

# SENATE BILL NO. 40

January 24, 2023, Introduced by Senators WOJNO, MCCANN, POLEHANKI, MOSS, MCMORROW, IRWIN, GEISS, CHANG, CHERRY, BAYER, HERTEL, SANTANA, SHINK, CAVANAGH, MCDONALD RIVET and KLINEFELT and referred to the Committee on Labor.

A bill to amend 1936 (Ex Sess) PA 1, entitled  
"Michigan employment security act,"  
by amending section 27 (MCL 421.27), as amended by 2020 PA 258.

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

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

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

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

9 (b) (1) Subject to subsection (f), ~~the weekly benefit rate for~~  
 10 ~~an individual, with respect to benefit years beginning before~~  
 11 ~~October 1, 2000, is 67% of the individual's average after tax~~  
 12 ~~weekly wage, except that the individual's maximum weekly benefit~~  
 13 ~~rate must not exceed \$300.00. However, with respect to **for** benefit~~  
 14 years beginning on or after October 1, 2000, ~~the~~**an** individual's  
 15 weekly benefit rate is 4.1% of the individual's wages paid in the  
 16 calendar quarter of the base period in which the individual was  
 17 paid the highest total wages, plus \$6.00 for each dependent as  
 18 defined in subdivision (4), up to a maximum of 5 dependents,  
 19 claimed by the individual at the time the individual files a new  
 20 claim for benefits, except that the individual's maximum weekly  
 21 benefit rate must not exceed \$300.00 before April 26, 2002 and  
 22 \$362.00 for claims filed on and after April 26, 2002. The weekly  
 23 benefit rate for an individual claiming benefits on and after April  
 24 26, 2002 must be recalculated subject to the \$362.00 maximum weekly  
 25 benefit rate. The unemployment agency shall establish the  
 26 procedures necessary to verify the number of dependents claimed. ~~If~~  
 27 ~~a person~~**An individual who** fraudulently claims a dependent ~~, that~~  
 28 ~~person~~ is subject to the penalties set forth in sections 54 and  
 29 54c. For benefit years beginning on or after October 2, 1983, the

1 weekly benefit rate must be adjusted to the next lower multiple of  
2 \$1.00.

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

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

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

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

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

26 (d) A brother or sister of the individual if the brother or  
27 sister is orphaned or the living parents are dependent parents of  
28 an individual, and the brother or sister is under 18 years of age,  
29 or 18 years of age or over if, because of physical or mental

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

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

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

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

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

26 (d) A brother or sister of the individual if the brother or  
27 sister is orphaned or the living parents are dependent parents of  
28 an individual, and the brother or sister is under 18 years of age,  
29 or 18 years of age and over if, because of physical or mental

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

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

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

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

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

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

1 the end of the period.

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

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

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

29 (5) All remuneration for work performed during a shift that

1 terminates on 1 day but that began on the preceding day is  
2 considered to have been earned by the eligible individual on the  
3 preceding day.

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

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

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

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

17 (d) Subject to subsection (f) and this subsection, the maximum  
18 benefit amount payable to an individual in a benefit year for  
19 purposes of this section and section 20(d) is the number of weeks  
20 of benefits payable to an individual during the benefit year,  
21 multiplied by the individual's weekly benefit rate. The number of  
22 weeks of benefits payable to an individual ~~shall be~~ **is** calculated  
23 by taking 43% of the individual's base period wages and dividing  
24 the result by the individual's weekly benefit rate. If the quotient  
25 is not a whole or half number, the result is rounded down to the  
26 nearest half number. ~~However, for each eligible individual filing~~  
27 ~~an initial claim before January 15, 2012, not more than 26 weeks of~~  
28 ~~benefits or less than 14 weeks of benefits are payable to an~~  
29 ~~individual in a benefit year. For each eligible individual filing~~

1 an initial claim on or after January 15, 2012, not more than 20  
2 weeks of benefits or less than 14 weeks of benefits are payable to  
3 an individual in a benefit year. **For each eligible individual**  
4 **filing an initial claim on or after the effective date of the**  
5 **amendatory act that added this sentence, not more than 26 weeks of**  
6 **benefits or less than 14 weeks of benefits are payable to an**  
7 **individual in a benefit year.** The limitation of total benefits set  
8 forth in this subsection does not apply to claimants declared  
9 eligible for training benefits in accordance with subsection (g).  
10 Notwithstanding any other provision of this act, and subject to  
11 subsection (q), with respect to benefit years and claims for weeks  
12 beginning before April 1, 2021, for each eligible individual who  
13 files a claim for benefits and establishes a benefit year, not more  
14 than 26 weeks of benefits or less than 14 weeks of benefits may be  
15 payable to an individual in a benefit year.

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

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



1 individual's extended benefit account and an individual's weekly  
2 extended benefit rate under section 64 is established without  
3 reduction under this subsection unless subdivision (5) is in  
4 effect. Except as otherwise provided in this subsection, all other  
5 provisions of this act continue to apply in connection with the  
6 benefit claims of those retired ~~persons~~**individuals**.

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

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

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

1 benefit rate of the claimant as otherwise established under this  
 2 act is not reduced ~~due to receipt of~~ **because the claimant is**  
 3 **receiving or will receive** a retirement benefit.

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

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

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

27 (4) (a) As used in this subsection, "retirement benefit" means  
 28 a benefit, annuity, or pension of any type, or ~~that a~~ part thereof  
 29 ~~that is as~~ described in subparagraph (b), that is both **of the**

1 **following:**

2 (i) Provided as an incident of employment under an established  
3 retirement plan, policy, or agreement, including federal Social  
4 Security if subdivision (5) is in effect.

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

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

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

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

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

25 (5) Notwithstanding any other provision of this subsection,  
26 for any week that ~~begins after March 31, 1980, and with respect to~~  
27 ~~which~~ an individual is receiving a governmental or other pension  
28 and claiming unemployment compensation, the weekly benefit amount  
29 payable to the individual for those weeks is reduced, but not below

1 zero, by the entire prorated weekly amount of any governmental or  
2 other pension, retirement or retired pay, annuity, or any other  
3 similar payment that is based on any previous work of the  
4 individual. This reduction is made only if it is required as a  
5 condition for full tax credit against the tax imposed by the  
6 federal unemployment tax act, 26 USC 3301 to 3311.

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

25 (a) If any base period **employer** or chargeable employer has  
26 contributed to the financing of a retirement plan under which the  
27 claimant is receiving or will receive a retirement benefit yielding  
28 a pro rata weekly amount equal to or larger than the claimant's  
29 weekly benefit rate as otherwise established under this act, the

1 claimant is not eligible to receive unemployment benefits.

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

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

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

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

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

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

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

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

23           (4) If benefits are denied to an individual for any week  
24 solely as a result of subdivision (2) and the individual was not  
25 offered an opportunity to perform in the second academic year or  
26 term the service for which reasonable assurance had been given, the  
27 individual is entitled to a retroactive payment of benefits for  
28 each week for which the individual had previously filed a timely  
29 claim for benefits. An individual entitled to benefits under this

1 subdivision may apply for those benefits by mail in accordance with  
2 R 421.210 of the Michigan Administrative Code. ~~as promulgated by~~  
3 ~~the commission.~~

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

17 (6) For benefit years established before October 1, 2000, and  
18 notwithstanding subdivisions (1), (2), and (3), the denial of  
19 benefits does not prevent an individual from completing  
20 requalifying weeks in accordance with section 29(3) nor does the  
21 denial prevent an individual from receiving benefits based on  
22 service with an employer other than an educational institution for  
23 any week of unemployment occurring between academic years or terms,  
24 whether or not successive, or during an established and customary  
25 vacation period or holiday recess, even though the employer is not  
26 the most recent chargeable employer in the individual's base  
27 period. However, in that case section 20(b) applies to the sequence  
28 of benefit charging, except for the employment with the educational  
29 institution. ~~, and section 50(b) applies to the calculation of~~



1 ~~credit weeks.~~ When a denial of benefits under subdivision (1) no  
2 longer applies, benefits are charged in accordance with the normal  
3 sequence of charging as provided in section 20(b).

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

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

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

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

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

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

1 benefits.

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

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

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

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

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

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

29 (3) The amount of unemployment compensation subject to

1 deduction under subdivision (2) is that portion that remains  
2 payable to the individual after application of the ~~recoupment~~  
3 **recovery** provisions of section 62(a) and the reduction provisions  
4 of subsections (c) and (f).

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

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

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

23 (7) As used in this subsection:

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

29 (b) "Child support obligations" includes only obligations that

1 are being enforced pursuant to a plan described in 42 USC 654 that  
 2 has been approved by the Secretary of Health and Human Services  
 3 under 42 USC 651 to 669b.

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

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

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

1 seasonal work period for which reasonable assurance of employment  
 2 had been given, the individual is entitled to a retroactive payment  
 3 of benefits under this subsection for each week that the individual  
 4 previously filed a timely claim for benefits. An individual may  
 5 apply for any retroactive benefits under this subsection in  
 6 accordance with R 421.210 of the Michigan Administrative Code.

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

25 (3) If the **unemployment agency determines that an** employer is  
 26 ~~determined to be~~ a seasonal employer, the employer shall  
 27 conspicuously display on its premises a notice ~~of~~ **that includes** the  
 28 determination, ~~and~~ the beginning and ending dates of the employer's  
 29 normal seasonal work periods, ~~The commission shall furnish the~~

1 ~~notice. The notice must additionally specify~~ **and a statement** that  
2 an employee must timely apply for unemployment benefits at the end  
3 of a first seasonal work period to preserve his or her right to  
4 receive retroactive unemployment benefits if he or she is not  
5 reemployed by the seasonal employer in the second of the normal  
6 seasonal work periods. **The unemployment agency shall provide the**  
7 **notice to the employer.**

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

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

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

1 seasonal employer.

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

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

15 (9) As used in this subsection:

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

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

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

28 (d) "Seasonal employer" means an employer, other than an  
29 employer in the construction industry, who applies to the



1 unemployment agency for designation as a seasonal employer and who  
 2 the unemployment agency determines is an employer whose operations  
 3 and business require employees engaged in seasonal employment. A  
 4 seasonal employer designation under this act need not correspond to  
 5 a category assigned under the North American ~~classification system~~  
 6 **Classification System** - United States Office of Management and  
 7 Budget.

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

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

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

27 (q) The extension of benefits for claims for weeks beginning  
 28 after January 1, 2021 but before April 1, 2021 as described in  
 29 subsection (d) does not take effect unless \$220,000,000.00 or more

1 is appropriated as provided for in Senate Bill No. 748 of the 100th  
2 Legislature for deposit into the unemployment compensation fund to  
3 cover the extension of benefits. After March 1, 2021, from the  
4 funds appropriated in Senate Bill No. 748 of the 100th Legislature  
5 for Michigan unemployment compensation funds, \$220,000,000.00 shall  
6 be deposited into the unemployment compensation fund for the sole  
7 purpose of funding the extension of benefits for claims for weeks  
8 beginning after January 1, 2021 but before April 1, 2021 as  
9 described in subsection (d). If federal funds are available and  
10 expenditures are allowable under federal law, expenditures of  
11 federal funds under this subsection shall occur before the  
12 expenditure of state general fund appropriations made for the same  
13 purpose described in this subsection. State general fund  
14 appropriations replaced by federal expenditures authorized under  
15 this subsection shall revert to the general fund.