

SENATE BILL NO. 995

June 25, 2020, Introduced by Senators POLEHANKI, HOLLIER, BRINKS, GEISS, MOSS, IRWIN, BAYER, CHANG, ALEXANDER, MCCANN, MCMORROW, WOJNO, ANANICH and SANTANA and referred to the Committee on Economic and Small Business Development.

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

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

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

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

9 (b) (1) Subject to subsection (f), ~~the weekly benefit rate for~~
 10 ~~an individual, with respect to benefit years beginning before~~
 11 ~~October 1, 2000, is 67% of the individual's average after tax~~
 12 ~~weekly wage, except that the individual's maximum weekly benefit~~
 13 ~~rate must not exceed \$300.00. However, with respect to benefit~~
 14 ~~years beginning on or after October 1, 2000, the~~ **an** individual's
 15 weekly benefit rate is 4.1% of the individual's wages paid in the
 16 calendar quarter of the base period in which the individual was
 17 paid the highest total wages, plus ~~\$6.00~~ **\$20.00** for each dependent
 18 as defined in subdivision (4), up to a maximum of ~~5~~ **6** dependents,
 19 claimed by the individual at the time the individual files a new
 20 claim for benefits. ~~, except that~~ **However,** the individual's maximum
 21 weekly benefit rate must not exceed ~~\$300.00 before April 26, 2002~~
 22 ~~and \$362.00 for claims filed on and after April 26, 2002. The~~
 23 ~~weekly benefit rate for an individual claiming benefits on and~~
 24 ~~after April 26, 2002 must be recalculated subject to the \$362.00~~
 25 ~~maximum weekly benefit rate.~~ **\$362.00 for claims filed before July**
 26 **25, 2020, and \$603.00 for claims filed on or after July 25, 2020 or**
 27 **for claimants receiving benefits on July 25, 2020, and must be**
 28 **adjusted to the next lower multiple of \$1.00. The state treasurer**
 29 **shall adjust the \$603.00 maximum rate each succeeding October 1 by**

1 an amount determined by the state treasurer to reflect the
 2 cumulative annual percentage change in the Consumer Price Index
 3 from January 1, 2020 to the December 31 preceding the adjustment.
 4 As used in this subsection, "Consumer Price Index" means the most
 5 comprehensive index of consumer prices available for this state
 6 from the Bureau of Labor Statistics of the United States Department
 7 of Labor. The unemployment agency shall establish the procedures
 8 necessary to verify the number of dependents claimed. If a ~~person~~
 9 **an individual** fraudulently claims a dependent, ~~that person~~ **he or**
 10 **she** is subject to the penalties set forth in sections 54 and 54c.
 11 ~~For benefit years beginning on or after October 2, 1983, the weekly~~
 12 ~~benefit rate must be adjusted to the next lower multiple of \$1.00.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

29 (c) Subject to subsection (f), all of the following apply to

1 eligible individuals:

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

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

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

1 individual who receives or earns partial remuneration may not
2 exceed 1-1/2 times his or her weekly benefit amount. The
3 individual's benefits are reduced by \$1.00 for each dollar by which
4 the total benefits and earnings exceed 1-1/2 times the individual's
5 weekly benefit amount.

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

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

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

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

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

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

27 (d) Subject to subsection (f) and this subsection, the maximum
28 benefit amount payable to an individual in a benefit year for
29 purposes of this section and section 20(d) is the number of weeks

1 of benefits payable to an individual during the benefit year,
 2 multiplied by the individual's weekly benefit rate. The number of
 3 weeks of benefits payable to an individual ~~shall be~~ **is** calculated
 4 by taking 43% of the individual's base period wages and dividing
 5 the result by the individual's weekly benefit rate. If the quotient
 6 is not a whole or half number, the result is rounded down to the
 7 nearest half number. ~~However, for each eligible individual filing~~
 8 ~~an initial claim before January 15, 2012, not more than 26 weeks of~~
 9 ~~benefits or less than 14 weeks of benefits are payable to an~~
 10 ~~individual in a benefit year.~~ For each eligible individual filing
 11 an initial claim on or after January 15, 2012, not more than 20
 12 weeks of benefits or less than 14 weeks of benefits are payable to
 13 an individual in a benefit year. **However, for each eligible**
 14 **individual filing an initial claim on or after July 25, 2020, and**
 15 **for each claimant receiving benefits on July 25, 2020, not more**
 16 **than 26 weeks of benefits or less than 14 weeks of benefits are**
 17 **payable to an individual in a benefit year.** The limitation of total
 18 benefits set forth in this subsection does not apply to claimants
 19 declared eligible for training benefits in accordance with
 20 subsection (g).

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

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

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

20 (b) If and to the extent that unemployment benefits payable
21 under this act would be chargeable to an employer who has
22 contributed to the financing of a retirement plan under which the
23 claimant is receiving or will receive a retirement benefit yielding
24 a pro rata weekly amount less than the claimant's weekly benefit
25 rate as otherwise established under this act, then the weekly
26 benefit rate otherwise payable to the claimant and chargeable to
27 the employer under this act is reduced by an amount equal to the
28 pro rata weekly amount, adjusted to the next lower multiple of
29 \$1.00, which the claimant is receiving or will receive as a

1 retirement benefit.

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

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

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

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

1 the information on which the reconsideration is based was received
2 by the ~~commission~~-**unemployment agency**.

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

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

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

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

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

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

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

29 (5) Notwithstanding any other provision of this subsection,

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

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

29 (a) If any base period **employer** or chargeable employer has

1 contributed to the financing of a retirement plan under which the
 2 claimant is receiving or will receive a retirement benefit yielding
 3 a pro rata weekly amount equal to or larger than the claimant's
 4 weekly benefit rate as otherwise established under this act, the
 5 claimant is not eligible to receive unemployment benefits.

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

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

21 (g) Notwithstanding any other provision of this act, an
 22 individual pursuing vocational training or retraining pursuant to
 23 section 28(2) who has exhausted all benefits available under
 24 subsection (d) may be paid for each week of approved vocational
 25 training pursued beyond the date of exhaustion **of** a benefit amount
 26 ~~in accordance with~~**pursuant to** subsection (c), but not in excess of
 27 the individual's most recent weekly benefit rate. However, an
 28 individual must not be paid training benefits totaling more than 18
 29 times the individual's most recent weekly benefit rate. The

1 expiration or termination of a benefit year does not stop or
 2 interrupt payment of training benefits if the training for which
 3 the benefits were granted began before expiration or termination of
 4 the benefit year.

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

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

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

1 capacity for an institution of higher education or an educational
 2 institution other than an institution of higher education in the
 3 second of the academic years or terms, whether or not the terms are
 4 successive.

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

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

27 (4) If benefits are denied to an individual for any week
 28 solely as a result of subdivision (2) and the individual was not
 29 offered an opportunity to perform in the second academic year or

1 term the service for which reasonable assurance had been given, the
 2 individual is entitled to a retroactive payment of benefits for
 3 each week for which the individual had previously filed a timely
 4 claim for benefits. An individual entitled to benefits under this
 5 subdivision may apply for those benefits by mail in accordance with
 6 R 421.210 of the Michigan Administrative Code. ~~as promulgated by~~
 7 ~~the commission.~~

8 (5) ~~Benefits~~ **The unemployment agency shall not deny benefits**
 9 **that are** based ~~upon~~ **on** services in other than an instructional,
 10 research, or principal administrative capacity for an institution
 11 of higher education ~~are not denied~~ for any week of unemployment
 12 commencing during the period between 2 successive academic years or
 13 terms solely because the individual ~~had~~ performed the service in
 14 the first of the academic years or terms and there is reasonable
 15 assurance that the individual will perform the service for an
 16 institution of higher education or an educational institution other
 17 than an institution of higher education in the second of the
 18 academic years or terms, unless a denial is required as a condition
 19 for full tax credit against the tax imposed by the federal
 20 unemployment tax act, 26 USC 3301 to 3311.

21 (6) For benefit years established before October 1, 2000, and
 22 notwithstanding subdivisions (1), (2), and (3), the denial of
 23 benefits does not prevent an individual from completing
 24 requalifying weeks in accordance with section 29(3) nor does the
 25 denial prevent an individual from receiving benefits based on
 26 service with an employer other than an educational institution for
 27 any week of unemployment occurring between academic years or terms,
 28 whether or not successive, or during an established and customary
 29 vacation period or holiday recess, even though the employer is not

1 the most recent chargeable employer in the individual's base
2 period. However, in that case, section 20(b) applies to the
3 sequence of benefit charging, except for the employment with the
4 educational institution. ~~, and section 50(b) applies to the~~
5 ~~calculation of credit weeks.~~ When a denial of benefits under
6 subdivision (1) no longer applies, benefits are charged in
7 accordance with the normal sequence of charging as provided in
8 section 20(b).

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

29 (8) For the purposes of this subsection, "academic year" means

1 that period, as defined by the educational institution, when
2 classes are in session for that length of time required for
3 students to receive sufficient instruction or earn sufficient
4 credit to complete academic requirements for a particular grade
5 level or to complete instruction in a noncredit course.

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

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

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

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

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

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

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

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

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

26 (b) The amount, if any, determined pursuant to an agreement
27 submitted to the ~~commission~~**unemployment agency** under 42 USC
28 654(19)(B)(i), by the state or local child support enforcement
29 agency.

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

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

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

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

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

28 (7) As used in this subsection:

29 (a) "Unemployment compensation", for purposes of subdivisions

1 (1) to (5), means any compensation payable under this act,
 2 including amounts payable by the unemployment agency pursuant to an
 3 agreement under any federal law providing for compensation,
 4 assistance, or allowances with respect to unemployment.

5 (b) "Child support obligations" ~~includes~~**means** only
 6 obligations that are being enforced pursuant to a plan described in
 7 42 USC 654 that has been approved by the Secretary of Health and
 8 Human Services under 42 USC 651 to 669b.

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

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

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

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

13 (2) Not less than 20 days before the estimated beginning date
 14 of a normal seasonal work period, an employer may apply to the
 15 ~~commission~~ **unemployment agency** in writing for designation as a
 16 seasonal employer. At the time of application, the employer shall
 17 conspicuously display a copy of the application on the employer's
 18 premises. Within 90 days after receipt of the application, the
 19 ~~commission~~ **unemployment agency** shall determine if the employer is a
 20 seasonal employer. A determination or redetermination of the
 21 ~~commission~~ **unemployment agency** concerning the status of an employer
 22 as a seasonal employer, or a decision of an administrative law
 23 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~~ **that** has become final, together with the
 26 record, ~~thereof,~~ may be introduced in any proceeding involving a
 27 claim for benefits, and the facts found and decision issued in the
 28 determination, redetermination, or decision ~~is~~ **are** conclusive
 29 unless substantial evidence to the contrary is introduced by or on

1 behalf of the claimant.

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

14 (4) The ~~commission~~ **unemployment agency** may issue a
 15 determination terminating an employer's status as a seasonal
 16 employer on the ~~commission's~~ **unemployment agency's** own motion for
 17 good cause, or upon the written request of the employer. A
 18 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~~ **unemployment**
 22 **agency** issues the determination. A determination under this
 23 subdivision is subject to review in the same manner and to the same
 24 extent as any other 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
 28 normal seasonal work period has begun and ended.

29 (6) If a seasonal employer informs an employee who received

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

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

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

21 (9) As used in this subsection:

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

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

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

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

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

16 (10) This subsection does not apply if the United States
 17 Department of Labor finds it to be contrary to the federal
 18 unemployment tax act, 26 USC 3301 to 3311, or the social security
 19 act, chapter 531, 49 Stat 620, and if conformity with the federal
 20 law is required as a condition for full tax credit against the tax
 21 imposed under the federal unemployment tax act, 26 USC 3301 to
 22 3311, or as a condition for receipt by the ~~commission~~**unemployment**
 23 **agency** of federal administrative grant funds under the social
 24 security act, chapter 531, 49 Stat 620.

25 (p) Benefits are not payable to an individual based ~~upon~~**on**
 26 his or her services as a school crossing guard for any week of
 27 unemployment that begins between 2 successive academic years or
 28 terms, if ~~that~~**the** individual performs the services of a school
 29 crossing guard in the first of the academic years or terms and has

1 a reasonable assurance that he or she will perform those services
2 in the second of the academic years or terms.

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