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STATE OF MICHIGAN
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REGULAR SESSION OF 2016

Introduced by Reps. Victory, Pagel, Kivela, Garcia, Glardon, Somerville, Hughes, Hooker, Price, Canfield, Iden, McCreedy, Clemente, Faris, Hovey-Wright, Brinks, Poleski, Schor, Jacobsen, Darany, Hoadley, Yonker, Franz, Webber, Leutheuser, Rendon, Santana, Johnson, McBroom, Aaron Miller, Runestad, Brett Roberts, Inman, Barrett, Theis, Lucido, Forlini, Sheppard, LaFontaine, Glenn, Kosowski, Howrylak, Bizon, Chatfield, Crawford, Pscholka, Rutledge, Brunner, Smiley, Durhal, Maturen, Heise, Jenkins, Vaupel, Garrett, Bumstead, LaVoy, Cole, Potvin, Townsend, Zemke, Love, Dianda, Robinson, Byrd, Outman, Goike, Graves, Derek Miller, Tedder, Guerra, Singh, Kelly, Yanez, Cochran, Gay-Dagnogo, Banks, Wittenberg, Talabi, Sarah Roberts, Pagan, Lauwers, Irwin and Kesto

ENROLLED HOUSE BILL No. 4982

AN ACT to amend 1936 (Ex Sess) PA 1, entitled "An act to protect the welfare of the people of this state through the establishment of an unemployment compensation fund, and to provide for the disbursement thereof; to create certain other funds; to create the Michigan employment security commission, and to prescribe its powers and duties; to provide for the protection of the people of this state from the hazards of unemployment; to levy and provide for contributions from employers; to levy and provide for obligation assessments; to provide for the collection of those contributions and assessments; to enter into reciprocal agreements and to cooperate with agencies of the United States and of other states charged with the administration of any unemployment insurance law; to furnish certain information to certain governmental agencies for use in administering public benefit and child support programs and investigating and prosecuting fraud; to provide for the payment of benefits; to provide for appeals from redeterminations, decisions and notices of assessments; and for referees and a board of review to hear and decide the issues arising from redeterminations, decisions and notices of assessment; to provide for the cooperation of this state and compliance with the provisions of the social security act and the Wagner-Peyser act passed by the Congress of the United States of America; to provide for the establishment and maintenance of free public employment offices; to provide for the transfer of funds; to make appropriations for carrying out the provisions of this act; to prescribe remedies and penalties for the violation of this act; and to repeal all acts and parts of acts inconsistent with this 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:

Sec. 27. (a)(1) When a determination, redetermination, or decision is made that benefits are due an unemployed individual, the benefits become payable from the fund and continue to be payable to the unemployed individual, subject to the limitations imposed by the individual's monetary entitlement, if the individual continues to be unemployed and to file claims for benefits, until the determination, redetermination, or decision is reversed, a determination, redetermination, or decision on a new issue holding the individual disqualified or ineligible is made, or, for benefit years beginning before October 1, 2000, a new separation issue arises resulting from subsequent work.

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

(b)(1) Subject to subsection (f), the weekly benefit rate for an individual, with respect to benefit years beginning before October 1, 2000, is 67% of the individual's average after tax weekly wage, except that the individual's maximum

weekly benefit rate must not exceed \$300.00. However, with respect to benefit years beginning on or after October 1, 2000, the individual's weekly benefit rate is 4.1% of the individual's wages paid in the calendar quarter of the base period in which the individual was paid the highest total wages, plus \$6.00 for each dependent as defined in subdivision (4), up to a maximum of 5 dependents, claimed by the individual at the time the individual files a new claim for benefits, except that the individual's maximum weekly benefit rate must not exceed \$300.00 before April 26, 2002 and \$362.00 for claims filed on and after April 26, 2002. The weekly benefit rate for an individual claiming benefits on and after April 26, 2002 must be recalculated subject to the \$362.00 maximum weekly benefit rate. The unemployment agency shall establish the procedures necessary to verify the number of dependents claimed. If a person fraudulently claims a dependent, that person is subject to the penalties set forth in sections 54 and 54c. For benefit years beginning on or after October 2, 1983, the weekly benefit rate must be adjusted to the next lower multiple of \$1.00.

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

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

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

(b) The husband or wife of the individual.

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

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

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

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

(b) The husband or wife of the individual.

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

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

(5) The number of dependents established for an individual at the beginning of the benefit year shall remain in effect during the entire benefit year.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) If the unemployment benefit payable under this act would be chargeable to an employer who has not contributed to the financing of a retirement plan under which the claimant is receiving or will receive a retirement benefit, then the

weekly benefit rate of the claimant as otherwise established under this act is not reduced due to receipt of a retirement benefit.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(g) Notwithstanding any other provision of this act, an individual pursuing vocational training or retraining pursuant to section 28(2) who has exhausted all benefits available under subsection (d) may be paid for each week of approved

vocational training pursued beyond the date of exhaustion a benefit amount in accordance with subsection (c), but not in excess of the individual's most recent weekly benefit rate. However, an individual must not be paid training benefits totaling more than 18 times the individual's most recent weekly benefit rate. The expiration or termination of a benefit year does not stop or interrupt payment of training benefits if the training for which the benefits were granted began before expiration or termination of the benefit year.

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

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

(1) With respect to service performed in an instructional, research, or principal administrative capacity for an institution of higher education as defined in section 53(2), or for an educational institution other than an institution of higher education as defined in section 53(3), benefits are not payable to an individual based on those services for any week of unemployment beginning after December 31, 1977 that commences during the period between 2 successive academic years or during a similar period between 2 regular terms, whether or not successive, or during a period of paid sabbatical leave provided for in the individual's contract, to an individual if the individual performs the service in the first of the academic years or terms and if there is a contract or a reasonable assurance that the individual will perform service in an instructional, research, or principal administrative capacity for an institution of higher education or an educational institution other than an institution of higher education in the second of the academic years or terms, whether or not the terms are successive.

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

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

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

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

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

(7) For benefit years beginning on or after October 1, 2000, and notwithstanding subdivisions (1), (2), and (3), the denial of benefits does not prevent an individual from completing requalifying weeks in accordance with section 29(3) and does not prevent an individual from receiving benefits based on service with another base period employer other than an educational institution for any week of unemployment occurring between academic years or terms, whether or not successive, or during an established and customary vacation period or holiday recess. However, if benefits are paid based on service with 1 or more base period employers other than an educational institution, the individual's weekly

benefit rate is calculated in accordance with subsection (b)(1) but during the denial period the individual's weekly benefit payment is reduced by the portion of the payment attributable to base period wages paid by an educational institution and the account or experience account of the educational institution is not charged for benefits payable to the individual. When a denial of benefits under subdivision (1) is no longer applicable, benefits are paid and charged on the basis of base period wages with each of the base period employers including the educational institution.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(7) As used in this subsection:

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

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

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

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

(o)(1) For weeks of unemployment beginning after July 1, 1996, unemployment benefits based on services by a seasonal worker performed in seasonal employment are payable only for weeks of unemployment that occur during the normal seasonal work period. Benefits are not payable based on services performed in seasonal employment for any week of unemployment beginning after March 28, 1996 that begins during the period between 2 successive normal seasonal work periods to any individual if that individual performs the service in the first of the normal seasonal work periods and if there is a reasonable assurance that the individual will perform the service for a seasonal employer in the second of the normal seasonal work periods. If benefits are denied to an individual for any week solely as a result of this subsection and the individual is not offered an opportunity to perform in the second normal seasonal work period for which reasonable assurance of employment had been given, the individual is entitled to a retroactive payment of benefits under this subsection for each week that the individual previously filed a timely claim for benefits. An individual may apply for any retroactive benefits under this subsection in accordance with R 421.210 of the Michigan Administrative Code.

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

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

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

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

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

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

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

(9) As used in this subsection:

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

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

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

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

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

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

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

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

(b) The unemployment agency shall mail to the claimant, to each base period employer or employing unit, and to the separating employer or employing unit, a monetary determination. The monetary determination shall notify each of these employers or employing units that the claimant has filed an application for benefits and the amount the claimant reported as earned with the separating employer or employing unit, and shall state the name of each employer or employing unit in the base period and the name of the separating employer or employing unit. The monetary determination shall also state the claimant's weekly benefit rate, the amount of base period wages paid by each base period employer, the maximum benefit amount that could be charged to each employer's account or experience account, and the reason for separation reported by the claimant. The monetary determination shall also state whether the claimant is monetarily eligible to receive unemployment benefits. Except for separations under section 29(1)(a), no further reconsideration of a separation from any base period employer will be made unless the base period employer notifies the unemployment agency of a possible disqualifying separation within 30 days of the separation in accordance with this subsection. Charges to the employer and payments to the claimant shall be as described in section 20(a). New, additional, or corrected information received by the unemployment agency more than 10 days after mailing the monetary determination shall be considered a request for reconsideration by the employer of the monetary determination and shall be reviewed as provided in section 32a.

(c) For the purpose of determining a claimant's nonmonetary eligibility and qualification for benefits, if the claimant's most recent base period or benefit year separation was for a reason other than the lack of work, then a determination shall be issued concerning that separation to the claimant and to the separating employer. If a claimant is not disqualified based on his or her most recent separation from employment and has satisfied the requirements of section 29, the unemployment agency shall issue a nonmonetary determination as to that separation only. If a claimant is not disqualified based on his or her most recent separation from employment and has not satisfied the requirements of section 29, the unemployment agency shall issue 1 or more nonmonetary determinations necessary to establish the claimant's qualification for benefits based on any prior separation in inverse chronological order. The unemployment agency shall consider all base period separations involving disqualifications under section 29(1)(h), (i), (j), (k), (m), or (n) in determining a claimant's nonmonetary eligibility and qualification for benefits. An employer may designate in writing to the unemployment agency an individual or another employer or an employing unit to receive any notice required to be given by the unemployment agency to that employer or to represent that employer in any proceeding before the unemployment agency as provided in section 31.

(d) If the unemployment agency requests additional monetary or nonmonetary information from an employer or employing unit and the unemployment agency fails to receive a written response from the employer or employing unit within 10 calendar days after the date of mailing the request for information, the unemployment agency shall make a

determination based upon the available information at the time the determination is made. Charges to the employer and payments to the claimant shall be as described in section 20(a).

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

(f) The issuance of each benefit check shall be considered a determination by the unemployment agency that the claimant receiving the check was covered during the compensable period, and eligible and qualified for benefits. A chargeable employer, upon receipt of a listing of the check as provided in section 21(a), may protest by requesting a redetermination of the claimant's eligibility or qualification as to that period and a determination as to later weeks and benefits still unpaid that are affected by the protest. Upon receipt of the protest or request, the unemployment agency shall investigate and redetermine whether the claimant is eligible and qualified as to that period. If, upon the redetermination, the claimant is found ineligible or not qualified, the unemployment agency shall proceed as described in section 62. In addition, the unemployment agency shall investigate and determine whether the claimant obtained benefits for 1 or more preceding weeks within the series of consecutive weeks that includes the week covered by the redetermination and, if so, shall proceed as described in section 62 as to those weeks.

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

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

(i) The unemployment agency shall issue a notification to the claimant of claimant rights and responsibilities within 2 weeks after the initial benefit payment on a claim and 6 months after the initial benefit payment on the claim. If the claimant selected a preferred form of communication, the notification must be conveyed by that form. Issuing the notification must not delay or interfere with the claimant's benefit payment. The notification must contain clear and understandable information pertaining to all of the following:

(i) Determinations as provided in section 62.

(ii) Penalties and other sanctions as provided in this act.

(iii) Legal right to protest the determination and the right to appeal through the administrative hearing system.

(iv) Other information needed to understand and comply with agency rules and regulations not specified in this section.

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

(i) If the unemployment agency determines that an amount has been obtained or withheld as a result of the intentional failure to comply with this act, the unemployment agency may recover the amount obtained as a result of the intentional failure to comply plus damages equal to 3 times that amount.

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

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

(I) Imprisonment for not more than 1 year.

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

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

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

(I) Imprisonment for not more than 2 years.

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

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

(C) If the amount obtained or withheld from payment as a result of the intentional failure to comply is more than \$100,000.00, then 1 of the following:

(I) Imprisonment for not more than 5 years.

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

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

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

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

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

(I) Imprisonment for not more than 1 year.

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

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

(B) If the amount obtained or withheld from payment as a result of the knowing violation is more than \$100,000.00, then 1 of the following:

(I) Imprisonment for not more than 2 years.

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

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

(b) Any employing unit or an owner, director, officer, or agent of an employing unit, a claimant, an employee of the unemployment agency, or any other person who makes a false statement or representation knowing it to be false, or knowingly and willfully with intent to defraud fails to disclose a material fact, to obtain or increase a benefit or other payment under this act or under the unemployment compensation law of any state or of the federal government, either for himself or herself or any other person, to prevent or reduce the payment of benefits to an individual entitled thereto or to avoid becoming or remaining a subject employer, or to avoid or reduce a contribution or other payment required from an employing unit under this act or under the unemployment compensation law of any state or of the federal government, as applicable, is subject to administrative fines and is punishable as provided in this subsection, notwithstanding any other penalties imposed under any other statute of this state or of the United States. For benefit years beginning on or after May 1, 2017, to establish fraud based on unreported earnings under this subsection, the unemployment agency must have in its possession the weekly wage information from the employer. A violation of this subsection is punishable as follows:

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

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

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

(I) Imprisonment for not more than 1 year.

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

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

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

(I) Imprisonment for not more than 2 years.

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

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

(C) If the knowing false statement or representation or the knowing and willful failure to disclose a material fact made to obtain or withhold an amount from payment does not result in a loss to the commission, then a recovery shall

be sought equal to 3 times the amount that would have been obtained by the knowing false statement or representation or the knowing and willful failure to disclose a material fact, but not less than \$1,000.00, and 1 of the following:

(I) Imprisonment for not more than 2 years.

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

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

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

(2) Notwithstanding subdivision (1), any employer or an owner, director, officer, or agent of an employer or any other person failing to submit, when due, any quarterly wage detail report required by section 13(2), or submitting an incomplete or erroneous report, is subject to an administrative fine of \$50.00 for each untimely report, incomplete report, or erroneous report if the report is filed not later than 30 days after the date the report is due, \$250.00 if the report is filed more than 1 calendar quarter after the date the report is due, and an additional \$250.00 for each additional calendar quarter that the report is late, except that no penalty shall apply if the employer files a corrected report within 14 days after notification of an error by the agency.

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

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

(e) A person who, without proper authority from the unemployment agency, represents himself or herself to be an employee of the unemployment agency for the purpose of securing information regarding the unemployment or employment record of an individual is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than \$1,000.00, or both.

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

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

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

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

(j) Amounts recovered by the commission under subsection (a) shall be credited first to the unemployment compensation fund and thereafter amounts recovered that are in excess of the amounts obtained or withheld as a result of the violation of subsection (a) shall be credited to the penalty and interest account of the contingent fund. Amounts recovered by the commission under subsections (c), (d), (e), and (f) shall be credited to the penalty and interest account of the contingent fund in accordance with section 10(6).

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

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

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

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

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

(m) An unemployment agency determination under this section shall not be based solely on a computer-identified discrepancy in information supplied by the claimant or employer. An unemployment agency employee or agent must examine the facts and independently determine that the claimant or the employer is responsible for a willful or intentional violation before the agency makes a determination under this section.

Sec. 62. (a) If the unemployment agency determines that a person has obtained benefits to which that person is not entitled, or a subsequent determination by the agency or a decision of an appellate authority reverses a prior qualification for benefits, the agency may recover a sum equal to the amount received plus interest by 1 or more of the following methods: deduction from benefits or wages payable to the individual, payment by the individual in cash, or deduction from a tax refund payable to the individual as provided under section 30a of 1941 PA 122, MCL 205.30a. Deduction from benefits or wages payable to the individual is limited to not more than 50% of each payment due the claimant. The unemployment agency shall issue a determination requiring restitution within 3 years after the date of finality of a determination, redetermination, or decision reversing a previous finding of benefit entitlement. Except in the case of benefits improperly paid because of suspected identity fraud, the unemployment agency shall not initiate administrative or court action to recover improperly paid benefits from an individual more than 3 years after the date that the last determination, redetermination, or decision establishing restitution is final. Except in the case of benefits improperly paid because of suspected identity fraud, the unemployment agency shall issue a determination on an issue within 3 years from the date the claimant first received benefits in the benefit year in which the issue arose, or in the case of an issue of intentional false statement, misrepresentation, or concealment of material information in violation of section 54(a) or (b) or sections 54a to 54c, within 3 years after the receipt of the improperly paid benefits unless the unemployment agency filed a civil action in a court within the 3-year period; the individual made an intentional false statement, misrepresentation, or concealment of material information to obtain the benefits; or the unemployment agency issued a determination requiring restitution within the 3-year period. The time limits in this section do not prohibit the unemployment agency from pursuing collection methods to recover the amounts found to have been improperly paid. Except in a case of an intentional false statement, misrepresentation, or concealment of material information, the unemployment agency shall waive recovery of an improperly paid benefit if the payment was not the fault of the individual and if repayment would be contrary to equity and good conscience and shall waive any interest. If the agency or an appellate authority waives collection of restitution and interest, except as provided in subdivision (ii), the waiver is prospective and does not apply to restitution and interest payments already made by the individual. As used in this subsection, "contrary to equity and good conscience" means any of the following:

(i) The claimant provided incorrect wage information without the intent to misrepresent, and the employer provided either no wage information upon request or provided inaccurate wage information that resulted in the overpayment.

(ii) The claimant's disposable household income, exclusive of social welfare benefits, is at or below the annual update of the poverty guidelines most recently published in the Federal Register by the United States Department of Health and Human Services under the authority of 42 USC 9902(2), and the claimant has applied for a waiver under this subsection. A waiver granted under the conditions described in this subdivision applies from the date the application is filed.

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

(b) For benefit years beginning on or after October 1, 2000, if the unemployment agency determines that a person has intentionally made a false statement or misrepresentation or has concealed material information to obtain benefits, whether or not the person obtains benefits by or because of the intentional false statement, misrepresentation, or concealment of material information, the person shall, in addition to any other applicable interest and penalties, have his or her rights to benefits for the benefit year in which the act occurred canceled as of the date the claimant made the false statement or misrepresentation or concealed material information, and wages used to establish that benefit year shall not be used to establish another benefit year. A chargeable employer may protest a claim filed after October 1, 2014 to establish a successive benefit year under section 46(c), if there was a determination by the unemployment agency or decision of a court or administrative tribunal finding that the claimant made a false statement, made a misrepresentation, or concealed material information related to his or her report of earnings for a preceding benefit year claim. If a protest is made, any unreported earnings from the preceding benefit year that were falsely stated, misrepresented, or concealed shall not be used to establish a benefit year for a successive claim. Before receiving benefits in a benefit year established within 4 years after cancellation of rights to benefits under this subsection, the individual, in addition to making the restitution of benefits established under subsection (a), may be liable for an additional amount as otherwise determined by the unemployment agency under this act, which may be paid by cash, deduction from benefits, or deduction from a tax refund. The individual is liable for any fee the federal government

imposes with respect to instituting a deduction from a federal tax refund. Restitution resulting from the intentional false statement, misrepresentation, or concealment of material information is not subject to the 50% limitation provided in subsection (a).

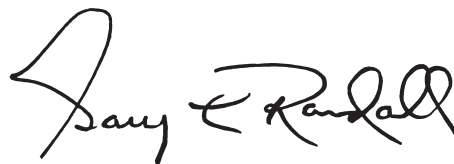
(c) Any determination made by the unemployment agency under this section is final unless an application for a redetermination is filed in accordance with section 32a.

(d) The unemployment agency shall take the action necessary to recover all benefits improperly obtained or paid under this act, and to enforce all interest and penalties under subsection (b). The unemployment agency may conduct an amnesty program for a designated period under which penalties and interest assessed against an individual owing restitution for improperly paid benefits may be waived if the individual pays the full amount of restitution owing within the period specified by the agency.

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

(f) An unemployment agency determination that a claimant made an intentional false statement, misrepresentation, or concealment of material information that is subject to sanctions under this section shall not be based solely on a computer-identified discrepancy in information supplied by the claimant or employer. An unemployment agency employee or agent must examine the facts and independently determine that the claimant or the employer is responsible for a willful or intentional violation before the agency makes a determination under this section.

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



Clerk of the House of Representatives



Secretary of the Senate

Approved

Governor