maximum of 5
18 dependents, claimed by the individual at the time the individual
19 files a new claim for benefits, except that the individual's
20 maximum weekly benefit rate ~~shall~~ **MUST** not exceed \$300.00 before
21 April 26, 2002 and \$362.00 for claims filed on and after April 26,
22 2002. The weekly benefit rate for an individual claiming benefits
23 on and after April 26, 2002 ~~shall~~ **MUST** be recalculated subject to
24 the \$362.00 maximum weekly benefit rate. The unemployment agency
25 shall establish the procedures necessary to verify the number of
26 dependents claimed. If a person fraudulently claims a dependent,
27 that person is subject to the penalties set forth in sections 54

1 and 54c. For benefit years beginning on or after October 2, 1983,
2 the weekly benefit rate shall ~~shall~~ **MUST** be adjusted to the next lower
3 multiple of \$1.00.

4 (2) For benefit years beginning before October 1, 2000, the
5 state average weekly wage for a calendar year shall ~~be~~ **IS** computed
6 on the basis of the 12 months ending the June 30 immediately before
7 that calendar year. ~~The commission shall prepare a table of weekly~~
8 ~~benefit rates based on an "average after tax weekly wage"~~
9 ~~calculated by subtracting, from an individual's average weekly wage~~
10 ~~as determined in accordance with section 51, a reasonable~~
11 ~~approximation of the weekly amount required to be withheld by the~~
12 ~~employer from the remuneration of the individual based on~~
13 ~~dependents and exemptions for income taxes under 26 USC 3401 to~~
14 ~~3406, and under section 351 of the income tax act of 1967, 1967 PA~~
15 ~~281, MCL 206.351, and for old age and survivor's disability~~
16 ~~insurance taxes under the federal insurance contributions act, 26~~
17 ~~USC 3101 to 3128. For purposes of applying the table to an~~
18 ~~individual's claim, a dependent shall be as defined in subdivision~~
19 ~~(3). The table applicable to an individual's claim shall be the~~
20 ~~table reflecting the number of dependents claimed by the individual~~
21 ~~under subdivision (3). The commission shall adjust the tables based~~
22 ~~on changes in withholding schedules published by the United States~~
23 ~~department of treasury, internal revenue service, and by the~~
24 ~~department of treasury. The number of dependents allowed shall be~~
25 ~~determined with respect to each week of unemployment for which an~~
26 ~~individual is claiming benefits.~~

27 (3) For benefit years beginning before October 1, 2000, a

1 dependent means any of the following persons who are receiving and
2 for at least 90 consecutive days immediately before the week for
3 which benefits are claimed, or, in the case of a dependent husband,
4 wife, or child, for the duration of the marital or parental
5 relationship, if the relationship has existed less than 90 days,
6 has received more than 1/2 the cost of his or her support from the
7 individual claiming benefits:

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

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

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

19 (d) A brother or sister of the individual if the brother or
20 sister is orphaned or the living parents are dependent parents of
21 an individual, and the brother or sister is under 18 years of age,
22 or 18 years of age or over if, because of physical or mental
23 infirmity, the brother or sister is unable to engage in a gainful
24 occupation, or is a full-time student as defined by the particular
25 educational institution, at a high school, vocational school,
26 community or junior college, or college or university and is less
27 than 22 years of age.

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

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

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

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

20 (d) A brother or sister of the individual if the brother or
21 sister is orphaned or the living parents are dependent parents of
22 an individual, and the brother or sister is under 18 years of age,
23 or 18 years of age and over if, because of physical or mental
24 infirmity, the brother or sister is unable to engage in a gainful
25 occupation, or is a full-time student as defined by the particular
26 educational institution, at a high school, vocational school,
27 community or junior college, or college or university and is less

1 than 22 years of age.

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

12 ~~(6) For benefit years beginning before October 1, 2000,~~
13 ~~failure on the part of an individual, due to misinformation or lack~~
14 ~~of information, to furnish all information material for~~
15 ~~determination of the number of the individual's dependents when the~~
16 ~~individual files a claim for benefits with respect to a week is~~
17 ~~good cause to issue a redetermination as to the amount of benefits~~
18 ~~based on the number of the individual's dependents as of the~~
19 ~~beginning date of that week. Dependency status of a dependent,~~
20 ~~child or otherwise, once established or fixed in favor of a person~~
21 ~~is not transferable to or usable by another person with respect to~~
22 ~~the same week.~~

23 ~~—— For benefit years beginning on or after October 1, 2000,~~
24 ~~failure~~ **FAILURE** on the part of an individual, due to misinformation
25 or lack of information, to furnish all information material for
26 determination of the number of the individual's dependents is good
27 cause to issue a redetermination as to the amount of benefits based

1 on the number of the individual's dependents as of the beginning of
2 the benefit year.

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

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

15 (2) ~~Each eligible individual shall have his or her~~**THE** weekly
16 benefit rate **IS** reduced with respect to each week in which the
17 **ELIGIBLE** individual earns or receives remuneration at the rate of
18 40 cents for each whole \$1.00 of remuneration earned or received
19 during that week. Beginning October 1, 2015, an eligible
20 individual's weekly benefit rate ~~shall be~~**IS** reduced at the rate of
21 50 cents for each whole \$1.00 of remuneration in which the eligible
22 individual earns or receives remuneration in that benefit week. The
23 weekly benefit rate ~~shall not be~~**IS NOT** reduced under this
24 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 ~~shall be~~**IS** reduced by \$1.00.
6 Beginning October 1, 2015, the total benefits and earnings for an
7 individual who receives or earns partial remuneration ~~shall~~**MAY** not
8 exceed 1-1/2 times his or her weekly benefit amount. The
9 individual's benefits ~~shall be~~**ARE** reduced by \$1.00 for each dollar
10 by which the total benefits and earnings exceed 1-1/2 times the
11 individual's 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 ~~shall be~~**IS** reduced by 1 week.

16 (5) All remuneration for work performed during a shift that
17 terminates on 1 day but that began on the preceding day ~~shall be~~**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) For benefit years beginning before October 1, 2000, and~~
7 ~~subject to subsection (f) and this subsection, the amount of~~
8 ~~benefits to which an individual who is otherwise eligible is~~
9 ~~entitled during a benefit year from an employer with respect to~~
10 ~~employment during the base period is the amount obtained by~~
11 ~~multiplying the weekly benefit rate with respect to that employment~~
12 ~~by 3/4 of the number of credit weeks earned in the employment. For~~
13 ~~the purpose of this subsection and section 20(e), if the resultant~~
14 ~~product is not an even multiple of 1/2 the weekly benefit rate, the~~
15 ~~product shall be raised to an amount equal to the next higher~~
16 ~~multiple of 1/2 the weekly benefit rate, and, for an individual who~~
17 ~~was employed by only 1 employer in the individual's base period and~~
18 ~~earned 34 credit weeks with that employer, the product shall be~~
19 ~~raised to the next higher multiple of the weekly benefit rate. The~~
20 ~~maximum amount of benefits payable to an individual within a~~
21 ~~benefit year, with respect to employment by an employer, shall not~~
22 ~~exceed 26 times the weekly benefit rate with respect to that~~
23 ~~employment. The maximum amount of benefits payable to an individual~~
24 ~~within a benefit year shall not exceed the amount to which the~~
25 ~~individual would be entitled for 26 weeks of unemployment in which~~
26 ~~remuneration was not earned or received. The limitation of total~~
27 ~~benefits set forth in this subsection does not apply to claimants~~

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

22 (e) When a claimant dies or is judicially declared insane or
23 mentally incompetent, unemployment compensation benefits accrued
24 and payable to that person for weeks of unemployment before death,
25 insanity, or incompetency, but not paid, ~~shall become~~ due and
26 payable to the person who is the legal heir or guardian of the
27 claimant or to any other person found by the commission to be

1 equitably entitled to the benefits by reason of having incurred
2 expense in behalf of the claimant for the claimant's burial or
3 other necessary expenses.

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

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

23 (b) If and to the extent that unemployment benefits payable
24 under this act would be chargeable to an employer who has
25 contributed to the financing of a retirement plan under which the
26 claimant is receiving or will receive a retirement benefit yielding
27 a pro rata weekly amount 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 and chargeable to
3 the employer under this act ~~shall be~~**ARE** reduced by an amount equal
4 to the pro rata weekly amount, adjusted to the next lower multiple
5 of \$1.00, which the claimant is receiving or will receive as a
6 retirement benefit.

7 (c) If the unemployment benefit payable under this act would
8 be chargeable to an employer who has not contributed to the
9 financing of a retirement plan under which the claimant is
10 receiving or will receive a retirement benefit, then the weekly
11 benefit rate of the claimant as otherwise established under this
12 act ~~shall~~**IS** not ~~be~~ reduced due to receipt of a retirement benefit.

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

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

26 (3) When necessary to assure prompt payment of benefits, the
27 commission shall determine the pro rata weekly amount yielded by an

1 individual's retirement benefit based on the best information
2 currently available to it. In the absence of fraud, a determination
3 ~~shall~~**MUST** not be reconsidered unless it is established that the
4 individual's actual retirement benefit in fact differs from the
5 amount determined by \$2.00 or more per week. The reconsideration
6 ~~shall apply~~**APPLIES** only to benefits ~~as~~**THAT** may be claimed after
7 the information on which the reconsideration is based was received
8 by the commission.

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

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

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

22 (b) If a benefit as described in subparagraph (a) is payable
23 or paid to the individual under a plan to which the individual has
24 contributed:

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

27 (ii) One-half or more of the cost of the benefit, then none of

1 the benefit is treated as a retirement benefit.

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

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

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

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

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

14 (b) 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 less than the claimant's weekly benefit
18 rate as otherwise established under this act, then the weekly
19 benefit rate otherwise payable to the claimant ~~shall be~~ **IS** reduced
20 by an amount equal to the pro rata weekly amount, adjusted to the
21 next lower multiple of \$1.00, which the claimant is receiving or
22 will receive as a retirement benefit.

23 (c) If no base period or separating employer has contributed
24 to the 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 shall not be reduced due to receipt of a retirement benefit.

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

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

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

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

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

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

1 than an institution of higher education in the second of the
2 academic years or terms.

3 (3) With respect to any service described in subdivision (1)
4 or (2), benefits ~~shall not be paid~~ **ARE NOT PAYABLE** to an individual
5 based upon service for any week of unemployment that commences
6 during an established and customary vacation period or holiday
7 recess if the individual performs the service in the period
8 immediately before the vacation period or holiday recess and there
9 is a contract or reasonable assurance that the individual will
10 perform the service in the period immediately following the
11 vacation period or holiday recess.

12 (4) If benefits are denied to an individual for any week
13 solely as a result of subdivision (2) and the individual was not
14 offered an opportunity to perform in the second academic year or
15 term the service for which reasonable assurance had been given, the
16 individual is entitled to a retroactive payment of benefits for
17 each week for which the individual had previously filed a timely
18 claim for benefits. An individual entitled to benefits under this
19 subdivision may apply for those benefits by mail in accordance with
20 R 421.210 of the Michigan ~~administrative code~~ **ADMINISTRATIVE CODE**
21 as promulgated by the commission.

22 (5) Benefits based upon services in other than an
23 instructional, research, or principal administrative capacity for
24 an institution of higher education ~~shall not be~~ **ARE NOT** denied for
25 any week of unemployment commencing during the period between 2
26 successive academic years or terms solely because the individual
27 had performed the service in the first of the academic years or

1 terms and there is reasonable assurance that the individual will
2 perform the service for an institution of higher education or an
3 educational institution other than an institution of higher
4 education in the second of the academic years or terms, unless a
5 denial is required as a condition for full tax credit against the
6 tax imposed by the federal unemployment tax act, 26 USC 3301 to
7 3311.

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

24 (7) For benefit years beginning on or after October 1, 2000,
25 and notwithstanding subdivisions (1), (2), and (3), the denial of
26 benefits ~~shall~~ **DOES** not prevent an individual from completing
27 requalifying weeks in accordance with section 29(3) ~~nor shall the~~

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

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

25 (9) In accordance with subdivisions (1), (2), and (3),
26 benefits for any week of unemployment ~~shall be~~ **ARE** denied to an
27 individual who performed services described in subdivision (1),

1 (2), or (3) in an educational institution while in the employ of an
2 educational service agency. For the purpose of this subdivision,
3 "educational service agency" means a governmental agency or
4 governmental entity that is established and operated exclusively
5 for the purpose of providing the services to 1 or more educational
6 institutions.

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

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

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

1 benefits.

2 (3) If an individual's application for benefits would
3 otherwise be approved, a determination that benefits to that
4 individual are not payable because of the individual's alien status
5 ~~shall~~**MUST** not be made except upon a preponderance of the evidence.

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

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

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

21 (b) The amount, if any, determined pursuant to an agreement
22 submitted to the commission under 42 USC ~~654(19)(b)(i)~~,
23 **654(19)(B)(I)**, by the state or local child support enforcement
24 agency.

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

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

6 (4) ~~Any~~**THE UNEMPLOYMENT AGENCY SHALL PAY ANY** amount deducted
7 and withheld under subdivision (2) ~~shall be paid by the commission~~
8 to the appropriate state or local child support enforcement agency.

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

14 (6) Provisions concerning deductions under this subsection
15 apply only if the state or local child support enforcement agency
16 agrees in writing to reimburse and does reimburse the ~~commission~~
17 **UNEMPLOYMENT AGENCY** for the administrative costs incurred by the
18 ~~commission~~**UNEMPLOYMENT AGENCY** under this subsection that are
19 attributable to child support obligations being enforced by the
20 state or local child support enforcement agency. The administrative
21 costs incurred ~~shall be~~**ARE** determined by the ~~commission~~.

22 **UNEMPLOYMENT AGENCY**. The ~~commission~~**UNEMPLOYMENT AGENCY**, in its
23 discretion, may require payment of administrative costs in advance.

24 (7) As used in this subsection:

25 (a) "Unemployment compensation", for purposes of subdivisions
26 (1) to (5), means any compensation payable under this act,
27 including amounts payable by the ~~commission~~**UNEMPLOYMENT AGENCY**

1 pursuant to an agreement under any federal law providing for
2 compensation, assistance, or allowances with respect to
3 unemployment.

4 (b) "Child support obligations" includes only obligations that
5 are being enforced pursuant to a plan described in 42 USC 654 that
6 has been approved by the ~~secretary of health and human services~~
7 **SECRETARY OF HEALTH AND HUMAN SERVICES** under 42 USC 651 to 669b.

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

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

20 (o)(1) For weeks of unemployment beginning after July 1, 1996,
21 unemployment benefits based on services by a seasonal worker
22 performed in seasonal employment are payable only for weeks of
23 unemployment that occur during the normal seasonal work period.
24 Benefits ~~shall not be paid~~ **ARE NOT PAYABLE** based on services
25 performed in seasonal employment for any week of unemployment
26 beginning after March 28, 1996 that begins during the period
27 between 2 successive normal seasonal work periods to any individual

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

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

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

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

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

25 (5) An employer whose status as a seasonal employer is
26 terminated under subdivision (4) may not reapply for a seasonal
27 employer status determination until after a regularly recurring

1 normal seasonal work period has begun and ended.

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

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

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

23 (9) As used in this subsection:

24 (a) "Construction industry" means the work activity designated
25 in sector group 23 - construction of the North American
26 classification system - United States ~~office of management and~~
27 ~~budget,~~ **OFFICE OF MANAGEMENT AND BUDGET**, 1997 edition.

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

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

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

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

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

1 commission of federal administrative grant funds under the social
2 security act, chapter 531, 49 Stat.—**STAT** 620.

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

10 Sec. 32. (a) Claims for benefits shall be made pursuant to
11 regulations prescribed by the unemployment agency. The unemployment
12 agency shall designate representatives who shall promptly examine
13 claims and make a determination on the facts. The unemployment
14 agency may establish rules providing for the examination of claims,
15 the determination of the validity of the claims, and the amount and
16 duration of benefits to be paid. The claimant and other interested
17 parties shall be promptly notified of the determination and the
18 reasons for the determination.

19 (b) The unemployment agency shall mail to the claimant, to
20 each base period employer or employing unit, and to the separating
21 employer or employing unit, a monetary determination. The monetary
22 determination shall notify each of these employers or employing
23 units that the claimant has filed an application for benefits and
24 the amount the claimant reported as earned with the separating
25 employer or employing unit, and shall state the name of each
26 employer or employing unit in the base period and the name of the
27 separating employer or employing unit. The monetary determination

1 shall also state the claimant's weekly benefit rate, the amount of
2 base period wages paid by each base period employer, the maximum
3 benefit amount that could be charged to each employer's account or
4 experience account, and the reason for separation reported by the
5 claimant. The monetary determination shall also state whether the
6 claimant is monetarily eligible to receive unemployment benefits.
7 Except for separations under section 29(1)(a), no further
8 reconsideration of a separation from any base period employer will
9 be made unless the base period employer notifies the unemployment
10 agency of a possible disqualifying separation within 30 days of the
11 separation in accordance with this subsection. Charges to the
12 employer and payments to the claimant shall be as described in
13 section 20(a). New, additional, or corrected information received
14 by the unemployment agency more than 10 days after mailing the
15 monetary determination shall be considered a request for
16 reconsideration by the employer of the monetary determination and
17 shall be reviewed as provided in section 32a.

18 (c) For the purpose of determining a claimant's nonmonetary
19 eligibility and qualification for benefits, if the claimant's most
20 recent base period or benefit year separation was for a reason
21 other than the lack of work, then a determination shall be issued
22 concerning that separation to the claimant and to the separating
23 employer. If a claimant is not disqualified based on his or her
24 most recent separation from employment and has satisfied the
25 requirements of section 29, the unemployment agency shall issue a
26 nonmonetary determination as to that separation only. If a claimant
27 is not disqualified based on his or her most recent separation from

1 employment and has not satisfied the requirements of section 29,
2 the unemployment agency shall issue 1 or more nonmonetary
3 determinations necessary to establish the claimant's qualification
4 for benefits based on any prior separation in inverse chronological
5 order. The unemployment agency shall consider all base period
6 separations involving disqualifications under section 29(1)(h),
7 (i), (j), (k), (m), or (n) in determining a claimant's nonmonetary
8 eligibility and qualification for benefits. An employer may
9 designate in writing to the unemployment agency an individual or
10 another employer or an employing unit to receive any notice
11 required to be given by the unemployment agency to that employer or
12 to represent that employer in any proceeding before the
13 unemployment agency as provided in section 31.

14 (d) If the unemployment agency requests additional monetary or
15 nonmonetary information from an employer or employing unit and the
16 unemployment agency fails to receive a written response from the
17 employer or employing unit within 10 calendar days after the date
18 of mailing the request for information, the unemployment agency
19 shall make a determination based upon the available information at
20 the time the determination is made. Charges to the employer and
21 payments to the claimant shall be as described in section 20(a).

22 (e) The claimant or interested party may file an application
23 with an office of the unemployment agency for a redetermination in
24 accordance with section 32a.

25 (f) The issuance of each benefit check shall be considered a
26 determination by the unemployment agency that the claimant
27 receiving the check was covered during the compensable period, and

1 eligible and qualified for benefits. A chargeable employer, upon
2 receipt of a listing of the check as provided in section 21(a), may
3 protest by requesting a redetermination of the claimant's
4 eligibility or qualification as to that period and a determination
5 as to later weeks and benefits still unpaid that are affected by
6 the protest. Upon receipt of the protest or request, the
7 unemployment agency shall investigate and redetermine whether the
8 claimant is eligible and qualified as to that period. If, upon the
9 redetermination, the claimant is found ineligible or not qualified,
10 the unemployment agency shall proceed as described in section 62.
11 In addition, the unemployment agency shall investigate and
12 determine whether the claimant obtained benefits for 1 or more
13 preceding weeks within the series of consecutive weeks that
14 includes the week covered by the redetermination and, if so, shall
15 proceed as described in section 62 as to those weeks.

16 (g) If a claimant commences to file continued claims through a
17 different state claim office in this state or elsewhere, the
18 unemployment agency promptly shall issue written notice of that
19 fact to the chargeable employer.

20 (h) If a claimant refuses an offer of work, or fails to apply
21 for work of which the claimant has been notified, as provided in
22 section 29(1)(c) or (e), the unemployment agency shall promptly
23 make a written determination as to whether or not the refusal or
24 failure requires disqualification under section 29. Notice of the
25 determination, specifying the name and address of the employing
26 unit offering or giving notice of the work and of the chargeable
27 employer, shall be sent to the claimant, the employing unit

1 offering or giving notice of the work, and the chargeable employer.

2 (I) THE UNEMPLOYMENT AGENCY SHALL ISSUE A NOTIFICATION TO THE
3 CLAIMANT OF CLAIMANT RIGHTS AND RESPONSIBILITIES WITHIN 2 WEEKS
4 AFTER THE INITIAL BENEFIT PAYMENT ON A CLAIM AND 6 MONTHS AFTER THE
5 INITIAL BENEFIT PAYMENT ON THE CLAIM. IF THE CLAIMANT SELECTED A
6 PREFERRED FORM OF COMMUNICATION, THE NOTIFICATION MUST BE CONVEYED
7 BY THAT FORM. ISSUING THE NOTIFICATION MUST NOT DELAY OR INTERFERE
8 WITH THE CLAIMANT'S BENEFIT PAYMENT. THE NOTIFICATION MUST CONTAIN
9 CLEAR AND UNDERSTANDABLE INFORMATION PERTAINING TO ALL OF THE
10 FOLLOWING:

11 (i) DETERMINATIONS AS PROVIDED IN SECTION 62.

12 (ii) PENALTIES AND OTHER SANCTIONS AS PROVIDED IN THIS ACT.

13 (iii) LEGAL RIGHT TO PROTEST THE DETERMINATION AND THE RIGHT
14 TO APPEAL THROUGH THE ADMINISTRATIVE HEARING SYSTEM.

15 (iv) OTHER INFORMATION NEEDED TO UNDERSTAND AND COMPLY WITH
16 AGENCY RULES AND REGULATIONS NOT SPECIFIED IN THIS SECTION.

17 Sec. 54. (a) A person, including a claimant for unemployment
18 benefits, an employing entity, or an owner, director, or officer of
19 an employing entity, who willfully violates or intentionally fails
20 to comply with any of the provisions of this act, or a regulation
21 of the unemployment agency promulgated under the authority of this
22 act for which a penalty is not otherwise provided by this act is
23 subject to the following sanctions, notwithstanding any other
24 statute of this state or of the United States:

25 (i) If the unemployment agency determines that an amount has
26 been obtained or withheld as a result of the intentional failure to
27 comply with this act, the unemployment agency may recover the

1 amount obtained as a result of the intentional failure to comply
2 plus damages equal to 3 times that amount.

3 (ii) The unemployment agency may refer the matter to the
4 prosecuting attorney of the county in which the alleged violation
5 occurred for prosecution. If the unemployment agency has not made
6 its own determination under subdivision (i), the recovery sought by
7 the prosecutor shall include the amount described in subdivision
8 (i) and shall also include 1 or more of the following penalties:

9 (A) Subject to redesignation under subsection (l), if the
10 amount obtained or withheld from payment as a result of the
11 intentional failure to comply is less than \$25,000.00, then 1 of
12 the following:

13 (I) Imprisonment for not more than 1 year.

14 (II) The performance of community service of not more than 1
15 year but not to exceed 2,080 hours.

16 (III) A combination of (I) and (II) that does not exceed 1
17 year.

18 (B) If the amount obtained or withheld from payment as a
19 result of the intentional failure to comply is \$25,000.00 or more
20 but less than \$100,000.00, then 1 of the following:

21 (I) Imprisonment for not more than 2 years.

22 (II) The performance of community service of not more than 2
23 years but not to exceed 4,160 hours.

24 (III) A combination of (I) and (II) that does not exceed 2
25 years.

26 (C) If the amount obtained or withheld from payment as a
27 result of the intentional failure to comply is more than

1 \$100,000.00, then 1 of the following:

2 (I) Imprisonment for not more than 5 years.

3 (II) The performance of community service of not more than 5
4 years but not to exceed 10,400 hours.

5 (III) A combination of (I) and (II) that does not exceed 5
6 years.

7 (iii) If the unemployment agency determines that an amount has
8 been obtained or withheld as a result of a knowing violation of
9 this act, the unemployment agency may recover the amount obtained
10 as a result of the knowing violation and may also recover damages
11 equal to 3 times that amount.

12 (iv) The unemployment agency may refer a matter under
13 subdivision (iii) to the prosecuting attorney of the county in
14 which the alleged violation occurred for prosecution. If the
15 unemployment agency has not made its own determination under
16 subdivision (iii), the recovery sought by the prosecutor shall
17 include the amount described in subdivision (iii) and shall also
18 include 1 or more of the following penalties:

19 (A) Subject to redesignation under subsection (l), if the
20 amount obtained or withheld from payment as a result of the knowing
21 violation is \$100,000.00 or less, then 1 of the following:

22 (I) Imprisonment for not more than 1 year.

23 (II) The performance of community service of not more than 1
24 year but not to exceed 2,080 hours.

25 (III) A combination of (I) and (II) that does not exceed 1
26 year.

27 (B) If the amount obtained or withheld from payment as a

House Bill No. 4982 as amended December 8, 2016

1 result of the knowing violation is more than \$100,000.00, then 1 of
2 the following:

3 (I) Imprisonment for not more than 2 years.

4 (II) The performance of community service of not more than 2
5 years but not to exceed 4,160 hours.

6 (III) A combination of (I) and (II) that does not exceed 2
7 years.

8 (b) Any employing unit or an owner, director, officer, or
9 agent of an employing unit, a claimant, an employee of the
10 unemployment agency, or any other person who makes a false
11 statement or representation knowing it to be false, or knowingly
12 and willfully with intent to defraud fails to disclose a material
13 fact, to obtain or increase a benefit or other payment under this
14 act or under the unemployment compensation law of any state or of
15 the federal government, either for himself or herself or any other
16 person, to prevent or reduce the payment of benefits to an
17 individual entitled thereto or to avoid becoming or remaining a
18 subject employer, or to avoid or reduce a contribution or other
19 payment required from an employing unit under this act or under the
20 unemployment compensation law of any state or of the federal
21 government, as applicable, is subject to administrative fines and
22 is punishable as follows,—**PROVIDED IN THIS SUBSECTION,**
23 notwithstanding any other penalties imposed under any other statute
24 of this state or of the United States. **[FOR BENEFIT YEARS BEGINNING ON OR**
25 **AFTER MAY 1, 2017, TO] ESTABLISH FRAUD BASED ON**
26 **MUST HAVE IN ITS POSSESSION THE WEEKLY WAGE INFORMATION FROM THE**
27 **EMPLOYER. A VIOLATION OF THIS SUBSECTION IS PUNISHABLE AS FOLLOWS:**

1 (i) If the amount obtained as a result of the knowing false
2 statement or representation or the knowing and willful failure to
3 disclose a material fact is less than \$500.00, the unemployment
4 agency may recover the amount obtained as a result of the knowing
5 false statement or representation or the knowing and willful
6 failure to disclose a material fact and may also recover damages
7 equal to 2 times that amount. For a second or subsequent violation
8 described in this subdivision, the unemployment agency may recover
9 damages equal to 4 times the amount obtained.

10 (ii) If the amount obtained as a result of the knowing false
11 statement or representation or the knowing and willful failure to
12 disclose a material fact is \$500.00 or more, the unemployment
13 agency shall attempt to recover the amount obtained as a result of
14 the knowing false statement or representation or the knowing and
15 willful failure to disclose a material fact and may also recover
16 damages equal to 4 times that amount. The unemployment agency may
17 refer the matter to the prosecuting attorney of the county in which
18 the alleged violation occurred for prosecution. If the unemployment
19 agency has not made its own determination under this subdivision,
20 the recovery sought by the prosecutor shall include the amount
21 described in this subdivision and shall also include 1 or more of
22 the following penalties if the amount obtained is \$1,000.00 or
23 more:

24 (A) Subject to redesignation under subsection (l), if the
25 amount obtained or withheld from payment as a result of the knowing
26 false statement or representation or the knowing and willful
27 failure to disclose a material fact is \$1,000.00 or more but less

1 than \$25,000.00, then 1 of the following:

2 (I) Imprisonment for not more than 1 year.

3 (II) The performance of community service of not more than 1
4 year but not to exceed 2,080 hours.

5 (III) A combination of (I) and (II) that does not exceed 1
6 year.

7 (B) If the amount obtained or withheld from payment as a
8 result of the knowing false statement or representation or the
9 knowing and willful failure to disclose a material fact is
10 \$25,000.00 or more, then 1 of the following:

11 (I) Imprisonment for not more than 2 years.

12 (II) The performance of community service of not more than 2
13 years but not to exceed 4,160 hours.

14 (III) A combination of (I) and (II) that does not exceed 2
15 years.

16 (C) If the knowing false statement or representation or the
17 knowing and willful failure to disclose a material fact made to
18 obtain or withhold an amount from payment does not result in a loss
19 to the commission, then a recovery shall be sought equal to 3 times
20 the amount that would have been obtained by the knowing false
21 statement or representation or the knowing and willful failure to
22 disclose a material fact, but not less than \$1,000.00, and 1 of the
23 following:

24 (I) Imprisonment for not more than 2 years.

25 (II) The performance of community service of not more than 2
26 years but not to exceed 4,160 hours.

27 (III) A combination of (I) and (II) that does not exceed 2

1 years.

2 (c) (1) Any employing unit or an owner, director, officer, or
3 agent of an employing unit or any other person failing to submit,
4 when due, any contribution report, wage and employment report, or
5 other reports lawfully prescribed and required by the unemployment
6 agency shall be subject to the assessment of an administrative fine
7 for each report not submitted within the time prescribed by the
8 unemployment agency, as follows: In the case of contribution
9 reports not received within 10 days after the end of the reporting
10 month the fine shall be 10% of the contributions due on the reports
11 but not less than \$5.00 or more than \$25.00 for a report. However,
12 if the tenth day falls on a Saturday, Sunday, legal holiday, or
13 other unemployment agency nonwork day, the 10-day period shall run
14 until the end of the next day that is not a Saturday, Sunday, legal
15 holiday, or other unemployment agency nonwork day. In the case of
16 all other reports referred to in this subsection, the fine shall be
17 \$10.00 for a report.

18 (2) Notwithstanding subdivision (1), any employer or an owner,
19 director, officer, or agent of an employer or any other person
20 failing to submit, when due, any quarterly wage detail report
21 required by section 13(2), or submitting an incomplete or erroneous
22 report, is subject to an administrative fine of \$50.00 for each
23 untimely report, incomplete report, or erroneous report if the
24 report is filed not later than 30 days after the date the report is
25 due, \$250.00 if the report is filed more than 1 calendar quarter
26 after the date the report is due, and an additional \$250.00 for
27 each additional calendar quarter that the report is late, except

1 that no penalty shall apply if the employer files a corrected
2 report within 14 days after notification of an error by the agency.

3 (3) If a report is filed after the prescribed time and it is
4 shown to the satisfaction of the commission that the failure to
5 submit the report was due to reasonable cause, a fine shall not be
6 imposed. The assessment of a fine as provided in this subsection
7 constitutes a final determination unless the employer files an
8 application with the unemployment agency for a redetermination of
9 the assessment in accordance with section 32a.

10 (d) If any employee or agent of the unemployment agency or
11 member of the Michigan compensation appellate commission willfully
12 discloses confidential information obtained from any employing unit
13 or individual in the administration of this act for any purpose
14 inconsistent with or contrary to the purposes of this act, or a
15 person who obtains a list of applicants for work or of claimants or
16 recipients of benefits under this act uses or permits use of that
17 list for a political purpose or for a purpose inconsistent with or
18 contrary to the purposes of this act, he or she is guilty of a
19 misdemeanor punishable by imprisonment for not more than 90 days or
20 a fine of not more than \$1,000.00, or both. Notwithstanding the
21 preceding sentence, if any unemployment agency employee, agent of
22 the unemployment agency, or member of the Michigan compensation
23 appellate commission knowingly, intentionally, and for financial
24 gain, makes an illegal disclosure of confidential information
25 obtained under section 13(2), he or she is guilty of a felony,
26 punishable by imprisonment for not more than 1 year and 1 day.

27 (e) A person who, without proper authority from the

1 unemployment agency, represents himself or herself to be an
2 employee of the unemployment agency for the purpose of securing
3 information regarding the unemployment or employment record of an
4 individual is guilty of a misdemeanor punishable by imprisonment
5 for not more than 90 days or a fine of not more than \$1,000.00, or
6 both.

7 (f) A person associated with a college, university, or public
8 agency of this state who makes use of any information obtained from
9 the unemployment agency in connection with a research project of a
10 public service nature, in a manner as to reveal the identity of any
11 individual or employing unit from or concerning whom the
12 information was obtained by the unemployment agency, or for any
13 purpose other than use in connection with that research project, is
14 guilty of a misdemeanor punishable by imprisonment for not more
15 than 90 days or a fine of not more than \$1,000.00, or both.

16 (g) As used in this section, "person" includes an individual;
17 owner, director, or officer of an employing entity; copartnership;
18 joint venture; corporation; receiver; or trustee in bankruptcy.

19 (h) This section applies even if the amount obtained or
20 withheld from payment has been reported or reported and paid by an
21 individual involved in a violation of subsection (a) or (b).

22 (i) If a determination is made that an individual has violated
23 this section, the individual is subject to the sanctions of this
24 section and, if applicable, the requirements of section 62.

25 (j) Amounts recovered by the commission under subsection (a)
26 shall be credited first to the unemployment compensation fund and
27 thereafter amounts recovered that are in excess of the amounts

1 obtained or withheld as a result of the violation of subsection (a)
2 shall be credited to the penalty and interest account of the
3 contingent fund. Amounts recovered by the commission under
4 subsections (c), (d), (e), and (f) shall be credited to the penalty
5 and interest account of the contingent fund in accordance with
6 section 10(6).

7 (k) Amounts recovered by the unemployment agency under
8 subsection (b) shall be credited in the following order:

9 (i) From the penalty assessment recovered, an amount equal to
10 15% of any benefit overpayments resulting from fraud shall be
11 credited to the unemployment compensation fund.

12 (ii) For the balance of deductions from unemployment insurance
13 benefits, to the liability for benefit repayment under this
14 section.

15 (iii) For all other recoveries, the balance shall first be
16 credited to the unemployment compensation fund for repayment of any
17 remaining amounts owed, and then to the contingent fund to be
18 applied first to administrative sanctions and damages and then to
19 interest.

20 (l) A person who obtains or withholds an amount of
21 unemployment benefits or payments exceeding \$3,500.00 but less than
22 \$25,000.00 as a result of a knowing false statement or
23 representation or the knowing and willful failure to disclose a
24 material fact is guilty of a felony punishable as provided in
25 subsection (a) (ii) (A) or (iv) (A) or subsection (b) (ii) (A).

26 **(M) AN UNEMPLOYMENT AGENCY DETERMINATION UNDER THIS SECTION**
27 **SHALL NOT BE BASED SOLELY ON A COMPUTER-IDENTIFIED DISCREPANCY IN**

1 INFORMATION SUPPLIED BY THE CLAIMANT OR EMPLOYER. AN UNEMPLOYMENT
2 AGENCY EMPLOYEE OR AGENT MUST EXAMINE THE FACTS AND INDEPENDENTLY
3 DETERMINE THAT THE CLAIMANT OR THE EMPLOYER IS RESPONSIBLE FOR A
4 WILLFUL OR INTENTIONAL VIOLATION BEFORE THE AGENCY MAKES A
5 DETERMINATION UNDER THIS SECTION.

6 Sec. 62. (a) If the unemployment agency determines that a
7 person has obtained benefits to which that person is not entitled,
8 or a subsequent determination by the agency or a decision of an
9 appellate authority reverses a prior qualification for benefits,
10 the agency may recover a sum equal to the amount received plus
11 interest by 1 or more of the following methods: deduction from
12 benefits or wages payable to the individual, payment by the
13 individual in cash, or deduction from a tax refund payable to the
14 individual as provided under section 30a of 1941 PA 122, MCL
15 205.30a. Deduction from benefits or wages payable to the individual
16 is limited to not more than 50% of each payment due the claimant.
17 The unemployment agency shall issue a determination requiring
18 restitution within 3 years after the date of finality of a
19 determination, redetermination, or decision reversing a previous
20 finding of benefit entitlement. ~~The~~ **EXCEPT IN THE CASE OF BENEFITS**
21 **IMPROPERLY PAID BECAUSE OF SUSPECTED IDENTITY FRAUD, THE**
22 unemployment agency shall not initiate administrative or court
23 action to recover improperly paid benefits from an individual more
24 than 3 years after the date that the last determination,
25 redetermination, or decision establishing restitution is final. ~~The~~
26 **EXCEPT IN THE CASE OF BENEFITS IMPROPERLY PAID BECAUSE OF SUSPECTED**
27 **IDENTITY FRAUD, THE** unemployment agency shall issue a determination

1 on an issue within 3 years from the date the claimant first
2 received benefits in the benefit year in which the issue arose, or
3 in the case of an issue of intentional false statement,
4 misrepresentation, or concealment of material information in
5 violation of section 54(a) or (b) or sections 54a to 54c, within ~~6~~
6 3 years after the receipt of the improperly paid benefits unless
7 the unemployment agency filed a civil action in a court within the
8 3-year ~~or 6-year~~ period; the individual made an intentional false
9 statement, misrepresentation, or concealment of material
10 information to obtain the benefits; or the unemployment agency
11 issued a determination requiring restitution within the 3-year ~~or~~
12 ~~6-year~~ period. **THE TIME LIMITS IN THIS SECTION DO NOT PROHIBIT THE**
13 **UNEMPLOYMENT AGENCY FROM PURSUING COLLECTION METHODS TO RECOVER THE**
14 **AMOUNTS FOUND TO HAVE BEEN IMPROPERLY PAID.** Except in a case of an
15 intentional false statement, misrepresentation, or concealment of
16 material information, the unemployment agency shall waive recovery
17 of an improperly paid benefit if the payment was not the fault of
18 the individual and if repayment would be contrary to equity and
19 good conscience and shall waive any interest. If the agency or an
20 appellate authority waives collection of restitution and interest,
21 except as provided in subdivision (ii), the waiver is prospective
22 and does not apply to restitution and interest payments already
23 made by the individual. As used in this subsection, "contrary to
24 equity and good conscience" means any of the following:

25 (i) The claimant provided incorrect wage information without
26 the intent to misrepresent, and the employer provided either no
27 wage information upon request or provided inaccurate wage

1 information that resulted in the overpayment.

2 (ii) The claimant's disposable household income, exclusive of
3 social welfare benefits, is at or below the annual update of the
4 poverty guidelines most recently published in the ~~federal register~~
5 **FEDERAL REGISTER** by the United States ~~department~~**DEPARTMENT** of
6 ~~health~~**HEALTH** and ~~human services~~**HUMAN SERVICES** under the authority
7 of 42 USC 9902(2), and the claimant has applied for a waiver under
8 this subsection. A waiver granted under the conditions described in
9 this subdivision applies from the date the application is filed.

10 (iii) The improper payments resulted from an administrative or
11 clerical error by the unemployment agency. A requirement to repay
12 benefits as the result of a change in judgment at any level of
13 administrative adjudication or court decision concerning the facts
14 or application of law to a claim adjudication is not an
15 administrative or clerical error for purposes of this subdivision.

16 (b) For benefit years beginning on or after October 1, 2000,
17 if the unemployment agency determines that a person has
18 intentionally made a false statement or misrepresentation or has
19 concealed material information to obtain benefits, whether or not
20 the person obtains benefits by or because of the intentional false
21 statement, misrepresentation, or concealment of material
22 information, the person shall, in addition to any other applicable
23 interest and penalties, have his or her rights to benefits for the
24 benefit year in which the act occurred canceled as of the date the
25 claimant made the false statement or misrepresentation or concealed
26 material information, and wages used to establish that benefit year
27 shall not be used to establish another benefit year. A chargeable

1 employer may protest a claim filed after October 1, 2014 to
2 establish a successive benefit year under section 46(c), if there
3 was a determination by the unemployment agency or decision of a
4 court or administrative tribunal finding that the claimant made a
5 false statement, made a misrepresentation, or concealed material
6 information related to his or her report of earnings for a
7 preceding benefit year claim. If a protest is made, any unreported
8 earnings from the preceding benefit year that were falsely stated,
9 misrepresented, or concealed shall not be used to establish a
10 benefit year for a successive claim. Before receiving benefits in a
11 benefit year established within 4 years after cancellation of
12 rights to benefits under this subsection, the individual, in
13 addition to making the restitution of benefits established under
14 subsection (a), may be liable for an additional amount as otherwise
15 determined by the unemployment agency under this act, which may be
16 paid by cash, deduction from benefits, or deduction from a tax
17 refund. The individual is liable for any fee the federal government
18 imposes with respect to instituting a deduction from a federal tax
19 refund. Restitution resulting from the intentional false statement,
20 misrepresentation, or concealment of material information is not
21 subject to the 50% limitation provided in subsection (a).

22 (c) Any determination made by the unemployment agency under
23 this section is final unless an application for a redetermination
24 is filed in accordance with section 32a.

25 (d) The unemployment agency shall take the action necessary to
26 recover all benefits improperly obtained or paid under this act,
27 and to enforce all interest and penalties under subsection (b). The

1 unemployment agency may conduct an amnesty program for a designated
2 period under which penalties and interest assessed against an
3 individual owing restitution for improperly paid benefits may be
4 waived if the individual pays the full amount of restitution owing
5 within the period specified by the agency.

6 (e) Interest recovered under this section shall be deposited
7 in the contingent fund.

8 (F) AN UNEMPLOYMENT AGENCY DETERMINATION THAT A CLAIMANT MADE
9 AN INTENTIONAL FALSE STATEMENT, MISREPRESENTATION, OR CONCEALMENT
10 OF MATERIAL INFORMATION THAT IS SUBJECT TO SANCTIONS UNDER THIS
11 SECTION SHALL NOT BE BASED SOLELY ON A COMPUTER-IDENTIFIED
12 DISCREPANCY IN INFORMATION SUPPLIED BY THE CLAIMANT OR EMPLOYER. AN
13 UNEMPLOYMENT AGENCY EMPLOYEE OR AGENT MUST EXAMINE THE FACTS AND
14 INDEPENDENTLY DETERMINE THAT THE CLAIMANT OR THE EMPLOYER IS
15 RESPONSIBLE FOR A WILLFUL OR INTENTIONAL VIOLATION BEFORE THE
16 AGENCY MAKES A DETERMINATION UNDER THIS SECTION.

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