MICHIGAN EMPLOYMENT SECURITY ACT
Act 1 of 1936 (Ex. Sess.)

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

History: 1936, Ex. Sess., Act 1, Imd. Eff. Dec. 24, 1936;—Am. 1937, Act 347, Imd. Eff. Aug. 5, 1937;—Am. 1939, Act 324, Imd. Eff. June 22, 1939;—Am. 1941, Act 364, Imd. Eff. July 1, 1941;—Am. 1954, Act 197, Imd. Eff. May 7, 1954;—Am. 1977, Act 52, Imd. Eff. July 5, 1977;—Am. 1985, Act 197, Imd. Eff. Dec. 26, 1985;—Am. 1989, Act 232, Imd. Eff. Dec. 21, 1989;—Am. 1991, Act 10, Eff. Apr. 1, 1992;—Am. 2011, Act 268, Imd. Eff. Dec. 19, 2011.

Compiler's note: For transfer of powers, duties, and functions of the Michigan Employment Security Commission to the Director of Employment Security; for vesting power to appoint the Director of Employment Security and the chairperson of the Michigan Employment Security Commission to the Governor; and, for abolition of the Michigan Employment Security Advisory Council and transfer of its powers and duties to the Michigan Employment Security Commission, see E.R.O. No. 1991-21 compiled at MCL 421.91 of the Michigan Compiled Laws.

Amendatory Act 162 of 1994 was cited and shall be known as the "Delange, Geake, Cherry, Murphy wage record conversion act of 1994."

The People of the State of Michigan enact:

421.1 Michigan employment security act; short title.

Sec. 1. This act shall be known and may be cited as the "Michigan employment security act." Wherever in this act reference is made to the "Michigan unemployment compensation act" or to the "unemployment compensation act" such reference shall mean the "Michigan employment security act."

History: 1936, Ex. Sess., Act 1, Imd. Eff. Dec. 24, 1936;—CL 1948, 421.1;—Am. 1951, Act 251, Imd. Eff. June 17, 1951.

Compiler's note: For transfer of certain management functions of the Michigan Employment Security Commission to the Department of Labor, see E.R.O. No. 1986-2, compiled at MCL 408.212 of the Michigan Compiled Laws.

For transfer of powers, duties, and functions of the Michigan Employment Security Commission to the Director of Employment Security; for vesting power to appoint the Director of Employment Security and the chairperson of the Michigan Employment Security Commission to the Governor; and, for abolition of the Michigan Employment Security Advisory Council and transfer of its powers and duties to the Michigan Employment Security Commission, see E.R.O. No. 1991-21 compiled at MCL 421.91 of the Michigan Compiled Laws.

For transfer of powers and duties relating to the promulgation of rules by the Michigan employment security board from the department of labor to the director of the department consumer and industry services, see E.R.O. No. 1996-2, compiled at MCL 445.2001 of the Michigan Compiled Laws.

For transfer of Michigan employment security board of review to Michigan administrative hearing system, see E.R.O. No. 2011-4, compiled at MCL 445.2030.

421.2 Declaration of public policy; findings.

Sec. 2. (1) The legislature acting in the exercise of the police power of the state declares that the public policy of the state is as follows: Economic insecurity due to unemployment is a serious menace to the health, morals, and welfare of the people of this state. Involuntary unemployment is a subject of general interest and concern which requires action by the legislature to prevent its spread and to lighten its burden which so often falls with crushing force upon the unemployed worker and his or her family, to the detriment of the welfare of the people of this state. Social security requires protection against this hazard of our economic life. Employers should be encouraged to provide stable employment. The systematic accumulation of funds during periods of employment to provide benefits for periods of unemployment by the setting aside of unemployment reserves to be used for the benefit of persons unemployed through no fault of their own, thus maintaining purchasing

power and limiting the serious social consequences of relief assistance, is for the public good, and the general welfare of the people of this state.

(2) The legislature finds that from time to time high levels of unemployment have resulted in the exhaustion of the funds in this state's account of the unemployment trust fund, has required advances or loans to the state from the federal account of the unemployment trust fund, and has caused the imposition of lawful penalty taxes and solvency taxes to repay those advances and the interest on those advances. The financing and payment of the outstanding principal amount heretofore or hereafter advanced or loaned to this state from the federal account of the unemployment trust fund and the interest on those loans, if any, the funding of unemployment compensation benefits, and the financing and funding of this state's account in the unemployment trust fund including, without limitation, the funding of sufficient fund balances in the unemployment trust fund, are an essential governmental function and public purpose of this state. The legislature further finds that the issuance of bonds by the Michigan finance authority or other issuer to finance the foregoing payments and to avoid or reduce the imposition of penalty taxes and solvency taxes will further and facilitate an essential governmental function and public purpose of this state that will encourage the development of industry and commerce, foster economic growth, provide employment opportunities for the citizens and residents of this state and further other economic development and activities in this state, and in general promote the public health and general welfare of the people of this state.

History: 1936, Ex. Sess., Act 1, Imd. Eff. Dec. 24, 1936;—CL 1948, 421.2;—Am. 2011, Act 268, Imd. Eff. Dec. 19, 2011.

421.3 Bureau of worker's and unemployment compensation; policies; definitions.

Sec. 3. (1) The bureau of worker's and unemployment compensation shall establish policies in conformity with this act to do all of the following:

(a) Reduce and prevent unemployment.

(b) Promote the reemployment of unemployed workers throughout this state in every other way that may be feasible.

(c) Carry on and publish the results of investigations and research studies.

(d) Investigate, recommend, advise, and assist in the establishment and operation, by municipalities, counties, school districts, and this state, of reserves for public works to be used in times of business depression and unemployment.

(2) As used in this act:

(a) "Bureau", "commission", and "unemployment agency" mean the bureau of worker's and unemployment compensation created in section 5b.

(b) "Director" means the director of the bureau of worker's and unemployment compensation.

(c) "Experience account" means an account in the unemployment compensation fund showing an employer's experience with respect to contribution payments and benefit charges under this act, determined and recorded in the manner provided in this act. A reference in this act to an employer's "experience record" or "rating account" shall be construed to include reference to the employer's experience account.

(d) "Nonchargeable benefits account" and "solvency account" mean the account in the unemployment compensation fund maintained as provided in section 17(2) and (3).

History: 1936, Ex. Sess., Act 1, Imd. Eff. Dec. 24, 1936;—Am. 1937, Act 347, Imd. Eff. Aug. 5, 1937;—Am. 1941, Act 364, Imd. Eff. July 1, 1941;—Am. 1947, Act 360, Imd. Eff. July 8, 1947;—CL 1948, 421.3;—Am. 1951, Act 251, Imd. Eff. June 17, 1951;—Am. 1965, Act 281, Eff. Sept. 5, 1965;—Am. 1968, Act 338, Imd. Eff. July 19, 1968;—Am. 1975, Act 83, Imd. Eff. May 20, 1975;—Am. 2002, Act 192, Imd. Eff. Apr. 26, 2002;—Am. 2003, Act 174, Imd. Eff. Aug. 14, 2003.

Compiler's note: For transfer of authority, powers, duties, functions, and responsibilities of the Michigan employment security commission, with certain exceptions, to the director of employment security, see E.R.O. No. 1994-2 compiled at MCL 421.92 of the Michigan Compiled Laws.

Transfer of powers: See MCL 16.479.

421.3a Michigan employment security advisory council; creation; appointment, qualifications, and terms of members; vacancies; compensation; expenses; recommendations; assistance and studies.

Sec. 3a. (1) There is created an advisory council which shall be known as the Michigan employment security advisory council, consisting of 11 members who are residents of this state to be appointed by the governor with advice and consent of the senate for terms of 4 years. Four members of the council shall represent employer interests 1 of whom shall represent public employers, 4 members shall represent employee interests 1 of whom shall represent public employees, and 3 members shall represent the public interest. Present members of the advisory council shall continue in office until their respective terms expire. Upon expiration of each term, a member may be reappointed or a successor appointed for a term of 4 years.

Appointments to complete the unexpired term of any member whose position becomes vacant shall be made in the same manner as appointments in the first instance. At least 1 member of the council representing employer interests shall be an employer of not more than 20 employees. The members of the advisory council shall serve without compensation, but shall be reimbursed from the administration fund for all necessary expenses in connection with the discharge of their official duties.

(2) The advisory council shall make recommendations to the commission, on policy, and to the governor, the legislature, and the commission, on proposed amendments to this act, deemed advisable to carry out the purposes of this act and to provide more effective administration of this act.

(3) The commission shall furnish the advisory council clerical and other assistance as it may require and may make statistical and other studies requested by the advisory council in the performance of its duties. The cost of the assistance and the studies shall be considered proper administrative expenses.

History: Add. 1947, Act 360, Imd. Eff. July 8, 1947;—CL 1948, 421.3a;—Am. 1951, Act 251, Imd. Eff. June 17, 1951;—Am. 1976, Act 226, Imd. Eff. Aug. 4, 1976;—Am. 1978, Act 76, Imd. Eff. Mar. 22, 1978;—Am. 1983, Act 164, Imd. Eff. July 24, 1983.

Compiler's note: For transfer of authority, powers, duties, functions, and responsibilities of the Michigan employment security advisory council to the director of employment security, see E.R.O. No. 1994-2, compiled at MCL 421.92 of the Michigan Compiled Laws.

Transfer of powers: See MCL 16.479.

421.3b Repealed. 2002, Act 192, Imd. Eff. Apr. 26, 2002.

Compiler's note: The repealed section pertained to meetings conducted by Michigan employment security commission.

421.4 Rules and regulations; distribution; public hearing; notice; publication; copies furnished; effective date.

Sec. 4. (1) The bureau may promulgate rules and regulations that it determines necessary, and that are not inconsistent with this act, to carry out this act.

(2) The bureau shall cause to be printed for distribution to the public the text of this act, and all rules and regulations of the bureau, and shall make available to the public upon request statements of all informal rules or criteria of decision, administrative policies, or interpretations, which may be utilized by the bureau or any of its agents or employees in any manner.

(3) No rule or regulation shall be made or changed until after public hearing, notice of which shall first be given not less than 20 days before the hearing, by publication in at least 3 newspapers of general circulation in different parts of this state, 1 of which shall be in the Upper Peninsula. Copies of proposed rules or regulations shall be furnished by the bureau upon application by any interested parties. Rules and regulations shall become effective in accordance with the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

History: 1936, Ex. Sess., Act 1, Imd. Eff. Dec. 24, 1936;—Am. 1943, Act 246, Imd. Eff. June 1, 1943;—Am. 1947, Act 360, Imd. Eff. July 8, 1947;—CL 1948, 421.4;—Am. 1951, Act 251, Imd. Eff. June 17, 1951;—Am. 1996, Act 498, Imd. Eff. Jan. 9, 1997;—Am. 2002, Act 192, Imd. Eff. Apr. 26, 2002.

Administrative rules: R 421.1 et seq. of the Michigan Administrative Code.

421.4a Parking facility; approval of state administrative board.

Sec. 4a. The bureau may acquire, purchase, erect, or improve land or buildings, within funds available for that purpose, as it considers necessary for use as a parking facility in Detroit for the state administrative office. No land or buildings shall be acquired, purchased, erected, or improved until the approval of the state administrative board is obtained. Title to the land or buildings shall be in the name of this state.

History: Add. 1969, Act 211, Eff. Mar. 20, 1970;—Am. 2002, Act 192, Imd. Eff. Apr. 26, 2002.

Compiler's note: Former MCL 421.4a, deriving from Act 307 of 1945 and authorizing commission to acquire necessary property and buildings, was repealed by Act 360 of 1947.

421.5 Employment security commission; director; appointment, term, and duties; annual salary; employees and assistants; delegation of authority; compensation and expenses; bond; appointment and qualifications of persons to assist employers and represent claimants.

Sec. 5. (1) The commission by affirmative vote of not less than 3 of its members shall appoint an administrative officer, hereinafter referred to as the director, who shall serve at the pleasure of the commission and shall act as secretary of the commission and shall perform other duties as shall be delegated by the commission. The director shall receive an annual salary as established annually by the legislature and shall be entitled to the actual and necessary expenses incurred in the discharge of his or her official duties, to

be paid from the administration fund. The director shall devote his or her entire time to the duties of the office. The director may appoint, with the approval of the commission, employees and assistants as shall be necessary for the proper exercise of the powers hereby granted, and subject to the approval of the commission may delegate to those employees or assistants the authority as he or she considers reasonable and necessary. Employees and assistants shall receive their actual and necessary expenses incurred in the discharge of their official duties. Compensation and expenses of the director and all assistants and employees shall be paid from the administration fund. The commission may incur expenses as shall be required to carry out this act.

(2) The commission shall arrange for a suitable bond for any person holding moneys or signing checks or vouchers under this act. The cost of the bond shall be paid from the administration fund under section 10.

(3) The director, in consultation with the commission, shall appoint not to exceed 20 persons who shall be law students or other persons who have previous experience in unemployment compensation for the purposes of providing assistance to employers in interpreting the provisions of this act and to represent claimants at the referee and board of review hearing levels. Appointments made under this subsection shall not exceed 20 full-time equivalent positions and shall terminate April 1, 1986.

History: 1936, Ex. Sess., Act 1, Imd. Eff. Dec. 24, 1936;—Am. 1937, Act 347, Imd. Eff. Aug. 5, 1937;—CL 1948, 421.5;—Am. 1951, Act 251, Imd. Eff. June 17, 1951;—Am. 1953, Act 117, Eff. Oct. 2, 1953;—Am. 1955, Act 281, Eff. July 15, 1955;—Am. 1957, Act 287, Imd. Eff. June 13, 1957;—Am. 1959, Act 270, Imd. Eff. Oct. 30, 1959;—Am. 1964, Act 231, Eff. Aug. 28, 1964;—Am. 1968, Act 338, Imd. Eff. July 19, 1968;—Am. 1970, Act 135, Imd. Eff. July 29, 1970;—Am. 1971, Act 231, Imd. Eff. Jan. 3, 1972;—Am. 1975, Act 113, Imd. Eff. June 13, 1975;—Am. 1980, Act 358, Eff. Mar. 1, 1981;—Am. 1982, Act 535, Eff. Jan. 2, 1983;—Am. 1983, Act 164, Imd. Eff. July 24, 1983.

Compiler's note: For creation of bureau of worker's and unemployment compensation within department of consumer and industry services; transfer of powers and duties of bureau of worker's compensation and unemployment agency to bureau of worker's and unemployment compensation; transfer of powers and duties of director of bureau of worker's compensation and director of unemployment agency to director of bureau of worker's and unemployment compensation; and, transfer of powers and duties of wage and hour division of worker's compensation board of magistrates to bureau of worker's and unemployment compensation, see E.R.O. No. 2002-1, compiled at MCL 445.2004 of the Michigan Compiled Laws.

For creation of the unemployment insurance agency as type II agency within the department of labor and economic growth, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

For transfer of powers and duties of the unemployment agency, transferred to the bureau of worker's and unemployment compensation under MCL 445.2004, to the bureau to the unemployment insurance agency, see E.R.O. No 2003-1, compiled at MCL 445.2011.

For transfer of powers and duties of unemployment insurance agency, including powers and duties of its director, from department of licensing and regulatory affairs to Michigan talent investment agency, see E.R.O. No. 2014-6, compiled at MCL 125.1995.

421.5a Advocacy assistance program.

Sec. 5a. (1) For calendar years beginning January 1, 1994 and ending December 31, 1998, the commission shall develop and implement a program to provide, upon request, claimant and employer advocacy assistance or consultation. The purpose of the program shall be to provide information, consultation, and representation to claimants and employers relating to the referee or board of review appeal levels, or both.

(2) The program shall be funded from the penalty and interest account in the contingent fund. If the advocacy program does not operate or the legislature fails to approve a yearly appropriation for the advocacy program in an amount at least equal to the maximum yearly expenditure for the program as provided in this subsection, then the provision of section 19(a)(5) reducing the maximum nonchargeable benefits component from 1% to 1/2 of 1% shall not be effective for the tax year for which the appropriation is not made or in which the advocacy program does not operate. For fiscal years beginning on and after October 1, 1994, the maximum amount of the expenditure for the program each year shall not exceed $1,500,000.00.

(3) The appropriations shall be used to finance all costs connected with the program. Not to exceed 60% of the maximum expenditure allowed in each fiscal year shall be used for costs related to representation of claimants and not to exceed 40% of the maximum expenditure allowed in each fiscal year shall be used for costs related to representation of employers.

(4) An individual who desires to provide advocacy assistance services shall apply to the commission for approval. The commission shall develop standards for individuals providing advocacy assistance services including standards relating to knowledge of this act and the practices and procedures at the referee and board of review appeal levels. Advocacy assistance services may be provided by individuals other than attorneys. The commission shall develop a schedule for payment of individuals providing advocacy assistance services. Individuals providing advocacy assistance services shall not be active commission or state employees. The only active state or commission employees involved in the program shall be those supervising or coordinating the program but who shall not provide direct advocacy assistance services.

(5) The commission may include in the program standards regarding the provision of advocacy assistance services in precedent setting cases, multiclaimant cases, cases without merit, or regarding other cases or

factors as determined by the commission.

(6) Individuals who are approved by the commission to provide advocacy assistance services shall contract with the commission that the payments made pursuant to the schedule established by the commission shall be payment in full for all services rendered and expenses incurred and that the claimant or employer who has received the benefit of the services shall not be billed for or be liable for the cost of the services or representation provided. An individual approved by the commission to provide advocacy assistance services shall only receive the fee approved by the commission for these services and shall not receive any other fee for these services from the claimant or the employer.

(7) If either a claimant or an employer receives advocacy assistance services beyond an initial consultation, the other party in the case shall be immediately notified of that fact. The commission shall include in the program provisions to determine the method and the timeliness by which immediate notice shall be provided to the other party. The commission shall not approve the same individual to provide advocacy assistance services for both claimants and employers. The commission shall clearly designate each individual approved to provide services pursuant to this section as representing either claimants or employers. An individual approved by the commission to provide advocacy assistance services shall not be entitled to payment under this section for representing his or her own personal interests. No active state employee shall represent a claimant or an employer under this program at the referee or board of review appeal levels. However, this subsection shall not be construed to prevent an employee of the commission from participating in a case in which the commission is an interested party or if the employee is representing the commission's interest when acting as an administrator for a federal program as required by federal law.

(8) The commission shall make an annual report to the legislature on the operation of the advocacy assistance program. The first report under this subsection shall be due within 60 days after the first anniversary date of the beginning of the program. Each report under this subsection shall include, but not be limited to, the following for the previous 12-month period:

(a) Number and type of claimants served.

(b) Number and type of employers served.

(c) Costs to the program of the claimants served.

(d) Costs to the program of the employers served.

(e) An analysis of the impact of the services provided on the appeal system provided by this act.

History: Add. 1989, Act 226, Eff. Dec. 21, 1989;—Am. 1993, Act 311, Imd. Eff. Dec. 29, 1993.

421.5b Bureau of worker's and unemployment compensation; creation within department of consumer and industry services; director; transfer of powers and duties by executive order.

Sec. 5b. (1) The bureau of worker's and unemployment compensation is created within the department of consumer and industry services.

(2) The bureau shall be headed by a director who shall be appointed by the governor.

(3) All of the authority, powers, functions, duties, and responsibilities of the unemployment agency provided under this act are transferred to the bureau as provided in Executive Order No. 2002-1.

(4) All of the powers, functions, duties, and responsibilities of the director of the unemployment agency, defined as the director of employment security in Executive Order No. 1997-12, provided under this act are transferred to the director as provided in Executive Order No. 2002-1.

History: Add. 2002, Act 192, Imd. Eff. Apr. 26, 2002.

421.6 Conversion to wage record system; assistance of ad hoc committees; administrative costs.

Sec. 6. (1) The director of the commission shall appoint individuals to serve on ad hoc committees to oversee the implementation of an educational plan to assist the public in understanding the conversion to the wage record system and to assist in the development of forms to be used after conversion to the wage record system.

(2) None of the administrative costs associated with amendments made by the 1994 amendatory act that added this section relating to conversion to a wage record system shall be financed by any state tax on employers. This subsection shall not prohibit the legislature from appropriating money deposited from penalties, interest, and damages in the contingent fund pursuant to section 10(6) for any administrative costs of conversion to a wage record system that are unsupported by federal grants.

History: Add. 1994, Act 162, Imd. Eff. June 17, 1994.

Compiler's note: Former MCL 421.6, which provided for appointment and salary of director of employment security commission, was repealed by Act 251 of 1951, Imd. Eff. June 17, 1951.

421.6a Unemployment insurance agency; destruction or disposal of documents; admissibility of reproduction as evidence.

Sec. 6a. The unemployment insurance agency may destroy or dispose of a document as soon as practicable after the document has been electronically captured and preserved in an information retrieval system. Electronically stored records shall be retained for the same minimum retention period as required for the original record. If an original document is destroyed or disposed of pursuant to this section, a reproduction of the document in a medium pursuant to the records reproduction act, 1992 PA 116, MCL 24.401 to 24.406, is admissible in evidence the same as the original in any proceeding before the commission, administrative law judge, or Michigan compensation appellate commission and in all courts. Information contained on printouts prepared by automatic data processing equipment is also admissible in evidence, if the original documents from which such information was obtained would have been admissible.

History: Add. 1941, Act 364, Imd. Eff. July 1, 1941;—CL 1948, 421.6a;—Am. 1951, Act 251, Imd. Eff. June 17, 1951;—Am. 1967, Act 254, Imd. Eff. July 19, 1967;—Am. 1992, Act 204, Imd. Eff. Oct. 5, 1992;—Am. 2011, Act 269, Imd. Eff. Dec. 19, 2011.

421.6b Appropriation for continuing work on unemployment insurance computer system improvement and capacity extension project; staff training; appointment, membership, and duties of computer project oversight committee; reversion of unexpended funds; work project.

Sec. 6b. (1) The $19,450,000.00 appropriated for the fiscal year ending September 30, 1990 from the penalty and interest account in the contingent fund shall be expended for continuing work on the unemployment insurance computer system improvement and capacity expansion project. One million dollars of this amount shall be used for staff training in use of the improved computer system.

(2) The commission shall appoint a computer project oversight committee of not to exceed 15 members. The committee shall be composed of computer system specialists and unemployment insurance specialists from the private sector and employees of the commission who are involved in the project. The committee, on a quarterly basis, shall review commission staff reports on the status of the project and shall provide a short written summary report on the review, including their comments, to the commission, the department of management and budget, and the senate and house of representatives labor committees and appropriations subcommittees on regulatory. The committee shall serve in an advisory capacity to the commission regarding the project upon request.

(3) Any funds from the appropriations described in subsection (1) that are not expended within 3 years after the effective date of the amendatory act that added this section shall revert to the penalty and interest account in the contingent fund.

(4) The appropriation described in this section and made by law shall be considered a work project and shall not lapse at the end of the fiscal year but shall continue to be available for expenditure until the project is completed.

History: Add. 1989, Act 238, Imd. Eff. Dec. 21, 1989.

421.6c Emergency backup plan for computer system.

Sec. 6c. (1) Within 6 months after the effective date of the amendatory act that added this section, the commission by an affirmative majority vote of the members shall finalize an emergency backup plan for the current computer system. The plan, funded in the amount of $1,500,000.00 from the penalty and interest account in the contingent fund shall be placed in a reserve established in the account for this purpose.

(2) An emergency shall exist when the commission, due to computer system problems, is unable to service claimants or employers on a statewide, regional, or local basis over a prolonged period of time, as determined by the commission.

(3) Expenditure of funds from the reserve established pursuant to subsection (1) shall only be made after the commission by an affirmative majority vote of the members determines that an emergency exists or according to specific criteria included in the plan approved pursuant to subsection (1).

(4) The emergency plan shall not be required after the commission determines that the unemployment insurance computer system improvement and capacity expansion project is fully operational or 36 months after the effective date of the amendatory act that added this section, whichever occurs first. Unexpended funds remaining in the reserve account at the end of this period shall revert to the penalty and interest account.

(5) The appropriation described in this section shall be considered a work project and shall not lapse at the end of the fiscal year but shall continue to be available for expenditure as provided by law.

History: Add. 1989, Act 230, Imd. Eff. Dec. 21, 1989.

421.6d Stabilization fund.

Sec. 6d. (1) A stabilization fund is established for the purpose of offsetting the effects on state budgeted staffing levels due to unanticipated cuts in federal administrative funds that may occur in any fiscal year.

(2) The $3,500,000.00 appropriation for the fund for the fiscal year ending September 30, 1990 shall be from the penalty and interest account in the contingent fund. A reserve is established in the account for this purpose. Expenditures from the fund shall be authorized by the commission by an affirmative majority vote of the members if it determines that the requirements of subsection (1) are met.

(3) The appropriation described in this section shall be considered a work project and shall not lapse at the end of the fiscal year but shall continue to be available for expenditure as provided under this section.

History: Add. 1989, Act 232, Imd. Eff. Dec. 21, 1989.

421.6e Employee training program; operation; funding; purpose.

Sec. 6e. The commission shall operate an employee training program which shall be funded in the amount of $1,000,000.00 each year from the penalty and interest account in the contingent fund. This training program shall be used by the commission for the purpose of training employees to provide more effective service to claimants and employers.

History: Add. 1989, Act 231, Imd. Eff. Dec. 21, 1989.

421.6f Appropriation to fund improvements; expenditure; work project.

Sec. 6f. (1) The $2,700,000.00 appropriated for the fiscal year ending September 30, 1990, from the penalty and interest account in the contingent fund to fund improvements in the commission headquarters' offices in Detroit shall be expended upon approval by the commission as follows:

(a) $950,000.00 for elevator modernization.

(b) $1,200,000.00 for fire suppression and alarm systems.

(c) $550,000.00 for exterior and other repairs.

(2) This appropriation described in subsection (1) shall be considered a work project and shall not lapse at the end of the current fiscal year but shall continue to be available for expenditure until the project is completed.

History: Add. 1989, Act 250, Imd. Eff. Dec. 21, 1989.

421.6g Securing automated systems for fraud control and collections division; fraud control and investigation; funding; work project.

Sec. 6g. (1) The $425,000.00 appropriated from the penalty and interest account in the contingent fund for the fiscal year ending September 30, 1990, shall be used by the commission to secure automated systems for the fraud control and collections division. The commission shall operate an increased fraud control and investigation program which shall be funded in the amount of $1,000,000.00 each year from the penalty and interest account in the contingent fund.

(2) The $425,000.00 appropriation made by law described in subsection (1) shall be considered a work project and shall not lapse at the end of the current fiscal year but shall continue to be available for expenditure until the project is completed.

History: Add. 1989, Act 239, Imd. Eff. Dec. 21, 1989.

421.7 Employment security commission; consolidation of divisions.

Sec. 7. Same; the commission may consolidate its employment service division and its unemployment compensation division.

History: 1936, Ex. Sess., Act 1, Imd. Eff. Dec. 24, 1936;—Am. 1937, Act 347, Imd. Eff. Aug. 5, 1937;—Am. 1941, Act 364, Imd. Eff. July 1, 1941;—CL 1948, 421.7.

421.8 Legislative purpose; annual review of maximum weekly benefit rates; comparison of consumers' price index; "base month" defined; determining percentage of increase or decrease; report.

Sec. 8. A basic purpose of this act is to lighten the burden of involuntary unemployment on the unemployed worker and his family. In view of this, the maximum weekly benefit rates under section 27(b) are related to the cost of the necessities of life for the various dependency classes recognized in that section. At the same time, the legislature has concluded that the maximum weekly benefit rates established in that section will finance the most favorable standard of living consistent with maintaining for unemployed individuals generally a proper incentive to seek and accept new work. To maintain this optimum relationship between maximum weekly benefit rates and the standard of living of the unemployed individual, the maximum weekly

benefit rates established shall be reviewed annually. The commission shall annually, not later than February 28, compare the United States department of labor's consumers' price index for the preceding December with the corresponding United States department of labor's consumers' price index for the base month. The base month, as used in this subsection, means the month of June 1974, which shall remain the base month until the next adjustment of maximum weekly benefit rates is made. Thereafter, the base month shall be the month of December preceding the most recent calendar year in which an adjustment of maximum weekly benefit rates is made. If in a calendar year the United States department of labor's consumers' price index for the preceding December has increased or decreased as compared to the base month, the commission shall determine the percentage of that increase or decrease. The commission shall then multiply the maximum weekly benefit rate for each dependency class by this percentage. If the product thus obtained is $1.00, or more, the commission shall report that fact to the governor, the legislature, and the Michigan employment security advisory council.

History: 1936, Ex. Sess., Act 1, Imd. Eff. Dec. 24, 1936;—Am. 1941, Act 364, Imd. Eff. July 1, 1941;—Am. 1947, Act 360, Imd. Eff. July 8, 1947;—CL 1948, 421.8;—Am. 1967, Act 254, Imd. Eff. July 10, 1967;—Am. 1968, Act 338, Imd. Eff. July 19, 1968;—Am. 1970, Act 14, Imd. Eff. Apr. 14, 1970;—Am. 1974, Act 104, Eff. June 9, 1974;—Am. 1978, Act 526, Imd. Eff. Dec. 20, 1978;—Am. 1996, Act 535, Imd. Eff. Jan. 13, 1997.

421.9 Employment security commission; subpoenas, issuance; enforcement; immunity.

Sec. 9. The commission may by itself, or by its duly appointed agents, examine or copy the books, records and papers of any employing unit relating to any requirement pertaining to this act. Any member of the commission or its duly authorized agents may issue a subpoena requiring any person to appear before the commission, or its duly authorized agent at any reasonable time and place, and be examined with reference to any matter within the scope of the inquiry or investigation being conducted by the commission and to produce any books, records or papers pertaining to the question involved. Any member of the commission or its duly authorized agents may administer an oath or affirmation to a witness in any matter before the commission, certify to official acts, and take depositions. In case of disobedience of a subpoena, the commission, or the party on whose behalf it was issued, may invoke the aid of any circuit court of the state in requiring the attendance and testimony of witnesses and the production of books, records and papers pertaining to the question involved. And any of the circuit courts of the state within the jurisdiction of which such inquiry is carried on may, in case of contumacy or refusal to obey a subpoena, issue an order requiring such person to appear before said commission or its duly authorized agents and to produce books, records and papers if so ordered and give evidence touching the matter in question; and any failure to obey such order of the court may be punished by such court as a contempt thereof.

No person shall be excused from testifying or from producing any books, records or papers in any investigation, or upon any hearing, when ordered to do so by the commission, or its duly authorized agents, upon the ground that the testimony or evidence, documentary or otherwise, may tend to incriminate him or subject him to a criminal penalty; but no person shall be prosecuted or subjected to any criminal penalty for, or on account of, any transaction made or thing concerning which he is compelled, upon the claiming of his privilege to testify. No person so testifying shall be exempt from prosecution and punishment for perjury committed in so testifying.

History: 1936, Ex. Sess., Act 1, Imd. Eff. Dec. 24, 1936;—CL 1948, 421.9;—Am. 1951, Act 251, Imd. Eff. June 17, 1951;—Am. 1970, Act 14, Imd. Eff. Apr. 14, 1970.

421.10 Administration fund; contingent fund.

Sec. 10. (1) There is created in the department of treasury a special fund to be known and designated as the administration fund (Michigan employment security act). Any balances in the administration fund at the end of any fiscal year of this state shall be carried over as a part of the administration fund and shall not revert to the general fund of this state. Except as otherwise provided in subsection (3), all money deposited into the administration fund under this act shall be appropriated by the legislature to the unemployment agency to pay the expenses of the administration of this act.

(2) The administration fund shall be credited with all money appropriated to the fund by the legislature, all money received from the United States or any agency of the United States for that purpose, and all money received by this state for the fund. All money in the administration fund that is received from the federal government or any agency of the federal government or that is appropriated by this state for the purposes of this act, except money requisitioned from the account of this state in the unemployment trust fund pursuant to a specific appropriation made by the legislature in accordance with section 903(c)(2) of title IX of the social security act, 42 USC 1103(c)(2), and with section 17(3)(f), shall be expended solely for the purposes and in the amounts found necessary by the appropriate agency of the United States and the legislature for the proper and efficient administration of this act.

(3) All money requisitioned from the account of this state in the unemployment trust fund pursuant to a specific appropriation made by the legislature in accordance with section 903(c)(2) of title IX of the social security act, 42 USC 1103(c)(2), and with section 17(3)(f), shall be deposited in the administration fund. Any money that remains unexpended at the close of the 2-year period beginning on the date of enactment of a specific appropriation shall be immediately redeposited with the secretary of the treasury of the United States to the credit of this state's account in the unemployment trust fund; or any money that for any reason cannot be expended or is not to be expended for the purpose for which appropriated before the close of this 2-year period shall be redeposited at the earliest practicable date.

(4) If any money received after June 30, 1941, from the appropriate agency of the United States under title III of the social security act, 42 USC 501 to 504, or any unencumbered balances in the administration fund (Michigan employment security act) as of that date, or any money granted after that date to this state under the Wagner-Peyser act, as defined in section 12, or any money made available by this state or its political subdivisions and matched by money granted to this state under the Wagner-Peyser act, is found by the appropriate agency of the United States, because of any action or contingency, to have been lost or been expended for purposes other than, or in amounts in excess of, those found necessary by that agency of the United States for the proper administration of this act, the money shall be replaced by money appropriated for that purpose from the general funds of this state to the administration fund (Michigan employment security act) for expenditure as provided in this act. Upon receipt of notice of such a finding by the appropriate agency of the United States, the unemployment agency shall promptly report the amount required for replacement to the governor and the governor shall, at the earliest opportunity, submit to the legislature a request for the appropriation of that amount. This subsection does not relieve this state of its obligation with respect to funds received prior to July 1, 1941, under the provisions of 42 USC 501 to 504.

(5) If any funds expended or disbursed by the unemployment agency are found by the appropriate agency of the United States to have been lost or expended for purposes other than, or in amounts in excess of, those found necessary by that agency of the United States for the proper administration of this act, and if these funds are replaced as provided in subsection (4) by money appropriated for that purpose from the general fund of this state, then the director who approved the expenditure or disbursement of those funds for those purposes or in those amounts, is liable to this state in an amount equal to the sum of money appropriated to replace those funds.

(6) There is created in the department of treasury a separate fund to be known as the contingent fund (Michigan employment security act) into which shall be deposited all solvency taxes collected under section 19a and all interest on contributions, penalties, and damages collected under this act. Except as provided in subsection (7), all amounts in the contingent fund (Michigan employment security act) and all earnings on those amounts are continuously appropriated without regard to fiscal year for the administration of the talent investment agency, as established under Executive Reorganization Order No. 2014-6, MCL 125.1995, including, but not limited to, the development and execution of workforce training programs, and for the payment of interest on advances from the federal government to the unemployment compensation fund under 42 USC 1321, to be expended only if authorized by the unemployment agency. Money deposited from the solvency taxes collected under section 19a shall not be used for the administration of the unemployment agency, except for the repayment of loans from the state treasury and interest on loans made under section 19a(3). However, an authorization or expenditure shall not be made as a substitution for a grant of federal funds or for any portion of a grant that, in the absence of an authorization, would be available to the unemployment agency. Immediately upon receipt of administrative grants from the appropriate agency of the United States to cover administrative costs for which the unemployment agency has authorized and made expenditures from the contingent fund, those grants shall be transferred to the contingent fund to the extent necessary to reimburse the contingent fund for the amount of those expenditures. Amounts needed to refund interest, damages, and penalties erroneously collected shall be withdrawn and expended for those purposes from the contingent fund upon order of the unemployment agency. Any amount authorized to be expended for administration under this section may be transferred to the administration fund. An amount not needed for the purpose for which authorized shall, upon order of the unemployment agency, be returned to the contingent fund. Amounts needed to refund erroneously collected solvency taxes shall be withdrawn and expended for that purpose upon order of the unemployment agency.

(7) For the fiscal year ending September 30, 2017 only, $10,000,000.00 of the money in the contingent fund created in subsection (6) is transferred to and shall be deposited into the general fund.

History: 1936, Ex. Sess., Act 1, Imd. Eff. Dec. 24, 1936;—Am. 1937, Act 347, Imd. Eff. Aug. 5, 1937;—Am. 1939, Act 324, Imd. Eff. June 22, 1939;—Am. 1941, Act 364, Imd. Eff. July 1, 1941;—Am. 1942, 2nd Ex. Sess., Act 18, Imd. Eff. Feb. 27, 1942;—Am. 1947, Act 360, Imd. Eff. July 8, 1947;—CL 1948, 421.10;—Am. 1951, Act 251, Imd. Eff. June 17, 1951;—Am. 1955, Act 281, Eff. July 15, 1955;—Am. 1957, Act 311, Imd. Eff. June 21, 1957;—Am. 1982, Act 535, Eff. Jan. 2, 1983;—Am. 1983, Act 247, Imd. Eff. Dec. 5,

1983;—Am. 1989, Act 224, Eff. Dec. 21, 1989;—Am. 2002, Act 192, Imd. Eff. Apr. 26, 2002;—Am. 2003, Act 84, Imd. Eff. July 23, 2003;—Am. 2011, Act 14, Imd. Eff. Mar. 29, 2011;—Am. 2011, Act 269, Imd. Eff. Dec. 19, 2011;—Am. 2015, Act 57, Eff. Oct. 1, 2015 ;—Am. 2016, Act 517, Imd. Eff. Jan. 9, 2017.

421.10a Obligation trust fund; creation; receipt and deposit of money or other assets; investment; money remaining in fund; administrator; expenditures; purpose.

Sec. 10a. (1) The obligation trust fund is created as a separate fund in the state treasury. The assets of the obligation trust fund shall not be commingled with any other fund and shall not be considered part of the general fund of the state.

(2) The state treasurer may receive money or other assets from any source for deposit into the fund. All obligation assessments on employers collected under section 26a; all interest on payments, penalties, and damages collected in connection with the obligation assessments made under section 26a; and a portion of the proceeds of any obligations, as described in section 26a, in amounts specified by the issuer, shall be deposited into the obligation trust fund. The state treasurer shall direct the investment of the fund. The state treasurer shall credit to the fund interest and earnings from fund investments.

(3) Money in the obligation trust fund at the close of the fiscal year shall remain in the fund and shall not lapse to the general fund. Money in the fund is continuously appropriated for the purposes specified in section 26a.

(4) The department of licensing and regulatory affairs shall be the administrator of the fund for auditing purposes.

(5) The department of licensing and regulatory affairs shall expend money from the fund only for 1 or more of the following purposes:

(a) To pay obligations, administrative expenses, and associated expenses described in section 26a.

(b) To refund erroneously collected assessments under section 26a.

(c) For any other purpose described in section 26a(1).

History: Add. 2011, Act 268, Imd. Eff. Dec. 19, 2011.

421.11 Employment security commission; cooperation with federal agency; reports; compliance with federal regulations; "social security act" defined; disclosure of information; reciprocal agreements.

Sec. 11. (a) In the administration of this act, the commission shall cooperate with the appropriate agency of the United States under the social security act. The commission shall make reports, in a form and containing information as the appropriate agency of the United States may require, and shall comply with the provisions that the appropriate agency of the United States prescribes to assure the correctness and verification of the reports. The commission, subject to this act, shall comply with the regulations prescribed by the appropriate agency of the United States relating to the receipt or expenditure of the sums that are allotted and paid to this state for the purpose of assisting in the administration of this act. As used in this section, "social security act" means the social security act, chapter 531, 49 Stat. 620.

(b)(1) Information obtained from any employing unit or individual pursuant to the administration of this act and determinations as to the benefit rights of any individual are confidential and shall not be disclosed or open to public inspection other than to public employees and public officials in the performance of their official duties under this act and to agents or contractors of those public officials, including those described in subdivision (*viii*), in any manner that reveals the individual's or the employing unit's identity or any identifying particular about any individual or any past or present employing unit or that could foreseeably be combined with other publicly available information to reveal identifying particulars. However, all of the following apply:

(*i*) Information in the commission's possession that might affect a claim for worker's disability compensation under the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.101 to 418.941, shall be available to interested parties as defined in R 421.201 of the Michigan administrative code, regardless of whether the commission is a party to an action or proceeding arising under that act.

(*ii*) Any information in the commission's possession that may affect a claim for benefits or a charge to an employer's experience account shall be available to interested parties as defined in R 421.201 of the Michigan administrative code, and to their agents, if their agents provide the unemployment insurance agency with a written authorization of representation from the party represented. A written authorization of representation is not required in any of the following circumstances:

(A) If the request is made by an attorney who is retained by an interested party and files an appearance for purposes related to a claim for unemployment benefits.

(B) If the request is made by an elected official performing constituent services and the elected official

presents reasonable evidence that the identified individual authorized the disclosure.

(C) If the request is made by a third party who is not acting as an agent for an interested party and the third party presents a release from an interested party for the information. The release shall be signed by an interested party; specify the information to be released and all individuals who may receive the information; and state the specific purpose for which the information is sought, that files of the state may be accessed to obtain the information, and that the information sought will only be used for the purpose indicated. The purpose specified in the release shall be limited to that of providing a service or benefit to the individual signing the release or carrying out administration or evaluation of a public program to which the release pertains.

(*iii*) Except as provided in this act, the information and determinations shall not be used in any action or proceeding before any court or administrative tribunal unless the commission is a party to or a complainant in the action or proceeding, or unless used for the prosecution of fraud, civil proceeding, or other legal proceeding in the programs indicated in subdivision (2).

(*iv*) Any report or statement, written or verbal, made by any person to the commission, any member of the commission, or to any person engaged in administering this act is a privileged communication, and a person, firm, or corporation shall not be held liable for slander or libel on account of a report or statement. The records and reports in the custody of the commission shall be available for examination by the employer or employee affected.

(*v*) Subject to restrictions that the commission prescribes by rule, information in the commission's possession may be made available to any agency of this state, any other state, or any federal agency charged with the administration of an unemployment compensation law or the maintenance of a system of public employment offices; the bureau of internal revenue of the United States department of the treasury; the bureau of the census of the economics and statistics administration of the United States department of commerce; or the social security administration of the United States department of health and human services.

(*vi*) Information obtained in connection with the administration of this act may be made available to persons or agencies for purposes appropriate to the operation of a public employment service or unemployment compensation program. Subject to restrictions that the commission prescribes by rule, the commission may also make that information available to agencies of other states that are responsible for the administration of public assistance to unemployed workers; to the departments of this state; and to federal, state, and local law enforcement agencies in connection with a criminal investigation involving the health, safety, or welfare of the public. Information so released shall be used only for purposes not inconsistent with the purposes of this act. The information shall only be released upon assurance by the entity receiving the information that it will reimburse the cost of providing the information and will not disclose the information except to the individual or employer that is the subject of the information, an attorney or agent of the individual or employer, or a prosecuting authority for or on behalf of the entity receiving the information.

(*vii*) Upon request, the commission shall furnish to any agency of the United States charged with the administration of public works or assistance through public employment, and may furnish to any state agency similarly charged, the name, address, ordinary occupation, and employment status of each recipient of benefits and the recipient's rights to further benefits under this act.

(*viii*) Subject to restrictions the commission prescribes, by rule or otherwise, the commission may also make information that it obtains available for use in connection with research projects of a public service nature to a college, university, or agency of this state that is acting as a contractor or agent of a public official and conducting research that assists the public official in carrying out the duties of the office. A person associated with those institutions or agencies shall not disclose the information in any manner that would reveal the identity of any individual or employing unit from or concerning whom the information was obtained by the commission. The unemployment insurance agency shall enter into a written, enforceable agreement with the public official that holds the official responsible for ensuring that the agent or contractor maintains the confidentiality of the information. If the agreement is violated, the agreement shall be terminated and the public official may be subject to penalties equivalent to those that apply under section 54(f) to a person associated with a college, university, or public agency who discloses confidential information.

(*ix*) The commission may request the comptroller of the currency of the United States to cause an examination of the correctness of any return or report of any national banking association rendered under this act, and may, in connection with the request, transmit the report or return to the comptroller of the currency of the United States as provided in section 3305(c) of the internal revenue code of 1986, 26 USC 3305(c).

(2) The commission shall disclose to qualified requesting agencies, upon request, with respect to an identified individual, information in its records pertaining to the individual's name; social security number; gross wages paid during each quarter; the name, address, and federal and state employer identification number

of the individual's employer; any other wage information; whether an individual is receiving, has received, or has applied for unemployment benefits; the amount of unemployment benefits the individual is receiving or is entitled to receive; the individual's current or most recent home address; whether the individual has refused an offer of work and if so a description of the job offered including the terms, conditions, and rate of pay; and any other information which the qualified requesting agency considers useful in verifying eligibility for, and the amount of, benefits. For purposes of this subdivision, "qualified requesting agency" means any state or local child support enforcement agency responsible for enforcing child support obligations under a plan approved under part d of title IV of the social security act, 42 USC 651 to 669b; the United States department of health and human services for purposes of establishing or verifying eligibility or benefit amounts under titles II and XVI of the social security act, 42 USC 401 to 434 and 42 USC 1381 to 1383f; the United States department of agriculture for the purposes of determining eligibility for, and amount of, benefits under the food stamp program established under the food stamp act of 1977, 7 USC 2011 to 2036; and any other state or local agency of this or any other state responsible for administering the following programs:

(*i*) The aid to families with dependent children program under part a of title IV of the social security act, 42 USC 601 to 619.

(*ii*) The medicaid program under title XIX of the social security act, 42 USC 1396 to 1396v.

(*iii*) The unemployment compensation program under section 3304 of the internal revenue code of 1986, 26 USC 3304.

(*iv*) The food stamp program under the food stamp act of 1977, 7 USC 2011 to 2036.

(*v*) Any state program under a plan approved under title I, X, XIV, or XVI of the social security act, 42 USC 301 to 306, 42 USC 1201 to 1206, 42 USC 1351 to 1355, and 42 USC 1381 to 1383f.

(*vi*) Any program administered under the social welfare act, 1939 PA 280, MCL 400.1 to 400.119b.

The information shall be disclosed only if the qualified requesting agency has executed an agreement with the commission to obtain the information and if the information is requested for the purpose of determining the eligibility of applicants for benefits, or the type and amount of benefits for which applicants are eligible, under any of the programs listed above or under title II and XVI of the social security act, 42 USC 401 to 434 and 42 USC 1381 to 1383f; for establishing and collecting child support obligations from, and locating individuals owing such obligations that are being enforced under a plan described in section 454 of the social security act, 42 USC 654; or for investigating or prosecuting alleged fraud under any of these programs.

The commission shall cooperate with the department of human services in establishing the computer data matching system authorized in section 83 of the social welfare act, 1939 PA 280, MCL 400.83, to transmit the information requested on at least a quarterly basis. The information shall not be released unless the qualified requesting agency agrees to reimburse the commission for the costs incurred in furnishing the information.

In addition to the requirements of this section, except as later provided in this subdivision, all other requirements with respect to confidentiality of information obtained in the administration of this act apply to the use of the information by the officers and employees of the qualified requesting agencies, and the sanctions imposed under this act for improper disclosure of the information apply to those officers and employees. A qualified requesting agency may redisclose information only to the individual who is the subject of the information, an attorney or other duly authorized agent representing the individual if the information is needed in connection with a claim for benefits against the requesting agency, or any criminal or civil prosecuting authority acting for or on behalf of the requesting agency.

The commission is authorized to enter into an agreement with any qualified requesting agency for the purposes described in this subdivision. The agreement or agreements shall comply with all federal laws and regulations applicable to such agreements.

(3) The commission shall enable the United States department of health and human services to obtain prompt access to any wage and unemployment benefit claims information, including any information that may be useful in locating an absent parent or an absent parent's employer, for purposes of section 453 of the social security act, 42 USC 653, in carrying out the child support enforcement program under title IV of the social security act, 42 USC 601 to 679b. Access to the information shall not be provided unless the requesting agency agrees to reimburse the commission for the costs incurred in furnishing the information.

(4) Upon request accompanied by presentation of a consent to the release of information signed by an individual, the commission shall disclose to the United States department of housing and urban development, any state or local public housing agency, or an entity contracting with a state or local public housing agency to provide public housing, or any other agency responsible for verifying an applicant's or participant's eligibility for, or level of benefits in, any housing assistance program administered by the United States department of housing and urban development, the name, address, wage information, whether an individual is receiving, has received, or has applied for unemployment benefits, and the amount of unemployment benefits the individual is receiving or is entitled to receive under this act. This information shall be used only to

determine an individual's eligibility for benefits or the amount of benefits to which an individual is entitled under a housing assistance program of the United States department of housing and urban development. The information shall not be released unless the requesting agency agrees to reimburse the commission for the costs incurred in furnishing the information. For purposes of this subdivision, "public housing agency" means an agency described in section 3(b)(6) of the United States housing act of 1937, 42 USC 1437a(b)(6).

(5) The commission may make available to the department of treasury information collected for the income and eligibility verification system begun on October 1, 1988 for the purpose of detecting potential tax fraud in other areas.

(6) A recipient of confidential information under this act shall use the disclosed information only for purposes authorized by law and consistent with an agreement entered into with the unemployment insurance agency. The recipient shall not redisclose the information to any other individual or entity without the written permission of the unemployment insurance agency.

(c) The commission may enter into agreements with the appropriate agencies of other states or the federal government whereby potential rights to benefits accumulated under the unemployment compensation laws of other states or of the federal government, or both, may constitute the basis for the payment of benefits through a single appropriate agency under plans that the commission finds will be fair and reasonable to all affected interests and will not result in substantial loss to the unemployment compensation fund.

(d)(1) The commission may enter into reciprocal agreements with the appropriate agencies of other states or of the federal government adjusting the collection and payment of contributions by employers with respect to employment not localized within this state.

(2) The commission may enter into reciprocal agreements with agencies of other states administering unemployment compensation, whereby contributions paid by an employer to any other state may be received by the other state as an agent acting for and on behalf of this state to the same extent as if the contributions had been paid directly to this state if the payment is remitted to this state. Contributions so received by another state shall be considered contributions, required and paid under this act as of the date the contributions were received by the other state. The commission may collect contributions in a like manner for agencies of other states administering unemployment compensation and remit the contributions to the agencies under the terms of the reciprocal agreements.

(e) The commission may make the state's records relating to the administration of this act available and may furnish to the railroad retirement board or any other state or federal agency administering an unemployment compensation law, at the expense of that board, state, or agency, copies of the records as the railroad retirement board considers necessary for its purpose.

(f) The commission may cooperate with or enter into agreements with any agency of another state or of the United States charged with the administration of any unemployment insurance or public employment service law.

The commission may investigate, secure, and transmit information, make available services and facilities, and exercise other powers provided in this act with respect to the administration of this act as it considers necessary or appropriate to facilitate the administration of any unemployment compensation or public employment service law, and may accept and utilize information, services, and facilities made available to this state by the agency charged with the administration of any other unemployment compensation or public employment service law.

On request of an agency that administers an employment security law of another state or foreign government and that has found, in accordance with that law, that a claimant is liable to repay benefits received under that law, the commission may collect the amount of the benefits from the claimant to be refunded to the agency.

In any case in which under this subsection a claimant is liable to repay any amount to the agency of another state or foreign government, the amount may be collected by civil action in the name of the commission acting as agent for the agency. Court costs shall be paid or guaranteed by the agency of that state.

To the extent permissible under the laws and constitution of the United States, the commission may enter into or cooperate in arrangements whereby facilities and services provided under this act and facilities and services provided under the unemployment compensation law of Canada may be utilized for the taking of claims and the payment of benefits under the unemployment compensation law of this state or under a similar law of Canada.

Any employer who is not a resident of this state and who exercises the privilege of having 1 or more individuals perform service for him or her within this state, and any resident employer who exercises that privilege and thereafter leaves this state, is considered to have appointed the secretary of state as his or her agent and attorney for the acceptance of process in any civil action under this act. In instituting the action, the commission shall cause process or notice to be filed with the secretary of state, and the service shall be

sufficient and shall be of the same force and validity as if served upon the nonresident or absent employer personally within this state. The commission immediately shall send notice of the service of process or notice, together with a copy thereof, by certified mail, return receipt requested, to the employer at his or her last known address. The return receipt, the commission's affidavit of compliance with this section, and a copy of the notice of service shall be attached to the original of the process filed in the court in which the civil action is pending.

The courts of this state shall recognize and enforce liabilities, as provided in this act, for unemployment compensation contributions, penalties, and interest imposed by other states that extend a like comity to this state.

The attorney general may commence action in the appropriate court of any other state or any other jurisdiction of the United States by and in the name of the commission to collect unemployment compensation contributions, penalties, and interest finally determined, redetermined, or decided under this act to be legally due this state. The officials of other states that extend a like comity to this state may sue in the courts of this state for the collection of unemployment compensation contributions, penalties, and interest, the liability for which has been similarly established under the laws of the other state or jurisdiction. A certificate by the secretary of another state under the great seal of that state attesting the authority of the official or officials to collect unemployment compensation contributions, penalties, and interest is conclusive evidence of that authority.

The attorney general may commence action in this state as agent for or on behalf of any other state to enforce judgments and established liabilities for unemployment compensation taxes or contributions, penalties, and interest due the other state if the other state extends a like comity to this state.

(g) The commission may also enter into reciprocal agreements with the appropriate and authorized agencies of other states or of the federal government whereby remuneration and services that determine entitlement to benefits under the unemployment compensation law of another state or of the federal government are considered wages and employment for the purposes of sections 27 and 46, if the other state agency or agency of the federal government has agreed to reimburse the fund for that portion of benefits paid under this act upon the basis of the remuneration and services as the commission finds will be fair and reasonable as to all affected interests. A reciprocal agreement may provide that wages and employment that determine entitlement to benefits under this act are considered wages or services on the basis of which unemployment compensation under the law of another state or of the federal government is payable; may provide that services performed by an individual for a single employing unit for which services are customarily performed by the individual in more than 1 state are considered services performed entirely within any 1 of the states in which any part of the individual's service is performed, in which the individual has his or her residence, or in which the employing unit maintains a place of business, if there is in effect as to those services, an election approved by the agency charged with the administration of the state's unemployment compensation law, under which all the services performed by the individual for the employing unit are considered to be performed entirely within the state; and may provide that the commission will reimburse other state or federal agencies charged with the administration of unemployment compensation laws with such reasonable portion of benefits, paid under the law of any other state or of the federal government upon the basis of employment and wages, as the commission finds will be fair and reasonable as to all affected interests. Reimbursements payable under this subsection are considered benefits for the purpose of limiting duration of benefits and for the purposes of sections 20(a) and 26, and the payments shall be charged to the contributing employer's experience account for the purposes of sections 17, 18, 19, and 20, or the reimbursing employer's account under section 13c, 13g, 13i, or 13*l*, as applicable. Benefits paid under a combined wage plan shall be allocated and charged to each employer involved in the quarter in which the paying state requires reimbursement. Benefits charged to this state shall be allocated to each employer of this state who has employed the claimant during the base period of the paying state in the same ratio that the wages earned by the claimant during the base period of the paying state in the employ of the employer bears to the total amount of wages earned by the claimant in the base period of the paying state in the employ of all employers of the state. The commission is authorized to make to other state or federal agencies and receive from other state or federal agencies reimbursements from or to the fund, in accordance with arrangements made under this section.

(h) The commission may enter into any agreement necessary to cooperate with any agency of the United States charged with the administration of any program for the payment of primary or supplemental benefits to individuals recently discharged from the military services of the United States, and to assist in the establishing of eligibility and in the payments of benefits under those programs, and for those purposes may accept and administer funds made available by the federal government and may accept and exercise any delegated function under those programs. The commission shall not enter into any agreement providing for, or exercise

any function connected with, the disbursement of the state's unemployment trust fund for purposes not authorized by this act.

(i) The commission may enter into agreements with the appropriate agency of the United States under which, in accordance with the laws of the United States, the commission, as agent of the United States or from funds provided by the United States, provides for the payment of unemployment compensation or unemployment allowances of any kind, including the payment of any benefits and allowances that are made available for manpower development, training, retraining, readjustment, and relocation. The commission may receive and disburse funds from the United States or any appropriate agency of the United States in accordance with any such agreements.

If the federal enactment providing for unemployment compensation, training allowance, or relocation payments requires joint federal-state financing of such payments, the commission may participate in the programs by using funds appropriated by the legislature to the extent provided by the legislature for such programs.

(j) The commission shall participate in any arrangement that provides for the payment of compensation on the basis of combining an individual's wages and employment covered under this act with his or her wages and employment covered under the unemployment compensation laws of other states, if the arrangement is approved by the United States secretary of labor in consultation with the state unemployment compensation agencies as reasonably calculated to assure the prompt and full payment of compensation. An arrangement shall include provisions for both of the following:

(*i*) Applying the base period of a single state law to a claim involving the combining of an individual's wages and employment covered under 2 or more state unemployment compensation laws.

(*ii*) Avoiding the duplicate use of wages and employment as a result of the combining.

(k) In a proceeding before any court, the commission and the state shall be represented by the attorney general of this state or attorneys designated by the attorney general. Only the attorney general or other attorneys designated by the attorney general shall act as legal counsel for the commission.

History: 1936, Ex. Sess., Act 1, Imd. Eff. Dec. 24, 1936;—Am. 1937, Act 347, Imd. Eff. Aug. 5, 1937;—Am. 1939, Act 324, Imd. Eff. June 22, 1939;—Am. 1941, Act 364, Imd. Eff. July 1, 1941;—Am. 1943, Act 246, Imd. Eff. June 1, 1943;—Am. 1947, Act 360, Imd. Eff. July 8, 1947;—CL 1948, 421.11;—Am. 1951, Act 251, Imd. Eff. June 17, 1951;—Am. 1955, Act 281, Eff. July 15, 1955;—Am. 1957, Act 311, Imd. Eff. June 21, 1957;—Am. 1965, Act 281, Eff. Sept. 5, 1965;—Am. 1965, Act 398, Imd. Eff. Oct. 26, 1965;—Am. 1967, Act 254, Imd. Eff. July 19, 1967;—Am. 1971, Act 231, Imd. Eff. Jan. 3, 1972;—Am. 1974, Act 104, Eff. June 9, 1974;—Am. 1982, Act 248, Imd. Eff. Sept. 23, 1982;—Am. 1985, Act 197, Imd. Eff. Dec. 26, 1985;—Am. 1989, Act 178, Imd. Eff. Aug. 23, 1989;—Am. 1993, Act 279, Imd. Eff. Dec. 28, 1993;—Am. 1995, Act 25, Eff. Mar. 28, 1996;—Am. 2005, Act 182, Imd. Eff. Oct. 20, 2005;—Am. 2009, Act 1, Imd. Eff. Mar. 11, 2009;—Am. 2011, Act 269, Imd. Eff. Dec. 19, 2011.

Administrative rules: R 421.10 of the Michigan Administrative Code.

421.11a Privilege; waiver.

Sec. 11a. An individual who testifies voluntarily before another body concerning representations the individual made to the unemployment agency pursuant to the administration of this act waives any privilege under section 11 otherwise applying to the individual's representations to the unemployment agency.

History: Add. 2012, Act 422, Imd. Eff. Dec. 21, 2012.

Compiler's note: Former MCL 421.11a, which pertained to agreements for benefits under federal temporary unemployment compensation act of 1958, was repealed by Act 281 of 1965, Eff. Sept. 5, 1965.

421.12 Acceptance of Wagner-Peyser act.

Sec. 12. This state hereby accepts the provisions of the Wagner-Peyser act.

The state employment service is established in the employment security commission which shall be so administered as to cooperate with any federal agency charged with the administration of the Wagner-Peyser act and to conform with the requirements of the Wagner-Peyser act. Free public employment offices which shall be designated as the state employment service offices shall be established and maintained by the commission in such number and such places as may be necessary for the proper administration of this act and for the purpose of performing such functions as are within the purview of the Wagner-Peyser act. The commission is designated and constituted the agency of this state for the purpose of the Wagner-Peyser act.

The commission is authorized and empowered, subject to the approval of any federal agency charged with the administration of the Wagner-Peyser act, to establish and operate in each employment service office established in the state, a department or division, the sole function and purpose of which shall be to secure and make available, insofar as is possible, suitable employment for persons over 45 years of age.

All moneys made available by, or received by this state under said act of congress, shall be paid into the administration fund created by this act, and said moneys are appropriated and made available to the state

employment service to be expended only for the uses and purposes for which same are received, as provided by this act and by said Wagner-Peyser act.

For the purpose of establishing and maintaining free public employment offices, the commission is authorized to enter into agreements with any political subdivision of this state, or with any private, nonprofit organization, and as a part of any such agreement the commission may accept moneys, services, or quarters as a contribution to the administration fund.

"Employment office" means a free public employment office or branch thereof which is operated by this state or another state as a part of a state controlled system of public employment offices, or by a federal agency which is charged with the administration of an unemployment compensation program or of free public employment offices.

"Wagner-Peyser act" means the act passed by the congress of the United States of America, entitled "An act to provide for the establishment of a national employment system and for cooperation with the states in the promotion of said system, and for other purposes," approved June 6, 1933, being 48 statutes 113; United States code, title 29, section 49(c), as amended, known as the Wagner-Peyser act.

History: 1936, Ex. Sess., Act 1, Imd. Eff. Dec. 24, 1936;—Am. 1939, Act 324, Imd. Eff. June 22, 1939;—Am. 1941, Act 364, Imd. Eff. July 1, 1941;—CL 1948, 421.12;—Am. 1951, Act 251, Imd. Eff. June 17, 1951;—Am. 1955, Act 178, Eff. Oct. 14, 1955;—Am. 1963, Act 124, Eff. Sept. 6, 1963;—Am. 1971, Act 231, Imd. Eff. Jan. 3, 1972.

421.12a Employment security; community work or training program; employee benefits.

Sec. 12a. Any person, whether paid a wage, allowance or stipend, or a combination thereof, engaged in a community work or training program or work experience program, whether private or public, and whether it is conducted by a profit or nonprofit organization, sponsored or conducted by the Michigan employment security commission, either on its own behalf or as agent on behalf of the federal government, shall be entitled to the benefits provided by Act No. 317 of the Public Acts of 1969, as amended, being sections 418.101 to 418.899 of the Compiled Laws of 1948, in the same manner as employees of the state.

History: Add. 1970, Act 173, Imd. Eff. Aug. 3, 1970.

421.13 Contributions of employer; rate; obligation assessment payment; computation and payment; reports; quarterly wage report; apportioned payments; applicability of subsection (3) to contributions beginning 2013 tax year.

Sec. 13. (1) Each employer subject to this act shall pay to the unemployment agency a tax in the form of payments in lieu of contributions where the employer is liable for those payments, or tax contributions equal to a standard rate of 2.7% for calendar years before 1985 and 5.4% for calendar year 1985 and thereafter, subject to an adjustment in rate of contributions as provided in section 19. The contributions shall become due and be paid to the unemployment agency, for the unemployment compensation fund, by each employer semiannually or for shorter periods of not less than 28 days, as the unemployment agency may by rule prescribe. Contributions due and payable from an employer that is liable under this act solely on the basis of the payment of wages for domestic service may be paid annually on the date specified by the unemployment agency. An obligation assessment payment made pursuant to section 10a or a contribution payment made pursuant to this section shall be credited first to interest on the obligation assessment and then to the obligation assessment, with those payments applied to amounts unpaid and owing in the oldest calendar quarter and progressing each quarter to the most recent quarter. Any remainder shall be credited first to penalties on contributions, then to interest on contributions, and then to contribution principal, with those payments applied to amounts unpaid and owing in the oldest calendar quarter and progressing each quarter to the most recent quarter. An employer's contribution shall not be deducted directly or indirectly, in whole or in part, from wages of individuals in his or her employ. A contribution payment amount that is not an even dollar amount shall be credited to the account of the employer in an amount equal to the next lower dollar amount if under 50 cents and in an amount equal to the next higher dollar amount if 50 cents or more. The unemployment agency may prescribe by rule the details of the computation and payment of contributions. Every employing unit shall file with the unemployment agency periodic reports on forms and at a time the unemployment agency prescribes to disclose liability for contributions under this act. Each employing unit shall keep records, including wage and employment records, and shall, within prescribed time limits, submit or provide reports, including wage and employment reports, to the unemployment agency or to the employing unit's employees or former employees as the unemployment agency prescribes by rule.

(2) Beginning with the first quarter of 1986, each employer shall file a quarterly wage report with the unemployment agency, on forms and at a time as the unemployment agency prescribes, which shall include for each of the employer's employees the employee's name, social security number, gross wages paid during each quarter, and the name, address, and federal and state employer identification number of the individual's

employer. If the unemployment agency discovers an error in a report filed timely, the unemployment agency shall provide written notification to the employer of the error. If the employer provides corrected information within 14 days of the notification, the administrative fine provided in section 54 for a late, incomplete, or erroneous report shall not apply. An employer having more than 25 employees on January 1, 2013 shall file quarterly reports beginning with the report for the first quarter of 2013 by an electronic method approved by the unemployment agency. An employer having more than 5 but fewer than 26 employees on January 1, 2013 shall file quarterly reports beginning with the report for the first quarter of 2014 by an electronic method approved by the unemployment agency. An employer having 5 or fewer employees on January 1, 2013 shall file quarterly reports beginning with the report for the first quarter of 2015 by an electronic method approved by the unemployment agency, except that the director of the unemployment agency, upon application by the employer, may grant additional time for the employer to comply with the electronic filing method if the director concludes that satisfying the requirement of electronic filing will cause economic hardship for the employer. The employer shall provide, and the director shall consider, information about the employer's anticipated cost expenditure for preparing for electronic filing and about the employer's annual income. An employer that complies with the reporting requirements of this subsection by filing electronically a quarterly wage report using a method approved by the unemployment agency is not required to file periodically to disclose contributions under this act.

(3) The unemployment agency shall allow a contributing employer that employed 25 or fewer individuals during the pay period that includes January 12, 2012, or during the corresponding pay period in each succeeding calendar year, and that incurred 50% or more of the employer's total previous year's contribution obligation in the first quarter of that year to discharge the liability for contributions due in the next succeeding year through quarterly payments that distribute the payment of the first quarter's obligation equally over the 4 quarters in that year. To avoid interest and penalties otherwise applicable to those payments, an employer meeting the requirements of this subsection shall notify the unemployment agency of the election to make apportioned payments with the first quarter's payment and timely file each succeeding quarterly payment in the amounts prescribed in section 15a. This subsection applies to contributions beginning in the 2013 tax year.

History: 1936, Ex. Sess., Act 1, Imd. Eff. Dec. 24, 1936;—Am. 1937, Act 347, Imd. Eff. Aug. 5, 1937;—Am. 1943, Act 246, Imd. Eff. June 1, 1943;—Am. 1947, Act 360, Imd. Eff. July 8, 1947;—CL 1948, 421.13;—Am. 1951, Act 251, Imd. Eff. June 17, 1951;—Am. 1951, 1st Ex. Sess., Act 1, Imd. Eff. Aug. 23, 1951;—Am. 1967, Act 254, Imd. Eff. July 19, 1967;—Am. 1971, Act 231, Imd. Eff. Jan. 3, 1972;—Am. 1977, Act 277, Eff. Jan. 1, 1978;—Am. 1984, Act 172, Imd. Eff. June 29, 1984;—Am. 1985, Act 197, Imd. Eff. Dec. 26, 1985;—Am. 2011, Act 269, Imd. Eff. Dec. 19, 2011;—Am. 2012, Act 493, Imd. Eff. Dec. 28, 2012.

Administrative rules: R 421.10 et seq. of the Michigan Administrative Code.

421.13a Contributions of nonprofit organizations; reimbursement payments in lieu of contributions; "nonprofit organization" defined; notice of election to become reimbursing employer; surety bond, irrevocable letter of credit, or other security; applicability of subsection (4).

Sec. 13a. (1) Any nonprofit organization which is, or becomes, subject to this act after December 31, 1971, shall pay contributions as a contributing employer pursuant to section 13, unless it elects to make reimbursement payments in lieu of contributions as a reimbursing employer pursuant to sections 13a to 13c. For the purpose of this act, a nonprofit organization is an organization or group of organizations which is described in section 501(c)(3) of the federal internal revenue code and is exempt from income tax under section 501(a) of that code.

(2) A nonprofit organization which is subject to this act on December 31, 1971, may elect to become a reimbursing employer for a period of not less than 2 calendar years beginning with January 1, 1972 if it files with the commission a written notice of its election within 30 days after January 1, 1972.

(3) A nonprofit organization which becomes subject to this act on or after January 1, 1972, may elect to become a reimbursing employer for a period of not less than 2 calendar years beginning with the calendar year which contains the day when it became subject to this act by filing a written notice of its election with the commission not later than 30 days immediately following the date of determination that it was subject to this act.

(4) A nonprofit organization subject to this act that elects to become a reimbursing employer on or after the effective date of the amendatory act that added this subsection shall execute and file a surety bond, irrevocable letter of credit, or other security as approved by the commission in an amount approved by the commission to secure the payment of its obligations under this act. This subsection shall not apply to any nonprofit reimbursing employer who pays $100,000.00 or less remuneration per calendar year for employment as determined by the commission.

History: Add. 1971, Act 231, Imd. Eff. Jan. 3, 1972;—Am. 1989, Act 236, Imd. Eff. Dec. 21, 1989.

421.13b Liability of nonprofit organization for reimbursement payments in lieu of contributions; termination of status as reimbursing employer; notice of termination; election to become reimbursing employer; notice of election; termination of election; extension of time; determination of status as employer.

Sec. 13b. (1) A nonprofit organization which makes an election in accordance with section 13a(2) or (3) shall continue to be liable for reimbursement payments in lieu of contributions until it files with the commission a written notice terminating its status as a reimbursing employer. A notice of termination may not be filed later than 30 days before the beginning of the calendar year when the termination is to be effective. Subsequent to the effective date of termination, the nonprofit organization shall be considered a newly liable employer for purposes of section 19(a).

(2) A nonprofit organization which pays contributions under this act for a period subsequent to January 1, 1972, may elect to become a reimbursing employer by filing a written notice of election with the commission not later than 30 days before the beginning of a calendar year for which the election is effective. An election may not be terminated by the organization for the same year with respect to which the election is made or the following year.

(3) The commission for good cause may extend for 30 days the period within which a notice of election or a notice of termination shall be filed under this section or under section 13a.

(4) The commission, in accordance with section 14, shall notify a nonprofit organization of a determination which is made of its status as an employer, the effective date of an election which it makes, and the termination of the election. The determinations shall be final unless further proceedings are taken pursuant to section 32a.

History: Add. 1971, Act 231, Imd. Eff. Jan. 3, 1972;—Am. 1974, Act 104, Eff. June 9, 1974;—Am. 1977, Act 277, Eff. Jan. 1, 1978.

421.13c Payments by nonprofit organization to commission; computation; statement of charges; past due reimbursement payments.

Sec. 13c. (1) A nonprofit organization or group of nonprofit organizations which is liable for reimbursement payments in lieu of contributions shall pay to the commission an amount equal to the full amount of regular benefits plus the amount of extended benefits and training benefits paid during any calendar quarter that is attributable to service in the employ of such organization and which is not reimbursable by the federal government. The amount which a nonprofit organization or group of nonprofit organizations is required to pay shall be ascertained by the commission as soon as practicable after the end of each calendar quarter and a statement of charges shall be mailed to each nonprofit organization or group of organizations. Payment of the amount indicated in the statement of charges shall not be made later than 30 days after the statement of charges was mailed.

(2) Past due reimbursement payments in lieu of contributions shall be subject to the interest, penalty, assessment, and collection provisions provided in section 15.

History: Add. 1971, Act 231, Imd. Eff. Jan. 3, 1972;—Am. 1974, Act 104, Eff. June 9, 1974.

421.13d Delinquency of nonprofit organization in making reimbursement payments; termination of election; surety bond, irrevocable letter of credit, or other security.

Sec. 13d. If a nonprofit organization is delinquent in making reimbursement payments in lieu of contributions as required pursuant to sections 13a to 13c, the commission may terminate the organization's election to make reimbursement payments in lieu of contributions as of the beginning of the next calendar year which termination shall be effective for that and the next calendar year, or the commission may require the nonprofit organization to execute and file with the commission a surety bond, irrevocable letter of credit, or other security as approved by the commission in an amount approved by the commission to secure the payment of its obligations under this act.

History: Add. 1971, Act 231, Imd. Eff. Jan. 3, 1972;—Am. 1989, Act 236, Imd. Eff. Dec. 21, 1989.

421.13e Group account for sharing cost of benefits; joint application; approval; notice; duration; termination; adding employer to or removing employer from group account; liability for benefit charges; effective date and application of amendatory provision.

Sec. 13e. (1) Two or more employers who become liable for reimbursement payments in lieu of contributions pursuant to sections 13a to 13c, or after December 31, 1977, 2 or more employers who become liable for reimbursement payments in lieu of contributions pursuant to section 13i, may file a joint application with the commission for the establishment of a group account for the purpose of sharing the cost of benefits

paid that are attributable to service in the employ of those employers. The joint application shall identify and authorize a representative to act for the group for the purposes of this act. Upon approval of the application, the commission shall establish a group account for the employers which shall be effective as of the beginning of the calendar quarter in which the application is received or the first day of the following calendar quarter if requested by the group's representative. The commission shall notify the group's representative of the effective date of the account. The account shall remain in effect for not less than 2 calendar years and thereafter until terminated at the discretion of the commission or upon application by the group.

Upon written notice to the commission, an employer shall be added to a group account effective the first day of the calendar quarter in which the notice is received or the first day of the following calendar quarter if requested by the employer. Upon written notice received by the commission, not later than 30 days before the start of a calendar year, an employer shall be removed from a group account. However, an employer shall remain a member of the group for not less than 2 calendar years.

(2) In the case of a group composed of nonprofit organizations, the group shall be liable for all benefit charges, which are based on service with an employer while it was a member of that group. Membership in a group shall not relieve a member of liability for charges attributable to service in its employ.

(3) In the case of a group composed of governmental entities, the group shall be liable for all benefit charges, which are based on services with an employer while it was a member of that group. Membership in a group account shall not relieve a member of liability for charges attributable to service in its employ.

(4) The provision of that section as amended by this 1977 amendatory act shall be effective January 1, 1978, and shall apply to all group accounts in existence, or established, on or after that date.

History: Add. 1971, Act 231, Imd. Eff. Jan. 3, 1972;—Am. 1977, Act 277, Eff. Jan. 1, 1978.

421.13f Reimbursement by nonprofit organization of benefits paid; charging benefits paid to rating account of nonprofit organization.

Sec. 13f. (1) For benefit years established before the conversion date prescribed in section 75, the benefits paid on the basis of credit weeks earned with a nonprofit organization while it was a reimbursing employer shall be reimbursed by the nonprofit organization pursuant to section 13c(1) and the benefits paid on the basis of credit weeks earned with that nonprofit organization while it was a contributing employer shall be charged to the experience account of the nonprofit organization pursuant to section 20.

(2) For benefit years established after the conversion date prescribed in section 75, the benefits paid on the basis of base period wages paid by a nonprofit organization while it was a reimbursing employer shall be reimbursed by the nonprofit organization pursuant to section 13c(1) and the benefits paid on the basis of base period wages paid by that nonprofit organization while it was a contributing employer shall be charged to the experience account of the nonprofit organization pursuant to section 20. Benefits paid to an individual and chargeable to the nonprofit organization on the basis that the nonprofit organization was the separating employer in the claim shall be charged to the experience account of the nonprofit organization if it was a contributing employer at the time of the separation, or shall be reimbursed by the nonprofit organization if it was a reimbursing employer at the time of the separation.

History: Add. 1971, Act 231, Imd. Eff. Jan. 3, 1972;—Am. 1994, Act 162, Imd. Eff. June 17, 1994.

421.13g Reimbursement payments by state in lieu of contributions; amount, time, and manner of payments; separate accounts; funds to which reimbursement payments charged; liability for reimbursement payments; election to be reimbursing employer; reimbursement of benefits; charging benefits to experience account; past due reimbursement payments.

Sec. 13g. (1) The state, as a reimbursing employer, is liable for reimbursement payments in lieu of contributions and shall pay to the commission an amount equal to the full amount of regular benefits plus the amount of extended benefits and training benefits paid during any calendar quarter that is attributable to service in the employ of the state and which is not reimbursable by the federal government. The amount which is required to be paid into the fund shall be ascertained by the commission as soon as practicable after the end of each calendar quarter. Payments by the state shall be made at the times and manner as the commission prescribes.

(2) The commission shall maintain a separate account in the fund for each department, commission, or other budgetary unit of the state. Reimbursement payments made by the state to the unemployment fund under this section shall be charged to funds available for the payment of wages and salaries in each department, commission, or other budgetary unit, according to the amount of benefits charged to each budgetary unit.

(3) The state shall continue to be liable for reimbursement payments in lieu of contributions until it terminates its status as a reimbursing employer and elects to become a contributing employer. The election shall be by concurrent resolution of the legislature adopted before the beginning of a calendar year for which the election is to be effective.

(4) If the state elects to be a contributing employer, it may subsequently elect, by concurrent resolution of the legislature, to become a reimbursing employer. The concurrent resolution shall be adopted before the beginning of a calendar year for which the election is to be effective. The election to be a reimbursing employer may not be terminated for the calendar year with respect to which the election is made and the following calendar year.

(5) For benefit years established before the conversion date prescribed in section 75, benefits paid on the basis of credit weeks earned with the state while it was a reimbursing employer shall be reimbursed by the state and benefits paid on the basis of credit weeks earned with the state while it was a contributing employer shall be charged to the experience account of the state pursuant to section 20. For benefit years established after the conversion date prescribed in section 75, benefits paid on the basis of base period wages paid by the state while it was a reimbursing employer shall be reimbursed by the state and benefits paid on the basis of base period wages paid by the state while it was a contributing employer shall be charged to the experience account of the state pursuant to section 20. Benefits paid to an individual and chargeable to the state on the basis that the state was the separating employer in the claim for benefits shall be charged to the experience account of the state if it was a contributing employer at the time of the separation, or shall be reimbursed by the state if it was a reimbursing employer at the time of the separation.

(6) Past due reimbursement payments in lieu of contributions shall be subject to the interest, penalty, assessment, and collection provisions provided in section 15.

History: Add. 1971, Act 231, Imd. Eff. Jan. 3, 1972;—Am. 1974, Act 104, Eff. Jan. 1, 1975;—Am. 1977, Act 277, Eff. Jan. 1, 1978;—Am. 1994, Act 162, Imd. Eff. June 17, 1994.

421.13h Provisions applicable to reimbursement payments in lieu of contributions and reimbursing employers.

Sec. 13h. Except where otherwise provided or where the context clearly requires otherwise, the terms, conditions, rules and regulations which apply to contributions and contributing employers under this act shall also apply to reimbursement payments in lieu of contributions and reimbursing employers.

History: Add. 1974, Act 104, Eff. June 9, 1974.

421.13i Governmental entity as reimbursing employer or contributing employer; election; notice; termination of election; liability for reimbursement payments; notice terminating status; extension of period for filing notice of election; determination of status as employer, effective date of election, and termination of prior election.

Sec. 13i. (1) Except as provided in section 13g, a governmental entity which:

(a) Is, or becomes subject to this act after December 31, 1974, shall make reimbursement payments in lieu of contributions as a reimbursing employer for not less than 2 calendar years beginning January 1, 1975, unless it elects to pay contributions as a contributing employer pursuant to section 13.

(b) Becomes subject to this act on or after January 1, 1975, may elect to become a contributing employer beginning with the calendar year which contains the day when it becomes subject to this act by filing a written notice of its election with the commission not later than 30 days after the date of determination that it was subject to this act.

(c) Pays contributions under this act for a period after January 1, 1975, may elect to become a reimbursing employer by filing a written notice of the election with the commission not later than 30 days before the beginning of a calendar year for which the election is to be effective. The election may not be terminated for the calendar year with respect to which the election is made and the following calendar year.

(d) Becomes a reimbursing employer under subdivision (a) or elects to become a reimbursing employer in accordance with subdivision (c), shall continue to be liable for reimbursement payments in lieu of contributions until it files with the commission a written notice terminating its status as a reimbursing employer and electing to become a contributing employer. The notice may not be filed later than 30 days before the beginning of the calendar year when the termination and election is to be effective. After the effective date of termination, the governmental entity shall be considered a newly liable employer for the purposes of section 19(a).

(2) The commission for good cause may extend for 30 days the period within which a notice of election shall be filed under this section.

(3) The commission, in accordance with section 14, shall notify a governmental entity of a determination

which is made of its status as an employer, the effective date of an election which it makes and the termination of any prior election. The determinations shall be final unless further proceedings are taken pursuant to section 32a.

History: Add. 1974, Act 104, Eff. Jan. 1, 1975;—Am. 1977, Act 277, Eff. Jan. 1, 1978.

421.13j Repealed. 1977, Act 277, Eff. Jan. 1, 1978.

Compiler's note: The repealed section pertained to effect of local unemployment compensation system within political subdivision.

Section 3 of Act 277 of 1977 provides:

"Section 13j of Act No. 1 of the Public Acts of the Extra Session of 1936, as amended, being section 421.13j of the Compiled Laws of 1970, and Act No. 170 of the Public Acts of 1958, being section 421.501 of the Compiled Laws of 1970, are repealed. However, if a political subdivision had a local unemployment compensation system in effect at any time during the calendar week ending December 31, 1977, wages earned with such political subdivision prior to January 1, 1978 shall continue to be used in determining entitlement to benefits under such local unemployment compensation system for weeks of unemployment occurring before July 2, 1978, and for which the individual claiming benefits is not entitled to unemployment benefits under the Michigan employment security act."

421.13k Payment by governmental entity of regular benefits plus extended benefits and training benefits; ascertainment of amount; statement of charges; reimbursement of fund; past due reimbursement payments; liability for and payment of contributions; delinquency; termination of election; reimbursement of benefits; charging benefits to experience account.

Sec. 13k. (1) Except as provided in section 13g, a governmental entity which is liable for reimbursement payments in lieu of contributions shall pay to the commission an amount equal to the full amount of regular benefits plus the amount of extended benefits and training benefits paid during a calendar quarter that are attributable to service in the employ of the organization and which are not reimbursable by the federal government.

(2) The amount required to be paid by a governmental entity shall be ascertained by the commission as soon as practicable after the end of each calendar quarter and a statement of charges shall be mailed to each entity. A governmental entity shall reimburse the fund within 30 days after the start of the next fiscal year of the governmental entity following the calendar year for which the governmental entity is to be charged.

(3) Past due reimbursement payments in lieu of contributions shall be subject to the interest, penalty, assessment, and collection provisions provided in section 15.

(4) A school district or community college district which is liable for contributions for a calendar year shall pay the contributions within 30 days after the start of its next fiscal year after that calendar year.

(5) A governmental entity, other than the state or a school district or community college district which is liable for contributions shall pay the contributions due as required by section 13.

(6) If a governmental entity other than the state is delinquent for 2 consecutive calendar years in making reimbursement payments in lieu of contributions, the commission may terminate the employer's election to make reimbursement payments in lieu of contributions as of the beginning of the next calendar year, which termination shall be effective for that and the next calendar year.

(7) For benefit years established before the conversion date prescribed in section 75, benefits paid on the basis of credit weeks earned with a governmental entity while it was a reimbursing employer shall be reimbursed by the employer pursuant to subsections (1), (2), and (3), and the benefits paid on the basis of credit weeks earned with a governmental entity while it was a contributing employer shall be charged to the experience account of the employer pursuant to section 20. For benefit years established after the conversion date prescribed in section 75, benefits paid on the basis of base period wages paid by a governmental entity while it was a reimbursing employer shall be reimbursed by the employer pursuant to subsections (1), (2), and (3), and benefits paid on the basis of base period wages paid by a governmental entity while it was a contributing employer shall be charged to the experience account of the employer pursuant to section 20. Benefits paid to an individual and chargeable to the governmental entity on the basis that the governmental entity was the separating employer in the claim shall be charged to the experience account of the governmental entity if it was a contributing employer at the time of the separation, or shall be reimbursed by the governmental entity if it was a reimbursing employer at the time of the separation.

History: Add. 1974, Act 104, Eff. Jan. 1, 1975;—Am. 1977, Act 277, Eff. Jan. 1, 1978;—Am. 1994, Act 162, Imd. Eff. June 17, 1994.

421.13*l* Indian tribe or tribal unit as employer; requirements.

Sec. 13*l*. (1) An Indian tribe or tribal unit liable as an employer under section 41 shall pay reimbursements in lieu of contributions under the same terms and conditions as all other reimbursing employers liable under section 41, unless the Indian tribe or tribal unit elects to pay contributions.

(2) An Indian tribe or tribal unit that elects to make contributions shall file with the unemployment agency a written request for that election before January 1 of the calendar year in which the election will be effective or within 30 days of the effective date of the amendatory act that added this section. The Indian tribe or tribal unit shall determine if the election to pay contributions will apply to the tribe as a whole, will apply only to individual tribal units, or will apply to stated combinations of individual tribal units.

(3) An Indian tribe or tribal unit paying reimbursements in lieu of contributions shall be billed for the full amount of benefits attributable to service in the employ of the Indian tribe or tribal unit. An Indian tribe or tribal unit shall reimburse the fund annually within 30 calendar days after the mailing of the final billing for the immediately preceding calendar year.

(4) If an Indian tribe or tribal unit fails to make payments in lieu of contributions, including assessments of interest and penalties, within 90 calendar days after the mailing of the notice of delinquency, the Indian tribe will lose the ability to make payments in lieu of contributions immediately unless the payment in full or collection on the security is received by the unemployment agency by December 1 of that calendar year. An Indian tribe that loses the ability to make payments in lieu of contributions shall be made a contributing employer and shall not have the ability to make payments in lieu of contributions until all contributions, payments in lieu of contributions, interest, or penalties have been paid. The ability to make payments in lieu of contributions shall be reinstated effective the January 1 immediately succeeding the year in which the Indian tribe has paid in full all contributions, payments in lieu of contributions, interest, and penalties. If an Indian tribe fails to pay in full all contributions, payments in lieu of contributions, interest, and penalties within 90 calendar days of a notice of delinquency, the unemployment agency shall immediately notify the United States department of labor and the internal revenue service of the United States department of treasury of that delinquency. If that delinquency is satisfied, the unemployment agency shall immediately notify the United States department of labor and the internal revenue service of the United States department of treasury that all contributions, payments in lieu of contributions, interest, and penalties have been paid.

(5) A notice of delinquency to an Indian tribe or tribal unit shall include information that failure to make full payment within 90 days of the date of mailing of the notice of delinquency will result in the Indian tribe losing the ability to make payments in lieu of contributions until the delinquency and all contributions, payments in lieu of contributions, interest, and penalties have been paid in full.

(6) Any Indian tribe or tribal unit that makes reimbursement payments in lieu of contributions shall be required to post a security, subject to all of the following conditions:

(a) A reimbursing tribe or tribal unit must either post the security within 30 days of the effective date of the amendatory act that added this section or by November 30 of the year before the year for which the security is required.

(b) The security shall be in the form of a surety bond, irrevocable letter of credit, or other banking device that is acceptable to the unemployment agency and that provides for payment to the unemployment agency, on demand, of an amount equal to the security that is required to be posted. The required security may be posted by a third-party guarantor.

(c) The requirement for a security does not apply to an Indian tribe or tribal unit that is expected to have less than $100,000.00 per calendar year in total wage payments, as determined by the unemployment agency. An Indian tribe or tribal unit is required to provide security if the payment of gross wages in a calendar year is equal to or greater than $100,000.00. The employer shall notify the unemployment agency within 60 days from the date its payroll equals or exceeds $100,000.00. The security shall be posted within 30 days of notice by the unemployment agency of a requirement to post a security.

(d) The amount of the security required is 4.0% of the employer's estimated total annual wage payments, as determined by the unemployment agency. Indian tribes or tribal units that have a previous wage payment history shall be required to file a security that is equal to 4.0% of the gross wages paid for the 12-month period ending June 30 of the year immediately preceding the year for which the security is required or 4.0% of the employer's estimated total annual wages, whichever is greater.

(7) Any Indian tribe or tribal unit that is liable for reimbursements in lieu of contributions may form a group account with another tribe or tribal unit, in the same manner and with the same restrictions provided in section 13e(3).

(8) Notwithstanding section 41(1), after December 20, 2000, “employer” includes an Indian tribe or tribal unit for which services are performed in employment as defined in subsection (9).

(9) After December 20, 2000, “employment” includes service performed in the employ of an Indian tribe or tribal unit, if the service is excluded from employment as that term is defined in the federal unemployment tax act, chapter 23 of subtitle C of the internal revenue code of 1986, 26 U.S.C. 3301 to 3311, solely by reason of section 3306(c)(7) of the federal unemployment tax act, chapter 23 of subtitle C of the internal revenue code of 1986, and is not otherwise excluded from the definition of employment under section 43.

(10) As used in this act:

(a) "Indian tribe" means that term as defined in section 3306(u) of the federal unemployment tax act, chapter 23 of subtitle C of the internal revenue code of 1986, 26 U.S.C. 3306.

(b) "Tribal unit" includes any subdivision, subsidiary, or business enterprise, wholly owned by an Indian tribe.

History: Add. 2002, Act 192, Imd. Eff. Apr. 26, 2002.

421.13m Professional employer organization; determination of status as liable employer; reporting of wages and payment of unemployment contributions; requirements; act or omission occurring before January 1, 2011; "professional employer organization" defined.

Sec. 13m. (1) A professional employer organization that has not previously filed shall file a report with the agency in accordance with R 421.121 and R 421.190 of the Michigan administrative code for a determination of its status as a liable employing unit and employer under this act. A PEO determined to be a liable employer shall complete an electronic employer registration in the manner approved by the agency to register its employer liability.

(2) Except as provided in subdivision (b), a PEO that is a liable employer shall use the following method for reporting wages and paying unemployment contributions under this act:

(a) The PEO shall comply with all requirements of this act that apply to a contributing employer. The PEO shall file a single quarterly wage report and unemployment contribution report and pay contributions of its client employers based on the account information of each client employer. The unemployment agency shall convert a reimbursing employer to a contributing employer beginning with the calendar quarter in which the employer becomes a client employer of a PEO. The PEO shall file reports required under R 421.121 of the Michigan administrative code and make contribution payments by electronic reporting and payment methods approved by the agency. The PEO shall notify the agency within 30 days after any employer becomes its client employer and within 30 days after any client employer discontinues its association with the PEO. All of the following apply to a rate calculation for client employers of the PEO:

(*i*) For a client employer that is a contributing employer and was a client employer of the PEO on the date that the PEO changed to the reporting method provided in this subdivision, the following rates apply:

(A) Except as provided in sub-subparagraphs (B) and (C), if the client employer reported no employees or no payroll to the agency for 8 or more calendar quarters or, beginning January 1, 2014, for 12 or more calendar quarters, the client employer's unemployment tax rate will be the new employer tax rate.

(B) If the client employer was a client employer of the PEO for less than 8 calendar quarters or, beginning January 1, 2014, for less than 12 calendar quarters, the client employer's unemployment tax rate will be based on the client employer's prior account and experience.

(C) If the client employer's account has been terminated for more than 1 year or if the client employer never previously registered with the agency, the client shall be separately registered using a method approved by the agency within 30 days after the employer becomes a client employer of the PEO. The client employer shall be assigned the new employer unemployment tax rate.

(*ii*) A business entity that is a contributing employer and becomes a client employer of the PEO on or after January 1, 2014 shall retain its existing unemployment tax rate or establish a new rate as provided in section 19.

(b) A PEO that is a liable employer and that was operating in this state before January 1, 2011 may elect and use the reporting method in subdivision (a) before January 1, 2014, but shall report using the method in subdivision (a) on and after January 1, 2014.

(3) A PEO that is a liable employer is the employer for purposes of claims management and hearings under this act on behalf of the client employer.

(4) A PEO that reports under subsection (2)(a) shall confirm the mailing address of the client employer, which may be stated as that of the PEO or of the client employer. The PEO shall disclose the business address of the client employer, which shall be the physical address of the client employer, to the agency.

(5) Either the PEO that reports under subsection (2)(a) or the PEO's client employers, but not both, shall file a quarterly wage detail report electronically, and shall file a quarterly contribution payment in a manner approved by the agency. If a client entity of a PEO leases some of its employees from the PEO but retains the remainder of its employees, the leased employees shall be reported by the PEO under the client entity's unemployment insurance agency account number and the retained employees shall be reported by the client entity under an agency-assigned subaccount number of the client entity's account number.

(6) The agency shall issue a FUTA certification in accordance with the internal revenue code of 1986, 26 USC 1 to 9834, and regulations, rulings, instructions, and directives of the internal revenue service.

(7) The requirements of this section do not preclude the agency from enforcing any provision of this act

based on any act or omission by a PEO that occurred before January 1, 2011.

(8) As used in this section, "professional employer organization" or "PEO" means that term as defined in R 421.190(1)(d) of the Michigan administrative code.

History: Add. 2010, Act 383, Eff. Jan. 1, 2011;—Am. 2011, Act 269, Imd. Eff. Dec. 19, 2011;—Am. 2012, Act 219, Imd. Eff. June 28, 2012.

421.14 Employing unit as employer and services as employment; determinations; notice; review and redetermination; collection of contributions; retroactive determination; introduction of determination, redetermination, or decision in proceeding involving claim for benefits.

Sec. 14. The commission, after affording reasonable opportunity for the submission of relevant information in writing or in person, may make determinations with respect to whether an employing unit constitutes an employer and whether services performed for or in connection with the business of an employing unit constitute employment for that employing unit subject to this act. The employing unit, or other interested parties, which may include an individual who is or was employed by that employing unit, on his or her request, shall be promptly notified of the determination and the reasons for the determination. The determination shall be final as to those parties unless the employing unit or other interested parties files an application for a review and redetermination in accordance with section 32a or, within 30 days after the mailing or personal service of the notice of determination, pays under protest the amount charged or found to be due as contributions. If evidence is presented indicating that an employing unit which has been determined not to be an employer is or was actually an employer, or that services which have been held not to constitute employment are or were actually employment, the previous determination shall be reopened and reconsidered by the commission in accordance with section 32a and a redetermination made as the facts and law require; but in the absence of fraud, if the employing unit is finally found to constitute an employer or to be liable for contributions with respect to services previously held nonsubject, contributions with respect to those services shall not be collectible for any period before the first day of the last completed calendar year preceding the reopening of the determination. In the absence of fraud, an individual, legal entity, or employing unit shall not be retroactively determined to be an employer for any period before the 3 calendar years preceding the issuance of the determination.

A determination or redetermination of the commission, or a decision of a referee or the appeal board, or of the courts of this state, which has become final, together with the record thereof, may be introduced in any proceeding involving a claim for benefits and the facts therein found and the determination, redetermination, or decision therein made shall be conclusive unless substantial evidence to the contrary is introduced by or on behalf of the claimant.

History: 1936, Ex. Sess., Act 1, Imd. Eff. Dec. 24, 1936;—Am. 1937, Act 347, Imd. Eff. Aug. 5, 1937;—Am. 1939, Act 324, Imd. Eff. June 22, 1939;—Am. 1941, Act 364, Imd. Eff. July 1, 1941;—CL 1948, 421.14;—Am. 1951, Act 251, Imd. Eff. June 17, 1951;—Am. 1955, Act 281, Eff. July 15, 1955;—Am. 1965, Act 281, Eff. Sept. 5, 1965;—Am. 1975, Act 110, Eff. June 8, 1975;—Am. 1983, Act 164, Eff. Oct. 1, 1983.

421.15 Delinquent contributions.

Sec. 15. (a) Contributions unpaid on the date on which they are due and payable, as prescribed by the unemployment agency, and unpaid restitution of benefit overpayments shall bear interest at the rate of 1% per month, computed on a day-to-day basis for each day the delinquency is unpaid, from and after that date until payment plus accrued interest is received by the unemployment agency. The interest on unpaid contributions and on unpaid benefit overpayments, exclusive of penalties, shall not exceed 50% of the amount of contributions due at due date or 50% of the amount of restitution owing. Nothing in this act authorizes the assessment or collection of interest on a penalty imposed under this act. Interest and penalties collected pursuant to this section shall be paid into the contingent fund. The unemployment agency may cancel any interest and any penalty when it is shown that the failure to pay on or before the last day on which the tax could have been paid without interest and penalty was not the result of negligence, intentional disregard of the rules of the unemployment agency, or fraud.

(b) The unemployment agency may make assessments against an employer, claimant, employee of the unemployment agency, or third party who fails to pay contributions, restitution of benefit overpayments, reimbursement payments in lieu of contributions, penalties, forfeitures, or interest as required by this act. The unemployment agency shall immediately notify the employer, claimant, employee of the unemployment agency, or third party of the assessment in writing by first-class mail. An assessment by the unemployment agency against a claimant, an employee of the unemployment agency, or a third party under this subsection shall be made only for penalties for violations of section 54(a) or (b) or sections 54a to 54c. The assessment is

a final determination unless the employer, claimant, employee of the unemployment agency, or third party files with the unemployment agency an application for a redetermination of the assessment in accordance with section 32a. A review by the unemployment agency or an appeal to an administrative law judge or the Michigan compensation appellate commission on the assessment does not reopen a question concerning an employer's liability for contributions or reimbursement payments in lieu of contributions or a claimant's entitlement to benefits, unless the claimant or employer was not a party to the proceeding or decision where the basis for the assessment was determined. An employer may pay an assessment under protest and file an action to recover the amount paid as provided under subsection (d). Unless an assessment is paid within 15 days after it becomes final the unemployment agency may issue a warrant under its official seal for the collection of the assessed amount. The unemployment agency through its authorized employees, under a warrant issued, may place a lien on any bank account of the claimant or employer and may levy upon and sell the property of the employer that is used in connection with the employer's business, or that is subject to a notice to withhold, found within the state, for the payment of the amount of the contributions including penalties, interests, and the cost of executing the warrant. Property of the employer used in connection with the employer's business is not exempt from levy under the warrant. Wages subject to a notice to withhold are exempt to the extent the wages are exempt from garnishment under the laws of this state. The warrant shall be returned to the unemployment agency together with the money collected under the warrant within the time specified in the warrant which shall not be less than 20 or more than 90 days after the date of the warrant. The unemployment agency shall proceed upon the warrant as prescribed by law in respect to executions issued against property upon judgments by a court of record. The state, through the unemployment agency or some other officer or agent designated by it, may bid for and purchase property sold under this subsection. If an employer, claimant, employee of the unemployment agency, or third party, as applicable, is delinquent in the payment of a contribution, reimbursement payment in lieu of contribution, penalty, forfeiture, or interest provided for in this act, the unemployment agency may give notice of the amount of the delinquency served either personally or by mail, to a person or legal entity, including the state and its subdivisions, that has in its possession or under its control a credit or other intangible property belonging to the employer, claimant, employee of the unemployment agency, or third party, or who owes a debt to the employer, claimant, employee of the unemployment agency, or third party at the time of the receipt of the notice. A person or legal entity so notified shall not transfer or dispose of the credit, other intangible property, or debt without retaining an amount sufficient to pay the amount specified in the notice unless the unemployment agency consents to a transfer or disposition or 45 days have elapsed from the receipt of the notice. A person or legal entity so notified shall advise the unemployment agency within 5 days after receipt of the notice of a credit, other intangible property, or debt, that is in its possession, under its control, or owed by it. A person or legal entity that is notified and that transfers or disposes of credits or personal property in violation of this section is liable to the unemployment agency for the value of the property or the amount of the debts thus transferred or paid, but not more than the amount specified in the notice. An amount due a delinquent employer, claimant, employee of the unemployment agency, or third party subject to a notice to withhold shall be paid to the unemployment agency upon service upon the debtor of a warrant issued under this section.

(c) In addition to the mode of collection provided in subsection (b), if, after due notice, an employer defaults in payment of contributions or interest on the contributions, or a claimant, employee of the unemployment agency, or third party defaults in the payment of a penalty or interest on a penalty, the unemployment agency may bring an action at law in a court of competent jurisdiction to collect and recover the amount of a contribution, and any interest on the contribution, or the penalty or interest on the penalty, and in addition 10% of the amount of contributions or penalties found to be due, as damages. An employer, claimant, employee of the unemployment agency, or third party adjudged in default shall pay costs of the action. An action by the unemployment agency against a claimant, employee of the unemployment agency, or third party under this subsection shall be brought only to recover penalties and interest on those penalties for violations of section 54(a) or (b) or sections 54a to 54c. Civil actions brought under this section shall be heard by the court at the earliest possible date. If a judgment is obtained against an employer for contributions and an execution on that judgment is returned unsatisfied, the employer may be enjoined from operating and doing business in this state until the judgment is satisfied. The circuit court of the county in which the judgment is docketed or the circuit court for the county of Ingham may grant an injunction upon the petition of the unemployment agency. A copy of the petition for injunction and a notice of when and where the court shall act on the petition shall be served on the employer at least 21 days before the court may grant the injunction.

(d) An employer or employing unit improperly charged or assessed contributions provided for under this act, or a claimant, employee of the unemployment agency, or third party improperly assessed a penalty under this act and who paid the contributions or penalty under protest within 30 days after the mailing of the notice

of determination of assessment, may recover the amount improperly collected or paid, together with interest, in any proper action against the unemployment agency. The circuit court of the county in which the employer or employing unit or claimant, employee of the unemployment agency, or third party resides, or, in the case of an employer or employing unit, in which is located the principal office or place of business of the employer or employing unit, has original jurisdiction of an action to recover contributions improperly paid or collected or a penalty improperly assessed whether or not the charge or assessment has been reviewed by the unemployment agency or heard or reviewed by an administrative law judge or the Michigan compensation appellate commission. The court has no jurisdiction of the action unless written notice of claim is given to the unemployment agency at least 30 days before the institution of the action. In an action to recover contributions paid or collected or penalties assessed, the court shall allow costs it considers proper. Either party to the action has the same right of appeal as provided by law in other civil actions. An action by a claimant, employee of the unemployment agency, or third party against the unemployment agency under this subsection shall be brought only to recover penalties and interest on those penalties improperly assessed by the unemployment agency under section 54(a) or (b) or sections 54a to 54c. If a final judgment is rendered in favor of the plaintiff in an action to recover the amount of contributions illegally collected or charged, the treasurer of the unemployment agency, upon receipt of a certified copy of the final judgment, shall pay the amount of contributions illegally collected or charged or penalties assessed from the clearing account, and pay interest as allowed by the court, in an amount not to exceed the actual earnings of the contributions as found to have been illegally collected or charged, from the contingent fund.

(e) Except for liens and encumbrances recorded before the filing of the notice provided for in this section, all contributions, interest, and penalties payable under this act to the unemployment agency from an employer, claimant, employee of the unemployment agency, or third party that neglects to pay the same when due are a first and prior lien upon all property and rights to property, real and personal, belonging to the employer, claimant, employee of the unemployment agency, or third party. The lien continues until the liability for that amount or a judgment arising out of the liability is satisfied or becomes unenforceable by reason of lapse of time. The lien attaches to the property and rights to property of the employer, claimant, employee of the unemployment agency, or third party, whether real or personal, from and after the required filing date of the report upon which the specific tax is computed. Notice of the lien shall be recorded in the office of the register of deeds of the county in which the property subject to the lien is situated, and the register of deeds shall receive the notice for recording. Notice of the lien may also be filed with the secretary of state in accordance with the state tax lien registration act, 1968 PA 203, MCL 211.681 to 211.687. This subsection applies only to penalties and interest on those penalties assessed by the unemployment agency against a claimant, employee of the unemployment agency, or third party for violations of section 54(a) or (b) or sections 54a to 54c.

If there is a distribution of an employer's assets pursuant to an order of a court under the laws of this state, including a receivership, assignment for benefit of creditors, adjudicated insolvency, composition, or similar proceedings, contributions then or thereafter due shall be paid in full before all other claims except for wages and compensation under the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.101 to 418.941. In the distribution of estates of decedents, claims for funeral expenses and expenses of last sickness are also entitled to priority.

(f) An injunction shall not issue to stay proceedings for assessment or collection of contributions, or interest or penalty on contributions, levied and required by this act.

(g) A person or employing unit that acquires the organization, trade, business, or 75% or more of the assets from an employing unit, as a successor described in section 41(2), is liable for contributions and interest due to the unemployment agency from the transferor at the time of the acquisition in an amount not to exceed the reasonable value of the organization, trade, business, or assets acquired, less the amount of a secured interest in the assets owned by the transferee that are entitled to priority. The transferor or transferee who has, not less than 10 days before the acquisition, requested from the unemployment agency in writing a statement certifying the status of contribution liability of the transferor shall be provided with that statement and the transferee is not liable for any amount due from the transferor in excess of the amount of liability computed as prescribed in this subsection and certified by the unemployment agency. At least 2 calendar days not including a Saturday, Sunday, or legal holiday before the acceptance of an offer, the transferor, or the transferor's real estate broker or other agent representing the transferor, shall disclose to the transferee on a form provided by the unemployment agency, the amounts of the transferor's outstanding unemployment tax liability, unreported unemployment tax liability, and the tax payments, tax rates, and cumulative benefit charges for the most recent 5 years, a listing of all individuals currently employed by the transferor, and a listing of all employees separated from employment with the transferor in the most recent 12 months. This form shall specify any other information the unemployment agency determines is required for a transferee to

estimate future unemployment compensation costs based on the transferor's benefit charge and unemployment tax reporting and payment experience. Failure of the transferor, or the transferor's real estate broker or other agent representing the transferor, to provide accurate information required by this subsection is a misdemeanor punishable by imprisonment for not more than 90 days, or a fine of not more than $2,500.00, or both. In addition, the transferor, or the transferor's real estate broker or other agent representing the transferor, is liable to the transferee for any consequential damages resulting from the failure to comply with this subsection. However, the real estate broker or other agent is not liable for consequential damages if he or she exercised good faith in compliance with the disclosure of information. The remedy provided the transferee is not exclusive, and does not reduce any other right or remedy against any party provided for in this or any other act. Nothing in this subsection decreases the liability of the transferee as a successor in interest, or prevents the transfer of a rating account balance as provided in this act. The remedies under this subsection are in addition to the remedies the unemployment agency has against the transferor.

(h) If a part of a deficiency in payment of the employer's contribution to the fund is due to negligence or intentional disregard of unemployment agency rules, but without intention to defraud, 5% of the total amount of the deficiency, in addition to the deficiency and all other interest charges and penalties provided herein, shall be assessed, collected, and paid in the same manner as a deficiency. If a part of a deficiency is determined in an action at law to be due to fraud with intent to avoid payment of contributions to the fund, then the judgment rendered shall include an amount equal to 50% of the total amount of the deficiency, in addition to the deficiency and all other interest charges and penalties provided herein.

(i) If an employing unit fails to make a report as reasonably required by the rules of the unemployment agency pursuant to this act, the unemployment agency may estimate the liability of that employing unit from information it obtains and, according to that estimate, assess the employing unit for the contributions, penalties, and interest due. The unemployment agency may act under this subsection only after a default continues for 30 days and after the unemployment agency has determined that the default of the employing unit is willful.

(j) An assessment or penalty with respect to contributions unpaid is not effective for any period before the 3 calendar years preceding the date of the assessment.

(k) The rights respecting the collection of contributions and the levy of interest and penalties and damages made available to the unemployment agency by this section are additional to other powers and rights vested in the unemployment agency under other provisions of this act. The unemployment agency may exercise any of the collection remedies under this act even though an application for a redetermination or an appeal is pending final disposition.

(*l*) A person recording a lien or a discharge of a lien under this section shall pay to the register of deeds a recording fee that is equivalent to the fee for entering and recording a mortgage as authorized under section 2567 of the revised judicature act of 1961, 1961 PA 236, MCL 600.2567.

(m) In addition to the restitution recoupment methods in section 62, the unemployment agency may obtain restitution due from a claimant as a result of a benefit overpayment that has become final by any of the following methods:

(1) Levy of a bank account belonging to the claimant.

(2) Entry into a wage assignment with the claimant.

(3) Issuing an administrative garnishment of the wages of the claimant.

(n) To obtain an administrative garnishment, the unemployment agency shall notify the claimant of both of the following: the intention to issue an administrative garnishment on the claimant's employer and the amount determined to be due from the claimant. The notice shall include a demand for immediate payment of the amount due, a statement that it is not subject to appeal, and a statement that the claimant may, within 30 days of the issuance of the notice, object to the garnishment by providing information to the agency, with supporting documentation, that the claimant does not owe the stated amount of restitution. Not less than 30 days after issuing the notice to the claimant, the unemployment agency shall notify the claimant's employer to withhold from earnings due or to become due from the claimant the amount shown on the notice plus accrued interest. The employer shall comply with the notice to withhold and shall continue to withhold each pay period the amount shown on the notice plus accrued interest until the garnishment amount plus accrued interest has been satisfied and the notice is released by the unemployment agency. The unemployment agency's administrative garnishment has priority over any subsequent garnishment or wage assignment. The amount subject to garnishment for any pay period shall be decreased by any other irrevocable and previously effective assignment of wages or other garnishment action served on the employer before service of the agency's garnishment notice. The amount of the agency's garnishment shall not exceed 25% of the balance. In response to the administrative garnishment, the employer shall do all of the following:

(1) Within 10 calendar days after the date of the agency's notice to withhold wages, notify the agency of

the amount of any irrevocable and previously effective assignment of wages or garnishment actions.

(2) Within 10 days after the end of each pay period in which wages are required to be withheld under the administrative garnishment, remit to the agency the amount withheld pursuant to the administrative garnishment.

(3) Within 10 days after the date on which the claimant ceases to be employed by the employer, notify the agency.

(o) Before payment of a prize of $1,000.00 or more under the McCauley-Traxler-Law-Bowman-McNeeley lottery act, 1972 PA 239, MCL 432.1 to 432.47, the bureau of state lottery shall determine whether a lottery prize winner has a current liability for restitution of unemployment benefits, penalty, or interest, assessed by the unemployment agency and the amount of the prize owing to the unemployment agency and shall remit that amount to the unemployment agency.

(p) If the unemployment agency does not record the discharge of lien with the register of deeds and seek reimbursement for that recording fee, the unemployment agency shall provide the discharge of lien document and a notice of lien recording fee to the debtor, who will then be responsible for recording the discharge and paying the applicable amounts required under section 2567 of the revised judicature act of 1961, 1961 PA 236, MCL 600.2567. The notice of lien recording fee shall state the amount of the recording fee the unemployment agency paid for recording the lien that is the subject of the discharge and may include any other relevant information.

(q) In addition to any other remedy provided under this act, the unemployment agency may seek to recover unemployment compensation debt as provided by 26 USC 6402(f), 42 USC 503(m), or other applicable federal law. The debtor is liable for any fee the federal government imposes with respect to implementing the deduction from a federal tax refund.

History: 1936, Ex. Sess., Act 1, Imd. Eff. Dec. 24, 1936;—Am. 1937, Act 347, Imd. Eff. Aug. 5, 1937;—Am. 1941, Act 364, Imd. Eff. July 1, 1941;—Am. 1943, Act 246, Imd. Eff. June 1, 1943;—Am. 1947, Act 360, Imd. Eff. July 8, 1947;—CL 1948, 421.15;—Am. 1951, Act 251, Imd. Eff. June 17, 1951;—Am. 1955, Act 281, Eff. July 15, 1955;—Am. 1957, Act 311, Imd. Eff. June 21, 1957;—Am. 1959, Act 131, Imd. Eff. July 8, 1959;—Am. 1965, Act 281, Eff. Sept. 5, 1965;—Am. 1971, Act 231, Imd. Eff. Jan. 3, 1972;—Am. 1974, Act 104, Eff. June 9, 1974;—Am. 1975, Act 110, Eff. June 8, 1975;—Am. 1983, Act 164, Eff. Oct. 1, 1983;—Am. 1989, Act 228, Eff. Apr. 2, 1990;—Am. 1991, Act 7, Eff. Apr. 1, 1992;—Am. 1996, Act 498, Imd. Eff. Jan. 9, 1997;—Am. 2011, Act 14, Imd. Eff. Mar. 29, 2011;—Am. 2011, Act 269, Imd. Eff. Dec. 19, 2011;—Am. 2016, Act 228, Eff. Oct. 1, 2016.

Administrative rules: R 421.10 et seq. of the Michigan Administrative Code.

421.15a Apportioned quarterly payments; interest on contribution obligation not required; failure to make payment.

Sec. 15a. (1) The unemployment agency shall not collect interest on a contribution obligation that an employer pays through apportioned quarterly payments, if the employer meets the requirements of section 13(3) and has remitted the following amounts or more each quarter by the date established for each quarterly filing:

(a) First quarter - 25% of the total obligation incurred in the first quarter.

(b) Second quarter - the obligation incurred in the second quarter plus 25% of the total obligation for the first quarter.

(c) Third quarter - the obligation incurred in the third quarter plus 25% of the total obligation for the first quarter.

(d) Fourth quarter - the obligation incurred in the fourth quarter plus 25% of the total obligation for the first quarter.

(2) If an employer fails in any quarter to pay in full, by the due date of the tax payment for that quarter, the percentage of the tax deferred from the first quarter as described in subsection (1), the unemployment agency may collect interest at the rate specified in section 15 on the amount of the deferred tax that is due in that quarter and unpaid.

History: Add. 2011, Act 269, Imd. Eff. Dec. 19, 2011.

Compiler's note: Former MCL 421.15a, which pertained to legal representation of state and commission by attorney general, was repealed by Act 251 of 1951, Imd. Eff. June 17, 1951.

421.15b Repealed. 1951, Act 251, Imd. Eff. June 17, 1951.

Compiler's note: The repealed section provided for fees for registering certain liens and recording the discharge.

421.16 Adjustment or refund of contributions or interest.

Sec. 16. If not later than 3 years after the date of payment of any amount as contributions or interest thereon, an employing unit which has paid such amount shall make application for an adjustment or refund

thereof the commission shall determine whether such contributions or interest or any portion thereof was erroneously collected; and the employing unit shall be promptly notified of such determination, which shall become final unless the employing unit files with the commission an application for redetermination thereof in accordance with the provisions of section 32a. If it is finally determined, redetermined or otherwise decided that any amount thus at issue was erroneously collected, the commission shall allow such employing unit to make an adjustment thereof, without interest, in connection with subsequent contribution payments by him. If the adjustment cannot be made within the ensuing 3 months the commission shall refund the amount, without interest, from the appropriate fund or funds. For like cause, in the same manner, and within the same period, adjustment or refund may be made by the commission on its own initiative. When the individual owner of an employing unit who is entitled to a refund dies or is legally declared insane or mentally incompetent, the refund shall become due and payable to the person who appears to the commission upon investigation to be the legal heir or guardian of the individual owner, or to any other person found by the commission to be equitably entitled to the refund by reason of having incurred expenses in behalf of the individual owner for his burial or other necessary expenses.

History: 1936, Ex. Sess., Act 1, Imd. Eff. Dec. 24, 1936;—Am. 1941, Act 364, Imd. Eff. July 1, 1941;—Am. 1947, Act 360, Imd. Eff. July 8, 1947;—CL 1948, 421.16;—Am. 1951, Act 251, Imd. Eff. June 17, 1951;—Am. 1971, Act 231, Imd. Eff. Jan. 3, 1972.

421.17 Nonchargeable benefits account; experience account; pooling of contributions; credits.

Sec. 17. (1) The unemployment agency shall maintain in the unemployment compensation fund a nonchargeable benefits account and a separate experience account for each employer as provided in this section. This act does not give an employer or individuals in the employer's service prior claims or rights to the amount paid by the employer to the unemployment compensation fund. All contributions to that fund shall be pooled and available to pay benefits to any individual entitled to the benefits under this act, irrespective of the source of the contributions.

(2) The nonchargeable benefits account shall be credited with the following:

(a) All net earnings received on money, property, or securities in the fund.

(b) Any positive balance remaining in the employer's experience account as of the second June 30 computation date occurring after the employer has ceased to be subject to this act or after the employer has elected to change from a contributing employer to a reimbursing employer.

(c) The proceeds of the nonchargeable benefits component of employers' contribution rates determined as provided in section 19(a)(5).

(d) All reimbursements received under section 11(c).

(e) All amounts that may be paid or advanced by the federal government under section 903 or section 1201 of the social security act, 42 USC 1103 and 1321, to the account of the state in the federal unemployment trust fund.

(f) All benefits improperly paid to claimants that have been recovered and that were previously charged to an employer's account.

(g) Any benefits forfeited by an individual by application of section 62(b).

(h) The amount of any benefit check, any employer refund check, any claimant restitution refund check, or other payment duly issued that has not been presented for payment within 1 year after the date of issue.

(i) Any other unemployment fund income not creditable to the experience account of any employer.

(j) Any negative balance transferred to an employer's new experience account pursuant to this section.

(k) Amounts transferred from the contingent fund under section 10.

(3) The nonchargeable benefits account shall be charged with the following:

(a) Any negative balance remaining in an employer's experience account as of the second June 30 computation date occurring after the employer has ceased to be subject to this act or has elected to change from a contributing employer to a reimbursing employer.

(b) Refunds of amounts erroneously collected due to the nonchargeable benefits component of an employer's contribution rate.

(c) All training benefits paid under section 27(g) not reimbursable by the federal government and based on service with a contributing employer.

(d) Any positive balance credited or transferred to an employer's new experience account under this subsection.

(e) Repayments to the federal government of amounts advanced by it under section 1201 of the social security act, 42 USC 1321, to the unemployment compensation fund established by this act.

(f) The amounts received by the unemployment compensation fund under section 903 of the social security act, 42 USC 1103, that may be appropriated to the unemployment agency in accordance with subsection (8).

(g) All benefits determined to have been improperly paid to claimants that have been credited to employers' accounts in accordance with section 20(a).

(h) The amount of any substitute check or other payment issued to replace an uncashed benefit check, employer refund check, claimant restitution refund check, or other payment previously credited to this account.

(i) The amount of any benefit check or other payment issued that would be chargeable to the experience account of an employer who has ceased to be subject to this act, and who has had a balance transferred from the employer's experience account to the solvency or nonchargeable benefits account.

(j) All benefits that become nonchargeable to an employer under section 19(b) or (c), 29(1)(a)(*ii*) or (*iii*) or (3), or 42a.

(k) For benefit years beginning before October 1, 2000, with benefits allocated under section 20(e)(2) for a week of unemployment in which a claimant earns remuneration with a contributing employer that equals or exceeds the amount of benefits allocated to that contributing employer, and for benefit years beginning on or after October 1, 2000, with benefits allocated under section 20(f) for a week of unemployment in which a claimant earns remuneration with a contributing employer that equals or exceeds the amount of benefits allocated to that contributing employer.

(*l*) Benefits that are nonchargeable to an employer's account in accordance with section 20(i) or (j).

(m) Benefits otherwise chargeable to the account of an employer when the benefits are payable solely on the basis of combining wages paid by a Michigan employer with wages paid by a non-Michigan employer under the interstate arrangement for combining employment and wages under 20 CFR 616.1 to 616.11.

(4) All contributions paid by an employer shall be credited to the unemployment compensation fund, and, except as otherwise provided with respect to the proceeds of the nonchargeable benefits component of employers' contribution rates by section 19(a)(5), to the employer's experience account, as of the date when paid. However, those contributions paid during any July shall be credited as of the immediately preceding June 30. Additional contributions paid by an employer as the result of a retroactive contribution rate adjustment, solely for the purpose of this subsection, shall be credited to the employer's experience account as if paid when due, if the payment is received within 30 days after the issuance of the initial assessment that results from the contribution rate adjustment and a written request for the application is filed by the employer during this period.

(5) If an employer who has ceased to be subject to this act, and who has had a positive or negative balance transferred as provided in subsection (2) or (3) from the employer's experience account to the solvency or nonchargeable benefits account as of the second computation date after the employer has ceased to be subject to this act, becomes subject to this act again within 6 years after that computation date, the unemployment agency shall transfer the positive or negative balance, adjusted by the debits and credits that are made after the date of transfer, to the employer's new experience account.

(6) If an employer's status as a reimbursing employer is terminated within 6 years after the date the employer's experience account as a prior contributing employer was transferred to the solvency or nonchargeable benefits account as provided in subsection (2) or (3) and the employer continues to be subject to this act as a contributing employer, any positive or negative balance in the employer's experience account as a prior contributing employer, which was transferred to the solvency or nonchargeable benefits account, shall be transferred to the employer's new experience account. However, an employer who is delinquent with respect to any reimbursement payments in lieu of contributions for which the employer may be liable shall not have a positive balance transferred during the delinquency.

(7) If a balance is transferred to an employer's new account under subsection (5) or (6), the employer shall not be considered a "qualified employer" until the employer has again been subject to this act for the period set forth in section 19(a)(1).

(8) All money credited under section 903 of the social security act, 42 USC 1103, to the account of the state in the federal unemployment trust fund shall immediately be credited by the unemployment agency to the fund's nonchargeable benefits account. There is authorized to be appropriated to the unemployment agency from the money credited to the nonchargeable benefits account under this subsection, an amount determined to be necessary for the proper and efficient administration by the unemployment agency of this act for purposes for which federal grants under title 3 of the social security act, 42 USC 501 to 504, and the Wagner-Peyser act, 29 USC 49 to 49*l*-2, are not available or are insufficient. The appropriation shall expire not more than 2 years after the date of enactment and shall provide that any unexpended balance shall then be credited to the nonchargeable benefits account. An appropriation shall not be made under this subsection for an amount that exceeds the "adjusted balance" of the nonchargeable benefits account on the most recent computation date. Appropriations made under this subsection shall limit the total amount that may be obligated by the unemployment agency during a fiscal year to an amount that does not exceed the amount by

which the aggregate of the amounts credited to the nonchargeable benefits account under this subsection during the fiscal year and the 24 preceding fiscal years, exceeds the aggregate of the amounts obligated by the unemployment agency by appropriation under this subsection and charged against the amounts thus credited to the nonchargeable benefits account during any of the 25 fiscal years and any amounts credited to the nonchargeable benefits account that have been used for the payment of benefits.

History: 1936, Ex. Sess., Act 1, Imd. Eff. Dec. 24, 1936;—Am. 1937, Act 347, Imd. Eff. Aug. 5, 1937;—Am. 1939, Act 324, Imd. Eff. June 22, 1939;—Am. 1941, Act 364, Imd. Eff. July 1, 1941;—Am. 1947, Act 360, Imd. Eff. July 8, 1947;—CL 1948, 421.17;—Am. 1954, Act 197, Imd. Eff. May 7, 1954;—Am. 1955, Act 281, Eff. July 15, 1955;—Am. 1957, Act 311, Imd. Eff. June 21, 1957;—Am. 1963, Act 226, Eff. Sept. 6, 1963;—Am. 1965, Act 281, Eff. Sept. 5, 1965;—Am. 1967, Act 254, Imd. Eff. July 19, 1967;—Am. 1968, Act 338, Imd. Eff. July 19, 1968;—Am. 1970, Act 14, Imd. Eff. Apr. 14, 1970;—Am. 1970, Act 128, Imd. Eff. July 27, 1970;—Am. 1971, Act 231, Imd. Eff. Jan. 3, 1972;—Am. 1974, Act 104, Eff. June 9, 1974;—Am. 1977, Act 155, Imd. Eff. Nov. 8, 1977;—Am. 1980, Act 388, Imd. Eff. Jan. 6, 1981;—Am. 1982, Act 535, Eff. Jan. 2, 1983;—Am. 1994, Act 162, Imd. Eff. June 17, 1994;—Am. 1996, Act 535, Imd. Eff. Jan. 13, 1997;—Am. 2003, Act 174, Imd. Eff. Aug. 14, 2003;—Am. 2009, Act 18, Imd. Eff. Apr. 13, 2009;—Am. 2011, Act 269, Imd. Eff. Dec. 19, 2011.

Compiler's note: In subsection (3)(j), the citation to "29(1)(a)(*ii*) or (*iii*)", evidently should read "29(1)(a)(*i*) to (*iii*)".

421.18 Definitions.

Sec. 18. As used in this act:

(a) "Computation date" means June 30 of each year.

(b) "Balance" means:

(1) As applied to an employer's experience account or to the nonchargeable benefits account, the initial balance of that account plus the credits and minus the charges that are made in accordance with this act. A "negative balance" in an experience account exists when its balance is a minus quantity.

(2) As applied to the fund, the sum obtained by adding the total money received by the fund through the date in question plus interest earnings credited to the fund by the United States treasury as of or before that date, and subtracting:

(*i*) Amounts received by the fund from the federal government as advances to pay benefits under a federal act but not used as yet for that purpose.

(*ii*) Advances made to the fund by the federal government under section 1201 of the social security act, 42 U.S.C. 1321, that have not been repaid to, canceled, or recovered by the federal government.

(*iii*) Amounts that may have been appropriated by the legislature in accordance with section 903(c)(2) of the social security act, 42 U.S.C. 1103(c)(2).

(*iv*) All disbursements from the fund.

(c) "Adjusted balance", as applied to the nonchargeable benefits account, means the balance of that account minus its contingent liabilities, namely, the amount of advances made to the fund by the federal government under section 1201 of the social security act, 42 U.S.C. 1321, that have not been repaid to, canceled, or recovered by the federal government, and the total amount of negative balances in employer experience accounts.

(d)

(1) The "experience component" of an employer's contribution rate means the sum of the employer's chargeable benefits and account building components.

(2) If at least 1 but fewer than all of the applicable quarterly reports of wages and contributions due with respect to the 12-month period ending on the computation date have been filed by an employer, the employer's experience component shall be set so that his or her contribution rate for the calendar year affected shall be the rate set in accordance with section 19(a), and in addition a penalty of 3% of wages paid to an individual with respect to employment, subject to the taxable wage limit, shall be imposed on the employer. The commission shall calculate the rate using the information filed by the employer for the quarter or quarters reported. If none of the applicable quarterly reports of wages and contributions due with respect to the 12-month period ending on the computation date have been filed by an employer, the employer's experience component shall be set so that the employer's contribution rate for the calendar year affected shall be not less than the highest rate applicable to the number of years of the employer's contribution liability in accordance with section 19(a), and in addition a penalty of 3% of wages paid to an individual with respect to employment, subject to the taxable wage limit, shall be imposed on the employer. An employer whose contribution rate and penalty have been determined under this section may have his or her contribution rate redetermined in accordance with section 19(a) and may have his or her penalty redetermined and removed if the employer files all of the missing reports not later than 30 days after the date of mailing of the notice of determination of contribution rate. An employer who files all of the missing reports after the 30 days but not later than 1 year after the date of mailing of the determination of contribution rate and penalty shall have his

or her contribution rate redetermined in accordance with section 19(a) and shall have his or her penalty redetermined to 2%. However, if the commission finds that the employer had good cause for filing the missing reports after the 30-day period but within 1 year, the commission shall redetermine the employer's contribution rate in accordance with section 19(a) and shall redetermine and remove the penalty. The commission may by rule prescribe good cause reasons for removing the penalty. Notwithstanding section 32a, if the employer files all of the missing reports after 1 year, good cause shall not be considered, but the employer's contribution rate shall be redetermined in accordance with section 19(a) and the employer's penalty shall remain at 3%. A penalty paid by an employer pursuant to this section shall not be credited to the employer's experience account nor to the unemployment compensation fund. The penalty shall be credited to the interest and penalty account of the contingent fund. A contribution rate for a tax year may not be redetermined under this subsection if the missing reports for that year are received more than 3 years after the rate determination for the year is issued with respect to taxable years beginning on or after January 1, 1991.

(e)

(1) "Cost criterion" means the number arrived at as of each computation date through the following calculations:

(*i*) With respect to each period of 12 consecutive months starting after 1956, calculate the percentage ratio of the benefits paid during the 12 months to the aggregate amount of the payrolls paid by employers within the most recent calendar year completed before the start of the 12-month period.

(*ii*) Select the largest percentage ratio, which is referred to as the "cost criterion", to be used as of that computation date.

(2) For purposes of this subsection, "benefits" do not include benefits paid under a federal law or that are reimbursable or have been reimbursed by the federal government, and "payroll" does not include remuneration paid by this state and other employers who make reimbursement payments instead of contributions.

(f) "Payroll" means remuneration paid by a contributing employer for employment.

(g) Notwithstanding the definition of "balance" as applied to the fund and of "adjusted balance" as applied to the nonchargeable benefits account by subsections (b) and (c), if the federal unemployment tax act, 26 U.S.C. 3301 to 3311 or the social security act, 42 U.S.C. 301 to 1397e, is amended to cancel the liability of employers in this state to pay additional federal unemployment taxes under the reduced credit provisions of section 3302(c) of the federal unemployment tax act, 26 U.S.C. 3302(c), otherwise applicable to the then unpaid balance of money advanced to the Michigan unemployment fund since 1974, the amount of that part of the unpaid balance shall be included in the balance of the unemployment fund and in the adjusted balance of the nonchargeable benefits account.

History: 1936, Ex. Sess., Act 1, Imd. Eff. Dec. 24, 1936;—Am. 1937, Act 347, Imd. Eff. Aug. 5, 1937;—Am. 1939, Act 324, Imd. Eff. June 22, 1939;—Am. 1941, Act 364, Imd. Eff. July 1, 1941;—Am. 1945, Act 335, Imd. Eff. May 29, 1945;—Am. 1947, Act 360, Imd. Eff. July 8, 1947;—CL 1948, 421.18;—Am. 1951, Act 251, Imd. Eff. June 17, 1951;—Am. 1954, Act 197, Imd. Eff. May 7, 1954;—Am. 1957, Act 311, Imd. Eff. June 21, 1957;—Am. 1963, Act 226, Eff. Sept. 6, 1963;—Am. 1965, Act 281, Eff. Sept. 5, 1965;—Am. 1968, Act 338, Imd. Eff. July 19, 1968;—Am. 1971, Act 231, Imd. Eff. Jan. 3, 1972;—Am. 1975, Act 110, Eff. June 8, 1975;—Am. 1977, Act 155, Imd. Eff. Nov. 8, 1977;—Am. 1983, Act 164, Eff. Oct. 1, 1983;—Am. 1993, Act 296, Eff. Dec. 31, 1993.

421.19 Contribution rate of contributing employer; determination; reserve fund balance of reorganized employer; distressed employer; irrevocability of excess payments to experience account.

Sec. 19. (a) The commission shall determine the contribution rate of each contributing employer for each calendar year after 1977 as follows:

(1)(*i*) Except as provided in paragraph (*ii*), an employer's rate shall be calculated as described in table A, A-1, or A-2 with respect to wages paid by the employer in each calendar year for employment. If an employer's coverage is terminated under section 24, or at the conclusion of 12 or more consecutive calendar quarters during which the employer has not had workers in covered employment, and if the employer again becomes liable for contributions, the employer shall be considered as newly liable for contributions for the purposes of the tables in this subsection. An employer that becomes liable under section 41(2) will not be assigned the new employer rate but instead the employer's most recent prior rate as a predecessor employer will be assigned to its new account.

(*ii*) To provide against the high risk of net loss to the fund in such cases, an employing unit that becomes newly liable for contributions under this act in a calendar year beginning on or after January 1, 1983 in which it employs in "employment", not necessarily simultaneously but in any 1 week 2 or more individuals in the performance of 1 or more contracts or subcontracts for construction in the state of roads, bridges, highways, sewers, water mains, utilities, public buildings, factories, housing developments, or similar construction

projects, shall be liable for contributions to that employer's account under this act for the first 4 years of operations in this state at a rate equal to the average rate paid by employers engaged in the construction business as determined by contractor type in the manner provided in table B, B-1, or B-2.

For an employer that was a contributing employer before January 1, 2012 and did not convert from a reimbursing to a contributing employer on or after January 1, 2012, the following tables apply:

Table A

Year of Contribution Liability	Contribution Rate
1	2.7%
2	2.7%
3	1/3 (chargeable benefits component) + 1.8%
4	2/3 (chargeable benefits component) + 1.0%
5 and over	(chargeable benefits component) + (account building component) + (nonchargeable benefits component)

Table B

Year of Contribution Liability	Contribution Rate
1	average construction contractor rate as determined by the commission
2	average construction contractor rate as determined by the commission
3	1/3 (chargeable benefits component) + 2/3 average construction contractor rate as determined by the commission
4	2/3 (chargeable benefits component) + 1/3 average construction contractor rate as determined by the commission
5 and over	(chargeable benefits component) + (account building component) + (nonchargeable benefits component)

For an employer that becomes a contributing employer on or after January 1, 2012 and before January 1, 2013, the following tables apply:

Table A-1

Year of Contribution Liability	Contribution Rate
1	2.7%
2	2.7% + 1/3 (chargeable benefits component)
3	2.7% + 2/3 (chargeable benefits component)
4 and over	(chargeable benefits component) + (account building component) + (nonchargeable benefits component)

Table B-1

Year of Contribution Liability	Contribution Rate
1	average construction contractor rate as determined by the commission
2	average construction contractor rate as determined by the commission + 1/3 (chargeable benefits component)
3	average construction contractor rate as determined by the commission + 2/3 (chargeable benefits component)
4 and over	(chargeable benefits component) + (account building component) + (nonchargeable benefits component)

For an employer that becomes a contributing employer on or after January 1, 2013, the following tables apply:

Table A-2

Year of Contribution Liability	Contribution Rate
1	2.7% + 1/3 (chargeable benefits component)
2	2.7% + 2/3 (chargeable benefits component)
3 and over	(chargeable benefits component) + (account building component) + (nonchargeable benefits component)

Table B-2

Year of Contribution Liability	Contribution Rate
1	average construction contractor rate as determined by the commission + 1/3 (chargeable benefits component)
2	average construction contractor rate as determined by the commission + 2/3 (chargeable benefits component)
3 and over	(chargeable benefits component) + (account building component) + (nonchargeable benefits component)

(2) With the exception of employers who are in the first 4 consecutive years of liability, each employer's contribution rate shall be the sum of the following components, all of which are determined as of the computation date: a chargeable benefits component determined under subdivision (3), an account building component determined under subdivision (4), and a nonchargeable benefits component determined under subdivision (5).

(3)(*i*) For calendar years beginning before January 1, 2012, the chargeable benefits component of an employer's contribution rate is the percentage determined by dividing: the total amount of benefits charged to the employer's experience account within the lesser of 60 consecutive months ending on the computation date or the number of consecutive months ending on the computation date with respect to which the employer has been continuously liable for contributions; by the amount of wages, subject to contributions, paid by the

employer within the same period. If the resulting quotient is not an exact multiple of 1/10 of 1%, it shall be increased to the next higher multiple of 1/10 of 1%. For the calendar year 2012, the chargeable benefits component of an employer's contribution rate is the percentage determined by dividing: the total amount of benefits charged to the employer's experience account within the lesser of 48 consecutive months ending on the computation date or the number of consecutive months ending on the computation date with respect to which the employer has been continuously liable for contributions; by the amount of wages, subject to contributions, paid by the employer within the same period. If the resulting quotient is not an exact multiple of 1/10 of 1%, it shall be increased to the next higher multiple of 1/10 of 1%. For each calendar year beginning on or after January 1, 2013, the chargeable benefits component of an employer's contribution rate is the percentage determined by dividing: the total amount of benefits charged to the employer's experience account within the lesser of 36 consecutive months ending on the computation date or the number of consecutive months ending on the computation date with respect to which the employer has been continuously liable for contributions; by the amount of wages, subject to contributions, paid by the employer within the same period. If the resulting quotient is not an exact multiple of 1/10 of 1%, it shall be increased to the next higher multiple of 1/10 of 1%.

(*ii*) For benefit years established before October 1, 2000, the chargeable benefits component shall not exceed 6.0%, unless there is a statutory change in the maximum duration of regular benefit payments or the statutory ratio of regular benefit payments to credit weeks. In the event of a change in the maximum duration of regular benefit payments, the maximum chargeable benefits component shall increase by the same percentage as the statutory percentage change in the duration of regular benefit payments between computation dates. In the event of an increase in the statutory ratio of regular benefit payments to credit weeks, as described in section 27(d), the maximum chargeable benefits component determined as of the computation dates occurring after the effective date of the increased ratio shall increase by 1/2 the same percentage as the increase in the ratio of regular benefit payments to credit weeks. If the resulting increase is not already an exact multiple of 1/10 of 1%, it shall be adjusted to the next higher multiple of 1/10 of 1%. For benefit years established after October 1, 2000, the chargeable benefits component shall not exceed 6.0%, unless there is a statutory change in the maximum duration of regular benefit payments or the percentage factor of base period wages, which defines maximum duration, as provided in section 27(d). If there is a statutory change in the maximum duration of regular benefit payments, the maximum chargeable benefits component shall increase by the same percentage as the statutory percentage change in the duration of regular benefit payments between computation dates. If there is an increase in the statutory percentage factor of base period wages, as described in section 27(d), the maximum chargeable benefits component determined as of the computation dates occurring after the effective date of the increased ratio shall increase by 1/2 the same percentage as the increase in the percentage factor of base period wages. If the resulting increase is not already an exact multiple of 1/10 of 1%, it shall be adjusted to the next higher multiple of 1/10 of 1%.

(4) The account building component of an employer's contribution rate is the percentage arrived at by the following calculations: (*i*) Multiply the amount of the employer's total payroll for the 12 months ending on the computation date, by the cost criterion; (*ii*) Subtract the amount of the balance in the employer's experience account as of the computation date from the product determined under (*i*); and (*iii*) if the remainder is zero or a negative quantity, the account building component of the employer's contribution rate shall be zero; but (*iv*) if the remainder is a positive quantity, the account building component of the employer's contribution rate shall be determined by dividing that remainder by the employer's total payroll paid within the 12 months ending on the computation date. The account building component shall not exceed the lesser of 1/4 of the percentage calculated or 2%. However, except as otherwise provided in this subdivision, the account building component shall not exceed the lesser of 1/2 of the percentage calculated or 3%, if on the June 30 of the preceding calendar year the balance in the unemployment compensation fund was less than 50% of an amount equal to the aggregate of all contributing employers' annual payrolls, for the 12 months ending March 31, times the cost criterion. For calendar years after 1993 and before 1996, the account building component shall not exceed the lesser of .69 of the percentage calculated, or 3%, if on the June 30 of the preceding calendar year the balance in the unemployment compensation fund was less than 50% of an amount equal to the aggregate of all contributing employers' annual payrolls, for the 12 months ending March 31, as defined in section 18(f), times the cost criterion; selected for the computation date under section 18(e). If the account building component determined under this subdivision is not an exact multiple of 1/10 of 1%, it shall be adjusted to the next higher multiple of 1/10 of 1%.

(5) The nonchargeable benefits component of employers' contribution rates is the percentage arrived at by the following calculations: (*i*) multiply the aggregate amount of all contributing employers' annual payrolls, for the 12 months ending March 31, as defined in section 18(f), by the cost criterion selected for the computation date under section 18(e); (*ii*) subtract the balance of the unemployment fund on the computation

date, net of federal advances, from the product determined under (*i*); and (*iii*) if the remainder is zero or a negative quantity, the nonchargeable benefits component of employers' contribution rates shall be zero; but (*iv*) if the remainder is a positive quantity, the nonchargeable benefits component of employers' contribution rates shall be determined by dividing that remainder by the total of wages subject to contributions under this act paid by all contributing employers within the 12 months ending on March 31 and adjusting the quotient, if not an exact multiple of 1/10 of 1%, to the next higher multiple of 1/10 of 1%. The maximum nonchargeable benefits component shall be 1%. However, for calendar years after 1993, if there are no benefit charges against an employer's account for the 60 months ending as of the computation date, or for calendar years after 1995, if the employer's chargeable benefits component is less than 2/10 of 1%, the maximum nonchargeable benefit component shall not exceed 1/2 of 1%. For calendar years after 1995, if there are no benefit charges against an employer's account for the 72 months ending as of the computation date, the maximum nonchargeable benefits component shall not exceed 4/10 of 1%. For calendar years after 1996, if there are no benefit charges against an employer's account for the 84 months ending as of the computation date, the maximum nonchargeable benefits component shall not exceed 3/10 of 1%. For calendar years after 1997, if there are no benefit charges against an employer's account for the 96 months ending as of the computation date, the maximum nonchargeable benefits component shall not exceed 2/10 of 1%. For calendar years after 1998, if there are no benefit charges against an employer's account for the 108 months ending as of the computation date, the maximum nonchargeable benefits component shall not exceed 1/10 of 1%. For calendar years after 2002, the maximum nonchargeable benefits component shall not exceed 1/10 of 1% if there are no benefit charges against an employer's account for the 60 months ending as of the computation date; 9/100 of 1% if there are no benefit charges against an employer's account for the 72 months ending as of the computation date; 8/100 of 1% if there are no benefit charges against an employer's account for the 84 months ending as of the computation date; 7/100 of 1% if there are no benefit charges against an employer's account for the 96 months ending as of the computation date; or 6/100 of 1% if there are no benefit charges against an employer's account for the 108 months ending as of the computation date. For purposes of determining a nonchargeable benefits component under this subsection, an employer account shall not be considered to have had a charge if claim for benefits is denied or determined to be fraudulent pursuant to section 54 or 54c. An employer with a positive balance in its experience account on the June 30 computation date preceding the calendar year shall receive for that calendar year a credit in an amount equal to 1/2 of the extra federal unemployment tax paid in the preceding calendar year under section 3302(c)(2) of the federal unemployment tax act, 26 USC 3302, because of an outstanding balance of unrepaid advances from the federal government to the unemployment compensation fund under section 1201 of title XII of the social security act, 42 USC 1321. However, the credit for any calendar year shall not exceed an amount determined by multiplying the employer's nonchargeable benefit component for that calendar year times the employer's taxable payroll for that year. Contributions paid by an employer shall be credited to the employer's experience account, in accordance with the provisions of section 17(5), without regard to any credit given under this subsection. The amount credited to an employer's experience account shall be the amount of the employer's tax before deduction of the credit provided in this subsection.

(6) The total of the chargeable benefits and account building components of an employer's contribution rate shall not exceed by more than 1% in the 1983 calendar year, 1.5% in the calendar year 1984, or 2% in the 1985 calendar year the higher of 4% or the total of the chargeable benefits and the account building components that applied to the employer during the preceding calendar year. For calendar years after 1985, the total of the chargeable benefits and account building components of the employer's contribution rate shall be computed without regard to the foregoing limitation provided in this subdivision. During a year in which this subdivision limits an employer's contribution rate, the resulting reduction shall be considered to be entirely in the experience component of the employer's contribution rate, as defined in section 18(d).

(b) An employer previously liable for contributions under this act which on or after January 1, 1978 filed a petition for arrangement under the bankruptcy act of July 1, 1898, chapter 541, 30 Stat. 544, or on or after October 1, 1979 filed a petition for reorganization under title 11 of the United States Code, 11 USC 101 to 1330, pursuant to which a plan of arrangement or reorganization for rehabilitation purposes has been confirmed by order of the United States bankruptcy court, shall be considered as a reorganized employer and shall have a reserve fund balance of zero as of the first calendar year immediately following court confirmation of the plan of arrangement or reorganization, but not earlier than the calendar year beginning January 1, 1983, if the employer meets each of the following requirements:

(1) An employer whose plan of arrangement or reorganization has been confirmed as of January 1, 1983 shall, within 60 days after January 1, 1983, notify the commission of its intention to elect the status of a reorganized employer. An employer that has not had a plan of arrangement or reorganization confirmed as of January 1, 1983 shall, within 60 days after the entry by the bankruptcy court of the order of confirmation of

the plan of arrangement or reorganization, notify the commission of its intention to elect the status of a reorganized employer. An employer shall not make an election under this subdivision after December 31, 1985.

(2) The employer has paid to the commission all contributions previously owed by the employer pursuant to this act for all calendar years prior to the calendar year as to which the employer elects to begin its status as a reorganized employer.

(3) More than 50% of the employer's total payroll is paid for services rendered in this state during the employer's fiscal year immediately preceding the date the employer notifies the fund administrator of its intention to elect the status of a reorganized employer.

(4) The employer, within 180 days after notifying the commission of its intention to elect the status of a reorganized employer, makes a cash payment to the commission, for the unemployment compensation fund, equal to: .20 times the first $2,000,000.00 of the employer's negative balance, .35 times the amount of the employer's negative balance above $2,000,000.00 and up to $5,000,000.00, and .50 times the amount of the negative balance above $5,000,000.00. The total amount determined by the commission shall be based on the employer's negative balance existing as of the end of the calendar month immediately preceding the calendar year in which the employer will begin its status as a reorganized employer. If the employer fails to pay the amount determined, within 180 days of electing status as a reorganized employer, the commission shall reinstate the employer's negative balance previously reduced and redetermine the employer's rate on the basis of the reinstated negative balance. The redetermined rate shall then be used to redetermine the employer's quarterly contributions for that calendar year. The redetermined contributions shall be subject to the interest provisions of section 15 as of the date the redetermined quarterly contributions were originally due.

(5) Except as provided in subdivision (6), the employer contribution rates for a reorganized employer beginning with the first calendar year of the employer's status as a reorganized employer shall be as follows:

Year of Contribution Liability	Contribution Rate
1	2.7% of total taxable wages paid
2	2.7%
3	2.7%
4 and over	(chargeable benefits component based upon 3-year experience) plus (account building component based upon 3-year experience) plus (nonchargeable benefits component)

(6) To provide against the high risk of net loss to the fund in such cases, any reorganized employer that employs in "employment", not necessarily simultaneously but in any 1 week 25 or more individuals in the performance of 1 or more contracts or subcontracts for construction in the state of roads, bridges, highways, sewers, water mains, utilities, public buildings, factories, housing developments, or similar major construction projects, shall be liable beginning the first calendar year of the employer's status as a reorganized employer for contribution rates as follows:

Year of Contribution Liability	Contribution Rate
1	average construction contractor rate as determined by the commission
2	average construction contractor rate as determined by the commission
3	1/3 (chargeable benefits component) + 2/3 average construction con-tractor rate as determined by the commission
4	2/3 (chargeable benefits component) + 1/3 average construction con-tractor rate as determined by the commission

5 and over	(chargeable benefits component) + (account building component) + (nonchargeable benefits component)

(c) Upon application by an employer to the commission for designation as a distressed employer, the commission, within 60 days after receipt of the application, shall make a determination whether the employer meets the conditions set forth in this subsection. Upon finding that the conditions are met, the commission shall notify the legislature of the determination and request legislative acquiescence in the determination. If the legislature approves the determination by concurrent resolution, the employer shall be considered to be a "distressed employer" as of January 1 of the year in which the determination is made. The commission shall notify the employer of that determination and notify the employer of its contribution rate as a distressed employer and the contribution rate that would apply if the employer was not a distressed employer. The distressed employer shall determine its tax contribution using the 2 rates furnished by the commission and shall pay its tax contribution based on the lower of the 2 rates. If the determination of distressed employer status is made during the calendar year, the employer shall be entitled to a credit on future quarterly installments for any excess contributions paid during that initial calendar year. The employer shall notify the commission of the difference between the amount paid and the amount that would have been paid if the employer were not determined to be a distressed employer and the difference will be owed to the unemployment compensation fund, payable in accordance with this subsection. Cumulative totals of the difference must be reported to the commission with each return required to be filed. The commission may periodically determine continued eligibility of an employer under this subsection. When the commission makes a determination that an employer no longer qualifies as a distressed employer, the commission shall notify the employer of that determination. After notice by the commission that the employer no longer qualifies as a distressed employer, the employer will be liable for contributions, beginning with the first quarter occurring after receipt of notification of disqualification, on the basis of the rate that would apply if the employer was not a distressed employer. The contribution rate for a distressed employer shall be calculated under the law in effect for the 1982 calendar year except that the rate determined shall be reduced by the applicable solvency tax rate assessed against the employer under section 19a. The distressed employer will pay in 10 equal annual installments the amount of the unpaid contributions owed to the unemployment compensation fund due to the application of this subsection, without interest. Each installment shall be made with the fourth quarterly return for the respective year. As used in this subsection, "distressed employer" means an employer whose continued presence in this state is considered essential to the state's economic well-being and who meets the following criteria:

(1) The employer's average annual Michigan payroll in the 5 previous years exceeded $500,000,000.00.

(2) The employer's average quarterly number of employees in Michigan in the 5 previous years exceeded 25,000.

(3) The employer's business income as defined in section 3 of the single business tax act, 1975 PA 228, MCL 208.3, or section 105 of the Michigan business tax act, 2007 PA 36, MCL 208.1105, as applicable, has resulted in an aggregate loss of $1,000,000,000.00 or more during the 5-year period ending in the second year prior to the year for which the application is being made.

(4) The employer has received from this state loans totaling $50,000,000.00 or more or loan guarantees from the federal government in excess of $500,000,000.00, either of which are still outstanding.

(5) Failure to give an employer designation as a distressed employer would adversely impair the employer's ability to repay the outstanding loans owed to this state or that are guaranteed by the federal government.

(d) An employer may at any time make payments to that employer's experience account in the fund in excess of the requirements of this section, but these payments, when accepted by the commission, shall be irrevocable. A payment made by an employer within 30 days after mailing to the employer by the commission of a notice of the adjusted contribution rate of the employer shall be credited to the employer's account as of the computation date for which the adjusted contribution rate was computed, and the employer's contribution rate shall be further adjusted accordingly. However, a payment made more than 120 days after the beginning of a calendar year shall not affect the employer's contribution rate for that year.

History: 1936, Ex. Sess., Act 1, Imd. Eff. Dec. 24, 1936;—Am. 1937, Act 347, Imd. Eff. Aug. 5, 1937;—Am. 1939, Act 324, Imd. Eff. June 22, 1939;—Am. 1941, Act 364, Imd. Eff. July 1, 1941;—Am. 1945, Act 335, Imd. Eff. May 29, 1945;—Am. 1946, 1st Ex. Sess., Act 26, Imd. Eff. Feb. 26, 1946;—Am. 1947, Act 360, Imd. Eff. July 8, 1947;—CL 1948, 421.19;—Am. 1951, Act 251, Imd. Eff. June 17, 1951;—Am. 1951, 1st Ex. Sess., Act 1, Imd. Eff. Aug. 23, 1951;—Am. 1954, Act 197, Imd. Eff. May 7, 1954;—Am. 1955, Act 281, Eff. July 15, 1955;—Am. 1957, Act 311, Imd. Eff. June 21, 1957;—Am. 1959, Act 270, Imd. Eff. Oct. 30, 1959;—Am. 1963, Act 226, Eff. Sept. 6, 1963;—Am. 1965, Act 281, Eff. Sept. 5, 1965;—Am. 1968, Act 338, Imd. Eff. July 19, 1968;—Am. 1970, Act 14, Imd. Eff. Apr. 14, 1970;—Am. 1971, Act 231, Imd. Eff. Jan. 3, 1972;—Am. 1974, Act 104, Eff. June 9, 1974;—Am. 1977, Act 155, Imd. Eff.

Nov. 8, 1977;—Am. 1982, Act 535, Eff. Jan. 2, 1983;—Am. 1983, Act 164, Imd. Eff. July 24, 1983;—Am. 1989, Act 237, Imd. Eff. Dec. 21, 1989;—Am. 1993, Act 311, Imd. Eff. Dec. 29, 1993;—Am. 1994, Act 162, Imd. Eff. June 17, 1994;—Am. 1995, Act 25, Eff. Mar. 28, 1996;—Am. 1995, Act 142, Eff. Mar. 28, 1996;—Am. 1996, Act 535, Imd. Eff. Jan. 13, 1997;—Am. 2002, Act 192, Imd. Eff. Apr. 26, 2002;—Am. 2007, Act 188, Imd. Eff. Dec. 21, 2007;—Am. 2011, Act 269, Imd. Eff. Dec. 19, 2011.

421.19a Solvency tax; determination; payment; deferral; appropriation; repayment; payment of amounts obtained into contingent fund; crediting amounts to employers' experience accounts; past due payments; interest and penalties; adjustments and refunds; appeals; qualification for federal interest relief provisions and federal unemployment tax credits; forgiveness or postponement of interest.

Sec. 19a. (1) Except for the first 4 consecutive years of liability, a contributing employer is subject to a solvency tax for a calendar year after 1982 if the employer's experience account has a negative balance on the June 30 preceding that calendar year, and if on the June 30 preceding that calendar year the balance in the unemployment compensation fund is less than the total amount of unrepaid interest bearing advances from the federal government to the fund under section 1201 of the social security act, 42 USC 1321, or the commission projects that interest will be due during the calendar year on federal advances and there will be insufficient solvency tax funds in the contingent fund to meet the federal interest obligations when due or there are outstanding advances from the state treasury from the previous year and any interest thereon and there will be insufficient solvency tax funds in the contingent fund to repay such advances and interest. The solvency tax rate is in addition to the employer's contribution rate and is not subject to the limiting provisions of section 19(a)(6).

(2) The solvency tax rate shall be determined as follows:

(a) If there is a balance on December 31, 2011, of unrepaid interest bearing federal advances, the solvency tax rate for the 2012 calendar year and for each calendar year thereafter shall be calculated in the manner provided in this subdivision until the balance of the interest bearing federal advances on December 31, 2011 has been reduced to zero. By February 1 of the calendar year, the commission shall calculate the sum of the estimated interest due during the calendar on federal loans, without regard to any interest deferral that is permitted under section 1202 of the social security act, 42 USC 1322, the remaining balance on December 31 of the preceding year of the December 31, 2011 balance of unrepaid interest bearing federal advances, and any amounts advanced from the state treasury under subsection (3) during the preceding year and any interest on the balance. For purposes of calculating the remaining balance, any loan repayments during the year shall first be applied toward reducing the December 31, 2011 loan balance. The amount so calculated shall be divided by the estimated total taxable payroll for the calendar year of all active employers who had negative balances in their experience accounts as of June 30 of the previous year. Total taxable payroll shall be estimated by using the total taxable payroll for those employers for the 12-month period ending June 30 of the previous calendar year and adjusting this figure for any change in the taxable wage limit for the calendar year. The quotient shall be adjusted to the next 1/10 of 1%. If this adjusted percentage is 0.8% or less, an employer's solvency tax rate for that calendar year shall be the percentage calculated. If the adjusted percentage is more than 0.8%, the employer's solvency tax rate shall be calculated in the same manner as the account building component of the employer's contribution rate as determined under section 19(a)(4), adjusted to generate sufficient aggregate solvency tax revenues to pay the interest due during the year on federal loans, to pay for the unemployment insurance automation project, to repay the remaining balance of the December 31, 2011 balance of unrepaid federal interest bearing loans, and to repay advances from the state treasury and any interest due thereon, but shall not exceed the lesser of 1/4 of the percentage calculated or 2%.

(b) For any calendar year after the first calendar year that the remaining balance of the December 31, 2011 balance of unrepaid interest bearing federal advances has been reduced to zero by December 31 of that year, an employer's solvency tax rate shall be calculated in the same manner as the account building component of the employer's contribution rate as determined under section 19(a)(4), but shall not exceed the lesser of 1/4 of the percentage calculated or 2%.

(3) Solvency taxes shall become due and payable in the manner, and at the times, specified for contributions in rules promulgated by the commission. However, if the state is permitted to defer interest payments due during a calendar year under section 1202(b)(3) or (8) of the social security act, 42 USC 1322, payment of the solvency tax may likewise be deferred by an employer and paid in installments in a manner prescribed by the commission. If a deferral of interest payment is subsequently disallowed by the United States department of labor, either prospectively or retroactively, amounts of solvency taxes deferred under this section shall become immediately due and payable. Further, if the commission estimates that the solvency taxes to be collected by September 30 of the calendar year will be insufficient to meet the interest obligations

due during that calendar year, the percentages of amounts of solvency taxes deferred in any year shall be reduced by the commission in an amount sufficient to meet the interest obligations due in that calendar year. Furthermore, if the amount of solvency taxes to be collected by the time the federal interest obligations are due in any year are insufficient to meet the obligations when due, the commission shall recommend to the legislature that it appropriate an amount sufficient to meet the interest obligations due. Any amount so appropriated and used to pay federal interest obligations, and interest due on such state appropriation, if any, shall be repaid to the state as soon as possible from the solvency tax revenues in the contingent fund.

(4) Amounts obtained pursuant to this section shall be paid into the contingent fund created under section 10 and, except for solvency taxes transferred to the unemployment compensation fund as provided in this subsection, shall not be credited to the employer's experience account. Amounts collected from solvency taxes which are transferred to the unemployment compensation fund and used to repay federal advances to the unemployment compensation fund shall be credited to the employers' experience accounts by June 30 of the year following the calendar year in which the transfer occurred. The amount to be credited to an employer's account shall be determined by the commission, but shall reasonably reflect each employer's pro rata share of the amount transferred. Past due payments of the solvency tax shall be subject to the interest, penalty, assessment, and collection provisions of section 15. Interest and penalties collected shall be paid into the contingent fund. Adjustments and refunds of erroneously collected solvency taxes shall be made in accordance with section 16. Solvency tax determinations are appealable under the appeal process provided for review and appeal of determinations under this act.

(5) If any provision of this section prevents the state from qualifying for any federal interest relief provisions provided under section 1202 of the social security act, 42 USC 1322, or prevents employers in this state from qualifying for the limitation on the reduction of federal unemployment tax act credits as provided under section 3302(f) of the federal unemployment tax act, 26 USC 3302(f), that provision is invalid to the extent necessary to maintain qualification for the interest relief provisions and federal unemployment tax credits.

(6) Notwithstanding any other provision of this section, if interest due during a calendar year on federal advances is forgiven or postponed under federal law and is no longer due during that calendar year, no solvency tax shall be assessed against an employer for that calendar year and any solvency tax already assessed and collected against an employer before the forgiveness or postponement of the interest for that calendar year shall be credited to the employer's experience account.

History: Add. 1982, Act 535, Eff. Jan. 2, 1983;—Am. 1983, Act 247, Imd. Eff. Dec. 5, 1983;—Am. 2009, Act 1, Imd. Eff. Mar. 11, 2009;—Am. 2011, Act 269, Imd. Eff. Dec. 19, 2011.

Compiler's note: In the second sentence of subsection (2)(a) "interest due during the calendar on federal loans" evidently should read "interest due during the calendar year on federal loans".

Former MCL 421.19a, pertaining to employment security provisions applicable to the state and its political subdivisions, was repealed by Act 231 of 1971.

421.20 Charging benefits against employer's account; benefits improperly paid; basis; failure of employer to provide information; separate determination of amount and duration of benefits; separating employer; limitation on charges for regular benefits; training benefits and extended benefits; notice of charges; listing; spouse as full-time member of United States armed forces.

Sec. 20. (a) Benefits paid shall be charged against the employer's account as of the quarter in which the payments are made. If the unemployment agency determines that any benefits charged against an employer's account were improperly paid, an amount equal to the charge based on those benefits shall be credited to the employer's account and a corresponding charge shall be made to the nonchargeable benefits account as of the date of the charge. If an employer or employer's agent has a pattern of failing to respond with timely or adequate information required or requested under section 32, benefits paid to a claimant as a result of the employer's or employer's agent's failure to provide timely or adequate information shall be charged to that employer's account. To demonstrate a pattern sufficient to render the benefits chargeable, the unemployment agency shall document repeated failure to provide timely or adequate responses and shall take into consideration the number of instances of failure in relation to the number of requests. The number of failures must be more than 4 and constitute 2% or more of all the requests directed to the employer during the prior calendar year. A determination that an employer's account shall be charged and that the employer's account shall not be credited for the benefit payments is appealable in the same manner as other unemployment determinations. Recovery of benefits improperly paid to the claimant under this subsection shall be as provided in section 62(a).

(b) For benefit years established on or after October 1, 2000, the claimant's full weekly benefit rate shall be

charged to the account or experience account of the claimant's most recent separating employer for each of the first 2 weeks of benefits payable to the claimant in the benefit year in accordance with the monetary determination issued pursuant to section 32. However, if the total sum of wages paid by an employer totals $200.00 or less, those wages shall be used for purposes of benefit payment, but any benefit charges attributable to those wages shall be charged to the nonchargeable benefits account. Thereafter, remaining weeks of benefits payable in the benefit year shall be paid in accordance with the monetary determination and shall be charged proportionally to all base period employers, with the charge to each base period employer being made on the basis of the ratio that total wages paid by the employer in the base period bears to total wages paid by all employers in the base period. However, if the claimant did not perform services for the most recent separating employer or employing entity and receive earnings for performing the services of at least 40 times the state minimum hourly wage times 7 during the claimant's most recent period of employment with the employer or employing entity, then all weeks of benefits payable in the benefit year shall be charged proportionally to all base period employers, with the charge to each base period employer being made on the basis of the ratio that total wages paid by the employer in the base period bears to total wages paid by all employers in the base period. If the claimant performed services for the most recent separating employing entity and received earnings for performing the services of at least 40 times the state minimum hourly wage times 7 during the claimant's most recent period of employment for the employing entity but the separating employing entity was not a liable employer, the first 2 weeks of benefits payable to the claimant shall be charged proportionally to all base period employers, with the charge to each base period employer made on the basis of the ratio that total wages paid by the employer in the base period bears to total wages paid by all employers in the base period. The "separating employer" is the employer that caused the individual to be unemployed as defined in section 48.

(c) For benefit years established before October 1, 2000, charges for regular benefits to reimbursing employers or to a contributing employer's experience account shall be as formerly provided in this subsection.

(d) For benefit years beginning on or after October 1, 2000, and except as otherwise provided in section 11(d) or (g) or section 46, the charges for regular benefits to any reimbursing employer's account or to any contributing employer's experience account shall not exceed either the amount derived by multiplying by 2 the weekly benefit rate chargeable to the employer in accordance with subsection (b) if the employer is the separating employer and is chargeable for the first 2 weeks of benefits, or the amount derived from the percentage of the weekly benefit rate chargeable to the employer in accordance with subsection (b), multiplied by the number of weeks of benefits chargeable to base period employers based on base period wages, to which the individual is entitled as provided in section 27(d), if the employer is a base period employer, or both of these amounts if the employer was both the chargeable separating employer and a base period employer.

(e) For benefit years beginning before October 1, 2000, benefits and charging for multiemployer credit weeks shall be determined as formerly provided in this subsection.

(f) For benefit years beginning on or after October 1, 2000 and before January 1, 2014, if a base period contributing employer notifies the unemployment agency that it paid gross wages to a claimant in a week at least equal to the employer's benefit charge for that claimant for the week, then the unemployment agency shall issue a monetary redetermination noncharging the account of the employer for that week and for the remaining weeks of the benefit year for benefits payable to the claimant that would otherwise be charged to the employer's account. For benefit years beginning on or after January 1, 2014, benefits payable to an individual for a week and for each remaining payable week in the benefit year shall be charged to the nonchargeable benefits account if either of the following occurs:

(1) The individual reports gross earnings in the week with a contributing base period employer at least equal to the employer's benefit charges for that individual for the week.

(2) A contributing base period employer timely protests a determination charging benefits to its account for a week in which the employer paid gross wages to an individual at least equal to the employer's charges for benefits paid to that individual for that week.

(g) For benefit years beginning before October 1, 2000, training benefits are determined as formerly provided in this subsection.

(h) For benefit years beginning on or after October 1, 2000:

(1) Training benefits as provided in section 27(g), and extended benefits as provided in section 64, shall be charged to each reimbursing employer in the base period of the claim to which the benefits are related, on the basis of the ratio that the total wages paid by a reimbursing employer during the base period bears to the total wages paid by all reimbursing employers in the base period.

(2) Training benefits, and extended benefits to the extent they are not reimbursable by the federal government and have been allocated to a reimbursing employer, shall be charged to that reimbursing

employer. A contributing employer's experience account shall not be charged with training benefits. Training benefits based on service with a contributing employer, to the extent they are not reimbursable by the federal government, shall be charged to the nonchargeable benefits account. Extended benefits paid and based on service with a contributing employer, to the extent they are not reimbursable by the federal government, shall be charged to that employer's experience account.

(3) If the training benefits or extended benefits are chargeable only to a single reimbursing employer, the benefits shall be charged in accordance with subsection (a). If the training benefits or extended benefits are chargeable to more than 1 reimbursing employer, or to 1 or more reimbursing employers and the nonchargeable benefits account, the benefits shall be charged as of the quarter in which the payments are made.

(4) Notice of charges made under this subsection shall be given to each employer by means of a current listing of charges, at least weekly, and subsequently by a quarterly summary statement of charges. The listing shall specify the name and social security number of each claimant paid benefits in the week, the weeks for which the benefits were paid, and the amount of benefits chargeable to that employer paid for each week. The quarterly summary statement of charges shall list each claimant by name and social security number and shall show total benefit payments chargeable to that employer and made to each claimant during the calendar quarter. The listing shall be considered to satisfy the requirements of sections 21(a) and 32(f) that notification be given to each employer of benefits charged against that employer's account by means of a listing of the benefit payment. All protest and appeal rights applicable to benefit payment listings shall also apply to the notice of charges. If an employer receives both a current listing of charges and a quarterly summary statement of charges under this subsection, all protest and appeal rights apply only to the first notice given.

(i) If a benefit year is established on or after October 1, 2000, the portion of benefits paid in that benefit year that are based on wages used to establish the immediately preceding benefit year that began before October 1, 2000 shall not be charged to the employer or employers who paid those wages but shall be charged instead to the nonchargeable benefits account.

(j) For benefit years beginning after March 30, 2009, benefits paid to a person who leaves employment to accompany a spouse who is a full-time member of the United States armed forces and is reassigned for military service in a different geographic location are not chargeable to the employer, but shall be charged to the nonchargeable benefits account.

History: 1936, Ex. Sess., Act 1, Imd. Eff. Dec. 24, 1936;—Am. 1939, Act 324, Imd. Eff. June 22, 1939;—Am. 1941, Act 364, Imd. Eff. July 1, 1941;—Am. 1947, Act 360, Imd. Eff. July 8, 1947;—CL 1948, 421.20;—Am. 1949, Act 282, Imd. Eff. June 11, 1949;—Am. 1951, Act 251, Imd. Eff. June 17, 1951;—Am. 1954, Act 197, Imd. Eff. May 7, 1954;—Am. 1955, Act 281, Eff. July 15, 1955;—Am. 1965, Act 281, Eff. Sept. 5, 1965;—Am. 1967, Act 254, Imd. Eff. July 19, 1967;—Am. 1968, Act 338, Imd. Eff. July 19, 1968;—Am. 1974, Act 104, Eff. June 9, 1974;—Am. 1977, Act 277, Eff. Jan. 1, 1978;—Am. 1980, Act 388, Imd. Eff. Jan. 6, 1981;—Am. 1982, Act 535, Eff. Jan. 2, 1983;—Am. 1983, Act 164, Imd. Eff. July 24, 1983;—Am. 1994, Act 162, Imd. Eff. June 17, 1994;—Am. 2002, Act 192, Imd. Eff. Apr. 26, 2002;—Am. 2003, Act 174, Imd. Eff. Aug. 14, 2003;—Am. 2008, Act 479, Imd. Eff. Jan. 12, 2009;—Am. 2009, Act 20, Imd. Eff. Apr. 13, 2009;—Am. 2011, Act 269, Imd. Eff. Dec. 19, 2011;—Am. 2013, Act 142, Imd. Eff. Oct. 29, 2013.

Compiler's note: Enacting section 1 of Act 142 of 2013 provides:

"Enacting section 1. The provisions in section 20(a) of the Michigan employment security act, 1936 (Ex Sess) PA 1, MCL 421.20, as amended by this amendatory act, governing benefits that are considered to be improperly paid because of failure to provide the unemployment agency with timely or adequate information apply to benefit payments made after October 21, 2013."

421.20a Benefits paid under protest or appeal; charge to suspense account; transfer to rating account or solvency account.

Sec. 20a. Benefits paid on or prior to June 30 of any year, under a determination, redetermination or decision which is the subject of timely protest or appeal under this act, on which final disposition has not been made by August 31 of such year, shall be charged to a suspense account within the fund as of the immediately preceding June 30 and credits issued to the appropriate employer's account as of that date. As of the date of final disposition of the protest or appeal, such benefit payments shall be transferred from the suspense account as a charge to the appropriate employer's rating account if the final disposition allows benefits, or otherwise to the solvency account as benefit overpayments.

History: Add. 1971, Act 231, Imd. Eff. Jan. 3, 1972.

421.21 Copies or listings of benefit checks charged against employer's account; copies as final determination; statement of total benefits charged against rating account; notice to employer of contribution rate; finality of statement or determination; extension; review and redetermination; appeal; hearing; adjustment of contribution.

Sec. 21. (a) The commission shall currently provide each employer with copies or listings of the benefit checks charged against that employer's account. An employer determined by the agency to be a successor

employer shall begin receiving the listings effective for weeks beginning after the mailing of the determination of successorship. The copies or listings shall show the name and social security account number of the payee, the amount paid, the date of issuance, the week of unemployment for which the check was issued, the name or account number of the chargeable employer, upon request a code designation of the place of employment by the chargeable employer, and additional information as may be deemed pertinent. The copies or listings shall constitute a determination of the charge to the employer's account. The determination shall be final unless further proceedings are taken in accordance with section 32a.

The commission shall furnish at least quarterly, to each employer, a statement summarizing the total of the benefits charged against the employer's account during the period. If the employer requests, the summary shall be broken down by places of employment.

The commission shall notify each employer, not later than 6 months after the computation date, of his rate of contributions as determined for any calendar year pursuant to section 19. The statement or determination shall be final unless further proceedings are taken in accordance with section 32a. However, on request an employer shall be given an extension of 30 days' additional time in which to apply for the review and redetermination.

(b) An employer who is not in agreement with a redetermination of the amount of insured payrolls used in computing the employer's experience account percentage, or the computation of the amount of benefits charged or contributions credited to the experience account, or the computation of the adjusted contribution rate issued under section 32a may, within 30 days after mailing of the notice of redetermination, file an appeal and request a hearing on the issue before an administrative law judge.

(c) A contribution becoming due and payable while a rate determination is under review or protest may be paid at the rate assessed by the commission for the previous year, but it shall be adjusted by the commission when the proper rate is determined. If an adjustment requires an additional payment from an employer, the additional payment shall be considered as a delinquent contribution as provided by section 15(a).

History: 1936, Ex. Sess., Act 1, Imd. Eff. Dec. 24, 1936;—Am. 1941, Act 364, Imd. Eff. July 1, 1941;—Am. 1947, Act 360, Imd. Eff. July 8, 1947;—CL 1948, 421.21;—Am. 1951, Act 251, Imd. Eff. June 17, 1951;—Am. 1954, Act 197, Imd. Eff. May 7, 1954;—Am. 1957, Act 311, Imd. Eff. June 21, 1957;—Am. 1975, Act 110, Eff. June 8, 1975;—Am. 1983, Act 164, Eff. Oct. 1, 1983;—Am. 2011, Act 269, Imd. Eff. Dec. 19, 2011.

421.21a Allocation of benefit charges and contributions attributable to service performed under CETA-PSE.

Sec. 21a. (1) Notwithstanding any other provision of this act, benefit charges and contributions attributable to services performed under the comprehensive employment and training act of 1973, as amended, 29 U.S.C. 801 to 992, in public service employment, referred to in this section as CETA-PSE services, shall be allocated in accordance with this section.

(2) If an employer's account has been charged with any unemployment benefits attributable to CETA-PSE services paid for weeks of unemployment beginning January 4, 1976, through October 2, 1976, the employer shall receive a credit to its account equal to the amount of those benefits reimbursed to the commission under the emergency jobs programs extension act of 1976 (Public Law 94-444). With respect to a reimbursing employer, the credit may only be used as a credit against the future reimbursement liability of the employer or his total or partial transferee. With respect to a contributing employer, the credit may only be used as a credit to the employer's rating account.

(3) A contributing employer shall receive a credit equal to the amount of contributions the employer paid, to the extent that the contributions were based on CETA-PSE wages paid from January 1, 1975, through October 2, 1976. The credit may only be used as a credit against the employer's future contribution liability.

(4) After October 2, 1976, an employer's account shall not be charged for benefits, based on CETA-PSE services, which are reimbursed to the commission under the emergency jobs programs extension act of 1976 (Public Law 94-444). Furthermore, a contributing employer shall not be liable for contributions on CETA-PSE wages paid after October 2, 1976. If a reimbursing employer's account has been charged for benefits or a contributing employer has made contributions based on CETA-PSE wages paid after October 2, 1976, the commission shall credit the employer's account in the same manner as provided in subsections (2) and (3).

(5) For the purposes of this section, a political subdivision of this state with its own unemployment compensation program under which unemployment benefits have been paid on the basis of CETA-PSE service in its employ, shall be entitled to cash reimbursement of those benefit costs to the extent that those benefit costs are reimbursed to the commission under the emergency jobs programs extension act of 1976 (Public Law 94-444). For purposes of obtaining the federal reimbursement, the commission shall act as agent for the political subdivision.

History: Add. 1977, Act 95, Imd. Eff. Aug. 4, 1977.

Compiler's note: Former MCL 421.21a, pertaining to seasonal employees and their rate of contribution, was repealed by Act 281 of 1965.

421.21b Seamen on American vessel on Great Lakes; benefits; seamen, definition.

Sec. 21b. A seaman employed on an American vessel operating on the Great Lakes shall be entitled to benefits under this act. An offer of employment to a seaman need not be the individual's customary occupation under conditions of employment and remuneration substantially equivalent to those under which the individual has been customarily employed in such occupation.

The term "seaman" as used in this section shall mean an individual who is employed as an officer or member of a crew on an American vessel.

History: Add. 1947, Act 360, Imd. Eff. July 8, 1947;—CL 1948, 421.21b;—Am. 1949, Act 282, Imd. Eff. June 11, 1949;—Am. 1954, Act 131, Eff. Aug. 13, 1954;—Am. 1965, Act 281, Eff. Sept. 5, 1965;—Am. 1967, Act 192, Imd. Eff. June 30, 1967.

421.22 Transfer of business.

Sec. 22. (a) If an employer subject to this act transfers any of the assets of the business by any means otherwise than in the ordinary course of trade and there is not substantially common ownership, management, or control of the transferor and the transferee, the transfer shall be deemed a "transfer of business" for the purposes of this section if the commission determines both of the following:

(1) That the transferee is an employer subject to this act on the transfer date, has become subject to this act as of the transfer date under section 41(2)(a) or elects to become subject to this act as of the transfer date under section 25.

(2) That the transferee has acquired and used the transferor's trade name or good will, or that the transferee has continued or within 12 months after the transfer resumed all or part of the business of the transferor either in the same establishment or elsewhere.

(b) Notwithstanding subsection (a), a transfer of assets to a transferee that involves less than 75% of the transferor's assets shall not be deemed a transfer of business unless all of the following occur:

(1) The commission is notified of the transfer of assets by the transferor or transferee within 30 days after the end of the quarter in which the transfer occurred.

(2) The commission receives within 30 days after its request written approval by the transferor and transferee of an experience account transfer determined in accordance with the provisions of subsection (c).

(3) In the case of a transferee who elects under section 25 to become subject as of the transfer date, the commission receives the election within 30 days after the mailing of a notice of the right to elect.

(c) (1) In the case of a transfer of business as defined in subsection (a) or (b), the commission shall assign the transferor's experience account, or a pro rata part of the account, to the transferee. The commission shall make the assignment as of the date on which the business is transferred or as of June 30 of the year in which the business was transferred, whichever date is earlier. The pro rata part of the transferor's experience account to be assigned to the transferee shall be determined on the basis of the percentage relationship to the nearest 1/2 of 1% that the insured payroll for the 4 completed calendar quarters immediately before the date of transfer properly allocable to the transferred portion of the business bears to the insured payroll for the same period allocable to the entire business of the transferor immediately before the date of the transfer.

(2) When the commission transfers an employer's experience account in whole or in part under this section, it shall also transfer a proportionate share of the amount of the total wages and wages subject to contributions under this act paid by the transferor and properly allocable to the transfer of business; and the transferred account shall be chargeable for all benefit payments based on employment in the business or portion of the business transferred.

(3) In determining whether the transferee qualifies for a contribution rate that includes a chargeable benefits component under section 19, the experience of the transferred account shall be included as part of the experience of the transferee's experience account. If on the date of the transfer the transferee qualified for a contribution rate that includes a chargeable benefits component and the transferor did not qualify because of the provisions of section 19(a)(1), the transferee shall not thereby lose the qualified status.

(d) In the case of a transfer of business as defined in subsection (a) or (b) of this section, contribution rates are determined as follows:

(1) The rates of contributions applicable to the transferor and transferee for the calendar year after the calendar year of the transfer shall be respectively determined in accordance with section 19. In case of a transfer of part of an employer's experience account under subsection (c), the rate of contributions applicable to the transferor and transferee shall not be changed for the portion of the current calendar year remaining on the transfer date. In case of a transfer of an employer's entire experience account under subsection (c), all of

the following apply:

(*i*) The transferor shall have no further interest in the experience account.

(*ii*) The transferor's coverage shall be terminated as of the effective date of the transfer under section 24(b).

(*iii*) If the transferor again becomes an employer as defined in section 41 in the same calendar year in which coverage is terminated, the transferor's contribution rate for the remainder of the calendar year shall be 2.7% as provided in section 19.

(*iv*) The rate of contributions applicable to the transferee shall not be changed for the portion of the current calendar year remaining on the transfer date.

(2) A transferee that has no rate of contributions applicable immediately before the transfer date shall, beginning with the first day of the quarter in which the transfer occurs, be assigned the same rate of contributions that applied to the transferor on the date of the transfer and a contribution rate of 2.7% for any portion of the calendar year before the first day of the quarter in which the transfer occurs.

(3) If transfers of businesses simultaneously involve 2 or more transferors and a single transferee who has no rate of contributions applicable immediately before the transfer date, the transferee shall be assigned a contribution rate beginning with the first day of the quarter in which the transfers occur based upon the experience account percentage determined by the transferred experience account balances and the total and insured payrolls properly allocable to the transferee as of the date on which the businesses were transferred, or as of June 30 of the year in which the businesses were transferred, whichever is earlier, and a contribution rate of 2.7% for any portion of the calendar year before the first day of the quarter in which the transfers occur. If none of the transferors was an employer entitled to an adjusted contribution rate, then a contribution rate of 2.7% shall apply to the transferee for the calendar year in which the transfers occur.

History: 1936, Ex. Sess., Act 1, Imd. Eff. Dec. 24, 1936;—Am. 1937, Act 347, Imd. Eff. Aug. 5, 1937;—Am. 1941, Act 364, Imd. Eff. July 1, 1941;—Am. 1943, Act 246, Imd. Eff. June 1, 1943;—Am. 1947, Act 360, Imd. Eff. July 8, 1947;—CL 1948, 421.22;—Am. 1954, Act 197, Imd. Eff. May 7, 1954;—Am. 1955, Act 281, Eff. July 15, 1955;—Am. 1957, Act 311, Imd. Eff. June 21, 1957;—Am. 1965, Act 281, Eff. Sept. 5, 1965;—Am. 1967, Act 254, Imd. Eff. July 19, 1967;—Am. 1968, Act 338, Imd. Eff. July 19, 1968;—Am. 1971, Act 231, Imd. Eff. Jan. 3, 1972;—Am. 1974, Act 104, Eff. June 9, 1974;—Am. 1977, Act 155, Imd. Eff. Nov. 8, 1977;—Am. 2005, Act 17, Eff. July 1, 2005.

421.22a Transfer of operations from another state to this state; conditions to being deemed qualified employer; withdrawing request for application of section; furnishing information to commission; wages, contributions, and benefits deemed paid in this state; accounts.

Sec. 22a. (1) Notwithstanding any other provision of this act, an employer who transfers all or a segregable part of his or her operations from another state to this state for the purposes of this section shall be deemed to be a qualified employer within the meaning of section 19(a)(1), as of the computation date applicable to the calendar year within which the transfer occurs, if that employer complies with all of the following:

(a) Pays wages subject to the federal unemployment tax act for 18 consecutive completed calendar quarters immediately preceding the computation date specified in this subsection.

(b) Within 90 days after the transfer of operations, notifies the commission of compliance with subdivision (a) and requests a contribution rate under section 19(a)(1).

(c) Certifies to the commission all information with respect to wages, contributions, and benefit charges in connection with the transferred operations and any other information which the commission determines to be necessary.

(2) The employer has 30 days after receipt of notice of determination of contribution rate computed under section 19(a)(1) within which to withdraw his or her request for application of this section.

(3) The employer shall furnish to the commission at the times the commission prescribes all information which the commission determines to be necessary with respect to those benefits paid, after the transfer and before each succeeding computation date, which were based on wages, applicable to the transferred operations, paid in the other state.

(4) Wages, contributions, and benefits resulting in rating account charges in connection with the transferred operations shall be deemed to have been paid in this state for the purpose of computing rates under section 19. The employer's rating account balance applicable to the transferred operations before the transfer date shall be debited to the nonchargeable benefits account; and benefits subsequently paid based on wages, applicable to the transferred operations, which were paid in the other state shall be charged to the employer's rating account and credited to the nonchargeable benefits account.

History: Add. 1962, Act 36, Eff. Mar. 28, 1963;—Am. 1965, Act 281, Eff. Sept. 5, 1965;—Am. 1968, Act 338, Imd. Eff. July 19, 1968;—Am. 1975, Act 110, Eff. June 8, 1975;—Am. 1983, Act 164, Eff. Oct. 1, 1983.

421.22b Transferring trade or business with intent to reduce contribution rate or

reimbursement payments.

Sec. 22b. (1) A person shall not do either of the following:

(a) Transfer the person's trade or business or a portion of the trade or business to another employer for the sole or primary purpose of reducing the contribution rate or reimbursement payments in lieu of contributions required under this act.

(b) Acquire a trade or business or a part of a trade or business for the sole or primary purpose of obtaining a lower contribution rate than would otherwise apply under this act.

(2) The following provisions apply to assignment of rates and transfer of the unemployment experience of a trade or business to prevent or remedy transfers of trade or business in violation of subsection (1):

(a) If an employer transfers its trade or business or a portion of its trade or business to another employer and there is substantially common ownership, management, or control of the 2 employers at the time of the transfer, the unemployment experience attributable to the transferred trade or business shall be transferred to the transferee employer. The agency shall recalculate the contribution rates of both employers under section 19 and apply the new rates in the same manner as for a transfer of business under section 22(c)(1) and (d)(1). However, if, after a transfer of experience under this subdivision the agency determines that the sole or primary purpose of the transfer of trade or business was to obtain reduced liability for contributions, then the experience rating accounts of the employers involved shall be combined into a single account and a single rate assigned to the account.

(b) If the unemployment insurance agency determines that a person who is not an employer under this act at the time of a transfer acquires a trade or business, or a portion of a trade or business, solely or primarily for the purpose of obtaining a lower contribution rate, the unemployment insurance agency shall assign that employer the applicable new employer rate under section 19.

(c) In addition to any sanction available under section 54(b) or 54b, if a person knowingly violates or attempts to violate subsection (1), or if a person knowingly advises another person so as to cause a violation of subsection (1), the person is subject to the following:

(*i*) If the person is a transferring or acquiring employer, the employer shall be assigned the higher of the following contribution rates:

(A) The highest contribution rate assignable under this act for the rate year during which the violation or attempted violation occurs and for the 3 rate years immediately following that rate year.

(B) If the employer's business is already at the highest rate assignable for a year in which the violation occurs or if the highest rate assignable would result in an increase of less than 2% of taxable wages, an additional penalty rate of 2% of taxable wages for that year.

(*ii*) If the person is not an employer, the person is subject to a civil fine of not more than $5,000.00.

(d) Notwithstanding the restrictions in section 26(a), the money recovered under this section as contributions, reimbursements in lieu of contributions, civil fines, civil penalties, or interest shall be credited to the unemployment compensation fund.

(e) The unemployment insurance agency shall establish procedures to identify the transfer or acquisition of a trade or business, or part of a trade or business, for purposes of this section. This subdivision does not grant authority to promulgate rules to define SUTA dumping.

(f) Beginning January 1, 2006, the unemployment insurance agency shall provide an annual written report to the chairpersons of the standing committees and the appropriations subcommittees of the house and senate having jurisdiction over legislation pertaining to unemployment compensation. The report shall include all of the following information in a form that does not identify individual employers:

(*i*) The procedures the agency has adopted to prevent SUTA dumping.

(*ii*) The number of SUTA dumping investigations opened during the year.

(*iii*) The average length of time to resolve a SUTA dumping investigation and the number of investigations pending for more than 6 months and for more than 1 year.

(*iv*) The number of cases brought before an administrative law judge or the board of review and the agency's success rate in those cases.

(*v*) The amount of money recovered as a result of implementing the provisions of this section.

(*vi*) The amount of the balance or deficit in the unemployment compensation fund.

(*vii*) The estimated fiscal impact of SUTA dumping on the unemployment compensation fund balance and the factual basis for the estimate.

(*viii*) The number of full-time employees assigned to, and the number of employee hours devoted to, SUTA dumping prevention, investigation, and remediation.

(*ix*) The number of SUTA dumping investigations that involved the transfer of employees to or from an employee leasing company.

(*x*) The number of investigations in which an employee leasing company was found to have participated in SUTA dumping.

(*xi*) The number of employee leasing companies operating in Michigan.

(3) For purposes of this section, the unemployment insurance agency shall determine whether a transfer is made for the sole or primary purpose of obtaining a lower contribution rate using objective factors, such as the cost of acquiring the business, continuity in operating the business enterprise of the acquired business, the length of time the business enterprise continues to operate, and the number of new employees hired to perform duties unrelated to the business activity or trade conducted before the acquisition.

(4) Notwithstanding any other provision of this act, the following provisions apply to changes in status between reimbursing employer and contributing employer:

(a) If a contributing employer, including an employer described in section 13*l* that elected to be a contributing employer, elects to become a reimbursing employer, any negative balance the employer incurred while a contributing employer must be paid to the agency before the employer may become a reimbursing employer.

(b) Any benefit charges incurred as a result of services performed for a contributing employer that are charged to the employer's account after it has become a reimbursing employer shall be transferred to the employer's reimbursing account and paid by means of reimbursement to the agency.

(c) If a reimbursing employer or an employer described in section 13*l* of this act applies to become a contributing employer and the agency permits the reimbursing employer to become a contributing employer, or if the agency converts a reimbursing employer to a contributing employer, then the employer shall continue to pay the agency as reimbursement payments those benefit charges that were incurred based on wages paid while the employer was a reimbursing employer, and benefit charges incurred based on wages paid after the reimbursing employer became a contributing employer shall be used to calculate the employer's contribution rate.

(5) As used in this section:

(a) "Knowingly" means having actual knowledge of, or acting with deliberate ignorance or reckless disregard for, the prohibition involved.

(b) "Person" means that term as defined in section 7701 of the internal revenue code of 1986, 26 USC 7701.

(c) "SUTA" means state unemployment tax act.

(d) "SUTA dumping" means transferring a trade or business, or a part of a trade or business, solely or primarily for the purpose of reducing the contribution rate or reimbursement payments in lieu of contributions required under this act.

(e) "Trade or business" includes the employer's employees, but the transfer of some or all of an employer's employees to another employer shall be considered a transfer of trade or business for purposes of this section if, as a result of the transfer, the transferring employer no longer performs trade or business with respect to the transferred employees and that trade or business is performed by the transferee employer.

(6) This section is intended to be interpreted and applied in a manner so as to meet the minimum requirements of the SUTA dumping prevention act of 2004, Public Law 108-295, and implementing federal regulations.

History: Add. 2005, Act 18, Eff. July 1, 2005.

421.23 Coverage of employer; period.

Sec. 23. Except as otherwise provided in sections 24 and 25, any employing unit which becomes an employer subject to this act within any calendar year shall be subject to this act during the whole of such calendar year.

History: 1936, Ex. Sess., Act 1, Imd. Eff. Dec. 24, 1936;—Am. 1939, Act 324, Imd. Eff. June 22, 1939;—Am. 1941, Act 364, Imd. Eff. July 1, 1941;—CL 1948, 421.23;—Am. 1951, Act 251, Imd. Eff. June 17, 1951.

421.24 Cessation of employing unit as employer subject to act; termination of coverage; rescission of determination.

Sec. 24. Except as otherwise provided in section 25, an employing unit shall cease to be an employer subject to this act as provided in this section:

(a) If an employing unit that became liable under section 41 makes written application for termination of its coverage under this act, the commission shall issue a determination granting or denying the application. The commission shall grant the application terminating coverage effective as of the last day of the calendar quarter in which the application was received by the commission if it finds that the employing unit did not meet the applicable requirements of an employer specified in section 41 during the preceding calendar year

and during the current calendar year, up to the last day of the calendar quarter in which the application was received. If the employing unit requesting termination became an employer under section 41(2) in the preceding calendar year, then the individuals in the employ of any predecessor or predecessors in a chain of successorship shall be considered as if they were employees of the requesting employing unit for the purpose of determining the number of weeks during which 1 or more individuals performed services in employment and in determining total remuneration for employment during the preceding calendar year. If an employing unit liable solely under section 41(7) makes written application for termination of its coverage under this act, the commission shall grant the application terminating coverage effective as of the last day of the calendar quarter in which the application was received by the commission if it finds that the employing unit ceased to have employment in Michigan during the calendar year preceding the receipt of the application for termination and had no employment in Michigan during the current calendar year, up to the last day of the calendar quarter in which the application was received. An employer whose application for termination of coverage is denied may request a redetermination in accordance with section 32a.

(b) The commission shall terminate the coverage of an employing unit as of the effective date on which the employing unit's entire rating account is transferred to another employer under section 22.

(c)(1) The commission may issue a determination terminating the coverage of an employing unit as of January 1 of a calendar year if it finds that the employing unit ceased to exist during the preceding calendar year or met the requirements for termination as specified in subdivision (a). The determination shall be mailed by first-class mail to the last known address of the employing unit involved.

(2) The commission may terminate the coverage of an employing unit as of January 1 of a previous calendar year with respect to which it makes the foregoing findings, if the employing unit has not been previously determined to have been an employer with respect to that specific year.

(3) The commission shall rescind its determination terminating the coverage of an employing unit under this subsection if it has received written objection to the determination from the employing unit within 30 days after the date of mailing by the commission.

History: 1936, Ex. Sess., Act 1, Imd. Eff. Dec. 24, 1936;—Am. 1937, Act 347, Imd. Eff. Aug. 5, 1937;—Am. 1941, Act 364, Imd. Eff. July 1, 1941;—CL 1948, 421.24;—Am. 1949, Act 282, Imd. Eff. June 11, 1949;—Am. 1951, Act 251, Imd. Eff. June 17, 1951;—Am. 1954, Act 197, Imd. Eff. May 7, 1954;—Am. 1957, Act 311, Imd. Eff. June 21, 1957;—Am. 1967, Act 254, Imd. Eff. July 19, 1967;—Am. 1968, Act 338, Imd. Eff. July 19, 1968;—Am. 1975, Act 110, Eff. June 8, 1975;—Am. 1977, Act 277, Eff. Jan. 1, 1978;—Am. 1983, Act 164, Eff. Oct. 1, 1983;—Am. 1996, Act 498, Imd. Eff. Jan. 9, 1997.

421.25 Election that services be deemed employment subject to act; request for termination of coverage; termination of election.

Sec. 25. (1) An employing unit for which services are performed that do not constitute employment as defined in this act may file with the commission a written election that all such services performed by individuals in its employ in 1 or more distinct establishments or places of business shall be deemed to constitute employment for the purposes of this act for not less than 2 calendar years. Upon the written approval of an election by the commission, the services shall be deemed to constitute employment subject to this act beginning with the calendar quarter in which the application is received by the commission. The services shall cease to be deemed employment subject hereto as of the last day of any calendar quarter subsequent to such 2 calendar years, if, during the calendar quarter the employing unit has filed with the commission a written request for termination of coverage.

(2) An employing unit for which services that constitute employment are performed, not otherwise subject to this act, which files with the commission its written election to become an employer subject hereto for not less than 2 calendar years, shall, with the written approval of that election by the commission, become an employer subject hereto to the same extent as all other employers, beginning with the calendar quarter in which the application is received by the commission, and shall cease to be subject hereto as of the last day of any calendar quarter subsequent to such 2 calendar years, if, during that calendar quarter, it has filed with the commission a written request for termination of coverage.

(3) The commission may at any time terminate an election by giving written notification to the employing unit involved.

History: 1936, Ex. Sess., Act 1, Imd. Eff. Dec. 24, 1936;—Am. 1937, Act 347, Imd. Eff. Aug. 5, 1937;—Am. 1941, Act 364, Imd. Eff. July 1, 1941;—CL 1948, 421.25;—Am. 1954, Act 197, Imd. Eff. May 7, 1954;—Am. 1955, Act 281, Eff. July 15, 1955;—Am. 1971, Act 231, Imd. Eff. Jan. 3, 1972;—Am. 1974, Act 104, Eff. Jan. 1, 1975.

421.26 Unemployment compensation fund.

Sec. 26. (a) There is established as a special fund, separate and apart from all public money or funds of this state, an unemployment compensation fund, herein referred to as the fund, which shall be administered by the

commission exclusively for the purposes of this act. The fund shall consist of (1) all contributions and payments in lieu of contributions collected under the provisions of this act as well as reimbursement payments by the federal government for its portion of sharable extended benefits; (2) interest earned upon any moneys in the fund; (3) any property or securities acquired through the use of money belonging to the fund; (4) all earnings of such property or securities; (5) amounts transferred from the contingent fund pursuant to section 10; (6) all money collected, including fines, civil penalties, and interest, under section 22b; (7) amounts credited to the fund under section 54; and (8) any other money received by the commission for unemployment compensation, except interest, penalties, and damages collected under other provisions of this act. All money in the fund shall be mingled and undivided.

(b) The commission shall designate a treasurer and custodian of the fund who shall administer the fund in accordance with the directions of the commission and shall issue his or her vouchers upon it in accordance with the regulations as the commission prescribes. The treasurer shall maintain within the fund 3 separate accounts: (1) a clearing account, (2) an unemployment trust fund account, and (3) a benefit account. All money payable to the fund, upon receipt by the commission, shall be forwarded to the treasurer who shall immediately deposit it in the clearing account. Refunds payable pursuant to section 16 may be paid from the clearing account upon vouchers issued by the treasurer under the direction of the commission. After clearance of the vouchers, all other money in the clearing account, except amounts needed for refunds and judgments, shall be immediately deposited with the secretary of the treasury of the United States of America to the credit of the account of this state in the unemployment trust fund, established and maintained pursuant to section 904 of the social security act, 42 USC 1104. The benefit account shall consist of all money requisitioned from this state's account in the unemployment trust fund. Except as otherwise provided in this act, money in the clearing and benefit accounts may be deposited by the treasurer, under the direction of the commission, in any depository designated by the commission.

(c)(1) Except as provided in paragraph (2) of this subsection, money shall be requisitioned from this state's account in the unemployment trust fund solely for the payment of benefits and in accordance with regulations prescribed by the commission. The commission shall from time to time requisition from the unemployment trust fund such amounts, not exceeding the amounts standing to its account in that fund, as it deems necessary for the payment of benefits for a reasonable future period. Upon receipt, the treasurer shall deposit the requisitioned money in the benefit account and shall issue his or her vouchers for the payment of benefits solely from the benefit account. All vouchers issued by the treasurer for the payment of benefits and refunds shall bear the signature of the treasurer and the counter-signature of a member of the commission or its duly authorized agent for that purpose. Any balance of money requisitioned from the unemployment trust fund which remains unclaimed or unpaid in the benefit account after the expiration of the period for which the sums were requisitioned shall either be deducted from estimates for, and may be utilized for the payment of, benefits during succeeding periods, or, in the discretion of the commission, shall be redeposited with the secretary of the treasury of the United States of America, to the credit of this state's account in the unemployment trust fund, as provided in subsection (b).

(2) The commission may requisition from this state's account in the unemployment trust fund such amounts, or portions thereof, as have been specifically appropriated by the legislature for the administration of this act in accordance with the provisions of section 903(c)(2) of the federal social security act, 42 USC 1103(c)(2). Upon receipt, the treasurer shall deposit that money in the administration fund, but it shall remain a part of the unemployment compensation fund until expended.

(d) The provisions of subsections (a), (b), and (c), to the extent that they relate to the unemployment trust fund, shall be operative only while the unemployment trust fund continues to exist and until the secretary of the treasury of the United States of America continues to maintain for this state a separate account of all funds deposited in it by this state for benefit purposes, together with this state's proportionate share of the earnings of the unemployment trust fund, from which no other state is permitted to make withdrawals. If the unemployment trust fund ceases to exist, or the separate account is no longer maintained, all money, properties, or securities therein, belonging to the unemployment compensation fund of this state, shall be transferred to the treasurer of the unemployment compensation fund, who shall hold, invest, transfer, sell, deposit, and release the money, properties, or securities in a manner approved by the commission, in bonds or other interest bearing obligations of the United States of America or of this state. The investments shall be so made that all the assets of the fund are readily convertible into cash when needed for the payment of benefits. The treasurer shall dispose of securities or other properties belonging to the unemployment compensation fund only under the direction of the commission.

(e) The unemployment compensation fund shall be audited by the auditor general at the times requested by the state administrative board.

(f) The commission may designate an assistant treasurer who, in the absence of the treasurer and custodian

as designated by the commission under the authority conferred upon it under subsection (b), may perform the duties conferred upon the treasurer and custodian under this act.

(g) The commission may enter into agreements that are necessary to secure any advance or grant of funds by the secretary of the treasury of the United States in accordance with the authority extended under section 1201 of the social security act, 42 USC 1321, or under any other act of congress extending that authority.

Any amount transferred to the unemployment trust fund by the secretary of the treasury of the United States under the terms of any agreement entered into in accordance with the authority extended in this subsection shall be repaid to the secretary of the treasury of the United States for the unemployment trust fund.

Whenever all interest bearing advances from the federal government have been repaid, if employers will be able to avoid, under the provisions of section 3302(g) of the federal unemployment tax act, 26 USC 3302(g), direct payment of the additional federal unemployment tax imposed under section 3302(c)(2) of the federal unemployment tax act, 26 USC 3302(c)(2), funds sufficient to qualify for avoidance shall be transferred from the account of this state in the federal unemployment trust fund to the federal unemployment account in that trust fund, unless precluded by federal law.

Any interest required to be paid on advances under title XII of the social security act, 42 USC 1321 to 1324, shall be paid in a timely manner and shall not be paid, directly or indirectly by an equivalent reduction in contributions or payments in lieu of contributions, from amounts in this state's account in the federal unemployment trust fund.

History: 1936, Ex. Sess., Act 1, Imd. Eff. Dec. 24, 1936;—Am. 1939, Act 324, Imd. Eff. June 22, 1939;—Am. 1947, Act 360, Imd. Eff. July 8, 1947;—CL 1948, 421.26;—Am. 1951, Act 251, Imd. Eff. June 17, 1951;—Am. 1957, Act 311, Imd. Eff. June 21, 1957;—Am. 1971, Act 231, Imd. Eff. Jan. 3, 1972;—Am. 1982, Act 535, Eff. Jan. 2, 1983;—Am. 1984, Act 172, Imd. Eff. June 29, 1984;—Am. 2005, Act 16, Eff. July 1, 2005;—Am. 2013, Act 145, Imd. Eff. Oct. 29, 2013.

421.26a Issuance of notes, bonds, financial instruments, or other evidences of indebtedness; use of proceeds; payment of unemployment obligation assessment; rate; collection; additional special subaccounts; agreements; definitions.

Sec. 26a. (1) The director of the department of licensing and regulatory affairs may request the Michigan finance authority to issue notes, bonds, financial instruments, or other evidences of indebtedness, the proceeds of which may be used for any of the following purposes:

(a) To finance, refinance, refund, or advance refund any payment required or obligation arising under this section or under 42 USC 1321 and 1322.

(b) To repay amounts owed or to be owed to the United States treasury resulting from advances made to this state by the federal government under federal law, including 42 USC 1321, together with interest on those advances.

(c) To reimburse funds advanced or loaned under either of the following circumstances:

(*i*) By this state to the unemployment trust fund and used to make any payment required or obligation described in this section or 42 USC 1321.

(*ii*) By the unemployment trust fund to the obligation trust fund and used to pay obligations of the Michigan finance authority.

(d) To fund unemployment compensation benefits and this state's account within the federal government unemployment trust fund, including balances in that account.

(e) To fund capitalized interest; debt service reserve funds; and payment of costs of, and administrative expenses in connection with, issuing obligations.

(2) In 2011 and in each year thereafter in which any obligation is outstanding, an employer is subject to, shall be assessed, and shall pay an unemployment obligation assessment, which shall be collected quarterly and shall be deposited to the credit of the obligation trust fund. The obligation assessment is in addition to the employer's required contributions, is not subject to the limiting provisions for contributions required under this act, and is in addition to and separate from the solvency tax imposed under section 19a.

(3) The unemployment obligation assessment rate shall be determined by the state treasurer after consultation with the director of the department of licensing and regulatory affairs and shall be an amount sufficient to ensure timely payment of all of the following:

(a) Principal, interest, and any redemption premium on the obligations.

(b) Administrative expenses, credit enhancement and termination fees, and other fees, if any, in connection with issuing the obligations.

(c) All other amounts required to be maintained and paid under the terms of a resolution, indenture, or authorizing statute under which the obligation is issued.

(d) Amounts necessary to maintain the ratings on the obligations that are assigned by a nationally

recognized rating service at a level determined by the state treasurer, in his or her sole discretion.

(4) The obligation assessment rate may take into account the employer's experience rating from the previous year. Notwithstanding the exclusion from employment under section 43(a)(*ii*) of services performed for the employer, wages paid for performing those services shall be used to calculate the employer's obligation assessment rate and obligation assessment under this section. The obligation assessment rate shall be applied against the taxable wage limit described in section 44, and shall be assessed against all contributing employers.

(5) The obligation assessment is due at the same time, collected in the same manner, and subject to the same penalties and interest as contributions assessed under this act.

(6) The proceeds of obligation assessments received each year are irrevocably pledged and dedicated to the payment of obligations and administrative expenses on those expenses and are subject to the pledge and lien made to the extent and as described in the resolution, indenture, or the authorizing statute under which the obligation is issued.

(7) The director of the department of licensing and regulatory affairs shall administer and cause the obligation assessments to be collected.

(8) The director of the department of licensing and regulatory affairs may request the state treasurer to establish additional special subaccounts within the obligation trust fund for the purpose of identifying more precisely the sources of payments into and disbursements from the obligation trust fund, or as may be required under the resolution or indenture authorizing the obligations.

(9) The director of the department of licensing and regulatory affairs or his or her designee may enter into agreements with the issuer of the obligations or a third party as is necessary to issue the obligations. Nothing in this act or any provision of any document authorized under this section creates or constitutes state indebtedness.

(10) As used in this section and section 10a:

(a) "Michigan finance authority" means the authority created under Executive Order No. 2010-2, MCL 12.194.

(b) "Obligation" means a note, bond, financial instrument or other evidence of indebtedness issued as provided in this section.

(c) "Unemployment obligation assessment" means an assessment on an employer under this section.

(d) "Obligation trust fund" means the fund created in section 10a.

History: Add. 2011, Act 268, Imd. Eff. Dec. 19, 2011;—Am. 2014, Act 241, Eff. Aug. 26, 2014.

Compiler's note: Former MCL 421.26a, which provided for assistant treasurer, specified his powers, and authorized borrowing of federal funds, was repealed by Act 251 of 1951, Imd. Eff. June 17, 1951.

421.26b Repealed. 1951, Act 251, Imd. Eff. June 17, 1951.

Compiler's note: The repealed section provided for assistant treasurer, specified his powers, and authorized borrowing of federal funds.

421.27 Payment of benefits.

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

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

(b)(1) Subject to subsection (f), the weekly benefit rate for an individual, with respect to benefit years beginning before October 1, 2000, is 67% of the individual's average after tax weekly wage, except that the individual's maximum weekly benefit rate must not exceed $300.00. However, with respect to benefit years beginning on or after October 1, 2000, the individual's weekly benefit rate is 4.1% of the individual's wages paid in the calendar quarter of the base period in which the individual was paid the highest total wages, plus $6.00 for each dependent as defined in subdivision (4), up to a maximum of 5 dependents, claimed by the individual at the time the individual files a new claim for benefits, except that the individual's maximum weekly benefit rate must not exceed $300.00 before April 26, 2002 and $362.00 for claims filed on and after April 26, 2002. The weekly benefit rate for an individual claiming benefits on and after April 26, 2002 must be recalculated subject to the $362.00 maximum weekly benefit rate. The unemployment agency shall

establish the procedures necessary to verify the number of dependents claimed. If a person fraudulently claims a dependent, that person is subject to the penalties set forth in sections 54 and 54c. For benefit years beginning on or after October 2, 1983, the weekly benefit rate must be adjusted to the next lower multiple of $1.00.

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

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

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

(b) The husband or wife of the individual.

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

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

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

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

(b) The husband or wife of the individual.

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

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

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

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

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

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

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

(2) The weekly benefit rate is reduced with respect to each week in which the eligible individual earns or

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

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

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

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

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

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

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

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

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

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

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

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

(b) If and to the extent that unemployment benefits payable under this act would be chargeable to an employer who has contributed to the financing of a retirement plan under which the claimant is receiving or will receive a retirement benefit yielding a pro rata weekly amount less than the claimant's weekly benefit rate

as otherwise established under this act, then the weekly benefit rate otherwise payable to the claimant and chargeable to the employer under this act is reduced by an amount equal to the pro rata weekly amount, adjusted to the next lower multiple of $1.00, which the claimant is receiving or will receive as a retirement benefit.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

eligible to receive unemployment benefits.

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

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

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

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

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

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

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

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

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

(5) Benefits based upon services in other than an instructional, research, or principal administrative capacity for an institution of higher education are not denied for any week of unemployment commencing during the period between 2 successive academic years or terms solely because the individual had performed

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

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

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

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

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

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

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

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

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

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

(2) Notwithstanding section 30, the unemployment agency shall deduct and withhold from any unemployment compensation payable to an individual who owes child support obligations by using

whichever of the following methods results in the greatest amount:

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

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

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

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

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

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

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

(7) As used in this subsection:

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

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

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

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

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

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

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

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

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

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

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

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

(9) As used in this subsection:

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

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

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

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

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

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

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

History: 1936, Ex. Sess., Act 1, Imd. Eff. Dec. 24, 1936;—Am. 1937, Act 347, Imd. Eff. Aug. 5, 1937;—Am. 1939, Act 324, Imd. Eff. June 22, 1939;—Am. 1941, Act 364, Imd. Eff. July 1, 1941;—Am. 1942, 2nd Ex. Sess., Act 18, Imd. Eff. Feb. 27, 1942;—Am. 1943, Act 246, Imd. Eff. June 1, 1943;—Am. 1945, Act 335, Imd. Eff. May 29, 1945;—Am. 1947, Act 360, Imd. Eff. July 8, 1947;—CL 1948, 421.27;—Am. 1949, Act 282, Imd. Eff. June 11, 1949;—Am. 1951, Act 251, Imd. Eff. June 17, 1951;—Am. 1954, Act 197, Imd. Eff. May 7, 1954;—Am. 1954, Ex. Sess., Act 1, Imd. Eff. Aug. 20, 1954;—Am. 1955, Act 281, Eff. July 15, 1955;—Am. 1957, Act 311, Imd. Eff. June 21, 1957;—Am. 1962, Act 196, Eff. Mar. 28, 1963;—Am. 1963, Act 226, Eff. Sept. 6, 1963;—Am. 1965, Act 281, Eff.

Sept. 5, 1965;—Am. 1966, Act 226, Imd. Eff. July 11, 1966;—Am. 1967, Act 254, Imd. Eff. July 19, 1967;—Am. 1968, Act 338, Imd. Eff. July 19, 1968;—Am. 1970, Act 14, Imd. Eff. Apr. 14, 1970;—Am. 1970, Act 128, Imd. Eff. July 27, 1970;—Am. 1971, Act 231, Imd. Eff. Jan. 3, 1972;—Am. 1974, Act 11, Imd. Eff. Feb. 15, 1974;—Am. 1974, Act 104, Eff. June 9, 1974;—Am. 1975, Act 42, Imd. Eff. May 12, 1975;—Am. 1975, Act 110, Eff. June 8, 1975;—Am. 1977, Act 277, Eff. Jan. 1, 1978;—Am. 1980, Act 231, Imd. Eff. July 20, 1980;—Am. 1980, Act 358, Eff. Mar. 1, 1981;—Am. 1982, Act 247, Imd. Eff. Sept. 23, 1982;—Am. 1982, Act 535, Eff. Jan. 2, 1983 ;—Am. 1983, Act 219, Imd. Eff. Nov. 16, 1983;—Am. 1984, Act 172, Imd. Eff. June 29, 1984;—Am. 1993, Act 281, Imd. Eff. Dec. 28, 1993;—Am. 1993, Act 311, Imd. Eff. Dec. 29, 1993;—Am. 1994, Act 162, Imd. Eff. June 17, 1994;—Am. 1995, Act 25, Eff. Mar. 28, 1996;—Am. 1995, Act 181, Eff. Mar. 28, 1996;—Am. 2002, Act 192, Imd. Eff. Apr. 26, 2002;—Am. 2010, Act 322, Imd. Eff. Dec. 21, 2010;—Am. 2011, Act 14, Imd. Eff. Mar. 29, 2011;—Am. 2011, Act 216, Imd. Eff. Nov. 10, 2011;—Am. 2011, Act 269, Imd. Eff. Dec. 19, 2011;—Am. 2012, Act 496, Imd. Eff. Dec. 28, 2012;—Am. 2016, Act 522, Eff. Apr. 9, 2017.

421.27a Payment of benefits for certain periods of unemployment; amount; conditions; eligibility; limitation.

Sec. 27a. When an individual has had a period of unemployment: (i) for which he has been paid benefits for 1 or more weeks or has received credit for a waiting week, (ii) which commenced with a layoff by an employing unit that continued with such employing unit for more than 3 weeks, and (iii) which has been terminated by his accepting and engaging in full-time work with any employing unit within the 13 weeks immediately following his last week of employment with such employing unit, such individual shall be paid, for the most recent week in such period for which benefits are payable or were paid to him or for which he was entitled to credit for a waiting week, an amount equal to his applicable weekly benefit rate in addition to any benefits otherwise payable or paid to him for such week. An individual shall be deemed to be engaged in full-time work for an employing unit if he has earned with such employing unit within any period of 7 consecutive days commencing within such 13-week period an amount equal to his currently applicable weekly benefit rate. Benefits shall be payable under this section only to those individuals who had been paid benefits for 1 or more weeks or had received credit for a waiting week in a benefit year which had not expired prior to February 10, 1974, and only for 1 week in an individual's benefit year and only to the extent that the individual is otherwise entitled to benefits under section 27(d). To be eligible for benefits under this section, an individual shall file therefor within 13 calendar weeks after the end of the week for which benefits are payable in accordance with this section, or within 13 weeks after the week this section become effective, whichever is later. No benefits payable in accordance with this section shall be paid for any week of unemployment beginning on or after February 2, 1975.

History: Add. 1974, Act 104, Eff. June 9, 1974.

Compiler's note: In the next to last sentence, "section become effective" evidently should read "section becomes effective".

421.27b Deducting and withholding income tax from unemployment benefits.

Sec. 27b. (1) Beginning January 1, 1997, an individual filing a claim for unemployment benefits that establishes a new benefit year shall, at the time of filing the claim, be advised of all of the following:

(a) That unemployment benefits are subject to federal and state income tax.

(b) That some taxpayers are required to make estimated tax payments.

(c) That the individual may elect to have both of the following deducted and withheld from his or her unemployment compensation payments:

(*i*) Federal income tax in the amount specified under subchapter A of chapter 24 of subtitle C of the internal revenue code of 1986, 26 U.S.C. 3401 to 3406.

(*ii*) Effective with new claims filed on or after January 1, 1998, state income tax as provided in section 351 of the income tax act of 1967, Act No. 281 of the Public Acts of 1967, being section 206.351 of the Michigan Compiled Laws.

(d) That the individual is permitted to change a previously elected withholding status only once in the individual's benefit year.

(2) If an individual makes an election to have money deducted and withheld from his or her unemployment compensation payments under subsection (1)(c), the commission shall, in accordance with section 351 of Act No. 281 of the Public Acts of 1967, withhold a tax in the same manner that an employer is required under the internal revenue code of 1986 to withhold a tax on the compensation of an individual. For a new claim filed after January 1, 1998, an election by an individual to have income tax withheld from unemployment compensation payments applies to both federal and state income tax. An individual may not elect to have only federal or only state income tax withheld for a new claim filed after January 1, 1998.

(3) Amounts deducted and withheld from unemployment benefits shall remain in the unemployment insurance trust fund until transferred to the internal revenue service of the United States department of treasury, or to the state department of treasury, as appropriate, as a payment of income tax.

(4) The commission shall follow all procedures specified by the United States department of labor, the

internal revenue service of the United States department of treasury, and the Michigan department of treasury pertaining to the deducting and withholding of income tax.

(5) Amounts shall be deducted and withheld under this section only after a claimant's weekly benefit rate is reduced based on the pension reduction and earnings offset requirements of section 27, and only after a claimant's benefit payment is adjusted by amounts withheld from it by the commission to satisfy the legal obligations of restitution under section 62(a), fraud penalties under sections 54 and 54a to 54c, child support obligations under section 27, and necessaries under section 30.

(6) This section also applies to the first time a claimant files a claim in an existing benefit year on or after January 1, 1997.

History: Add. 1996, Act 577, Imd. Eff. Jan. 17, 1997.

421.27c Noncharging employer account; monetary redetermination; conditions.

Sec 27c. Notwithstanding any other provision of this act, for benefit years beginning on or after October 1, 2000 and before January 1, 2014, if a base period contributing employer notifies the agency that it paid gross wages to a claimant in a week at least equal to the employer's benefit charge for that claimant for the week, then the agency shall issue a monetary redetermination noncharging the account of that employer for that week and for the remaining weeks of the benefit year for benefits payable to that claimant that would otherwise be charged to the employer's account. For benefit years beginning on or after January 1, 2014, benefits payable to an individual for a week and for each remaining payable week in the benefit year shall be charged to the nonchargeable benefits account if either of the following occurs:

(a) The individual reports gross earnings in the week with a contributing base period employer at least equal to the employer's benefit charges for that individual for the week.

(b) A contributing base period employer timely protests a determination charging benefits to its account for a week in which the employer paid gross wages to the individual at least equal to the employer's charges for benefits paid to that individual for that week.

History: Add. 2011, Act 281, Imd. Eff. Dec. 20, 2011.

421.27n Repealed. 1965, Act 281, Eff. Sept. 5, 1965.

Compiler's note: The repealed section provided for offset of amounts collected under workmen's compensation act.

421.28 Eligibility to receive benefits; conditions.

Sec. 28. (1) An unemployed individual is eligible to receive benefits with respect to any week only if the unemployment agency finds all of the following:

(a) For benefit years established before October 1, 2000, the individual has registered for work at and thereafter has continued to report at an employment office in accordance with unemployment agency rules and is seeking work. The requirements that the individual must report at an employment office, must register for work, must be available to perform suitable full-time work, and must seek work may be waived by the unemployment agency if the individual is laid off and the employer who laid the individual off notifies the unemployment agency in writing or by computerized data exchange that the layoff is temporary and that work is expected to be available for the individual within a declared number of days, not to exceed 45 calendar days following the last day the individual worked. This waiver shall not be effective unless the notification from the employer has been received by the unemployment agency before the individual has completed his or her first compensable week following layoff. If the individual is not recalled within the specified period, the waiver shall cease to be operative with respect to that layoff. Except for a period of disqualification, the requirement that the individual shall seek work may be waived by the unemployment agency where it finds that suitable work is unavailable both in the locality where the individual resides and in those localities in which the individual has earned base period credit weeks. This waiver shall not apply, for weeks of unemployment beginning on or after March 1, 1981, to a claimant enrolled and attending classes as a full-time student. An individual has satisfied the requirement of personal reporting at an employment office, as applied to a week in a period during which the requirements of registration and seeking work have been waived by the unemployment agency pursuant to this subdivision, if the individual has satisfied the personal reporting requirement with respect to a preceding week in that period and the individual has reported with respect to the week by mail in accordance with the rules promulgated by the unemployment agency. For benefit years established on or after October 1, 2000, the individual has registered for work and has continued to report in accordance with unemployment agency rules and is actively engaged in seeking work. The requirements that the individual must report, must register for work, must be available to perform suitable full-time work, and must seek work may be waived by the unemployment agency if the individual is laid off and the employer who laid the individual off notifies the unemployment agency in writing or by computerized data exchange

that the layoff is temporary and that work is expected to be available for the individual within a declared number of days, not to exceed 45 calendar days following the last day the individual worked. This waiver shall not be effective unless the notification from the employer has been received by the unemployment agency before the individual has completed his or her first compensable week following layoff. If the individual is not recalled within the specified period, the waiver shall cease to be operative with respect to that layoff. Except for a period of disqualification, the requirement that the individual shall seek work may be waived by the unemployment agency if it finds that suitable work is unavailable both in the locality where the individual resides and in those localities in which the individual has earned wages during or after the base period. This waiver does not apply to a claimant enrolled and attending classes as a full-time student. An individual is considered to have satisfied the requirement of personal reporting at an employment office, as applied to a week in a period during which the requirements of registration and seeking work have been waived by the unemployment agency pursuant to this subdivision, if the individual has satisfied the personal reporting requirement with respect to a preceding week in that period and the individual has reported with respect to the week by mail in accordance with the rules promulgated by the unemployment agency.

(b) The individual has made a claim for benefits in accordance with section 32 and has provided the unemployment agency with his or her social security number.

(c) The individual is able and available to appear at a location of the unemployment agency's choosing for evaluation of eligibility for benefits, if required, and to perform suitable full-time work of a character which the individual is qualified to perform by past experience or training, which is of a character generally similar to work for which the individual has previously received wages, and for which the individual is available, full time, either at a locality at which the individual earned wages for insured work during his or her base period or at a locality where it is found by the unemployment agency that such work is available. An individual is considered unavailable for work under any of the following circumstances:

(*i*) The individual fails during a benefit year to notify or update a chargeable employer with telephone, electronic mail, or other information sufficient to allow the employer to contact the individual about available work.

(*ii*) The individual fails, without good cause, to respond to the unemployment agency within 14 calendar days of the later of the mailing of a notice to the address of record requiring the individual to contact the unemployment agency or of the leaving of a telephone message requesting a return call and providing a return name and telephone number on an automated answering device or with an individual answering the telephone number of record.

(*iii*) Unless the claimant shows good cause for failure to respond, mail sent to the individual's address of record is returned as undeliverable and the telephone number of record has been disconnected or changed or is otherwise no longer associated with the individual.

(d) In the event of the death of an individual's immediate family member, the eligibility requirements of availability and reporting shall be waived for the day of the death and for 4 consecutive calendar days thereafter. As used in this subdivision, "immediate family member" means a spouse, child, stepchild, adopted child, grandchild, parent, grandparent, brother, or sister of the individual or his or her spouse. It shall also include the spouse of any of the persons specified in the previous sentence.

(e) The individual participates in reemployment services, such as job search assistance services, if the individual has been determined or redetermined by the unemployment agency to be likely to exhaust regular benefits and need reemployment services pursuant to a profiling system established by the unemployment agency.

(2) The unemployment agency may authorize an individual with an unexpired benefit year to pursue vocational training or retraining only if the unemployment agency finds that:

(a) Reasonable opportunities for employment in occupations for which the individual is fitted by training and experience do not exist in the locality in which the individual is claiming benefits.

(b) The vocational training course relates to an occupation or skill for which there are, or are expected to be in the immediate future, reasonable employment opportunities.

(c) The training course has been approved by a local advisory council on which both management and labor are represented, or if there is no local advisory council, by the unemployment agency.

(d) The individual has the required qualifications and aptitudes to complete the course successfully.

(e) The vocational training course has been approved by the state board of education and is maintained by a public or private school or by the unemployment agency.

(3) Notwithstanding any other provision of this act, an otherwise eligible individual shall not be ineligible for benefits because he or she is participating in training with the approval of the unemployment agency. For each week that the unemployment agency finds that an individual who is claiming benefits under this act and who is participating in training with the approval of the unemployment agency, is satisfactorily pursuing an

approved course of vocational training, it shall waive the requirements that he or she be available for work and be seeking work as prescribed in subsection (1)(a) and (c), and it shall find good cause for his or her failure to apply for suitable work, report to a former employer for an interview concerning suitable work, or accept suitable work as required in section 29(1)(c), (d), and (e).

(4) The waiver of the requirement that a claimant seek work, as provided in subsection (1)(a), shall not be applicable to weeks of unemployment for which the claimant is claiming extended benefits if section 64(8)(a)(*ii*) is in effect, unless the individual is participating in training approved by the unemployment agency.

(5) Notwithstanding any other provisions of this act, an otherwise eligible individual shall not be denied benefits for any week beginning after October 30, 1982 solely because the individual is in training approved under section 236(a)(1) of the trade act of 1974, as amended, 19 USC 2296, nor shall the individual be denied benefits by reason of leaving work to enter such training if the work left is not suitable employment. Furthermore, an otherwise eligible individual shall not be denied benefits because of the application to any such week in training of provisions of this act, or any applicable federal unemployment compensation law, relating to availability for work, active search for work, or refusal to accept work. For purposes of this subsection, "suitable employment" means, with respect to an individual, work of a substantially equal or higher skill level than the individual's past adversely affected employment, as defined for purposes of the trade act of 1974, 19 USC 2101 to 2495, and wages for that work at not less than 80% of the individual's average weekly wage as determined for the purposes of the trade act of 1974.

(6) For purposes of this section, for benefit years beginning on or after January 1, 2013, to be actively engaged in seeking work, an individual must conduct a systematic and sustained search for work in each week the individual is claiming benefits, using any of the following methods to report the details of the work search:

(a) Reporting at monthly intervals on the unemployment agency's online reporting system the name of each employer and physical or online location of each employer where work was sought and the date and method by which work was sought with each employer.

(b) Filing a written report with the unemployment agency by mail or facsimile transmission not later than the end of the fourth calendar week after the end of the week in which the individual engaged in the work search, on a form approved by the unemployment agency, indicating the name of each employer and physical or online location of each employer where work was sought and the date and method by which work was sought with each employer.

(c) Appearing at least monthly in person at a Michigan works agency office to report the name and physical or online location of each employer where the individual sought work during the previous month and the date and method by which work was sought with each employer.

(7) The work search conducted by the claimant is subject to random audit by the unemployment agency.

History: 1936, Ex. Sess., Act 1, Imd. Eff. Dec. 24, 1936;—Am. 1939, Act 324, Imd. Eff. June 22, 1939;—Am. 1941, Act 364, Imd. Eff. July 1, 1941;—Am. 1942, 2nd Ex. Sess., Act 18, Imd. Eff. Feb. 27, 1942;—Am. 1943, Act 246, Imd. Eff. June 1, 1943;—Am. 1944, 1st Ex. Sess., Act 9, Imd. Eff. Feb. 19, 1944;—Am. 1947, Act 360, Imd. Eff. July 8, 1947;—CL 1948, 421.28;—Am. 1949, Act 282, Imd. Eff. June 11, 1949;—Am. 1951, Act 251, Imd. Eff. June 17, 1951;—Am. 1954, Act 197, Imd. Eff. May 7, 1954;—Am. 1955, Act 281, Eff. July 15, 1955;—Am. 1965, Act 281, Eff. Sept. 5, 1965;—Am. 1967, Act 254, Imd. Eff. July 19, 1967;—Am. 1971, Act 231, Imd. Eff. Jan. 3, 1972;—Am. 1974, Act 11, Imd. Eff. Feb. 15, 1974;—Am. 1974, Act 104, Eff. June 9, 1974;—Am. 1980, Act 358, Eff. Mar. 1, 1981;—Am. 1981, Act 107, Imd. Eff. July 17, 1981;—Am. 1982, Act 247, Imd. Eff. Sept. 23, 1982;—Am. 1982, Act 535, Eff. Jan. 2, 1983;—Am. 1983, Act 164, Imd. Eff. July 24, 1983;—Am. 1985, Act 197, Imd. Eff. Dec. 26, 1985;—Am. 1989, Act 227, Eff. Dec. 21, 1989;—Am. 1994, Act 162, Imd. Eff. June 17, 1994;—Am. 1994, Act 422, Imd. Eff. Jan. 6, 1995;—Am. 2011, Act 269, Imd. Eff. Dec. 19, 2011.

Administrative rules: R 421.10 et seq. of the Michigan Administrative Code.

421.28a Preservation of unused credit weeks or benefit entitlement during period of continuous involuntary disability; request; written statement from physician; copies; extension of benefit year; payment of benefits; “continuous disability” defined; inability to establish benefit year; cessation of entitlement to benefits; applicability; dissemination of information to interested parties; date of request.

Sec. 28a. (1) For benefit years beginning before the conversion date prescribed in section 75, and notwithstanding any other provision of this act, an unemployed individual who has a benefit year in effect and who has not exhausted benefit entitlement may have unused credit weeks preserved during a period of continuous involuntary disability if a written request from the individual to preserve the unused credit weeks is received by the commission within 90 days after the commencement of the period of disability, within 90 days after being advised of his or her rights by the commission, or if the individual is unable to submit the

written request due to a medical inability, within 90 days after the end of that medical inability. For benefit years beginning after the conversion date prescribed in section 75, and notwithstanding any other provision of this act, an unemployed individual who has a benefit year in effect and who has not exhausted benefit entitlement may have unused benefit entitlement preserved during a period of continuous involuntary disability if a written request from the individual to preserve the unused benefit entitlement is received by the commission within 90 days after the commencement of the period of disability, within 90 days after being advised of his or her rights by the commission, or if the individual is unable to submit the written request due to a medical inability, within 90 days after the end of that medical inability.

(2) For benefit years beginning before the conversion date prescribed in section 75, unused credit weeks shall not be preserved pursuant to this section unless the commission receives a written statement from the individual's physician within 90 days after the commencement of the disability, within 90 days after the individual is advised of his or her rights by the commission, or if the individual is unable to submit the written statement due to a medical inability, within 90 days after the end of that medical inability the commission receives the written statement from the individual's physician. The written statement from the individual's physician shall certify all of the following:

(a) The nature of the injury, illness, or hospitalization.

(b) That based upon the examination of the physician, the individual is not able and available to perform full-time work as described in section 28(1)(c).

(c) The probable duration of the injury, illness, or hospitalization.

For benefit years beginning after the conversion date prescribed in section 75, unused benefit entitlement shall not be preserved pursuant to this section unless the commission receives a written statement from the individual's physician within 90 days after the commencement of the disability, within 90 days after the individual is advised of his or her rights by the commission, or if the individual is unable to submit the written statement due to a medical inability, within 90 days after the end of that medical inability the commission receives the written statement from the individual's physician. The written statement from the individual's physician shall certify all of the following:

(a) The nature of the injury, illness, or hospitalization.

(b) That based upon the examination of the physician, the individual is not able and available to perform full-time work as described in section 28(1)(c).

(c) The probable duration of the injury, illness, or hospitalization.

(3) The commission immediately shall provide a copy of the statement required by subsection (2) to the individual's last employer and all base period employers.

(4) For benefit years beginning before the conversion date as prescribed in section 75, an individual who has unused credit weeks preserved pursuant to this section shall receive an extension of his or her benefit year equal in weeks to the number of weeks the period of disability continued during the benefit year. The extension shall begin with the week after the week in which the disability terminated. Benefits may be paid for weeks of unemployment after the period of disability if the individual is eligible and qualified but benefits shall not be payable under this section for any week that commences more than 156 weeks after the first week of the benefit year. For benefit years beginning after the conversion date prescribed in section 75, an individual who has unused benefit entitlement preserved pursuant to this section shall receive an extension of his or her benefit year equal in weeks to the number of weeks the period of disability continued during the benefit year. The extension shall begin with the week after the week in which the disability terminated. Benefits may be paid for weeks of unemployment after the period of disability if the individual is eligible and qualified but benefits shall not be payable under this section for any week that commences more than 156 weeks after the first week of the benefit year.

(5) As used in this section, a period of “continuous disability” means a period continuing for more than 14 consecutive days during which an unemployed individual is not able and available to perform full-time work, as described in section 28(1)(c), due to injury, illness, or hospitalization.

(6) For benefit years beginning before the conversion date prescribed in section 75, an unemployed individual who has been unable to establish a benefit year solely due to a period of continuous disability may preserve all credit weeks earned by the individual in the 52 week period preceding the individual's first week of unemployment, as defined in section 48, caused by the disability. However, credit weeks may be preserved if the commission receives a written request and a physician's statement, as described in subsections (1) and (2) within 90 days after the commencement of the unemployment, within 90 days after being advised of his or her rights by the commission, or if the individual is unable to submit the written statement and request due to a medical inability, within 90 days after the end of that medical inability. The individual's benefit year shall begin the first week the individual was both unemployed and disabled, and the benefit year shall be extended pursuant to subsection (4). For benefit years beginning after the conversion date prescribed in section 75, an

unemployed individual who has been unable to establish a benefit year solely due to an inability to file a claim because of a period of continuous disability may preserve all unused benefit entitlement in the base period preceding the individual's first week of unemployment, as defined in section 48, caused by the disability. However, benefit entitlement may be preserved if the commission receives a written request and a physician's statement, as described in subsections (1) and (2) within 90 days after the commencement of the unemployment, within 90 days after being advised of his or her rights by the commission, or if the individual is unable to submit the written statement and request due to a medical inability, within 90 days after the end of that medical inability. The individual's benefit year shall begin the first week the individual was both unemployed and disabled, and the benefit year shall be extended pursuant to subsection (4).

(7) For benefit years beginning before the conversion date prescribed in section 75, if an individual has sufficient credit weeks to establish a new benefit year under section 46 after the termination of the period of continuous disability, and is otherwise eligible and qualified for benefits, the individual shall cease to be entitled to benefits under this section. For benefit years beginning after the conversion date prescribed in section 75, if an individual has sufficient base period wages to establish a new benefit year under section 46 after the termination of the period of continuous disability, and is otherwise eligible and qualified for benefits, the individual shall cease to be entitled to benefits under this section.

(8) This section shall apply to all benefit years that commence after the effective date of this section.

(9) The commission shall disseminate information on this section to potential interested parties including the legal profession, employers, and unions.

(10) For benefit years beginning before the conversion date prescribed in section 75, and notwithstanding any other provision of this section, a request for preservation of credit weeks must be made within 3 years after the date the disability began. For benefit years beginning after the conversion date prescribed in section 75, and notwithstanding any other provision of this section, a request for preservation of benefit entitlement must be made within 3 years after the date the disability began.

History: Add. 1979, Act 28, Imd. Eff. June 14, 1979;—Am. 1983, Act 164, Imd. Eff. July 24, 1983;—Am. 1994, Act 162, Imd. Eff. June 17, 1994.

421.28b Definitions; MCL 421.28c to 421.28m.

Sec. 28b. As used in this section and sections 28c to 28m:

(a) "Affected unit" means a department, shift, or other organizational unit of 2 or more employees that is designated by an employer to participate in a shared-work plan.

(b) "Approved shared-work plan" means an employer's shared-work plan that meets the requirements of section 28d and that the unemployment agency approves in writing.

(c) "Fringe benefit" means health insurance, a retirement benefit received under a pension plan or defined contribution plan, a paid vacation day, a paid holiday, sick leave, or any other similar employee benefit provided by an employer.

(d) "Normal weekly hours of work" means the established standard work times and number of hours in the workweek for the position or, if standard work times and number of hours have not been established for the position, the work times and average number of hours per week actually worked by the employee in that position over the most recent 3 months before the employer files the application for designation as a participating employer.

(e) "Participating employee" means an employee in the affected unit whose hours of work are reduced by the reduction percentage under the shared-work plan. Participating employee does not include a seasonal worker as defined in section 27(o)(9)(e) or a worker employed on a temporary or intermittent basis.

(f) "Participating employer" means an employer that has a shared-work plan in effect.

(g) "Reduction percentage" means the percentage by which each participating employee's normal weekly hours of work are reduced under a shared-work plan in accordance with section 28d(2).

(h) "Shared-work plan" means a plan for reducing unemployment under which employees of an affected unit share a reduced workload through reduction in their normal weekly hours of work.

History: Add. 2012, Act 216, Eff. Jan. 1, 2013.

421.28c Shared-work plan; application; requirements; manner; contents; approval of more than 1 plan.

Sec. 28c. (1) An employer that meets all of the following requirements may apply to the unemployment agency for approval of a shared-work plan:

(a) The employer has filed all quarterly reports and other reports required under this act and has paid all obligation assessments, contributions, reimbursements in lieu of contributions, interest, and penalties due through the date of the employer's application.

(b) If the employer is a contributing employer, the employer's reserve in the employer's experience account as of the most recent computation date preceding the date of the employer's application is a positive number.

(c) The employer has paid wages for the 12 consecutive calendar quarters preceding the date of the employer's application.

(2) An application under this section shall be made in the manner prescribed by the unemployment agency and contain all of the following:

(a) The employer's assurance that it will provide reports to the unemployment agency relating to the operation of its shared-work plan at the times and in the manner prescribed by the unemployment agency and containing all information required by the unemployment agency.

(b) The employer's assurance that it will not hire new employees in, or transfer employees to, the affected unit during the effective period of the shared-work plan.

(c) The employer's assurance that it will not lay off participating employees during the effective period of the shared-work plan, or reduce participating employees' hours of work by more than the reduction percentage during the effective period of the shared-work plan, except in cases of holidays, designated vacation periods, equipment maintenance, or similar circumstances.

(d) The employer's certification that it has obtained the approval of any applicable collective bargaining unit representative and has notified all affected employees who are not in a collective bargaining unit of the proposed shared-work plan.

(e) A list of the week or weeks within the requested effective period of the plan during which participating employees are anticipated to work fewer hours than the number of hours determined under section 28d(1)(e) due to circumstances listed in subdivision (c).

(f) The employer's certification that the implementation of a shared-work plan is in lieu of layoffs that would affect at least 15% of the employees in the affected unit and would result in an equivalent reduction in work hours.

(g) The employer's assurance that it will abide by all terms and conditions of sections 28b to 28m.

(h) The employer's certification that, to the best of his or her knowledge, participation in the shared-work plan is consistent with the employer's obligations under federal law and the law of this state.

(i) Any other relevant information required by the unemployment agency.

(3) An employer may apply to the unemployment agency for approval of more than 1 shared-work plan.

History: Add. 2012, Act 216, Eff. Jan. 1, 2013;—Am. 2012, Act 579, Imd. Eff. Jan. 2, 2013.

421.28d Shared-work plan; approval by unemployment agency; requirements; reduction percentage.

Sec. 28d. (1) The unemployment agency shall approve a shared-work plan only if the plan meets all of the following requirements:

(a) The shared-work plan applies to 1 affected unit.

(b) All employees in the affected unit are participating employees, except that the following employees shall not be participating employees:

(*i*) An employee who has been employed in the affected unit for less than 3 months before the date the employer applies for approval of the shared-work plan.

(*ii*) An employee whose hours of work per week determined under subdivision (e) are 40 or more hours.

(c) There are no fewer than 2 participating employees, determined without regard to corporate officers.

(d) The participating employees are identified by name and social security number.

(e) The number of hours a participating employee will work each week during the effective period of the shared-work plan is the number of the employee's normal weekly hours of work reduced by the reduction percentage.

(f) The plan includes an estimate of the number of employees who would have been laid off if the plan were not implemented.

(g) The plan indicates the manner in which the employer will give advance notice, if feasible, to an employee whose hours of work per week under the plan will be reduced.

(h) As a result of a decrease in the number of hours worked by each participating employee, there is a corresponding reduction in wages.

(i) The shared-work plan does not affect the fringe benefits of any participating employee.

(j) The specified effective period of the shared-work plan is 52 consecutive weeks or less and the benefits payable under the shared-work plan will not exceed 20 times the weekly benefit amount for each participating employee, calculated without regard to any existing benefit year.

(k) The reduction percentage satisfies the requirements of subsection (2).

(2) The reduction percentage under an approved shared-work plan shall meet all of the following

requirements:

(a) The reduction percentage shall be no less than 15% and no more than 45%.

(b) The reduction percentage shall be the same for all participating employees.

(c) The reduction percentage shall not change during the period of the shared-work plan unless the plan is modified in accordance with section 28i.

History: Add. 2012, Act 216, Eff. Jan. 1, 2013.

421.28e Shared-work plan; approval or disapproval by unemployment agency.

Sec. 28e. The unemployment agency shall approve or disapprove a shared-work plan no later than 15 days after the date the unemployment agency receives an employer's shared-work plan application that meets the requirements of sections 28c and 28d. The unemployment agency's decision shall be expressed in writing and, if the shared-work plan is disapproved, shall include the reasons for the disapproval.

History: Add. 2012, Act 216, Eff. Jan. 1, 2013.

421.28f Shared-work plan; effective period.

Sec. 28f. (1) A shared-work plan is effective for the number of consecutive weeks indicated in the employer's application, or a lesser number of weeks as approved by the unemployment agency, unless sooner terminated in accordance with section 28j.

(2) The effective period of the shared-work plan shall begin with the first calendar week following the date on which the unemployment agency approves the plan.

History: Add. 2012, Act 216, Eff. Jan. 1, 2013.

421.28g Compensation.

Sec. 28g. (1) Compensation shall be payable to a participating employee for a week within the effective period of an approved shared-work plan during which the employee works the number of hours determined under section 28d(1)(e) for the participating employer on the same terms, in the same amount, and subject to the same conditions that would apply to the participating employee without regard to sections 28b to 28m, except as follows:

(a) A participating employee shall not be required to be unemployed within the meaning of section 48 or file claims for compensation under section 32.

(b) The benefit rate otherwise payable as prescribed in section 27 shall be modified so that a participating employee shall be paid compensation in an amount equal to the product of his or her weekly benefit rate and the reduction percentage, rounded to the next lower whole dollar amount.

(c) Weeks that a participating employee participates in a shared-work plan are not weeks of unemployment for purposes of establishing limits on the duration of receipt of unemployment benefits under this act, but the dollar amount of benefits received under the shared-work plan applies toward the maximum amount of benefits payable.

(d) The unemployment agency shall not deny compensation to a participating employee for any week during the effective period of the shared-work plan by applying any provision of this act relating to active search for work or refusal to apply for or accept work other than work offered by the participating employer.

(e) A participating employee satisfies the availability and seeking work requirements of section 28 if the employee is available for work during the employee's normal work week with the participating employer.

(f) A participating employee may participate in a training program to enhance the employee's job skills without becoming ineligible for benefits under the approved shared-work plan, if the training is sponsored by the employer or provided under the workforce investment act of 1998 and the employee's participation is approved by the unemployment agency.

(2) For purposes of subsection (1), if a participating employee works fewer hours than the number of hours determined under section 28d(1)(e) for the participating employer during a week within the effective period of the approved shared-work plan, but receives remuneration as if the employee had worked the number of hours determined under section 28d(1)(e), the employee is considered to have worked the number of hours determined under section 28d(1)(e) during that week.

(3) A participating employee's eligibility for compensation for a week within the effective period of an approved shared-work plan shall be determined without regard to sections 28b to 28m if the employee receives remuneration for the week from the participating employer that is greater than or less than the amount due for the number of hours determined under section 28d(1)(e).

History: Add. 2012, Act 216, Eff. Jan. 1, 2013.

421.28h Schedule; filing compensation claims; benefits; funding of benefits.

Sec. 28h. (1) The unemployment agency shall establish a schedule of consecutive 2-week periods within the effective period of the shared-work plan. The unemployment agency may, as necessary, include 1-week periods in the schedule and revise the schedule. At the end of each scheduled period, the participating employer shall file claims for compensation for the week or weeks within the period on behalf of the participating employees. The claims shall be filed no later than the last day of the week immediately following the period, unless an extension of time is granted by the unemployment agency for good cause. The claims shall be filed in the manner prescribed by the unemployment agency and shall contain all information required by the unemployment agency to determine the eligibility of the participating employees for compensation.

(2) The benefits under a shared-work plan shall be funded as follows:

(a) If federal funding is available to this state for the purpose of full reimbursement for the cost of funding benefits paid by the unemployment agency pursuant to section 2162 of the layoff prevention act of 2012 and an approved shared-work plan under this act, those benefits shall not be charged or expensed to a participating employer. However, the unemployment agency shall not use that federal funding as a reimbursement for compensation paid to a claimant under a shared-work plan if the claimant is employed by the participating employer on a seasonal, temporary, or intermittent basis. In that case, benefits shall be charged to the participating contributing employer's chargeable benefits account or reimbursing payments in lieu of contributions shall be required from the participating reimbursing employer.

(b) If federal funding is available to this state for the purpose of partial reimbursement for the cost of funding benefits paid by the unemployment agency pursuant to an agreement entered into between this state and the United States department of labor pursuant to section 2163 of the layoff prevention act of 2012, any approved shared-work plan shall provide that the employer shall make a reimbursing payment in lieu of contributions to this state equal to 1/2 of the benefits paid under the employer's approved shared-work plan. That payment shall be deposited into this state's unemployment compensation fund. Benefit payments or deposits made under this subdivision shall not be used for purposes of calculating an employer's contribution rate under section 19. The unemployment agency shall not use federal funding under this subsection as a reimbursement for compensation paid to a claimant under a shared-work plan if the claimant is employed by the participating employer on a seasonal, temporary, or intermittent basis. In that case, benefit payments shall be funded by the employer as reimbursing payments in lieu of contribution.

(c) If full or partial federal funding is not available as provided in subdivision (a) or (b), the benefits paid by the unemployment agency pursuant to an approved shared-work plan under this act shall be charged to the participating contributing employer's chargeable benefits account or reimbursing payments in lieu of contributions shall be required from the participating reimbursing employer.

History: Add. 2012, Act 216, Eff. Jan. 1, 2013.

421.28i Modification of shared-work plan.

Sec. 28i. An employer may apply to the unemployment agency for approval to modify a shared-work plan to meet changed conditions. The unemployment agency shall reevaluate the plan and may approve the modified plan if it meets the requirements for approval under section 28e. If the modifications cause the shared-work plan to fail to meet the requirements for approval, the unemployment agency shall disapprove the proposed modifications.

History: Add. 2012, Act 216, Eff. Jan. 1, 2013.

421.28j Termination of shared-work plan; good cause.

Sec. 28j. (1) The unemployment agency may terminate a shared-work plan for good cause.

(2) For purposes of subsection (1), good cause includes any of the following:

(a) The plan is not being executed according to its approved terms and conditions.

(b) The participating employer fails to comply with the assurances given in the plan.

(c) The participating employer or a participating employee violates any criteria on which approval of the plan was based.

(3) The employer may terminate a shared-work plan by written notice to the unemployment agency.

History: Add. 2012, Act 216, Eff. Jan. 1, 2013.

421.28k Authority of unemployment agency to approve, disapprove, modify, or terminate shared-work plan.

Sec. 28k. The decision to approve or disapprove a shared-work plan, to approve or disapprove a modification of a shared-work plan, or to terminate a shared-work plan is at the unemployment agency's discretion. Those decisions are not subject to the appeal provisions of this act.

History: Add. 2012, Act 216, Eff. Jan. 1, 2013.

421.28*l* Report.

Sec. 28*l*. In addition to other reports required by law, the unemployment agency shall submit to the governor, the secretary of the senate, and the clerk of the house of representatives for referral to the chair and minority vice-chair of the appropriate committees an annual report regarding shared-work plans under sections 28b to 28m. The report shall include the number of approved shared-work plans, the number of participating employers, the number of participating employees, the amount of compensation and aid to participating employees, and any other information that the unemployment agency determines is relevant to assess the impact of shared-work plans on the unemployment compensation fund. The first report shall be submitted on or before the first day of March following the first complete calendar year during which sections 28b to 28m are in effect, and subsequent reports shall be submitted on or before the first day of March of each subsequent year.

History: Add. 2012, Act 216, Eff. Jan. 1, 2013.

421.28m Effect of approval or disapproval by federal government.

Sec. 28m. (1) Notwithstanding any other provision of this act, if any provision of sections 28b to 28*l* would otherwise cause the United States department of labor to withhold the approval required to implement a shared-work program under section 3304(a)(4)(e) of the federal unemployment tax act, 26 USC 3304, and section 303(a)(5) of the social security act, 42 USC 503, that provision does not apply.

(2) When the provisions of this section or sections 28b to 28*l* are approved or disapproved by the United States department of labor, the unemployment agency shall transmit to the secretary of the senate and the clerk of the house of representatives notice of the approval or disapproval.

History: Add. 2012, Act 216, Eff. Jan. 1, 2013.

421.29 Disqualification from benefits.

Sec. 29. (1) Except as provided in subsection (5), an individual is disqualified from receiving benefits if he or she:

(a) Left work voluntarily without good cause attributable to the employer or employing unit. An individual who left work is presumed to have left work voluntarily without good cause attributable to the employer or employing unit. An individual who is absent from work for a period of 3 consecutive work days or more without contacting the employer in a manner acceptable to the employer and of which the individual was informed at the time of hire shall be considered to have voluntarily left work without good cause attributable to the employer. An individual who becomes unemployed as a result of negligently losing a requirement for the job of which he or she was informed at the time of hire shall be considered to have voluntarily left work without good cause attributable to the employer. An individual claiming benefits under this act has the burden of proof to establish that he or she left work involuntarily or for good cause that was attributable to the employer or employing unit. An individual claiming to have left work involuntarily for medical reasons must have done all of the following before the leaving: secured a statement from a medical professional that continuing in the individual's current job would be harmful to the individual's physical or mental health; unsuccessfully attempted to secure alternative work with the employer; and unsuccessfully attempted to be placed on a leave of absence with the employer to last until the individual's mental or physical health would no longer be harmed by the current job. However, if any of the following conditions is met, the leaving does not disqualify the individual:

(*i*) The individual has an established benefit year in effect and during that benefit year leaves unsuitable work within 60 days after the beginning of that work. Benefits paid after a leaving under this subparagraph shall not be charged to the experience account of the employer the individual left, but shall be charged instead to the nonchargeable benefits account.

(*ii*) The individual is the spouse of a full-time member of the United States armed forces, and the leaving is due to the military duty reassignment of that member of the United States armed forces to a different geographic location. Benefits paid after a leaving under this subparagraph shall not be charged to the experience account of the employer the individual left, but shall be charged instead to the nonchargeable benefits account.

(*iii*) The individual is concurrently working part-time for an employer or employing unit and for another employer or employing unit and voluntarily leaves the part-time work while continuing work with the other employer. The portion of the benefits paid in accordance with this subparagraph that would otherwise be charged to the experience account of the part-time employer that the individual left shall not be charged to the account of that employer, but shall be charged instead to the nonchargeable benefits account.

(b) Was suspended or discharged for misconduct connected with the individual's work or for intoxication while at work.

(c) Failed without good cause to apply diligently for available suitable work after receiving notice from the unemployment agency of the availability of that work or failed to apply for work with employers that could reasonably be expected to have suitable work available.

(d) Failed without good cause while unemployed to report to the individual's former employer or employing unit within a reasonable time after that employer or employing unit provided notice of the availability of an interview concerning available suitable work with the former employer or employing unit.

(e) Failed without good cause to accept suitable work offered to the individual or to return to the individual's customary self-employment, if any, when directed by the employment office or the unemployment agency. An employer that receives a monetary determination under section 32 may notify the unemployment agency regarding the availability of suitable work with the employer on the monetary determination or other form provided by the unemployment agency. Upon receipt of the notice of the availability of suitable work, the unemployment agency shall notify the claimant of the availability of suitable work. Until 1 year after the effective date of the amendatory act that added this sentence, an individual is considered to have refused an offer of suitable work if the prospective employer requires as a condition of the offer a drug test that is subject to the same terms and conditions as a drug test administered under subdivision (m), and the employer withdraws the conditional offer after either of the following:

(*i*) The individual tests positive for a controlled substance and lacks a valid, documented prescription, as defined in section 17708 of the public health code, 1978 PA 368, MCL 333.17708, for the controlled substance issued to the individual by his or her treating physician.

(*ii*) The individual refuses without good cause to submit to the drug test.

(f) Lost his or her job due to absence from work resulting from a violation of law for which the individual was convicted and sentenced to jail or prison. This subdivision does not apply if conviction of an individual results in a sentence to county jail under conditions of day parole as provided in 1962 PA 60, MCL 801.251 to 801.258, or if the conviction was for a traffic violation that resulted in an absence of less than 10 consecutive work days from the individual's place of employment.

(g) Is discharged, whether or not the discharge is subsequently reduced to a disciplinary layoff or suspension, for participation in either of the following:

(*i*) A strike or other concerted action in violation of an applicable collective bargaining agreement that results in curtailment of work or restriction of or interference with production.

(*ii*) A wildcat strike or other concerted action not authorized by the individual's recognized bargaining representative.

(h) Was discharged for an act of assault and battery connected with the individual's work.

(i) Was discharged for theft connected with the individual's work.

(j) Was discharged for willful destruction of property connected with the individual's work.

(k) Committed a theft after receiving notice of a layoff or discharge, but before the effective date of the layoff or discharge, resulting in loss or damage to the employer who would otherwise be chargeable for the benefits, regardless of whether the individual qualified for the benefits before the theft.

(*l*) Was employed by a temporary help firm, which as used in this section means an employer whose primary business is to provide a client with the temporary services of 1 or more individuals under contract with the employer, to perform services for a client of that firm if each of the following conditions is met:

(*i*) The temporary help firm provided the employee with a written notice before the employee began performing services for the client stating in substance both of the following:

(A) That within 7 days after completing services for a client of the temporary help firm, the employee is under a duty to notify the temporary help firm of the completion of those services.

(B) That a failure to provide the temporary help firm with notice of the employee's completion of services pursuant to sub-subparagraph (A) constitutes a voluntary quit that will affect the employee's eligibility for unemployment compensation should the employee seek unemployment compensation following completion of those services.

(*ii*) The employee did not provide the temporary help firm with notice that the employee had completed his or her services for the client within 7 days after completion of his or her services for the client.

(m) Was discharged for illegally ingesting, injecting, inhaling, or possessing a controlled substance on the premises of the employer; refusing to submit to a drug test that was required to be administered in a nondiscriminatory manner; or testing positive on a drug test, if the test was administered in a nondiscriminatory manner. If the worker disputes the result of the testing, and if a generally accepted confirmatory test has not been administered on the same sample previously tested, then a generally accepted confirmatory test shall be administered on that sample. If the confirmatory test also indicates a positive result

for the presence of a controlled substance, the worker who is discharged as a result of the test result will be disqualified under this subdivision. A report by a drug testing facility showing a positive result for the presence of a controlled substance is conclusive unless there is substantial evidence to the contrary. As used in this subdivision and subdivision (e):

(*i*) "Controlled substance" means that term as defined in section 7104 of the public health code, 1978 PA 368, MCL 333.7104.

(*ii*) "Drug test" means a test designed to detect the illegal use of a controlled substance.

(*iii*) "Nondiscriminatory manner" means administered impartially and objectively in accordance with a collective bargaining agreement, rule, policy, a verbal or written notice, or a labor-management contract.

(n) Theft from the employer that resulted in the employee's conviction, within 2 years of the date of the discharge, of theft or a lesser included offense.

(2) A disqualification under subsection (1) begins the week in which the act or discharge that caused the disqualification occurs and continues until the disqualified individual requalifies under subsection (3).

(3) After the week in which the disqualifying act or discharge described in subsection (1) occurs, an individual who seeks to requalify for benefits is subject to all of the following:

(a) For benefit years established before October 1, 2000, the individual shall complete 6 requalifying weeks if he or she was disqualified under subsection (1)(c), (d), (e), (f), (g), or (*l*), or 13 requalifying weeks if he or she was disqualified under subsection (1)(h), (i), (j), (k), or (m). A requalifying week required under this subdivision is each week in which the individual does any of the following:

(*i*) Earns or receives remuneration in an amount at least equal to an amount needed to earn a credit week, as that term is defined in section 50.

(*ii*) Otherwise meets all of the requirements of this act to receive a benefit payment if the individual were not disqualified under subsection (1).

(*iii*) Receives a benefit payment based on credit weeks subsequent to the disqualifying act or discharge.

(b) For benefit years established before October 1, 2000, if the individual is disqualified under subsection (1)(a) or (b), he or she shall requalify, after the week in which the disqualifying discharge occurred by earning in employment for an employer liable under this act or the unemployment compensation act of another state an amount equal to, or in excess of, 7 times the individual's potential weekly benefit rate, calculated on the basis of employment with the employer involved in the disqualification, or by earning in employment for an employer liable under this act or the unemployment compensation act of another state an amount equal to, or in excess of, 40 times the state minimum hourly wage times 7, whichever is the lesser amount.

(c) For benefit years established before October 1, 2000, a benefit payable to an individual disqualified under subsection (1)(a) or (b) shall be charged to the nonchargeable benefits account, and not to the account of the employer with whom the individual was involved in the disqualification.

(d) For benefit years beginning on or after October 1, 2000, after the week in which the disqualifying act or discharge occurred, an individual shall complete 13 requalifying weeks if he or she was disqualified under subsection (1)(c), (d), (e), (f), (g), or (*l*), or 26 requalifying weeks if he or she was disqualified under subsection (1)(h), (i), (j), (k), (m), or (n). A requalifying week required under this subdivision is each week in which the individual does any of the following:

(*i*) Earns or receives remuneration in an amount equal to at least 1/13 of the minimum amount needed in a calendar quarter of the base period for an individual to qualify for benefits, rounded down to the nearest whole dollar.

(*ii*) Otherwise meets all of the requirements of this act to receive a benefit payment if the individual was not disqualified under subsection (1).

(e) For benefit years beginning on or after October 1, 2000 and beginning before April 26, 2002, if the individual is disqualified under subsection (1)(a) or (b), he or she shall requalify, after the week in which the disqualifying act or discharge occurred by earning in employment for an employer liable under this act or the unemployment compensation law of another state at least the lesser of the following:

(*i*) Seven times the individual's weekly benefit rate.

(*ii*) Forty times the state minimum hourly wage times 7.

(f) For benefit years beginning on or after April 26, 2002, if the individual is disqualified under subsection (1)(a), he or she shall requalify, after the week in which the disqualifying act or discharge occurred by earning in employment for an employer liable under this act or the unemployment compensation law of another state at least 12 times the individual's weekly benefit rate.

(g) For benefit years beginning on or after April 26, 2002, if the individual is disqualified under subsection (1)(b), he or she shall requalify, after the week in which the disqualifying act or discharge occurred by earning in employment for an employer liable under this act or the unemployment compensation law of another state at least 17 times the individual's weekly benefit rate.

(h) A benefit payable to the individual disqualified or separated under disqualifying circumstances under subsection (1)(a) or (b), shall be charged to the nonchargeable benefits account, and not to the account of the employer with whom the individual was involved in the separation. Benefits payable to an individual determined by the unemployment agency to be separated under disqualifying circumstances shall not be charged to the account of the employer involved in the disqualification for any period after the employer notifies the unemployment agency of the claimant's possible ineligibility or disqualification. However, an individual filing a new claim for benefits who reports the reason for separation from a base period employer as a voluntary leaving shall be presumed to have voluntarily left without good cause attributable to the employer and shall be disqualified unless the individual provides substantial evidence to rebut the presumption. If a disqualifying act or discharge occurs during the individual's benefit year, any benefits that may become payable to the individual in a later benefit year based on employment with the employer involved in the disqualification shall be charged to the nonchargeable benefits account.

(4) The maximum amount of benefits otherwise available under section 27(d) to an individual disqualified under subsection (1) is subject to all of the following conditions:

(a) For benefit years established before October 1, 2000, if the individual is disqualified under subsection (1)(c), (d), (e), (f), (g), or (*l*) and the maximum amount of benefits is based on wages and credit weeks earned from an employer before an act or discharge involving that employer, the amount shall be reduced by an amount equal to the individual's weekly benefit rate as to that employer multiplied by the lesser of either of the following:

(*i*) The number of requalifying weeks required of the individual under this section.

(*ii*) The number of weeks of benefit entitlement remaining with that employer.

(b) If the individual has insufficient or no potential benefit entitlement remaining with the employer involved in the disqualification in the benefit year in existence on the date of the disqualifying determination, a reduction of benefits described in this subsection applies in a succeeding benefit year with respect to any benefit entitlement based upon credit weeks earned with the employer before the disqualifying act or discharge.

(c) For benefit years established before October 1, 2000, an individual disqualified under subsection (1)(h), (i), (j), (k), or (m) is not entitled to benefits based on wages and credit weeks earned before the disqualifying act or discharge with the employer involved in the disqualification.

(d) The benefit entitlement of an individual disqualified under subsection (1)(a) or (b) is not subject to reduction as a result of that disqualification.

(e) A denial or reduction of benefits under this subsection does not apply to benefits based upon multiemployer credit weeks.

(f) For benefit years established on or after October 1, 2000, if the individual is disqualified under subsection (1)(c), (d), (e), (f), (g), or (*l*), the maximum number of weeks otherwise applicable in calculating benefits for the individual under section 27(d) shall be reduced by the lesser of the following:

(*i*) The number of requalifying weeks required of the individual under this section.

(*ii*) The number of weeks of benefit entitlement remaining on the claim.

(g) For benefit years beginning on or after October 1, 2000, the benefits of an individual disqualified under subsection (1)(h), (i), (j), (k), (m), or (n) shall be reduced by 13 weeks and any weekly benefit payments made to the claimant thereafter shall be reduced by the portion of the payment attributable to base period wages paid by the base period employer involved in a disqualification under subsection (1)(h), (i), (j), (k), (m), or (n).

(5) If an individual leaves work to accept permanent full-time work with another employer or to accept a referral to another employer from the individual's union hiring hall and performs services for that employer, or if an individual leaves work to accept a recall from a former employer, all of the following apply:

(a) Subsection (1) does not apply.

(b) Wages earned with the employer whom the individual last left, including wages previously transferred under this subsection to the last employer, for the purpose of computing and charging benefits, are wages earned from the employer with whom the individual accepted work or recall, and benefits paid based upon those wages shall be charged to that employer.

(c) When issuing a determination covering the period of employment with a new or former employer described in this subsection, the unemployment agency shall advise the chargeable employer of the name and address of the other employer, the period covered by the employment, and the extent of the benefits that may be charged to the account of the chargeable employer.

(6) In determining whether work is suitable for an individual, the unemployment agency shall consider the degree of risk involved to the individual's health, safety, and morals, the individual's physical fitness and prior training, the individual's length of unemployment and prospects for securing local work in the individual's

customary occupation, and the distance of the available work from the individual's residence. Additionally, the unemployment agency shall consider the individual's experience and prior earnings, but an unemployed individual who refuses an offer of work determined to be suitable under this section shall be denied benefits if the pay rate for that work is at least 70% of the gross pay rate he or she received immediately before becoming unemployed. Beginning January 15, 2012, after an individual has received benefits for 50% of the benefit weeks in the individual's benefit year, work shall not be considered unsuitable because it is outside of the individual's training or experience or unsuitable as to pay rate if the pay rate for that work meets or exceeds the minimum wage; is at least the prevailing mean wage for similar work in the locality for the most recent full calendar year for which data are available as published by the department of technology, management, and budget as "wages by job title", by standard metropolitan statistical area; and is 120% or more of the individual's weekly benefit amount.

(7) Work is not suitable and benefits shall not be denied under this act to an otherwise eligible individual for refusing to accept new work under any of the following conditions:

(a) If the position offered is vacant due directly to a strike, lockout, or other labor dispute.

(b) If the remuneration, hours, or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality.

(c) If as a condition of being employed, the individual would be required to join a company union or to resign from or refrain from joining a bona fide labor organization.

(8) All of the following apply to an individual who seeks benefits under this act:

(a) An individual is disqualified from receiving benefits for a week in which the individual's total or partial unemployment is due to either of the following:

(*i*) A labor dispute in active progress at the place at which the individual is or was last employed, or a shutdown or start-up operation caused by that labor dispute.

(*ii*) A labor dispute, other than a lockout, in active progress or a shutdown or start-up operation caused by that labor dispute in any other establishment within the United States that is both functionally integrated with the establishment described in subparagraph (*i*) and operated by the same employing unit.

(b) An individual's disqualification imposed or imposable under this subsection is terminated if the individual performs services in employment with an employer in at least 2 consecutive weeks falling wholly within the period of the individual's total or partial unemployment due to the labor dispute, and in addition earns wages in each of those weeks in an amount equal to or greater than the individual's actual or potential weekly benefit rate.

(c) An individual is not disqualified under this subsection if the individual is not directly involved in the labor dispute. An individual is not directly involved in a labor dispute unless any of the following are established:

(*i*) At the time or in the course of a labor dispute in the establishment in which the individual was then employed, the individual in concert with 1 or more other employees voluntarily stopped working other than at the direction of the individual's employing unit.

(*ii*) The individual is participating in, financing, or directly interested in the labor dispute that causes the individual's total or partial unemployment. The payment of regular union dues, in amounts and for purposes established before the inception of the labor dispute, is not financing a labor dispute within the meaning of this subparagraph.

(*iii*) At any time a labor dispute in the establishment or department in which the individual was employed does not exist, and the individual voluntarily stops working, other than at the direction of the individual's employing unit, in sympathy with employees in some other establishment or department in which a labor dispute is in progress.

(*iv*) The individual's total or partial unemployment is due to a labor dispute that was or is in progress in a department, unit, or group of workers in the same establishment.

(d) As used in this subsection, "directly interested" shall be construed and applied so as not to disqualify individuals unemployed as a result of a labor dispute the resolution of which may not reasonably be expected to affect their wages, hours, or other conditions of employment, and to disqualify individuals whose wages, hours, or conditions of employment may reasonably be expected to be affected by the resolution of the labor dispute. A "reasonable expectation" of an effect on an individual's wages, hours, or other conditions of employment exists, in the absence of a substantial preponderance of evidence to the contrary, in any of the following situations:

(*i*) If it is established that there is in the particular establishment or employing unit a practice, custom, or contractual obligation to extend within a reasonable period to members of the individual's grade or class of workers in the establishment in which the individual is or was last employed changes in terms and conditions of employment that are substantially similar or related to some or all of the changes in terms and conditions of

employment that are made for the workers among whom there exists the labor dispute that has caused the individual's total or partial unemployment.

(*ii*) If it is established that l of the issues in or purposes of the labor dispute is to obtain a change in the terms and conditions of employment for members of the individual's grade or class of workers in the establishment in which the individual is or was last employed.

(*iii*) If a collective bargaining agreement covers both the individual's grade or class of workers in the establishment in which the individual is or was last employed and the workers in another establishment of the same employing unit who are actively participating in the labor dispute, and that collective bargaining agreement is subject by its terms to modification, supplementation, or replacement, or has expired or been opened by mutual consent at the time of the labor dispute.

(e) In determining the scope of the grade or class of workers, evidence of the following is relevant:

(*i*) Representation of the workers by the same national or international organization or by local affiliates of that national or international organization.

(*ii*) Whether the workers are included in a single, legally designated, or negotiated bargaining unit.

(*iii*) Whether the workers are or within the past 6 months have been covered by a common master collective bargaining agreement that sets forth all or any part of the terms and conditions of the workers' employment, or by separate agreements that are or have been bargained as a part of the same negotiations.

(*iv*) Any functional integration of the work performed by those workers.

(*v*) Whether the resolution of those issues involved in the labor dispute as to some of the workers could directly or indirectly affect the advancement, negotiation, or settlement of the same or similar issues in respect to the remaining workers.

(*vi*) Whether the workers are currently or have been covered by the same or similar demands by their recognized or certified bargaining agent or agents for changes in their wages, hours, or other conditions of employment.

(*vii*) Whether issues on the same subject matter as those involved in the labor dispute have been the subject of proposals or demands made upon the employing unit that would by their terms have applied to those workers.

(9) Notwithstanding subsections (1) to (8), if the employing unit submits notice to the unemployment agency of possible ineligibility or disqualification beyond the time limits prescribed by unemployment agency rule and the unemployment agency concludes that benefits should not have been paid, the claimant shall repay the benefits paid during the entire period of ineligibility or disqualification. The unemployment agency shall not charge interest on repayments required under this subsection.

(10) An individual is disqualified from receiving benefits for any week or part of a week in which the individual has received, is receiving, or is seeking unemployment benefits under an unemployment compensation law of another state or of the United States. If the appropriate agency of the other state or of the United States finally determines that the individual is not entitled to unemployment benefits, the disqualification described in this subsection does not apply.

History: 1936, Ex. Sess., Act 1, Imd. Eff. Dec. 24, 1936;—Am. 1937, Act 347, Imd. Eff. Aug. 5, 1937;—Am. 1939, Act 324, Imd. Eff. June 22, 1939;—Am. 1941, Act 364, Imd. Eff. July 1, 1941;—Am. 1942, 2nd Ex. Sess., Act 18, Imd. Eff. Feb. 27, 1942;—Am. 1943, Act 246, Imd. Eff. June 1, 1943;—Am. 1947, Act 360, Imd. Eff. July 8, 1947;—CL 1948, 421.29;—Am. 1951, Act 251, Imd. Eff. June 17, 1951;—Am. 1954, Act 197, Imd. Eff. May 7, 1954;—Am. 1955, Act 281, Eff. July 15, 1955;—Am. 1963, Act 226, Eff. Sept. 6, 1963;—Am. 1965, Act 281, Eff. Sept. 5, 1965;—Am. 1967, Act 254, Imd. Eff. July 19, 1967;—Am. 1970, Act 14, Imd. Eff. Apr. 14, 1970;—Am. 1974, Act 11, Imd. Eff. Feb. 15, 1974;—Am. 1974, Act 104, Eff. June 9, 1974;—Am. 1975, Act 110, Eff. June 8, 1975;—Am. 1980, Act 358, Eff. Mar. 1, 1981;—Am. 1982, Act 535, Eff. Jan. 2, 1983;—Am. 1983, Act 164, Imd. Eff. July 24, 1983;—Am. 1994, Act 162, Imd. Eff. June 17, 1994;—Am. 1995, Act 25, Eff. Mar. 28, 1996;—Am. 2002, Act 192, Imd. Eff. Apr. 26, 2002;—Am. 2008, Act 480, Imd. Eff. Jan. 12, 2009;—Am. 2011, Act 269, Imd. Eff. Dec. 19, 2011;—Am. 2013, Act 146, Imd. Eff. Oct. 29, 2013.

Constitutionality: Subsection (8), which disqualifies employees who are locked out by their employer for a labor dispute in which they are directly involved but which does not disqualify locked-out employees where the labor dispute occurs in a functionally integrated establishment operated by the same employer does not violate the equal protection clause. Smith v Employment Security Commission, 410 Mich 231; 301 NW2d 285 (1981).

Claimant's failure to pay agency shop fees after receiving notice from her employer showed a wilful disregard of the employer's interest. The claimant did not have a constitutional right not to pay the required fees, and any effect on her First Amendment interests was outweighed by the state's interest in not using its moneys to pay unemployment benefits to persons who are disqualified under the act. Parks v Employment Security Commission, 427 Mich 224; 398 NW2d 275 (1986).

421.29m, 421.29n Repealed. 1965, Act 281, Eff. Sept. 5, 1965.

Compiler's note: The repealed sections provided for disqualification for benefits by reason of a jail sentence and by reason of a disciplinary layoff or suspension.

421.30 Benefits inalienable.

Sec. 30. Benefits inalienable. All rights to benefits shall be absolutely inalienable by any assignment, sale, garnishment, execution or otherwise, and, in case of bankruptcy, the benefits shall not pass to or through any trustees or other persons acting on behalf of creditors: Provided, That this section shall not prohibit the use of any remedy provided by law insofar as the collection of obligations incurred for necessaries furnished to the recipient of such benefits or his dependents during the time when such individual was unemployed is concerned.

History: 1936, Ex. Sess., Act 1, Imd. Eff. Dec. 24, 1936;—CL 1948, 421.30.

421.31 Waiver of rights; limitation of fees.

Sec. 31. No agreement by an individual to wave, release, or commute his rights to benefits or any other rights under this act from an employer shall be valid. No agreements by an individual in the employ of any person or concern to pay all or any portion of the contributions of an employer, required under this act from such employer, shall be valid. No employer shall directly or indirectly make or require or accept any deduction from the remuneration of any individual in his employ to finance the contributions of the employer required from him, or require or accept any waiver of any right hereunder by any individual in his employ.

No individual claiming benefits shall be charged fees of any kind in any proceeding under this act by the commission or its representatives or by any court or any officer thereof. Any individual claiming benefits in any proceeding before the commission or a court may be represented by counsel or other duly authorized agent; but no such counsel or agents shall either charge or receive for such services more than an amount approved by the commission.

Any employer may be represented in any proceeding before the commission by counsel or other duly authorized agent.

History: 1936, Ex. Sess., Act 1, Imd. Eff. Dec. 24, 1936;—CL 1948, 421.31;—Am. 1968, Act 338, Imd. Eff. July 19, 1968.

Compiler's note: Near the beginning of this section, "wave" evidently should read "waive."

421.32 Claims for benefits; examination; determination; notice.

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

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

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

claimant's nonmonetary eligibility and qualification for benefits. An employer may designate in writing to the unemployment agency an individual or another employer or an employing unit to receive any notice required to be given by the unemployment agency to that employer or to represent that employer in any proceeding before the unemployment agency as provided in section 31.

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

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

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

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

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

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

(*i*) Determinations as provided in section 62.

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

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

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

History: 1936, Ex. Sess., Act 1, Imd. Eff. Dec. 24, 1936;—Am. 1939, Act 324, Imd. Eff. June 22, 1939;—Am. 1941, Act 364, Imd. Eff. July 1, 1941;—Am. 1947, Act 360, Imd. Eff. July 8, 1947;—CL 1948, 421.32;—Am. 1951, Act 251, Imd. Eff. June 17, 1951;—Am. 1954, Act 197, Imd. Eff. May 7, 1954;—Am. 1955, Act 281, Eff. July 15, 1955;—Am. 1965, Act 281, Eff. Sept. 5, 1965;—Am. 1971, Act 231, Imd. Eff. Jan. 3, 1972;—Am. 1982, Act 535, Eff. Jan. 2, 1983;—Am. 1983, Act 164, Imd. Eff. July 24, 1983;—Am. 1994, Act 162, Imd. Eff. June 17, 1994;—Am. 1996, Act 503, Imd. Eff. Jan. 9, 1997;—Am. 2002, Act 192, Imd. Eff. Apr. 26, 2002;—Am. 2013, Act 144, Imd. Eff. Oct. 29, 2013;—Am. 2016, Act 522, Eff. Apr. 9, 2017.

421.32a Review of determination; redetermination; notice; reconsideration; applicability of disqualification or ineligibility to compensable period; finality of redetermination; additional transfer provisions.

Sec. 32a. (1) Upon application by an interested party for review of a determination, upon request for transfer to an administrative law judge for a hearing filed with the unemployment agency within 30 days after the mailing or personal service of a notice of determination, or upon the unemployment agency's own motion within that 30-day period, the unemployment agency shall review any determination. After review, the

unemployment agency shall issue a redetermination affirming, modifying, or reversing the prior determination and stating the reasons for the redetermination, or may in its discretion transfer the matter to an administrative law judge for a hearing. If a redetermination is issued, the unemployment agency shall promptly notify the interested parties of the redetermination, the redetermination is final unless within 30 days after the mailing or personal service of a notice of the redetermination an appeal is filed with the unemployment agency for a hearing on the redetermination before an administrative law judge in accordance with section 33.

(2) The unemployment agency may, for good cause, including any administrative clerical error, reconsider a prior determination or redetermination after the 30-day period has expired and after reconsideration issue a redetermination affirming, modifying, or reversing the prior determination or redetermination, or transfer the matter to an administrative law judge for a hearing. A reconsideration shall not be made unless the request is filed with the unemployment agency, or reconsideration is initiated by the unemployment agency with notice to the interested parties, within 1 year from the date of mailing or personal service of the original determination on the disputed issue.

(3) If an interested party fails to file a protest within the 30-day period and the unemployment agency for good cause reconsiders a prior determination or redetermination and issues a redetermination, a disqualification, or an ineligibility imposed thereunder, other than an ineligibility imposed due to receipt of retroactive pay, the redetermination, disqualification, or ineligibility does not apply to a compensable period for which benefits were paid or are payable unless the benefits were obtained as a result of an administrative clerical error, a false statement, or a nondisclosure or misrepresentation of a material fact by the claimant. However, the redetermination is final unless within 30 days after the date of mailing or personal service of the notice of redetermination an appeal is filed for a hearing on the redetermination before an administrative law judge in accordance with section 33.

(4) In addition to the transfer provisions in subsections (1) and (2), both of the following apply:

(a) If both the claimant and the employer agree, the matter may be transferred directly to an administrative law judge in a case involving the payment of unemployment benefits.

(b) If both the unemployment agency and the employer agree, the matter may be transferred directly to an administrative law judge in a case involving unemployment contributions or reimbursements in lieu of contributions.

History: Add. 1941, Act 364, Imd. Eff. July 1, 1941;—CL 1948, 421.32a;—Am. 1951, Act 251, Imd. Eff. June 17, 1951;—Am. 1955, Act 281, Eff. July 15, 1955;—Am. 1957, Act 311, Imd. Eff. June 21, 1957;—Am. 1965, Act 281, Eff. Sept. 5, 1965;—Am. 1971, Act 231, Imd. Eff. Jan. 3, 1972;—Am. 1974, Act 11, Imd. Eff. Feb. 15, 1974;—Am. 1975, Act 110, Eff. June 8, 1975;—Am. 1983, Act 164, Eff. Oct. 1, 1983;—Am. 1996, Act 503, Imd. Eff. Jan. 9, 1997;—Am. 2011, Act 269, Imd. Eff. Dec. 19, 2011.

421.32b Internet site; establishment; access; purpose; protest or appeal.

Sec. 32b. (1) The unemployment agency shall establish and provide access to a secure internet site to enable employers to determine if correspondence sent to the unemployment agency by the employer has been received.

(2) Within 10 days of receiving a protest or appeal from an employer or employing unit, the unemployment agency shall post a statement confirming receipt of the protest or appeal from that employer or employing unit on the internet site required under subsection (1).

(3) A protest or appeal shall be signed or verified in a manner prescribed by administrative rule and shall be transmitted to the agency by mail, facsimile, or other electronic method approved by the agency. If a party submits an unsigned or unverified protest or appeal, the unemployment agency shall notify the party of the defect that prevents the agency from accepting the protest or appeal.

History: Add. 2002, Act 192, Imd. Eff. Apr. 26, 2002;—Am. 2011, Act 269, Imd. Eff. Dec. 19, 2011.

421.33 Assignment to administrative law judge; appeals and transferred matters; consolidation of cases; procedure for appeal to Michigan compensation appellate commission.

Sec. 33. (1) An appeal from a redetermination issued by the agency in accordance with section 32a or a matter transferred for hearing and decision in accordance with section 32a shall be referred to the Michigan administrative hearing system for assignment to an administrative law judge. If the agency transfers a matter, or an interested party requests a hearing before an administrative law judge on a redetermination, all matters pertinent to the claimant's benefit rights or to the liability of the employing unit under this act shall be referred to the administrative law judge. The administrative law judge shall afford all interested parties a reasonable opportunity for a fair hearing and, unless the appeal is withdrawn, the administrative law judge shall decide the rights of the interested parties and shall notify the interested parties of the decision, setting forth the

findings of fact upon which the decision is based, together with the reasons for the decision. With respect to an appeal from a denial of redetermination, if the administrative law judge finds that there was good cause for the issuance of a redetermination, the denial shall be a redetermination affirming the determination and the appeal from the denial shall be an appeal from that affirmance. Unless an interested party would be unduly prejudiced, an administrative law judge may consolidate cases involving the same or substantially similar evidence or issues, hear the consolidated cases at the same date and time, create a single record of proceedings, and consider evidence introduced in 1 of those cases in the other cases. If the appellant fails to appear or prosecute the appeal, the administrative law judge may dismiss the proceedings or take other action considered advisable. An administrative law judge may, either upon application for rehearing by an interested party or on his or her own motion, proceed to rehear, affirm, modify, set aside, or reverse a prior decision on the basis of the evidence previously submitted in the case, or on the basis of additional evidence. The application or motion shall be made within 30 days after the date of mailing of the decision. The administrative law judge may, for good cause, reopen and review a prior decision and issue a new decision after the 30-day appeal period has expired. A request for review shall be made within 1 year after the date of mailing of the prior decision. An administrative law judge shall not participate in a case in which he or she has a direct or indirect interest.

(2) Within 30 days after the mailing of a copy of a decision of the administrative law judge or of a denial of a motion for rehearing, an interested party may file an appeal to the Michigan compensation appellate commission, and unless such an appeal is filed, the decision or denial by the administrative law judge is final.

History: 1936, Ex. Sess., Act 1, Imd. Eff. Dec. 24, 1936;—Am. 1939, Act 324, Imd. Eff. June 22, 1939;—Am. 1941, Act 364, Imd. Eff. July 1, 1941;—Am. 1947, Act 360, Imd. Eff. July 8, 1947;—CL 1948, 421.33;—Am. 1951, Act 251, Imd. Eff. June 17, 1951;—Am. 1963, Act 190, Eff. Sept. 6, 1963;—Am. 1965, Act 281, Eff. Sept. 5, 1965;—Am. 1971, Act 231, Imd. Eff. Jan. 3, 1972;—Am. 1975, Act 110, Eff. June 8, 1975;—Am. 1977, Act 52, Imd. Eff. July 5, 1977;—Am. 1977, Act 202, Imd. Eff. Nov. 17, 1977;—Am. 1983, Act 164, Eff. Oct. 1, 1983;—Am. 2011, Act 269, Imd. Eff. Dec. 19, 2011.

421.34 Appeal to Michigan compensation appellate commission from findings of fact and decision or from denial of motion for rehearing or reopening.

Sec. 34. (1) The Michigan compensation appellate commission created in Executive Reorganization Order No. 2011-6, MCL 445.2032, has full authority to handle, process, and decide appeals filed under section 33(2).

(2) An appeal to the Michigan compensation appellate commission from the findings of fact and decision of the administrative law judge or from a denial by the administrative law judge of a motion for a rehearing or reopening shall be a matter of right by an interested party. The Michigan compensation appellate commission, on the basis of evidence previously submitted and additional evidence as it requires, shall affirm, modify, set aside, or reverse the findings of fact and decision of the administrative law judge or a denial by the administrative law judge of a motion for rehearing or reopening.

(3) The agency is an interested party in a matter before an administrative law judge, the Michigan compensation appellate commission, or a court, but notice of hearing is not required to be provided to the agency for a hearing before an administrative law judge or the Michigan compensation appellate commission.

(4) The Michigan compensation appellate commission shall conduct an oral hearing in a matter before it only after an application for the hearing is made by an interested party and the application is approved by 2 or more members of the Michigan compensation appellate commission assigned to review the appeal. If an application for an oral hearing is not approved, the Michigan compensation appellate commission may consider a written argument if an application for written argument is approved by 2 or more members of the Michigan compensation appellate commission assigned to review the appeal and all parties are represented or all parties agree that written argument should be considered. If neither an oral hearing is held nor written argument considered, the Michigan compensation appellate commission shall decide the case on the record before the administrative law judge.

(5) The Michigan compensation appellate commission, in its discretion, may omit the basis for its decision in cases in which it affirms the decision of an administrative law judge without alteration or modification.

(6) If the appellant fails to appear, the Michigan compensation appellate commission may dismiss the proceedings or take other action it considers advisable.

(7) The Michigan compensation appellate commission may, either upon application by an interested party for rehearing or on its own motion, proceed to rehear, affirm, modify, set aside, or reverse a prior decision on the basis of the evidence previously submitted in that case, or on the basis of additional evidence if the application or motion is made within 30 days after the date of mailing of the prior decision. The Michigan compensation appellate commission may, for good cause, reopen and review a prior decision of the Michigan compensation appellate commission and issue a new decision after the 30-day appeal period has expired, but a

review shall not be made unless the request is filed with the Michigan compensation appellate commission, or review is initiated by the Michigan compensation appellate commission with notice to the interested parties, within 1 year after the date of mailing of the prior decision. Unless an interested party, within 30 days after mailing of a copy of a decision of the Michigan compensation appellate commission or of a denial of a motion for a rehearing, files an appeal from the decision or denial, or seeks judicial review as provided in section 38, the decision shall be final.

(8) The Michigan compensation appellate commission may on its own motion affirm, modify, set aside, or reverse a decision or order of an administrative law judge on the basis of the evidence previously submitted in the case; direct the taking of additional evidence; or permit a party to the decision or order to initiate further appeals before it. The Michigan compensation appellate commission shall permit a further appeal by a party interested in a decision or order of an administrative law judge or by the Michigan compensation appellate commission if its initial ruling has been overruled or modified. The Michigan compensation appellate commission may remove to itself or direct the Michigan administrative hearing system to transfer to another administrative law judge the proceedings on appeal, rehearing, or review pending before an administrative law judge. The Michigan compensation appellate commission shall promptly notify the interested parties of its findings and decisions.

(9) A member of the Michigan compensation appellate commission may administer oaths and take depositions.

(10) The testimony at a hearing before an administrative law judge or the Michigan compensation appellate commission shall be recorded, but need not be transcribed unless requested by the majority of the panel of the Michigan compensation appellate commission assigned to hear the claim. If an interested party wants a copy of a transcript of a hearing held before an administrative law judge or the Michigan compensation appellate commission, an interested party may request and shall be provided a transcript. An interested party who requests a transcript is responsible for the cost of the transcript.

(11) The manner in which an appeal to an administrative law judge and the Michigan compensation appellate commission shall be presented, the appeal reports required from an interested party, and the procedure governing the appeal shall be in accordance with rules promulgated by the Michigan administrative hearing system.

History: 1936, Ex. Sess., Act 1, Imd. Eff. Dec. 24, 1936;—Am. 1939, Act 324, Imd. Eff. June 22, 1939;—Am. 1941, Act 364, Imd. Eff. July 1, 1941;—CL 1948, 421.34;—Am. 1951, Act 251, Imd. Eff. June 17, 1951;—Am. 1965, Act 281, Eff. Sept. 5, 1965;—Am. 1975, Act 110, Eff. June 8, 1975;—Am. 1977, Act 52, Imd. Eff. July 5, 1977;—Am. 1983, Act 164, Eff. Oct. 1, 1983;—Am. 2011, Act 269, Imd. Eff. Dec. 19, 2011.

421.35, 421.36 Repealed. 2011, Act 269, Imd. Eff. Dec. 19, 2011.

Compiler's note: The repealed sections pertained to powers and duties of board of review and appeals to referees and board of review.

421.37 Fees for subpoenaed witnesses; fees and expenses of proceedings; issuance of subpoena.

Sec. 37. (1) Witnesses subpoenaed pursuant to this act shall be allowed fees at the rate fixed by law. The fees and expenses of proceedings involving disputed determinations, decisions, or notices of assessments before an administrative law judge or the Michigan compensation appellate commission shall be considered a part of the expense of administering this act.

(2) If an interested party to a hearing formally requests an administrative law judge or the Michigan compensation appellate commission to obtain a subpoena for witnesses whose evidence it considers necessary, an administrative law judge or the Michigan compensation appellate commission shall promptly issue the subpoena as provided in this act, unless the request is determined to be unreasonable.

History: 1936, Ex. Sess., Act 1, Imd. Eff. Dec. 24, 1936;—Am. 1941, Act 364, Imd. Eff. July 1, 1941;—CL 1948, 421.37;—Am. 1967, Act 254, Imd. Eff. July 19, 1967;—Am. 1977, Act 52, Imd. Eff. July 5, 1977;—Am. 2011, Act 269, Imd. Eff. Dec. 19, 2011.

421.38 Review by circuit court; direct appeal of order or decision of administrative law judge; unemployment agency as party; manner of appeal.

Sec. 38. (1) The circuit court in the county in which the claimant resides or the circuit court in the county in which the claimant's place of employment is or was located, or, if a claimant is not a party to the case, the circuit court in the county in which the employer's principal place of business in this state is located, may review questions of fact and law on the record made before the administrative law judge and the Michigan compensation appellate commission involved in a final order or decision of the Michigan compensation appellate commission, and may make further orders in respect to that order or decision as justice may require,

but the court may reverse an order or decision only if it finds that the order or decision is contrary to law or is not supported by competent, material, and substantial evidence on the whole record. Application for review shall be made within 30 days after the mailing of a copy of the order or decision by any method permissible under the rules and practices of the circuit court of this state.

(2) An order or decision of an administrative law judge that involves a claim for unemployment benefits may be appealed directly to the circuit court if the claimant and the employer or their authorized agents or attorneys agree to do so by written stipulation filed with the administrative law judge. An administrative law judge's order or decision involving an employer's contributions or payments in lieu of contributions under this act may be appealed directly to the circuit court based on a written stipulation agreeing to the direct appeal to the circuit court.

(3) The unemployment agency is a party to any judicial action involving an order or decision of the Michigan compensation appellate commission or an administrative law judge.

(4) The decision of the circuit court may be appealed in the manner provided by the laws of this state for appeals from the circuit court.

History: 1936, Ex. Sess., Act 1, Imd. Eff. Dec. 24, 1936;—Am. 1937, Act 347, Imd. Eff. Aug. 5, 1937;—Am. 1939, Act 324, Imd. Eff. June 22, 1939;—Am. 1941, Act 364, Imd. Eff. July 1, 1941;—CL 1948, 421.38;—Am. 1951, Act 251, Imd. Eff. June 17, 1951;—Am. 1967, Act 254, Imd. Eff. July 19, 1967;—Am. 1975, Act 110, Eff. June 8, 1975;—Am. 1977, Act 52, Imd. Eff. July 5, 1977;—Am. 1983, Act 164, Imd. Eff. July 24, 1983;—Am. 1996, Act 503, Imd. Eff. Jan. 9, 1997;—Am. 2011, Act 269, Imd. Eff. Dec. 19, 2011.

421.39 Employment security act; definitions.

Sec. 39. Definitions. As used in this act, unless the context clearly requires otherwise, the terms defined in this act shall be construed to have the meaning as prescribed and set forth in the several definitions.

History: 1936, Ex. Sess., Act 1, Imd. Eff. Dec. 24, 1936;—CL 1948, 421.39.

421.40 "Employing unit" defined.

Sec. 40. "Employing unit" means any individual or type of organization, including, but not limited to, a governmental entity as defined in section 50a, a partnership, association, trust, estate, joint-stock company, insurance company or corporation, whether domestic or foreign, or the receiver, trustee in bankruptcy, trustee or successor thereof, or the legal representative of a deceased person, which has or subsequent to this amendatory act, had in its employ 1 or more individuals performing services for it within this state. All individuals performing services within this state for any employing unit which maintains 2 or more separate establishments within this state shall be considered to be employed by a single employing unit for all the purposes of this act. Each individual employed to perform or to assist in performing the work of any agent or employee of an employing unit shall be considered to be employed by that employing unit for all the purposes of this act, whether the individual was hired or paid directly by that employing unit or by the agent or employee, provided the employing unit had actual or constructive knowledge of the work.

History: 1936, Ex. Sess., Act 1, Imd. Eff. Dec. 24, 1936;—CL 1948, 421.40;—Am. 1954, Act 197, Imd. Eff. May 7, 1954;—Am. 1955, Act 281, Eff. July 15, 1955;—Am. 1971, Act 231, Imd. Eff. Jan. 3, 1972;—Am. 1977, Act 277, Eff. Jan. 1, 1978.

421.41 "Employer" defined.

Sec. 41. "Employer" means any of the following:

(1) An employing unit that in each of 20 different calendar weeks within a calendar year, whether or not the weeks were consecutive, has or had in employment 1 or more individuals irrespective of whether the same individual was employed in each week, or by which total remuneration of $1,000.00 or more for employment was paid or payable within the calendar year.

(2) (a) Any individual, legal entity, or employing unit that acquires the organization, trade, or business, or 75% or more of the assets of another organization, trade, or business, which at the time of the acquisition was an employer subject to this act.

(b) Any individual, legal entity, or employing unit that becomes a transferee of business assets by any means otherwise than in the ordinary course of trade from an employer, if there is substantially common ownership, management, or control of the transferor and transferee at the time of transfer.

(3) Any employing unit that has become an employer under subdivision (1), (2), (4), (5), (6), (7), or (9) but has not, under section 24 or 25, ceased to be an employer subject to this act.

(4) For the effective period of its election pursuant to section 25, any other employing unit that has elected to become fully subject to this act.

(5) (a) An employing unit that for some portion of a day in each of 20 different calendar weeks, whether or not the weeks were consecutive, in either the current or the preceding calendar year, employed 10 or more individuals performing agricultural service, regardless of whether the individuals were employed at the same

moment of time, or that, during any calendar quarter in either the current or the preceding calendar year, paid remuneration in cash of $20,000.00 or more to employees performing agricultural service.

(b) For the purposes of this subdivision, an individual who is a member of a crew furnished by a farm labor contractor to perform agricultural service for any farm operator shall be treated as an employee of that farm labor contractor if the farm labor contractor holds a valid certificate of registration under the migrant and seasonal agricultural worker protection act, 29 USC 1801 to 1872; or substantially all the members of the crew operate or maintain tractors, mechanized harvesting or crop-dusting equipment, or any other mechanized equipment, which is provided by the farm labor contractor; and if the farm labor contractor is not an employee of the farm operator within the meaning of this act.

(c) For the purposes of this subdivision, in the case of an individual who is furnished by a farm labor contractor to perform agricultural service for a farm operator and who is not treated as an employee of the farm labor contractor under subparagraph (b), the farm operator and not the farm labor contractor shall be treated as the employer of the individual, and the farm operator shall be treated as having paid cash remuneration to the individual in an amount equal to the amount of cash remuneration paid to the individual by the farm labor contractor, either on the farm labor contractor's own behalf or on behalf of the farm operator, for the agricultural service performed for the farm operator.

(d) For the purposes of this subdivision, the term "farm labor contractor" means an individual who does all of the following:

(*i*) Furnishes individuals to perform agricultural service for a farm operator.

(*ii*) Pays, either on the individual's own behalf or on behalf of a farm operator, the individuals furnished by the individual for the agricultural service performed by them.

(*iii*) Has not entered into a written agreement with the farm operator under which the farm labor contractor is designated as an employee of the farm operator.

(6) An employing unit that paid cash remuneration of $1,000.00 or more for domestic service in any calendar quarter in the current calendar year or the preceding calendar year. An employing unit that is determined to be an employer under this subdivision shall not be considered an employer of other covered services unless it meets the test of being an employer under another subdivision of this section.

(7) Any employing unit not otherwise an employer under this section for which services in employment are performed for which the employing unit is liable for any federal tax against which credit may be taken for contributions required to be paid into a state unemployment compensation fund; but services performed for the employing unit are employment for the purposes of this act only to the extent that those services are employment with respect to which the federal tax is payable.

(8) For purposes of this section, a week that falls in 2 calendar years shall be considered to fall entirely within the calendar year that contains the majority of days of that week.

(9) Notwithstanding subdivision (1), after December 31, 1977, "employer" includes any employing unit for which services are performed as described in section 42(8) or (9).

(10) For the purpose of determining the amount of contributions due pursuant to section 44(2), subdivisions (5) and (6) shall first apply with respect to remuneration paid after December 31, 1977, for services performed after that date.

(11) Except as specifically provided in the franchise agreement, as between a franchisee and franchisor, the franchisee is considered the sole employer of workers for whom the franchisee provides a benefit plan or pays wages.

History: 1936, Ex. Sess., Act 1, Imd. Eff. Dec. 24, 1936;—Am. 1937, Act 347, Imd. Eff. Aug. 5, 1937;—Am. 1941, Act 364, Imd. Eff. July 1, 1941;—CL 1948, 421.41;—Am. 1951, Act 251, Imd. Eff. June 17, 1951;—Am. 1955, Act 281, Eff. July 15, 1955;—Am. 1965, Act 281, Eff. Sept. 5, 1965;—Am. 1968, Act 338, Imd. Eff. July 19, 1968;—Am. 1974, Act 104, Eff. June 9, 1974;—Am. 1977, Act 277, Eff. Jan. 1, 1978;—Am. 2005, Act 19, Eff. July 1, 2005;—Am. 2016, Act 20, Eff. May 23, 2016.

421.41a Repealed. 1951, Act 251, Imd. Eff. June 17, 1951.

Compiler's note: The repealed section provided for limitation by commission of retroactive effect of its rulings or decisions.

421.42 “Employment” defined.

Sec. 42. (1) "Employment" means service, including service in interstate commerce, performed for remuneration or under any contract of hire, written or oral, express or implied.

(2) "Employment" includes an individual's entire service, performed within or both within and without this state if any of the following apply:

(a) The service is localized in this state. Service shall be deemed to be localized within a state if the service is performed entirely within the state; or the service is performed both within and without the state, but the service performed without the state is incidental to the individual's service within the state, such as service

which is temporary or transitory in nature or consists of isolated transactions.

(b) The service is not localized in a state but some of the service performed in this state and the base of operations, or, if there is not a base of operations, then the place from which the service is directed or controlled, is in this state; or the base of operations or place from which the service is directed or controlled is not in a state in which some part of the service is performed, but the individual's residence is in this state.

(c) After December 31, 1964, the service is not localized in any state but is performed by an employee on or in connection with an American aircraft, if either the contract of service is entered into within this state or if the contract of service is not entered into within this state or within any other state and during the performance of the contract of service and while the employee is employed on the aircraft, it touches at an airfield in this state, and the employee is employed on and in connection with the aircraft when outside the United States. The unemployment agency may enter into reciprocal agreements with other states with respect to aircraft which touch airfields in more than 1 state.

(3) Service performed within this state but not covered under subsection (2) and not excluded under section 43 shall be deemed to be employment subject to this act if contributions are not required and paid with respect to those services under an unemployment compensation law of any other state or of the federal government.

(4) Services, not covered under subsection (2), performed entirely without this state, for which contributions are not required and paid under an unemployment compensation law of any other state or of the federal government, shall be deemed to be employment subject to this act if the unemployment agency approves the election of the employer for whom the services are performed that the entire service of the individual shall be deemed to be employment subject to this act. Such an election may be canceled by the employer by filing a written notice with the unemployment agency before January 30 of any year stating the employer's desire to cancel the election or at any time by submitting to the unemployment agency satisfactory proof that the services designated in the election are covered by an unemployment compensation law of another state or of the federal government, or if the services are covered by an arrangement pursuant to section 11 between the unemployment agency and the agency charged with the administration of any other state or federal unemployment compensation law, pursuant to which all services performed by an individual for an employing unit are deemed to be performed entirely within the state, shall be deemed to be employment if the unemployment agency has approved an election of the employing unit for which the services are performed, pursuant to which the entire service of the individual during the period covered by the election is deemed to be employment.

(5) Before January 1, 2013, services performed by an individual for remuneration are not employment subject to this act, unless the individual is under the employer's control or direction as to the performance of the services both under a contract for hire and in fact. Service performed by an individual for remuneration under an exclusive contract that provides for the individual's control and direction by a person, firm, or corporation possessing a public service permit or by a certificated motor carrier transporting goods or property for hire are employment subject to this act. Service is employment under this act if it is performed by an individual who by lease, contract, or arrangement places at the disposal of a person, firm, or corporation a piece of motor vehicle equipment and under a contract of hire that provides for the individual's control and direction, is engaged by the person, firm, or corporation to operate the motor vehicle equipment. On and after January 1, 2013, services are employment if the services are performed by an individual who the agency determines to be in an employer-employee relationship using the 20-factor test announced by the internal revenue service of the United States department of treasury in revenue ruling 87-41, 1987-1 C.B. 296. An individual from whom an employer is required to withhold federal income tax is prima facie considered to perform services in employment under this act.

(6) Notwithstanding section 43, services performed for an employing unit, for which the employing unit is liable for federal tax against which credit may be taken for contributions required to be paid into a state unemployment compensation fund, except service performed by an individual holding a visa described in section 101(a)(15)(H)(ii)(b) of the immigration and nationality act, 8 USC 1101, shall be deemed to constitute employment for the purposes of this act, but only to the extent that the services constitute employment with respect to which federal tax is payable. Notwithstanding any other provision of this act or any amendatory act, services performed for an employing unit which are required to be covered under this act, as a condition for its certification by the United States secretary of labor, shall constitute employment for the purposes of this act. The unemployment agency may waive the provisions of this subsection with respect to services performed within this state if the employing unit is an employer solely by reason of section 41(7) and establishes that the services are covered by the election of the employing unit under any other state unemployment compensation law. This subsection does not apply to the exceptions provided in section 43(q).

(7) Notwithstanding subsection (2) all service performed after December 31, 1964, by an officer or member of the crew of an American vessel on or in connection with the vessel is deemed to be employment

subject to this act if the operating office, from which the operations of the vessel operating on navigable waters within, or within and without, the United States are ordinarily and regularly supervised, managed, directed, and controlled, is within this state.

(8)(a) Service performed before January 1, 1978, by an individual in the classified civil service of this state and service performed by an individual for a school district, a community college district, a school or educational facility owned or operated by the state other than an institution of higher education, or a political subdivision of the state is employment subject to this act.

(b) Service performed after December 31, 1977, in the employ of a governmental entity as defined in section 50a is employment subject to this act.

(9) "Employment" includes service performed after December 31, 1971, by an individual in the employ of this state or any of its instrumentalities for a state hospital or state institution of higher education, or in the employ of this state and 1 or more other states or their instrumentalities for a hospital or institution of higher education located in this state. Coverage of services performed for these hospitals and institutions of higher education after December 31, 1977, shall be determined pursuant to subsection (8)(b).

(10) "Employment" includes service performed after December 31, 1971, by an individual in the employ of a religious, charitable, educational, or other organization which is excluded from the term "employment" as defined in the federal unemployment tax act solely by reason of section 3306(c)(8) of the unemployment tax act.

(11) "Employment" includes service performed after December 31, 1971, by an individual for his principal as an agent driver or commission driver engaged in distributing beverages, meat, vegetable, fruit, bakery, dairy, or other food products, or laundry or dry cleaning services; or as a traveling or city salesman, other than as an agent driver or commission driver, engaged upon a full-time basis in the solicitation on behalf of, and the transmission to, his principal except for sideline sales activities on behalf of some other person, of orders from wholesalers, retailers, contractors, operators of hotels, restaurants, or other similar establishments for merchandise for resale or supplies for use in their business operations. For purposes of this subsection, "employment" includes services performed after December 31, 1971, only if all of the following apply:

(a) The contract of service contemplates that substantially all of the services are to be performed personally by the individual.

(b) The individual does not have a substantial investment in facilities used in connection with the performance of the services other than in facilities for transportation.

(c) The services are not in the nature of a single transaction which is not part of a continuing relationship with the person for whom the services are performed.

(12) "Employment" includes service performed by a United States citizen outside the United States after December 31, 1971, except in Canada, and in the Virgin Islands after December 31, 1971, and before January 1 of the year following the year in which the United States secretary of labor approves the unemployment compensation law of the Virgin Islands under section 3304(a) of the internal revenue code, while in the employ of an American employer and is other than service which is employment pursuant to subsection (2) or a parallel provision of another state's law, if the requirements of subdivision (a), (b), or (c) are met:

(a) The employer's principal place of business in the United States is located in this state.

(b) The employer does not have a place of business in the United States, but the employer is any of the following:

(*i*) An individual who is a resident of this state.

(*ii*) A corporation which is organized under the laws of this state.

(*iii*) A partnership or a trust and the number of the partners or trustees who are residents of this state is greater than the number who are residents of any one other state.

(c) None of the criteria of subdivisions (a) and (b) is met but the employer elected coverage of the service under this act, or the employer failed to elect coverage in any state and the individual filed a claim for benefits based on the service under the law of this state.

(d) An "American employer", for purposes of this subsection, means a person who is one of the following:

(*i*) An individual who is a resident of the United States.

(*ii*) A partnership if 2/3 or more of the partners are residents of the United States.

(*iii*) A trust, if all of the trustees are residents of the United States.

(*iv*) A corporation organized under the laws of the United States or of any state.

(e) As used in this subsection, "United States" includes the states, the District of Columbia, and the Commonwealth of Puerto Rico.

(13) Notwithstanding any other provision of this act, the term "employment" includes an individual's service, wherever performed within the United States, the Virgin Islands, or Canada, if the service is not covered under the unemployment compensation law of any other state, the Virgin Islands, or Canada, and the

place from which the service is directed or controlled is in this state.

History: 1936, Ex. Sess., Act 1, Imd. Eff. Dec. 24, 1936;—Am. 1937, Act 347, Imd. Eff. Aug. 5, 1937;—Am. 1939, Act 324, Imd. Eff. June 22, 1939;—Am. 1941, Act 364, Imd. Eff. July 1, 1941;—Am. 1942, 2nd Ex. Sess., Act 18, Imd. Eff. Feb. 27, 1942;—Am. 1943, Act 246, Imd. Eff. June 1, 1943;—Am. 1947, Act 360, Imd. Eff. July 8, 1947;—CL 1948, 421.42;—Am. 1949, Act 282, Imd. Eff. June 11, 1949;—Am. 1951, Act 251, Imd. Eff. June 17, 1951;—Am. 1955, Act 281, Eff. July 15, 1955;—Am. 1957, Act 311, Imd. Eff. June 21, 1957;—Am. 1965, Act 281, Eff. Sept. 5, 1965;—Am. 1966, Act 226, Imd. Eff. July 11, 1966;—Am. 1967, Act 192, Imd. Eff. June 30, 1967;—Am. 1968, Act 338, Imd. Eff. July 19, 1968;—Am. 1971, Act 231, Imd. Eff. Jan. 3, 1972;—Am. 1974, Act 104, Eff. June 9, 1974;—Am. 1975, Act 303, Eff. Dec. 22, 1975;—Am. 1977, Act 277, Eff. Jan. 1, 1978;—Am. 2011, Act 269, Imd. Eff. Dec. 19, 2011;—Am. 2014, Act 241, Eff. Aug. 26, 2014.

Compiler's note: For effective date of subsection (8), see MCL 421.66(3).

421.42a Coverage of services; determination; penalties and interests.

Sec. 42a. If a business entity requests the unemployment agency to determine whether 1 or more individuals performing services for the entity in this state are in covered employment, the unemployment agency shall issue a determination of coverage of services performed by those individuals and any other individuals performing similar services under similar circumstances. If the unemployment agency determines that the services are in covered employment and the unemployment agency received the request on or after the effective date of the amendatory act that added this section and before January 1, 2013, wages paid for those services are qualifying wages to determine benefit entitlement with respect to the first 4 of the last 5 calendar quarters ending before the date of the determination. Benefits paid based on amounts determined as a result of this section to be wages in those calendar quarters and that are otherwise chargeable to the experience account of a contributing employer shall be charged instead to the nonchargeable benefits account. Penalties and interest accrue only on contributions or reimbursements in lieu of contributions that are assessed based on wages paid on or after the date of the determination. On and after January 1, 2013, services will be determined in employment in accordance with the provision of section 42 that applies on and after that date.

History: Add. 2011, Act 269, Imd. Eff. Dec. 19, 2011.

Compiler's note: Former MCL 421.42a, which pertained to the defined term "employmnet office", was repealed by Act 251 of 1951, Imd. Eff. June 17, 1951.

421.43 Services excluded from term "employment."

Sec. 43. Except as otherwise provided in section 42(6), the term "employment" does not include any of the following:

(a) Services performed by an individual who is an alien admitted to the United States to perform services described in either of the following:

(*i*) Sections 214(c) and 101(a)(15)(H)(ii)(a) of the immigration and nationality act, 8 USC 1184 and 8 USC 1101(a)(15)(H)(ii)(a).

(*ii*) Beginning January 1, 2014, services described in section 101(a)(15)(H)(ii)(b) of the immigration and nationality act, 8 USC 1101(a)(15)(H)(ii)(b), and services described in 22 CFR 62.28 to 62.32 that are performed by a holder of a J-1 exchange visitor program visa issued under section 101(a)(15)(J) of the immigration and nationality act, 8 USC 1101(a)(15)(J), and the mutual educational and cultural exchange act of 1961, 22 USC 2451 to 2464. The employer claiming an exclusion under this subparagraph must be the employer of an H-2B visa holder, as documented on an approved I-129 petition or successor form for a nonimmigrant worker, or the employer of the J-1 exchange visitor program visa holder, as documented in the DS-2019 or successor form. The employer shall maintain the supporting documentation for the claim for 6 years and, upon request, provide the unemployment agency with that documentation for compliance and verification purposes. This subparagraph is intended to apply retroactively to include the full calendar year.

(b) Service performed in the employ of another state or its political subdivisions, or of an instrumentality of another state or its political subdivisions, except as otherwise provided in section 42(9); and service performed in the employ of the United States government or an instrumentality of the United States exempt under the constitution of the United States from the contributions imposed by this act. However, to the extent that the congress of the United States permits states to require instrumentalities of the United States to make payments into an unemployment fund under a state unemployment compensation law, this act applies to the instrumentalities and to services performed for the instrumentalities in the same manner, to the same extent, and on the same terms as to all other employers, employing units, individuals, and services. If this state is not certified for any year by the appropriate agency of the United States under section 3304(c) of the federal unemployment tax act, chapter 23 of subtitle C of the internal revenue code of 1986, 26 USC 3304, the payments required of the instrumentalities with respect to the year shall be refunded by the commission from the fund in the same manner and within the same period as provided in section 16 with respect to

contributions erroneously collected.

(c) Service with respect to which unemployment compensation is payable under an unemployment compensation system established by an act of congress. However, the commission shall enter into agreements with the proper agencies under the act of congress, which agreements take effect 10 days after publication of the agreements in the manner provided in section 4 for regulations to provide reciprocal treatment to individuals who have, after acquiring potential rights to benefits under this act, acquired rights to unemployment compensation under the act of congress, or who have, after acquiring potential rights to unemployment compensation under the act of congress, acquired rights to benefits under this act.

(d) Agricultural labor. As used in this subdivision, "agricultural labor" includes all of the following:

(*i*) Service performed on a farm, in the employ of any person, in connection with cultivating the soil, or in connection with raising or harvesting an agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry, and fur-bearing animals and wildlife.

(*ii*) Service performed in the employ of the owner, tenant, or other operator of a farm in connection with the operation, management, conservation, improvement, or maintenance of a farm and its tools and equipment, or in salvaging timber or clearing land of brush and other debris left by a hurricane, if the major part of the service is performed on a farm.

(*iii*) Service performed in connection with the production or harvesting of a commodity defined as an agricultural commodity in section 15(g) of the agricultural marketing act, 12 USC 1141j, in connection with the ginning of cotton, or the operation or maintenance of ditches, canals, reservoirs, or waterways not owned or operated for profit, used exclusively for supplying and storing water for farming purposes.

(*iv*) Service performed in the employ of the operator of a farm in handling, planting, drying, packing, packaging, processing, freezing, grading, storing, or delivering to storage, to market, or to a carrier for transportation to market, in its unmanufactured state, an agricultural or horticultural commodity, if the operator produced more than 1/2 of the commodity for which the service is performed.

(*v*) Service performed in the employ of a group of operators of farms or a cooperative organization of which the operators are members, in the performance of service described in subparagraph (*iv*), but only if the operators produced more than 1/2 of the commodity for which the services are performed.

(*vi*) Service performed on a farm operated for profit if the service is not in the course of the employer's trade or business.

(*vii*) Subparagraphs (*iv*) and (*v*) do not apply to service performed in connection with commercial canning or commercial freezing or in connection with an agricultural or horticultural commodity after its delivery to a terminal market for distribution for consumption.

(*viii*) As used in this subdivision, "farm" includes stock, dairy, poultry, fruit, fur-bearing animals, truck farms, plantations, ranches, nurseries, ranges, and greenhouses, or other similar structures used primarily for the raising of agricultural or horticultural commodities.

(*ix*) Agricultural labor is not excluded from the term employment if the labor is performed for an employer as defined in section 41(5).

(e) Domestic service in a private home, local college club, or local chapter of a college fraternity or sorority not operated for profit. Domestic service is not excluded from the term "employment" if performed for an employer as defined in section 41(6).

(f) Service as an officer or member of a crew of an American vessel performed on or in connection with the vessel, except a vessel of less than 200 horsepower, if the operating office from which the operations of the vessel operating on navigable waters within or without the United States are ordinarily and regularly supervised, managed, directed, and controlled is without this state; and service performed by an individual in or as an officer or member of the crew of a vessel while it is engaged in the catching, taking, or harvesting of any kind of fish including service performed by an individual as an ordinary incident to that activity, except service performed on or in connection with a vessel of more than 10 net tons determined in the manner provided for determining the register tonnage of merchant vessels under the laws of the United States.

(g) Service performed by an individual in the employ of the individual's son, daughter, or spouse, and service performed by a child less than 18 years of age in the employ of the child's parent.

(h) Service performed by real estate salespersons, sales representatives of investment companies, and agents or solicitors of insurance companies who are compensated principally or wholly on a commission basis.

(i) Service performed within this state by an individual who is not a citizen of the United States or service performed within this state for an employer other than an American employer as defined in section 42(12)(d), if the service is incidental to the individual's service in a foreign country in which the base of operation is maintained or from which the service is directed or controlled.

(j) Service covered by an arrangement between the commission and the agency charged with the administration of another state or federal unemployment compensation law under which all service performed by an individual for an employing unit during the period covered by the employing unit's approved election. Service described in this subdivision is considered to be performed entirely within the agency's state or under federal law.

(k) Service performed by an individual in a calendar quarter in the employ of an organization exempt from income tax under section 501(a) of the internal revenue code of 1986, 26 USC 501, other than an organization described in section 401(a) of the internal revenue code of 1986, 26 USC 401, or under section 521 of the internal revenue code of 1986, 26 USC 521, if the remuneration earned is less than $50.00.

(*l*) Service performed in the employ of a school, college, or university, if the service is performed by any of the following:

(*i*) By a person who is primarily a student at the school, college, or university. For the purpose of this subparagraph, a person is considered to be "primarily a student" if the individual is enrolled in an institution, is pursuing a course of study for academic credit, and while enrolled normally works 30 hours or less per week for the institution.

(*ii*) By a spouse of a student, if given written notice at the start of the service that the employment is under a program to provide financial assistance to the student and that the employment will not be covered by a program of unemployment compensation.

(m) Service performed by an individual less than 22 years of age who is enrolled, at a nonprofit or public educational institution that normally maintains a regular faculty and curriculum and normally has a regularly organized body of students in attendance at the place where its educational activities are carried on, as a student in a full-time program, taken for credit at the institution, which program combines academic instruction with work experience, if the service is an integral part of the program and the institution has certified that fact to the employer. This subdivision does not apply to service performed in a program established for or on behalf of an employer or group of employers.

(n) Service performed in the employ of a hospital, if the service is performed by a patient of the hospital as defined in section 53(1).

(o) For purposes of section 42(8), (9), and (10), "employment" does not apply to service performed in any of the following situations:

(*i*) In the employ of a church or a convention or association of churches or an organization that is operated primarily for religious purposes and that is operated, supervised, controlled, or principally supported by a church or a convention or association of churches.

(*ii*) By an ordained, commissioned, or licensed minister of a church in the exercise of the ministry or by a member of a religious order in the exercise of duties required by the order.

(*iii*) Before January 1, 1978, in the employ of a school that is not an institution of higher education and which service is also excluded from the term "employment" as defined in section 3306(c)(8) of the federal unemployment tax act, chapter 23 of the internal revenue code of 1986, 26 USC 3306. After December 31, 1977, in the employ of a governmental entity as defined in section 50a, if the service is performed by an individual in any of the following capacities:

(A) As an elected official.

(B) As a member of a legislative body or of the judiciary.

(C) As a military employee of the state national guard or air national guard.

(D) As an employee serving on a temporary basis in case of fire, storm, snow, earthquake, flood, or similar emergency.

(E) In a position that, under or pursuant to the laws of this state, is designated as a major nontenured policymaking or advisory position, or a policymaking or advisory position, the performance of the duties of which ordinarily does not require more than 8 hours per week.

(*iv*) By an individual receiving rehabilitation or remunerative work in a facility conducted for the purpose of carrying out a program of rehabilitation for individuals whose earning capacity is impaired by age, physical or mental deficiency, or injury, or of providing remunerative work for individuals who because of their impaired physical or mental capacity cannot be readily absorbed in the competitive labor market.

(*v*) As part of an unemployment work-relief or work-training program assisted or financed in whole or in part by a federal agency or an agency of a state or political subdivision of a state by an individual receiving the work relief or work training.

(*vi*) By an inmate of a custodial or penal institution.

(*vii*) By an individual hired by a state department or recipient governmental entity through a summer youth employment program established under the Michigan youth corps act, 1983 PA 69, MCL 409.221 to 409.229, or an individual hired by a state department through a summer youth employment program administered by

the department of natural resources or the department of transportation.

(p) Service performed by an individual less than 18 years of age in the delivery or distribution of newspapers or shopping news, not including delivery or distribution to a point for subsequent delivery or distribution.

(q) Service performed for an employing unit other than a governmental entity or nonprofit organization and that is any of the following:

(*i*) Service performed by an individual while the individual was a minor student regularly attending either a public or a private school below the college level and the individual's employment during the week was any of the following:

(A) Less than the scheduled hours the individual would have worked in the department or establishment in which the employment occurred if the individual were not a student.

(B) Within the customary vacation days or vacation periods of the school, following which the individual actually returns to school.

(C) With an employer as a formal and accredited part of the regular curriculum of the individual's school.

(*ii*) Service performed by a college student of any age, but only if the student's employment is a formal and accredited part of the regular curriculum of the school.

(*iii*) Service performed by an individual as a member of a band or orchestra, but only if the service does not represent the principal occupation of the individual.

(r) Subject to subdivision (s), services performed as a direct seller, if the person is engaged in either of the following:

(*i*) The trade or business of selling, or soliciting the sale of, consumer products or services to any buyer on a buy-sell basis, a deposit-commission basis, or any similar basis that the commission or the U.S. department of labor designates by rule or regulation, for resale by the buyer or any other person in the home or otherwise than in a permanent retail establishment.

(*ii*) The trade or business of selling, or soliciting the sale of, consumer products or services in the home or otherwise than in a permanent retail establishment.

(s) The exclusion of services under subdivision (r) applies only if both of the following are met:

(*i*) Substantially all the cash or other remuneration, for the performance of the services described in subdivision (r) is directly related to sales or other output, including the performance of services, rather than to the number of hours worked.

(*ii*) The services are performed according to a written contract that provides that the person performing the services will not be treated as an employee with respect to those services for federal tax purposes.

(t) Service performed by an individual as a product demonstrator or product merchandiser if the service is performed under a written contract between the individual and a person whose principal business is obtaining the services of product demonstrators and product merchandisers for third parties for product demonstration and product merchandising purposes, and both in contract and in fact, the individual meets all of the following conditions:

(*i*) Is not treated as an employee with respect to those services for federal unemployment tax purposes.

(*ii*) Is compensated for each job, or the compensation is based on factors that relate to the work performed.

(*iii*) Determines the method of performing the service.

(*iv*) Provides the equipment used to perform the service.

(*v*) Is responsible for the completion of a specific job and is liable for any failure to complete the job.

(*vi*) Pays all expenses, and the opportunity for profit or loss rests solely with the individual.

(*vii*) Is responsible for operating costs, fuel, repairs, supplies, and motor vehicle insurance.

(*viii*) As used in this subdivision:

(A) "Product demonstrator" means an individual who, on a temporary, part-time basis, demonstrates or gives away samples of a food or other product as part of an advertising or sales promotion for the product and who is not otherwise directly employed by the manufacturer, distributor, or retailer.

(B) "Product merchandiser" means an individual who, on a temporary, part-time basis, builds or resets a product display and who is not otherwise directly employed by the manufacturer, distributor, or retailer.

(C) "Third party" means a manufacturer or broker.

(u) Service performed in an Americorps program but only if both of the following conditions are met:

(*i*) The individual performed the service under a contract or agreement providing for a guaranteed stipend opportunity.

(*ii*) The individual received the full amount of the guaranteed stipend before the ending date of the contract or agreement.

(v) Service performed by an individual as an oil, gas, or mineral landman under a contract with a private person or private entity if substantially all remuneration, including payment at a daily rate paid in cash or

otherwise for the performance of the service, is directly related to the individual's completion of the specific tasks contracted for rather than the number of hours worked, and if the contract provides that the individual is an independent contractor and not an employee with respect to the contracted service. As used in this subdivision, "landman" means an individual who is engaged in 1 or more of the following:

(*i*) Negotiating the acquisition or divestiture of oil, gas, or mineral rights.

(*ii*) Negotiating business agreements that provide for the exploration for, transportation of, or development of oil, gas, or minerals.

(*iii*) Determining the ownership of oil, gas, or minerals through research of public and private records.

(*iv*) Reviewing the status of the title to, and curing title defects and deficiencies associated with, the ownership of oil, gas, or minerals.

(*v*) Managing rights or obligations derived from the ownership of interests in oil, gas, or minerals.

(*vi*) Interacting with regulatory agencies in support of activities relating to exploring for and producing oil, gas, or minerals, including unitizing or pooling interests in oil, gas, or minerals.

History: 1936, Ex. Sess., Act 1, Imd. Eff. Dec. 24, 1936;—Am. 1937, Act 347, Imd. Eff. Aug. 5, 1937;—CL 1948, 421.43;—Am. 1951, Act 251, Imd. Eff. June 17, 1951;—Am. 1971, Act 231, Imd. Eff. Jan. 3, 1972;—Am. 1974, Act 104, Eff. Jan. 1, 1975;—Am. 1976, Act 77, Imd. Eff. Apr. 11, 1976;—Am. 1977, Act 277, Eff. Jan. 1, 1978;—Am. 1982, Act 535, Eff. Jan. 2, 1983;—Am. 1983, Act 71, Imd. Eff. June 2, 1983;—Am. 1983, Act 164, Imd. Eff. July 24, 1983;—Am. 1986, Act 70, Imd. Eff. Apr. 7, 1986;—Am. 1995, Act 25, Eff. Mar. 28, 1996;—Am. 1996, Act 145, Imd. Eff. Mar. 25, 1996;—Am. 2000, Act 490, Imd. Eff. Jan. 11, 2001;—Am. 2004, Act 243, Imd. Eff. July 23, 2004;—Am. 2014, Act 241, Eff. Aug. 26, 2014;—Am. 2014, Act 510, Imd. Eff. Jan. 14, 2015.

Compiler's note: For effective date of section 43(g), see § 421.72.

421.44 “Remuneration” and “wages” defined.

Sec. 44. (1) "Remuneration" means all compensation paid for personal services, including commissions and bonuses, and except for agricultural and domestic services, the cash value of all compensation payable in a medium other than cash. Any remuneration payable to an individual that has not been actually received by that individual within 21 days after the end of the pay period in which the remuneration was earned, shall, for the purposes of subsections (2) to (5) and section 46, be considered to have been paid on the twenty-first day after the end of that pay period. If back pay is awarded to an individual and is allocated by an employer or legal authority to a period of weeks within 1 or more calendar quarters, the back pay shall be considered paid in that calendar quarter or those calendar quarters for purposes of section 46. The reasonable cash value of compensation payable in a medium other than cash shall be estimated and determined in accordance with rules promulgated by the unemployment agency. Remuneration includes tips actually reported to an employer under section 6053(a) of the internal revenue code, 26 USC 6053(a), by an employee who receives tip income. Remuneration does not include either of the following:

(a) Money paid an individual by a unit of government for services rendered as a member of the National Guard of this state, or for similar services to another state or the United States.

(b) Money paid by an employer to a worker under a supplemental unemployment benefit plan consistent with the criteria for a supplemental unemployment benefit plan as described in Internal Revenue Service publication 15-A, employer's supplemental tax guide, regardless of whether the benefits are paid from a trust or by the employer.

(2) "Wages", subject to subsections (3) to (5), means remuneration paid by employers for employment and includes tips actually reported to an employer under section 6053(a) of the internal revenue code, 26 USC 6053(a), by an employee who receives tip income. If any provision of this subsection prevents this state from qualifying for any federal interest relief provisions provided under section 1202 of title XII of the social security act, 42 USC 1322, or prevents employers in this state from qualifying for the limitation on the reduction of federal unemployment tax act credits as provided under section 3302(f) of the federal unemployment tax act, 26 USC 3302, that provision is invalid to the extent necessary to maintain qualification for the interest relief provisions and federal unemployment tax credits.

(3) For the purpose of determining the amount of contributions due from an employer under this act, wages are limited by the taxable wage limit applicable under subsection (4). For this purpose, wages exclude all remuneration an employing unit pays to an individual that exceeds the taxable wage limit on which unemployment taxes were paid or were payable in this state and in any other states for that employee by the employing unit within that year. If a successor employing unit becomes a transferee during a calendar year in a transfer of business, as defined in section 22, of a predecessor employing unit and immediately after the transfer employs in his or her trade or business an individual who immediately before the transfer was employed in the trade or business of the predecessor, then for the purpose of determining whether the successor has paid remuneration with respect to employment equal to the taxable wage limit to that individual during the calendar year, any remuneration with respect to employment paid to that individual by the

predecessor during the calendar year and before the transfer shall be considered as having been paid by the successor.

(4) The taxable wage limit for each calendar year is $9,500.00 in the calendar years 1986 through 2002, and $9,000.00 for calendar years after 2002 and before 2012, or the maximum amount of remuneration paid within a calendar year by an employer subject to the federal unemployment tax act, 26 USC 3301 to 3311, to an individual with respect to employment as defined in that act that is subject to tax under that act during that year for each calendar year, whichever is greater. For calendar years beginning 2012, the taxable wage limit is $9,500.00, but if at the beginning of a calendar quarter the balance in the unemployment compensation fund equals or exceeds $2,500,000,000.00 and the agency projects that the balance will remain at or above $2,500,000,000.00 for the remainder of the calendar quarter and for the entire succeeding calendar quarter, the taxable wage limit for that calendar quarter and the succeeding calendar quarter is $9,000.00 for an employer that is not delinquent in the payment of unemployment contributions, penalties, or interest. For calendar years beginning 2016, if on June 30 of the preceding year the balance in the unemployment compensation fund equals or exceeds $2,500,000,000.00 and the agency projects that the balance will remain at or above $2,500,000,000.00 for the succeeding calendar quarter, the taxable wage limit for the calendar year is reduced to $9,000.00 for an employer that is not delinquent in the payment of unemployment contributions, penalties, or interest. If the unemployment compensation fund balance on June 30 or the agency projection does not meet these conditions, the $9,500.00 taxable wage limit applies to all employers in the next calendar year. For purposes of this subsection, an employer is delinquent in the payment of unemployment contribution, penalties, or interest if the employer has a quarterly unpaid balance of $25.00 or more, unless 1 or more of the following apply:

(a) The employer has filed a timely protest or appeal of the notice of assessment and the assessment has not become final.

(b) Within 45 days after the beginning of the first calendar quarter in which the reduced taxable wage base limit takes effect for nondelinquent employers, all outstanding balances owed to the unemployment agency are paid in full.

(c) If the employer is a domestic employer, all applicable contributions, interest, and penalties are paid on or before the date specified by the agency under section 13(1).

(5) For the purposes of this act, the term "wages" does not include any of the following:

(a) The amount of a payment, including an amount paid by an employer for insurance or annuities or into a fund, to provide for such a payment, made to, or on behalf of, an employee or any of the employee's dependents under a plan or system established by an employer that makes provision for the employer's employees generally, or for the employer's employees generally and their dependents, or for a class or classes of the employer's employees, or for a class or classes of the employer's employees and their dependents, on account of retirement, sickness or accident disability, medical or hospitalization expenses in connection with sickness or accident disability, or death.

(b) A payment made to an employee, including an amount paid by an employer for insurance or annuities, or into a fund, to provide for such a payment, on account of retirement.

(c) A payment on account of sickness or accident disability, or medical or hospitalization expenses in connection with sickness or accident disability, made by an employer to, or on behalf of, an employee after the expiration of 6 calendar months following the last calendar month in which the employee worked for the employer.

(d) A payment made to, or on behalf of, an employee or the employee's beneficiary from or to a trust described in section 401(a) of the internal revenue code of 1986, 26 USC 401(a), that is exempt from tax under section 501(a) of the internal revenue code of 1986, 26 USC 501(a), at the time of the payment, unless the payment is made to an employee of the trust as remuneration for services rendered as an employee and not as a beneficiary of the trust, or under or to an annuity plan which, at the time of the payment, is a plan described in section 403(a) of the internal revenue code of 1986, 26 USC 403(a), or under or to a bond purchase plan that at the time of the payment, is a qualified bond purchase plan described in former section 405(a) of the internal revenue code.

(e) The payment by an employer, without deduction from the remuneration of the employee, of the tax imposed upon an employee under section 3101 of the federal insurance contributions act, 26 USC 3101.

(f) Remuneration paid in any medium other than cash to an employee for service not in the course of the employer's trade or business.

(g) A payment, other than vacation or sick pay, made to an employee after the month in which the employee attains the age of 65, if the employee did not work for the employer in the period for which the payment is made.

(h) Remuneration paid to or on behalf of an employee as moving expenses if, and to the extent that, at the

time of payment of the remuneration it is reasonable to believe that a corresponding deduction is allowable under section 217 of the internal revenue code of 1986, 26 USC 217.

History: 1936, Ex. Sess., Act 1, Imd. Eff. Dec. 24, 1936;—Am. 1941, Act 364, Imd. Eff. July 1, 1941;—Am. 1943, Act 246, Imd. Eff. June 1, 1943;—Am. 1947, Act 360, Imd. Eff. July 8, 1947;—CL 1948, 421.44;—Am. 1951, Act 251, Imd. Eff. June 17, 1951;—Am. 1963, Act 226, Eff. Sept. 6, 1963;—Am. 1965, Act 281, Eff. Sept. 5, 1965;—Am. 1967, Act 254, Imd. Eff. July 19, 1967;—Am. 1968, Act 215, Imd. Eff. June 24, 1968;—Am. 1968, Act 338, Imd. Eff. July 19, 1968;—Am. 1971, Act 231, Imd. Eff. Jan. 3, 1972;—Am. 1975, Act 110, Eff. June 8, 1975;—Am. 1977, Act 155, Imd. Eff. Nov. 8, 1977;—Am. 1977, Act 277, Eff. Jan. 1, 1978;—Am. 1982, Act 535, Eff. Jan. 2, 1983;—Am. 1985, Act 223, Imd. Eff. Jan. 10, 1986;—Am. 1994, Act 162, Imd. Eff. June 17, 1994;—Am. 1996, Act 504, Imd. Eff. Jan. 9, 1997;—Am. 2002, Act 192, Imd. Eff. Apr. 26, 2002;—Am. 2011, Act 269, Imd. Eff. Dec. 19, 2011;—Am. 2015, Act 240, Imd. Eff. Dec. 22, 2015.

Administrative rules: R 421.112 of the Michigan Administrative Code.

421.44a "Previously uncovered services" defined; wages to include remuneration for previously uncovered services; limitation on use of remuneration and on charging of benefits; claims to which section applicable; retroactive claims; remuneration for previously uncovered services; identification and notification of individuals entitled to benefits; charging certain amounts of benefits to state only; reimbursement of commission.

Sec. 44a. (1) As used in this section, "previously uncovered services" means services which meet all of the following criteria:

(a) Which were not performed in employment, as defined in section 42, and were not services covered pursuant to section 25 at any time during the 1-year period ending December 31, 1975.

(b) Are agricultural services performed for an employer, as defined in section 41(5), or domestic services performed for an employer, as defined in section 41(6), or are services performed as an employee of a governmental entity, as defined in section 50a or services performed by an employee of a nonprofit educational institution other than an institution of higher education, as defined in section 53(3).

(2) For purposes of qualifying for, computing, or paying benefits with respect to benefit years beginning on or after January 1, 1978, wages for insured work shall include remuneration paid or payable for previously uncovered services. However, to the extent that benefits were paid or are payable, on the basis of previously uncovered services, under title II of the emergency jobs and unemployment assistance act of 1974, 26 U.S.C. 3304nt., or under a local unemployment compensation system, the remuneration for those services shall not be used for purposes of qualifying for, computing, or paying benefits under this act.

(3) Benefits shall not be charged to a contributing employer's account or to a reimbursing employer's account to the extent that the commission is reimbursed for those benefits pursuant to section 121 of the unemployment compensation amendments of 1976 and pursuant to subsections (7) and (8).

(4) This section shall apply to new claims filed after December 31, 1977. For purposes of this section, a claim filed after the effective date of this section, but before 90 days after the effective date of this section, shall be considered to have been timely filed. For purposes of retroactive claims filed pursuant to the transitional provisions of this section, the eligibility requirements of section 28(1)(a) shall be waived with respect to those weeks retroactively claimed.

(5) Remuneration paid or payable for previously uncovered services shall not be considered wages subject to contribution or reimbursement liability under this act.

(6) The commission shall attempt to ascertain the identity of and shall notify each individual who may be entitled to benefits under this section and who has had a claim rejected before the effective date of this section that he or she may be eligible to receive benefits under this section.

(7) Notwithstanding any other provision of this act, if an individual has not earned sufficient wages in covered employment to qualify for unemployment benefits except by combining such wages with remuneration paid or payable for previously uncovered services, benefits shall be charged only to the state but only for the amounts such benefits are not reimbursed under section 121 of the unemployment compensation amendments of 1976.

(8) To the extent that the commission is not reimbursed by the federal government under section 121 of the unemployment compensation amendments of 1976 for benefits paid based on previously uncovered services or under subsection (7), the commission shall be reimbursed from the general treasury of the state of Michigan.

History: Add. 1978, Act 355, Imd. Eff. July 20, 1978.

421.45 Base periods; definition.

Sec. 45. For benefit years beginning before the conversion date prescribed in section 75, "base period"

means the period of 52 consecutive calendar weeks ending with the day immediately preceding the first day of an individual's benefit year. For benefit years beginning after the conversion date prescribed in section 75, base period means the first 4 of the last 5 completed calendar quarters before the first day of the individual's benefit year. However, if an individual has not been paid sufficient wages in the first 4 of the last 5 completed calendar quarters to entitle the individual to establish a benefit year, then base period means the 4 most recent completed calendar quarters before the first day of the individual's benefit year.

History: 1936, Ex. Sess., Act 1, Imd. Eff. Dec. 24, 1936;—Am. 1939, Act 324, Imd. Eff. June 22, 1939;—Am. 1947, Act 360, Imd. Eff. July 8, 1947;—CL 1948, 421.45;—Am. 1951, Act 251, Imd. Eff. June 17, 1951;—Am. 1994, Act 162, Imd. Eff. June 17, 1994.

421.46 "Benefit year" defined; conditions; rights of claimant.

Sec. 46. (a) Subject to subsections (d) through (f), for benefit years beginning before October 1, 2000, "benefit year" means the period of 52 consecutive calendar weeks beginning the first calendar week in which an individual files a claim in accordance with section 32 and meets all of the following conditions:

(1) The individual has earned 20 credit weeks in the 52 consecutive calendar weeks before the week he or she files the claim for benefits.

(2) The individual is unemployed and meets all requirements of section 28 for the week for which he or she files a claim for benefits.

(3) Except for a disqualification under section 29 (8) involving a labor dispute during the individual's most recent period of employment with the most recent employer with whom the individual earned a credit week, the individual is not disqualified or subject to disqualification for the week for which he or she files a claim.

(4) The individual does not have a benefit year already in effect at the time of the claim.

(b) For benefit years beginning on or after October 1, 2000, "benefit year" means the period of 52 consecutive calendar weeks beginning the first calendar week in which an individual files a claim in accordance with section 32. However, a benefit year shall not be established unless the individual meets either of the following conditions:

(1) The total wages paid to the individual in the base period of the claim equals not less than 1.5 times the wages paid to the individual in the calendar quarter of the base period in which the individual was paid the highest wages.

(2) The individual was paid wages in 2 or more calendar quarters of the base period totaling at least 20 times the state average weekly wage as determined by the unemployment agency.

(c) For benefit years beginning after October 1, 2000, the state average weekly wage for a calendar year shall be computed on the basis of the 12 months ending the June 30 preceding that calendar year. A benefit year shall not be established if the individual was not paid wages of at least the state minimum hourly wage multiplied by 388.06 rounded down to the nearest dollar in at least 1 calendar quarter of the base period. A benefit year shall not be established based on base period wages previously used to establish a benefit year that resulted in the payment of benefits. However, if a calendar quarter of the base period contains wages that were previously used to establish a benefit year that resulted in the payment of benefits, a claimant may establish a benefit year using the wages in the remaining calendar quarters from among the first 4 of the last 5 completed calendar quarters, or if a benefit year cannot be established using those quarters, then by using wages from among the last 4 completed calendar quarters. A benefit year shall not be established unless, after the beginning of the immediately preceding benefit year during which the individual received benefits, the individual worked and received remuneration in an amount equal to at least 5 times the individual's most recent state weekly benefit rate in effect during the individual's immediately preceding benefit year. If a quarterly wage report has not been submitted in a timely manner by the employer as provided in section 13 for any of the quarters of the base period, or if wage information is not available for use by the unemployment agency for the most recent completed calendar quarter, the unemployment agency shall obtain and use the claimant's statement of wages paid during the calendar quarters for which the wage reports are missing to establish a benefit year. However, the claimant's statement of wages shall only be used to establish a benefit year if the claimant also provides to the unemployment agency documentary or other evidence of those wages that is satisfactory to the unemployment agency. A determination based on the claimant's statement of wages paid during any of these calendar quarters shall be redetermined if the quarterly wage report from the employer is later received and would result in a change in the claimant's weekly benefit amount or duration, or both, or if the quarterly wage report from the employer later becomes available for use by the unemployment agency and would result in a change in the claimant's benefit amount or duration, or both. If the redetermination results from the employer's failure to submit the quarterly wage report in a timely manner, the redetermination shall be effective as to benefits payable for weeks beginning after the receipt of information not previously submitted by the employer.

(d) If an individual files a claim for a 7-day period under section 27(c), his or her benefit year begins the

calendar week containing the first day of that 7-day period.

(e) If all or part of a claimant's right to benefits during his or her benefit year is canceled under section 62(b), the benefit year is terminated on the effective date of the cancellation.

(f) An individual may request a redetermination of his or her benefit rights and cancellation of a previously established benefit year if he or she has not completed a compensable period. Under circumstances described in this subsection, the benefit year begins the first day of the first week in which the request for redetermination of benefit rights is duly filed.

History: 1936, Ex. Sess., Act 1, Imd. Eff. Dec. 24, 1936;—Am. 1939, Act 324, Imd. Eff. June 22, 1939;—Am. 1941, Act 364, Imd. Eff. July 1, 1941;—Am. 1947, Act 360, Imd. Eff. July 8, 1947;—CL 1948, 421.46;—Am. 1949, Act 282, Imd. Eff. June 11, 1949;—Am. 1951, Act 251, Imd. Eff. June 17, 1951;—Am. 1954, Act 197, Imd. Eff. May 7, 1954;—Am. 1965, Act 281, Eff. Sept. 5, 1965;—Am. 1970, Act 14, Imd. Eff. Apr. 14, 1970;—Am. 1974, Act 11, Imd. Eff. Feb. 15, 1974;—Am. 1980, Act 358, Eff. Mar. 1, 1981;—Am. 1982, Act 535, Eff. Jan. 2, 1983;—Am. 1983, Act 164, Imd. Eff. July 24, 1983;—Am. 1994, Act 162, Imd. Eff. June 17, 1994;—Am. 1995, Act 25, Eff. Mar. 28, 1996;—Am. 2011, Act 269, Imd. Eff. Dec. 19, 2011;—Am. 2012, Act 218, Imd. Eff. June 28, 2012.

421.46a Establishment of benefit year where individual unable to establish benefit year under MCL 421.46; conditions; calculation of average weekly wage; charge to employers; extended benefits; claim.

Sec. 46a. (1) If an individual is not able to establish a benefit year under section 46 because of insufficient credit weeks, a benefit year may be established under this section if the individual has at least 14 credit weeks in his or her base period, and has base period wages in excess of 20 times the state average weekly wage, applicable to the calendar year in which the individual's benefit year is established, as computed under section 27(b)(2).

(2) With respect to a benefit year established under this section, an individual's average weekly wage shall be calculated by dividing the claimant's base period wages by 20. The resultant quotient will be the individual's average weekly wage for purposes of establishing the individual's weekly benefit rate under section 27. Notwithstanding section 27(d), for benefit years established under this section the individual will be entitled to 15 full weekly benefit payments at the established weekly benefit rate.

(3) Employers will be charged for benefits paid under this section based upon the ratio of wages earned with each employer to the total base period wages earned by the claimant. This ratio will be multiplied by the weekly benefit rate calculated for the claimant, and the resultant product will be the weekly charge to the employer's account.

(4) When payable pursuant to section 64, 7-1/2 full week payments of extended benefits will be paid at the weekly benefit rate established under this section to a claimant who exhausts his or her entitlement to the regular weekly benefits established under this section.

(5) A claim established under this section is subject to all provisions of this act which are not in conflict with this section.

History: Add. 1982, Act 535, Eff. Jan. 2, 1983.

421.47 Calendar quarter; definition.

Sec. 47. "Calendar quarter" means a period of 3 consecutive calendar months, ending with the last day of March, June, September or December.

History: 1936, Ex. Sess., Act 1, Imd. Eff. Dec. 24, 1936;—Am. 1937, Act 347, Imd. Eff. Aug. 5, 1937;—CL 1948, 421.47;—Am. 1951, Act 251, Imd. Eff. June 17, 1951.

421.48 "Unemployed" explained; amounts considered wages or remuneration; leave of absence; elected layoff.

Sec. 48. (1) An individual shall be considered unemployed for any week during which he or she performs no services and for which remuneration is not payable to the individual, or for any week of less than full-time work if the remuneration payable to the individual is less than 1-1/2 times his or her weekly benefit rate, except that for payable weeks of benefits beginning after the effective date of the amendatory act that added section 15a and before October 1, 2015, an individual is considered unemployed for any week or less of full-time work if the remuneration payable to the individual is less than 1-3/5 times his or her weekly benefit rate. However, any loss of remuneration incurred by an individual during any week resulting from any cause other than the failure of the individual's employing unit to furnish full-time, regular employment shall be included as remuneration earned for purposes of this section and section 27(c). The total amount of remuneration lost shall be determined pursuant to regulations prescribed by the unemployment agency. For the purposes of this act, an individual's weekly benefit rate means the weekly benefit rate determined pursuant to section 27(b).

(2) All amounts paid to a claimant by an employing unit or former employing unit for a vacation or a holiday, and amounts paid in the form of retroactive pay, pay in lieu of notice, severance payments, salary continuation, or other remuneration intended by the employing unit as continuing wages or other monetary consideration as the result of the separation, excluding SUB payments as described in section 44, shall be considered remuneration in determining whether an individual is unemployed under this section and also in determining his or her benefit payments under section 27(c), for the period designated by the contract or agreement providing for the payment, or if there is no contractual specification of the period to which payments shall be allocated, then for the period designated by the employing unit or former employing unit. However, payments for a vacation or holiday, or the right to which has irrevocably vested, after 14 days following a vacation or holiday shall not be considered wages or remuneration within the meaning of this section.

(3) An individual shall not be considered to be unemployed during any leave of absence from work granted by an employer either at the request of the individual or pursuant to an agreement with the individual's duly authorized bargaining agent, or in accordance with law. An individual shall neither be considered not unemployed nor on a leave of absence solely because the individual elects to be laid off, pursuant to an option provided under a collective bargaining agreement or written employer plan that permits an election, if there is a temporary layoff because of lack of work and the employer has consented to the election.

History: 1936, Ex. Sess., Act 1, Imd. Eff. Dec. 24, 1936;—Am. 1939, Act 324, Imd. Eff. June 22, 1939;—Am. 1942, 2nd Ex. Sess., Act 18, Imd. Eff. Feb. 27, 1942;—Am. 1943, Act 246, Imd. Eff. June 1, 1943;—Am. 1947, Act 360, Imd. Eff. July 8, 1947;—CL 1948, 421.48;—Am. 1951, Act 251, Imd. Eff. June 17, 1951;—Am. 1954, Act 197, Imd. Eff. May 7, 1954;—Am. 1955, Act 281, Eff. July 15, 1955;—Am. 1983, Act 164, Imd. Eff. July 24, 1983;—Am. 2002, Act 192, Imd. Eff. Apr. 26, 2002;—Am. 2011, Act 269, Imd. Eff. Dec. 19, 2011.

421.48a Transmission or receipt by mail.

Sec. 48a. A reference in this act to transmission or receipt by mail shall include any form of electronic transmission or receipt approved by the agency.

History: Add. 2011, Act 269, Imd. Eff. Dec. 19, 2011.

Compiler's note: Former MCL 421.48a, which pertained to defined terms “unemployed” and “weekly benefit rate”, was repealed by Act 251 of 1951, Imd. Eff. June 17, 1951.

421.49 Last day of protest or appeal period falling on Saturday, Sunday, or legal holiday; running of statutory periods.

Sec. 49. (1) When the last day of the 30-day protest or appeal period, as provided for in this act, falls on a Saturday, Sunday, or legal holiday, the 30-day period shall run until the end of the next day which is not a Saturday, Sunday, nor legal holiday.

(2) The 30-day protest or appeal period after the mailing of a notice of determination or redetermination as provided in sections 14 and 32a and the 1-year period from the date of mailing of the original determination as provided in section 32a shall begin to run from either the date of mailing or from the date of personal service of the determination or redetermination.

History: Add. 1955, Act 281, Eff. July 15, 1955;—Am. 1957, Act 311, Imd. Eff. June 21, 1957;—Am. 1975, Act 110, Eff. June 8, 1975;—Am. 1983, Act 164, Eff. Oct. 1, 1983.

Compiler's note: Former MCL 421.49, defining “partial employment,” was repealed by Act 251 of 1951.

421.50 “Week" defined.

Sec. 50. "Week" means calendar week, ending at midnight Saturday, but all work performed and wages earned during a working shift which starts before midnight Saturday shall be included in the week in which that shift begins.

History: 1936, Ex. Sess., Act 1, Imd. Eff. Dec. 24, 1936;—Am. 1947, Act 360, Eff. Jan. 1, 1948;—CL 1948, 421.50;—Am. 1949, Act 282, Imd. Eff. June 11, 1949;—Am. 1951, Act 251, Imd. Eff. June 17, 1951;—Am. 1954, Act 197, Imd. Eff. May 7, 1954;—Am. 1955, Act 281, Eff. July 15, 1955;—Am. 1965, Act 281, Eff. Sept. 5, 1965;—Am. 1967, Act 254, Imd. Eff. July 19, 1967;—Am. 1970, Act 14, Imd. Eff. Apr. 14, 1970;—Am. 1974, Act 104, Eff. Jan. 1, 1975;—Am. 1975, Act 303, Eff. Dec. 22, 1975;—Am. 1977, Act 277, Eff. Jan. 1, 1978;—Am. 1980, Act 358, Eff. Mar. 1, 1981;—Am. 1982, Act 535, Eff. Jan. 2, 1983;—Am. 1994, Act 162, Imd. Eff. June 17, 1994;—Am. 1995, Act 25, Eff. Mar. 28, 1996;—Am. 2011, Act 269, Imd. Eff. Dec. 19, 2011.

421.50a “Governmental entity” defined.

Sec. 50a. (1) As used in this act, “governmental entity” means this state or any of its instrumentalities, a county, city, township, village, school district, community college district, community hospital district, any agency authorized to exercise a governmental function in a limited geographical area, or other political subdivision, any instrumentality of 1 or more of these units, or any of these units and 1 or more other states or

political subdivisions of those states.

(2) An entity shall be considered a governmental entity if the entity has either of the following characteristics:

(a) The entity is organized under state law with power to hire, supervise, and discharge its employees.

(b) The entity may enter into contracts and sue and be sued.

History: Add. 1974, Act 104, Eff. Jan. 1, 1975;—Am. 1977, Act 277, Eff. Jan. 1, 1978.

421.51 "Benefits" and "average weekly wage" defined.

Sec. 51. "Benefits" means the money payments payable to an eligible and qualified individual, as provided in this act, with respect to unemployment.

For benefit years established before the conversion date prescribed in section 75, an individual's "average weekly wage", with respect to a base period employer, shall be the amount determined by dividing his or her total wages for credit weeks earned from that employer by the number of such credit weeks.

History: 1936, Ex. Sess., Act 1, Imd. Eff. Dec. 24, 1936;—Am. 1947, Act 360, Imd. Eff. July 8, 1947;—CL 1948, 421.51;—Am. 1951, Act 251, Imd. Eff. June 17, 1951;—Am. 1994, Act 162, Imd. Eff. June 17, 1994.

421.51a Repealed. 1951, Act 251, Imd. Eff. June 17, 1951.

Compiler's note: The repealed section defined terms "benefits" and "average weekly wage".

421.52 State; definition.

Sec. 52. "State" includes, in addition to the states of the United States of America, the District of Columbia, Puerto Rico and the Virgin Islands of the United States.

History: 1936, Ex. Sess., Act 1, Imd. Eff. Dec. 24, 1936;—CL 1948, 421.52;—Am. 1965, Act 281, Eff. Sept. 5, 1965;—Am. 1968, Act 338, Imd. Eff. July 19, 1968;—Am. 1970, Act 14, Imd. Eff. Apr. 14, 1970.

421.53 "Hospital,""institution of higher education," and "educational institution other than institution of higher education," defined.

Sec. 53. (1) "Hospital" means an institution which has been licensed, certified or approved by the department of public health, bureau of medical care administration, as a hospital.

(2) "Institution of higher education", for the purposes of this act means a public or nonprofit educational institution which does any of the following:

(a) Admits as regular students only individuals having a certificate of graduation from a high school, or the recognized equivalent of such a certificate.

(b) Is legally authorized in this state to provide a program of education beyond high school.

(c) Provides an educational program for which it awards a bachelor's or higher degree; provides a program which is acceptable for full credit toward such a degree; provides a program of postgraduate or postdoctoral studies; or provides a program of training to prepare students for gainful employment in a recognized occupation.

(d) Notwithstanding any of the foregoing provisions of this subsection, all recognized public and nonprofit colleges and universities in this state are institutions of higher education for purposes of this subsection.

(3) "Educational institution other than an institution of higher education" for the purposes of this act means a public or nonprofit educational institution that does not meet the requirements of subsection (2) and:

(a) Offers to participants, trainees, or students an organized course of study or training designed to transfer to them knowledge, skills, information, doctrines, attitudes or abilities from, by or under the guidance of an instructor or teacher; or

(b) Is approved, licensed or issued a permit to operate as a school by the state board of education or other government agency that is authorized within the state to approve, license or issue a permit for the operation of a school; or

(c) Offers a course of study or training which is academic, technical, trade or preparation for gainful employment in a recognized occupation.

(d) Notwithstanding any of the foregoing provisions of this subsection, any recognized public or nonprofit educational institution, other than defined in subsection (2), is an "educational institution other than an institution of higher education" for purposes of this subsection.

History: 1936, Ex. Sess., Act 1, Imd. Eff. Dec. 24, 1936;—Am. 1937, Act 347, Imd. Eff. Aug. 5, 1937;—CL 1948, 421.53;—Am. 1971, Act 231, Imd. Eff. Jan. 3, 1972;—Am. 1977, Act 277, Eff. Jan. 1, 1978.

421.54 Sanctions; penalties.

Sec. 54. (a) A person, including a claimant for unemployment benefits, an employing entity, or an owner,

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

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

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

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

(I) Imprisonment for not more than 1 year.

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

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

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

(I) Imprisonment for not more than 2 years.

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

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

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

(I) Imprisonment for not more than 5 years.

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

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

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

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

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

(I) Imprisonment for not more than 1 year.

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

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

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

(I) Imprisonment for not more than 2 years.

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

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

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

(*i*) If the amount obtained as a result of the knowing false statement or representation or the knowing and willful failure to disclose a material fact is less than $500.00, the unemployment agency may recover the

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

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

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

(I) Imprisonment for not more than 1 year.

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

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

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

(I) Imprisonment for not more than 2 years.

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

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

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

(I) Imprisonment for not more than 2 years.

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

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

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

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

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

(d) If any employee or agent of the unemployment agency or member of the Michigan compensation appellate commission willfully discloses confidential information obtained from any employing unit or individual in the administration of this act for any purpose inconsistent with or contrary to the purposes of this act, or a person who obtains a list of applicants for work or of claimants or recipients of benefits under this act uses or permits use of that list for a political purpose or for a purpose inconsistent with or contrary to the

purposes of this act, he or she is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than $1,000.00, or both. Notwithstanding the preceding sentence, if any unemployment agency employee, agent of the unemployment agency, or member of the Michigan compensation appellate commission knowingly, intentionally, and for financial gain, makes an illegal disclosure of confidential information obtained under section 13(2), he or she is guilty of a felony, punishable by imprisonment for not more than 1 year and 1 day.

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

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

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

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

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

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

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

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

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

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

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

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

History: 1936, Ex. Sess., Act 1, Imd. Eff. Dec. 24, 1936;—Am. 1939, Act 324, Imd. Eff. June 22, 1939;—Am. 1941, Act 364, Imd. Eff. July 1, 1941;—Am. 1947, Act 360, Imd. Eff. July 8, 1947;—CL 1948, 421.54;—Am. 1965, Act 281, Eff. Sept. 5, 1965;—Am. 1965, Act 398, Imd. Eff. Oct. 26, 1965;—Am. 1971, Act 231, Imd. Eff. Jan. 3, 1972;—Am. 1974, Act 104, Eff. June 9, 1974;—Am. 1983, Act 164, Imd. Eff. July 24, 1983;—Am. 1985, Act 197, Imd. Eff. Dec. 26, 1985;—Am. 1989, Act 225, Eff. Mar. 29, 1990;—Am. 1991, Act 10, Eff. Apr. 1, 1992;—Am. 1993, Act 280, Imd. Eff. Dec. 28, 1993;—Am. 1994, Act 162, Imd. Eff. June 17, 1994;—Am. 2002, Act 192, Imd. Eff. Apr. 26, 2002;—Am. 2011, Act 14, Imd. Eff. Mar. 29, 2011;—Am. 2011, Act 269, Imd. Eff. Dec. 19, 2011;—Am. 2013, Act 143, Imd. Eff. Oct. 29, 2013;—Am. 2016, Act 522, Eff. Apr. 9, 2017.

Compiler's note: Enacting section 1 of Act 143 of 2013 provides:

"Enacting section 1. This amendatory act applies to a deduction or recovery made pursuant to a determination or redetermination issued after October 21, 2013."

Administrative rules: R 421.10 et seq. of the Michigan Administrative Code.

421.54a Requiring individual to make false statement or representation regarding benefit or

other payment as condition of employment; remedies; applicability; disposition of amounts recovered; effective date of section.

Sec. 54a. (1) Any employing unit or an officer or agent of an employing unit, an employee of the commission, or a third party shall not require an individual, as a condition of employment, to make a false statement or representation knowing it to be false to obtain or increase a benefit or other payment under this act or to avoid or reduce a contribution or other payment required from an employing unit under this act.

(2) If the commission determines that an employing unit or an officer or agent of an employing unit, an employee of the commission, or a third party has violated this section, the commission may recover an amount equal to the amount of benefits or increase in benefits or other payment received or an amount equal to the amount of contributions or other payments from an employing unit avoided or reduced based on the violation of this section plus an amount equal to 3 times that amount but not less than $5,000.00.

(3) The commission may refer the matter to the prosecuting attorney of the county in which the alleged violation occurred for prosecution. If the commission has not made its own determination under subsection (2), the penalty sought by the prosecutor shall include the amount described in subsection (2) and both a fine of not less than $5,000.00 and 1 of the following:

(a) Imprisonment for not more than 10 years.

(b) The performance of community service of not more than 10 years but not to exceed 20,800 hours.

(c) A combination of (a) and (b) that does not exceed 10 years.

(4) This section applies to conduct that began before April 1, 1992 but that continued on or after April 1, 1992 and to conduct that began on or after April 1, 1992.

(5) The amount recovered by the commission pursuant to subsection (2) or (3) shall be credited first to the unemployment compensation fund and thereafter amounts recovered that are in excess of the amounts obtained, increased, avoided, or reduced as a result of the violation of this section shall be credited to the penalty and interest account of the contingent fund.

(6) This section shall take effect April 1, 1992.

History: Add. 1991, Act 5, Eff. Apr. 1, 1992;—Am. 1993, Act 278, Imd. Eff. Dec. 28, 1993.

421.54b Conspiracy; applicability; penalties; disposition of amounts recovered; effective date of section.

Sec. 54b. (1) An employing unit or an officer or agent of an employing unit, a claimant for unemployment benefits, an employee of the commission, or a third party that has conspired with 1 or more persons to commit an offense prohibited by this act or to commit an act permitted by this act in an illegal manner shall be guilty of conspiracy punishable by 1 or more of the following:

(a) If the commission determines that an individual conspired to commit an illegal act under this act, the commission may recover the amount of money so obtained or withheld from payment as a result of the illegal act, and may also recover damages equal to 3 times that amount.

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

(*i*) If the amount obtained or withheld from payment as a result of the conspiracy is $25,000.00 or less, then 1 of the following:

(A) Imprisonment for not more than 2 years.

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

(C) A combination of (A) and (B) that does not exceed 2 years.

(*ii*) If the amount obtained or withheld from payment as a result of the conspiracy is more than $25,000.00, then 1 of the following:

(A) Imprisonment for not more than 5 years.

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

(C) A combination of (A) and (B) that does not exceed 5 years.

(*iii*) If a conspiracy to obtain or withhold an amount from payment does not result in a loss to the commission, then both a fine equal to 3 times the amount involved in the conspiracy, but not less than $1,000.00 and 1 of the following:

(A) Imprisonment for not more than 2 years.

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

(C) A combination of (A) and (B) that does not exceed 2 years.

(2) This section shall apply even if the amount obtained or withheld from payment has been reported or

reported and paid by an individual involved in a conspiracy.

(3) This section applies to conduct that began before April 1, 1992 but that continued on or after April 1, 1992 and to conduct that began on or after April 1, 1992.

(4) The penalties provided in this section shall be in addition to any penalty provided in this act for a late filing.

(5) If a determination is made that an individual has violated this section, the individual is subject to the penalty provisions of this section and, where applicable, the requirements of section 62.

(6) The amount recovered by the commission pursuant to subsection (1) shall be credited first to the unemployment compensation fund and thereafter amounts recovered that are in excess of the amounts obtained or withheld as a result of the conspiracy shall be credited to the penalty and interest account of the contingent fund.

(7) This section shall take effect April 1, 1992.

History: Add. 1991, Act 4, Eff. Apr. 1, 1992;—Am. 1993, Act 276, Imd. Eff. Dec. 28, 1993.

421.54c Embezzlement; penalties; applicability; disposition of amounts recovered; effective date of section.

Sec. 54c. (1) An employing unit or an officer or agent of an employing unit, a claimant for unemployment benefits, an employee of the commission, or a third party that has knowingly or willfully appropriated or converted to his, her, or its own use money to be used for the payment of benefits under this act or money received as the payment of contribution liability under this act is guilty of embezzlement punishable as follows:

(a) If the amount obtained as a result of the knowing or willful appropriation or conversion of money is less than $500.00, the commission may recover the amount obtained as a result of the knowing or willful appropriation or conversion of money and may also recover damages equal to 2 times that amount.

(b) If the amount obtained as a result of the knowing or willful appropriation or conversion of money is $500.00 or more, the commission shall attempt to recover the amount obtained as a result of the knowing or willful appropriation or conversion of money and may also recover damages equal to 4 times that amount. The commission may refer the matter to the prosecuting attorney of the county in which the alleged violation occurred for prosecution. If the commission has not made its own determination under this subdivision, the penalty sought by the prosecutor shall include the amount described in this subdivision and shall also include 1 of the following applicable penalties if the amount obtained is $1,000.00 or more:

(*i*) If the amount obtained or withheld from payment as a result of the knowing or willful appropriation or conversion of money is $1,000.00 or more but less than $25,000.00, then 1 of the following:

(A) Imprisonment for not more than 1 year.

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

(C) A combination of (A) and (B) that does not exceed 1 year.

(*ii*) If the amount obtained or withheld from payment as a result of the knowing or willful appropriation or conversion of money is $25,000.00 or more but less than $100,000.00, then 1 of the following:

(A) Imprisonment for not more than 2 years.

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

(C) A combination of (A) and (B) that does not exceed 2 years.

(*iii*) If the amount obtained or withheld from payment as a result of the knowing or willful appropriation or conversion of money is $100,000.00 or more, then 1 of the following:

(A) Imprisonment for not more than 5 years.

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

(C) A combination of (A) and (B) that does not exceed 5 years.

(*iv*) If the knowing or willful appropriation or conversion of money made to obtain or withhold an amount from payment does not result in a loss to the commission, then a penalty shall be sought equal to 3 times the amount that would have been obtained by the knowing or willful appropriation or conversion of money, but not less than $1,000.00, and 1 of the following:

(A) Imprisonment for not more than 2 years.

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

(C) A combination of (A) and (B) that does not exceed 2 years.

(2) This section shall apply even if the amount obtained or withheld from payment has been reported or reported and paid by an individual involved in the embezzlement.

(3) This section applies to conduct that began before April 1, 1992 but that continued on or after April 1, 1992 and to conduct that began on or after April 1, 1992.

(4) The penalties provided in this section shall be in addition to any penalty provided in this act for a late

filing.

(5) If a determination is made that an individual has violated this section, the individual is subject to the penalty provisions of this section and, where applicable, the requirements of section 62.

(6) The amount recovered by the commission pursuant to subsection (1)(a) or (b) shall be credited first to the unemployment compensation fund and thereafter amounts recovered that are in excess of the amounts obtained as a result of the embezzlement shall be credited to the penalty and interest account of the contingent fund.

(7) This section shall take effect April 1, 1992.

History: Add. 1991, Act 8, Eff. Apr. 1, 1992;—Am. 1993, Act 277, Imd. Eff. Dec. 28, 1993;—Am. 2002, Act 192, Imd. Eff. Apr. 26, 2002.

421.55 Catchline headings of section not part of act.

Sec. 55. Catchline headings of sections not part of act. The catchline headings of the sections of this act shall in no way be considered to be a part of the respective sections or of this act but are inserted herein for purposes of convenience.

History: 1936, Ex. Sess., Act 1, Imd. Eff. Dec. 24, 1936;—CL 1948, 421.55.

421.56 American vessel, American aircraft; definitions.

Sec. 56. "American vessel" as used in this act means a vessel documented or numbered under the laws of the United States, or a vessel which is neither documented nor numbered under the laws of the United States nor documented under the laws of any foreign country, if its crew is employed solely by 1 or more citizens or residents of the United States or corporations organized under the laws of the United States or of any state. "American aircraft" means an aircraft registered under the laws of the United States.

History: Add. 1965, Act 281, Eff. Sept. 5, 1965.

Former law: See section 56 of Act 1 of 1936 Ex. Sess., which was repealed by Act 267 of 1945.

421.57 Amendment or repeal of act.

Sec. 57. Amendment or repeal of act. All the rights, privileges or immunities conferred under or by virtue of the provisions of this act, or acts done pursuant thereto, shall exist subject to the power of amendment or repeal of this act by the legislature.

History: 1936, Ex. Sess., Act 1, Imd. Eff. Dec. 24, 1936;—CL 1948, 421.57.

421.58 Suspension of provisions.

Sec. 58. Suspension of certain provisions. If at any time the governor shall find that the provisions of this act requiring the payment of contributions and benefits have been held invalid under the constitution of this state by the supreme court of this state, or under the United States constitution by the supreme court of the United States, in such manner that any person or concern required to pay contributions under this act might secure a similar decision, the governor shall publicly so proclaim and upon the date of such proclamation, the provisions of this act requiring the payment of contributions and benefits shall be suspended. The commission shall thereupon requisition from the unemployment trust fund all moneys therein standing to its credit and shall direct the treasurer of the unemployment compensation fund to deposit such moneys, together with any other moneys in the fund, as a special fund in any banks or public depositories in this state in which general funds of the state may be deposited and to hold such moneys for such disposition as the legislature may prescribe.

History: 1936, Ex. Sess., Act 1, Imd. Eff. Dec. 24, 1936;—Am. 1937, Act 347, Imd. Eff. Aug. 5, 1937;—CL 1948, 421.58.

421.59 Repeal.

Sec. 59. Repeal. All acts and parts of acts in so far as inconsistent with the provisions of this act are hereby repealed, and whenever provisions of a general act are inconsistent with this act, then the provisions of this act only shall prevail in so far as this act is concerned.

History: 1936, Ex. Sess., Act 1, Imd. Eff. Dec. 24, 1936;—Am. 1941, Act 364, Imd. Eff. July 1, 1941;—CL 1948, 421.59.

421.60 Advance from federal fund; repayment.

Sec. 60. Upon request of the commission acting under the authority of section 26 (g) of this act, the governor may apply under section 1201 of the federal social security act to the secretary of labor of the United States for an advance to the unemployment compensation fund of this state; and, upon request of the commission, the governor shall request, under section 1202 (a) of the social security act, a transfer from the account of the state of Michigan in the federal unemployment trust fund to the federal unemployment account

in said trust fund in repayment of part or all of any remaining balance of such advances to the unemployment compensation fund of this state.

History: Add. 1949, Act 282, Imd. Eff. June 11, 1949;—Am. 1951, Act 251, Imd. Eff. June 17, 1951;—Am. 1954, Act 197, Imd. Eff. May 7, 1954;—Am. 1955, Act 281, Eff. July 15, 1955;—Am. 1957, Act 311, Imd. Eff. June 21, 1957;—Am. 1958, Act 230, Imd. Eff. June 13, 1958;—Am. 1959, Act 270, Imd. Eff. Oct. 30, 1959;—Am. 1965, Act 281, Eff. Sept. 5, 1965;—Am. 1970, Act 14, Imd. Eff. Apr. 14, 1970.

Former law: See Act 1 of 1936Ex. Sess., which was repealed by Act 360 of 1947; and Act 324 of 1939.

421.60a Protection of deaf.

Sec. 60a. The commission shall exercise and perform all the powers and duties in relation to the protection of the deaf and deafened, as are presently held and exercised by the department of labor under the provisions of Act No. 72 of the Public Acts of 1937, being sections 408.201 to 408.205 of the Compiled Laws of 1948.

History: Add. 1957, Act 311, Imd. Eff. June 21, 1957.

421.61 Repealed. 1951, Act 251, Imd. Eff. June 17, 1951.

Compiler's note: The repealed section provided for disqualification due to other benefits.

421.62 Recovery of improperly paid benefits.

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

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

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

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

(b) For benefit years beginning on or after October 1, 2000, if the unemployment agency determines that a

person has intentionally made a false statement or misrepresentation or has concealed material information to obtain benefits, whether or not the person obtains benefits by or because of the intentional false statement, misrepresentation, or concealment of material information, the person shall, in addition to any other applicable interest and penalties, have his or her rights to benefits for the benefit year in which the act occurred canceled as of the date the claimant made the false statement or misrepresentation or concealed material information, and wages used to establish that benefit year shall not be used to establish another benefit year. A chargeable employer may protest a claim filed after October 1, 2014 to establish a successive benefit year under section 46(c), if there was a determination by the unemployment agency or decision of a court or administrative tribunal finding that the claimant made a false statement, made a misrepresentation, or concealed material information related to his or her report of earnings for a preceding benefit year claim. If a protest is made, any unreported earnings from the preceding benefit year that were falsely stated, misrepresented, or concealed shall not be used to establish a benefit year for a successive claim. Before receiving benefits in a benefit year established within 4 years after cancellation of rights to benefits under this subsection, the individual, in addition to making the restitution of benefits established under subsection (a), may be liable for an additional amount as otherwise determined by the unemployment agency under this act, which may be paid by cash, deduction from benefits, or deduction from a tax refund. The individual is liable for any fee the federal government imposes with respect to instituting a deduction from a federal tax refund. Restitution resulting from the intentional false statement, misrepresentation, or concealment of material information is not subject to the 50% limitation provided in subsection (a).

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

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

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

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

History: Add. 1939, Act 324, Imd. Eff. June 22, 1939;—Am. 1941, Act 364, Imd. Eff. July 1, 1941;—Am. 1947, Act 360, Imd. Eff. July 8, 1947;—CL 1948, 421.62;—Am. 1955, Act 281, Eff. July 15, 1955;—Am. 1965, Act 281, Eff. Sept. 5, 1965;—Am. 1967, Act 254, Imd. Eff. July 19, 1967;—Am. 1970, Act 14, Imd. Eff. Apr. 14, 1970;—Am. 1974, Act 104, Eff. June 9, 1974;—Am. 1975, Act 272, Imd. Eff. Nov. 14, 1975;—Am. 1977, Act 133, Imd. Eff. Oct. 28, 1977;—Am. 1980, Act 404, Imd. Eff. Jan. 8, 1981;—Am. 1983, Act 164, Imd. Eff. July 24, 1983;—Am. 1991, Act 3, Eff. Apr. 1, 1992;—Am. 1994, Act 162, Imd. Eff. June 17, 1994;—Am. 1995, Act 125, Imd. Eff. June 30, 1995;—Am. 2011, Act 14, Imd. Eff. Mar. 29, 2011;—Am. 2011, Act 269, Imd. Eff. Dec. 19, 2011;—Am. 2013, Act 147, Imd. Eff. Oct. 29, 2013;—Am. 2016, Act 522, Eff. Apr. 9, 2017.

421.63 Repealed. 1971, Act 231, Imd. Eff. Jan. 3, 1972.

Compiler's note: The repealed section pertained to the effective date and applicability of 1970 amendments to the employment security act.

421.64 Payment of extended benefits.

Sec. 64. (1)(a) Payment of extended benefits under this section shall be made at the individual's weekly extended benefit rate, for any week of unemployment that begins in the individual's eligibility period, to each individual who is fully eligible and not disqualified under this act, who has exhausted all rights to regular benefits under this act, who is not seeking or receiving benefits with respect to that week under the unemployment compensation law of Canada, and who does not have rights to benefits under the unemployment compensation law of any other state or the United States or to compensation or allowances under any other federal law, such as the trade expansion act, the automotive products trade act, or the railroad unemployment insurance act; however, if the individual is seeking benefits and the appropriate agency finally determines that the individual is not entitled to benefits under another law, the individual shall be considered to have exhausted the right to benefits. For the purpose of the preceding sentence, an individual shall have exhausted the right to regular benefits under this section with respect to any week of unemployment in the individual's eligibility period under either of the following circumstances:

(*i*) When payments of regular benefits may not be made for that week because the individual has received all regular benefits available based on his or her employment or wages during the base period for the current benefit year.

(*ii*) When the right to the benefits has terminated before that week by reason of the expiration or termination of the benefit year with respect to which the right existed; and the individual has no, or insufficient, wages or employment to establish a new benefit year. However, for purposes of this subsection, an individual shall be considered to have exhausted the right to regular benefits with respect to any week of unemployment in his or her eligibility period when the individual may become entitled to regular benefits with respect to that week or future weeks, but the benefits are not payable at the time the individual claims extended benefits because final action on a pending redetermination or on an appeal has not yet been taken with respect to eligibility or qualification for the regular benefits or when the individual may be entitled to regular benefits with respect to future weeks of unemployment, but regular benefits are not payable with respect to any week of unemployment in his or her eligibility period by reason of seasonal limitations in any state unemployment compensation law.

(b) Except where inconsistent with the provisions of this section, the terms and conditions of this act that apply to claims for regular benefits and to the payment of those benefits apply to claims for extended benefits and to the payment of those benefits.

(c) An individual shall not be paid additional compensation and extended compensation with respect to the same week. If an individual is potentially eligible for both types of compensation in this state with respect to the same week, the unemployment agency may pay extended compensation instead of additional compensation with respect to the week. If an individual is potentially eligible for extended compensation in 1 state and potentially eligible for additional compensation for the same week in another state, the individual may elect which of the 2 types of compensation to claim.

(2) The unemployment agency shall establish, for each eligible individual who files an application, an extended benefit account with respect to that individual's benefit year. The amount established in the account shall be determined as follows:

(a) If subdivision (b) does not apply, whichever of the following is smaller:

(*i*) Fifty percent of the total amount of regular benefits payable to the individual under this act during the benefit year.

(*ii*) Thirteen times the individual's weekly extended benefit rate.

(b) With respect to a week beginning in a period in which the average rate of total unemployment as described in subsection (5)(c)(*ii*) equals or exceeds 8%, but no later than the end of the week in which extended benefits payable under this section cease to be funded under section 2005 of the American recovery and reinvestment act of 2009, Public Law 111-5, whichever of the following is smaller:

(*i*) Eighty percent of the total amount of regular benefits payable to the individual under this act during the benefit year.

(*ii*) Twenty times the individual's weekly extended benefit rate.

If an amount determined under this subsection is not an exact multiple of 1/2 of the individual's weekly extended benefit rate, the amount shall be decreased to the next lower such multiple.

(3) All of the following apply to an extended benefit period:

(a) The period begins with the third week after whichever of the following weeks first occurs:

(*i*) A week for which there is a national "on" indicator as determined by the United States secretary of labor.

(*ii*) A week for which there is a Michigan "on" indicator.

(b) The period ends with the third week after the first week for which there is both a national "off" indicator and a Michigan "off" indicator.

(c) The period is at least 13 consecutive weeks long, and does not begin by reason of a Michigan "on" indicator before the fourteenth week after the close of a prior extended benefit period under this section. However, an extended benefit period terminates with the week preceding the week for which no extended benefit payments are considered to be shareable compensation under the federal-state extended unemployment compensation act of 1970, section 3304 nt of the internal revenue code of 1986, 26 USC 3304 nt.

(4) An individual's "eligibility period" consists of the weeks in his or her benefit year that begin in an extended benefit period, and if his or her benefit year ends within the extended benefit period, any weeks thereafter that begin in the period.

(5) (a) With respect to weeks beginning after September 25, 1982, a national "on" indicator for a week shall be determined by the United States secretary of labor.

(b) A national "off" indicator for a week shall be determined by the United States secretary of labor.

(c) There is a Michigan "on" indicator for a week if 1 or both of the following apply:

(*i*) The rate of insured unemployment under this act for the period consisting of that week and the immediately preceding 12 weeks equaled or exceeded 120% of the average of the insured unemployment rates for the corresponding 13-week period ending in each of the preceding 2 calendar years, and equaled or exceeded 5%. With respect to compensation for each week of unemployment beginning after December 17, 2010 and ending December 31, 2011, the rate of insured unemployment under this act for the period consisting of that week and the immediately preceding 12 weeks equaled or exceeded 120% of the average of the insured unemployment rates for the corresponding 13-week period ending in each of the preceding 3 calendar years, and equaled or exceeded 5%.

(*ii*) For weeks beginning after December 17, 2010 and ending with the week ending 4 weeks before the last week of unemployment for which 100% federal sharing is available under section 2005(a) of Public Law 111-5, without regard to the extension of federal sharing for certain claims as provided under section 2005(c) of that law, the average rate of total unemployment in this state, seasonally adjusted, as determined by the United States secretary of labor, for the period consisting of the most recent 3 months for which data for all states are published before the close of the week equaled or exceeded both of the following:

(A) Six and one-half percent.

(B) One hundred ten percent of the average rate of total unemployment in this state, seasonally adjusted, for the period consisting of the corresponding 3-month period in any or all of the preceding 3 calendar years.

(d) There is a Michigan "off" indicator for a week if, for the period consisting of that week and the immediately preceding 12 weeks, either subdivision (c)(*i*) or (c)(*ii*) was not satisfied. Notwithstanding any other provision of this act, if this state is in a period in which temporary extended unemployment compensation is payable in this state under title II of the job creation and worker assistance act of 2002, Public Law 107-147, or another similar federal law, and if the governor has the authority under that federal act or another similar federal law, then the governor may elect to trigger "off" the Michigan indicator for extended benefits under this act only for a period in which temporary extended unemployment compensation is payable in this state, if the election by the governor would not result in a decrease in the number of weeks of unemployment benefits payable to an individual under this act or under federal law.

(e) For purposes of subdivisions (c) and (d), the rate of insured unemployment for any 13-week period shall be determined by reference to the average monthly covered employment under this act for the first 4 of the most recent 6 calendar quarters ending before the close of that period.

(f) As used in this subsection, "rate of insured unemployment" means the percentage determined by dividing:

(*i*) The average weekly number of individuals filing claims for regular benefits for weeks of unemployment with respect to the specified period as determined on the basis of the reports made by all state agencies or, in the case of subdivisions (c) and (d), by the unemployment agency, to the federal government; by

(*ii*) In the case of subdivisions (c) and (d), the average monthly covered employment under this act for the specified period.

(g) Calculations under subdivisions (c) and (d) shall be made by the unemployment agency and shall conform to regulations, if any, prescribed by the United States secretary of labor under section 3304 nt of the internal revenue code of 1986, 26 USC 3304 nt.

(6) As used in this section:

(a) "Regular benefits" means benefits payable to an individual under this act and, unless otherwise expressly provided, under any other state unemployment compensation law, including unemployment benefits payable pursuant to 5 USC 8501 to 8525, other than extended benefits, and other than additional benefits which includes training benefits under section 27(g).

(b) "Extended benefits" means benefits, including additional benefits and unemployment benefits payable pursuant to 5 USC 8501 to 8525, payable for weeks of unemployment beginning in an extended benefit period to an individual as provided under this section.

(c) "Additional benefits" means benefits totally financed by a state and payable to exhaustees by reason of conditions of high unemployment or by reason of other special factors under the provisions of any state law as well as training benefits paid under section 27(g) with respect to an extended benefit period.

(d) "Weekly extended benefit rate" means an amount equal to the amount of regular benefits payable under this act to an individual within the individual's benefit year for a week of total unemployment, unless the individual had more than 1 weekly extended benefit rate within that benefit year, in which case the individual's weekly extended benefit rate shall be computed by dividing the maximum amount of regular benefits payable under this act within that benefit year by the number of weeks for which benefits were payable, adjusted to the next lower multiple of $1.00.

(e) "Benefits payable" includes all benefits computed in accordance with section 27(d), irrespective of whether the individual was otherwise eligible for the benefits within his or her current benefit year and irrespective of any benefit reduction by reason of a disqualification that required a reduction.

(7) (a) Notwithstanding the provisions of subsection (1)(b), an individual is ineligible for payment of extended benefits for any week of unemployment if the unemployment agency finds that during that period either of the following occurred:

(*i*) The individual failed to accept any offer of suitable work or failed to apply for any suitable work to which the individual was referred by the unemployment agency.

(*ii*) The individual failed to actively engage in seeking work as described in subdivision (f).

(b) Any individual who has been found ineligible for extended benefits under subdivision (a) shall also be denied benefits beginning with the first day of the week following the week in which the failure occurred and until the individual has been employed in each of 4 subsequent weeks, whether or not consecutive, and has earned remuneration equal to not less than 4 times the extended weekly benefit amount, as determined under subsection (2).

(c) As used in this subsection, "suitable work" means, with respect to any individual, any work that is within that individual's capabilities, if both of the following apply:

(*i*) The gross weekly remuneration payable for the work exceeds the sum of the following:

(A) The individual's extended weekly benefit amount as determined under subsection (2).

(B) The amount, if any, of supplemental unemployment compensation benefits, as defined in section 501(c)(17)(D) of the internal revenue code of 1986, 26 USC 501(c)(17)(D), payable to the individual for that week.

(*ii*) The employer pays wages not less than the higher of the minimum wage provided by section 6(a)(1) of the fair labor standards act of 1938, 29 USC 206(a)(1), without regard to any exemption, or the applicable state or local minimum wage.

(d) An individual shall not be denied extended benefits for failure to accept an offer of, or apply for, any job that meets the definition of suitable work in subdivision (c) if 1 or more of the following are true:

(*i*) The position was not offered to the individual in writing and was not listed with the state employment service.

(*ii*) The failure could not result in a denial of benefits under the definition of suitable work in section 29(6) to the extent that the criteria of suitability in that section are not inconsistent with the provisions of subdivision (c).

(*iii*) The individual furnishes satisfactory evidence to the unemployment agency that his or her prospects for obtaining work in his or her customary occupation within a reasonably short period are good. If that evidence is deemed satisfactory for this purpose, the determination of whether any work is suitable with respect to that individual shall be made in accordance with the definition of suitable work in section 29(6) without regard to the definition in subdivision (c).

(e) Notwithstanding subsection (1)(b), work is not suitable work for an individual if the work does not meet the labor standard provisions required by section 3304(a)(5) of the internal revenue code of 1986, 26 USC 3304(a)(5), and section 29(7).

(f) For the purposes of subdivision (a)(*ii*), an individual is actively engaged in seeking work during any week if both of the following are true:

(*i*) The individual has engaged in a systematic and sustained effort to obtain work during that week.

(*ii*) The individual furnishes tangible evidence to the unemployment agency that he or she has engaged in a systematic and sustained effort during that week.

(g) The unemployment agency shall refer any applicant for extended benefits to any suitable work that meets the criteria prescribed in subdivisions (c) and (d).

(h) An individual is not eligible to receive extended benefits with respect to any week of unemployment in his or her eligibility period if that individual has been disqualified for benefits under this act because he or she voluntarily left work, was discharged for misconduct, or failed to accept an offer of or apply for suitable work unless the individual requalified in accordance with a specific provision of this act requiring that the individual be employed subsequent to the week in which the act or discharge occurred that caused the disqualification.

(8) (a) Except as provided in subdivision (b), payment of extended benefits shall not be made to any individual for any week of unemployment that otherwise would have been payable pursuant to an interstate claim filed in any state under the interstate benefit payment plan, if an extended benefit period is not in effect for the week in the state in which the interstate claim is filed.

(b) Subdivision (a) does not apply with respect to the first 2 weeks for which extended benefits are payable, pursuant to an interstate claim, to the individual from the extended benefit account established for

the individual.

(9) Notwithstanding the provisions of subsection (1)(b), an individual who established a benefit year under section 46 on or after January 2, 1983, shall be eligible to receive extended benefits only if the individual earned wages in an amount exceeding 40 times the individual's most recent weekly benefit rate during the base period of the benefit year that is used to establish the individual's extended benefit account under subsection (2).

(10) This subsection is effective for weeks of unemployment beginning after October 30, 1982. Notwithstanding any other provision of this section, an individual's extended benefit entitlement, with respect to weeks of unemployment beginning after the end of the benefit year, shall be reduced, but not below zero, by the product of the number of weeks for which the individual received any amounts of trade readjustment allowances, paid under the trade act of 1974, Public Law 93-618, within that benefit year, multiplied by the individual's weekly benefit amount for extended benefits.

History: Add. 1970, Act 128, Imd. Eff. July 27, 1970;—Am. 1971, Act 231, Imd. Eff. Jan. 3, 1972;—Am. 1974, Act 104, Eff. June 9, 1974;—Am. 1977, Act 277, Eff. Jan. 1, 1978;—Am. 1981, Act 107, Imd. Eff. July 17, 1981;—Am. 1982, Act 247, Imd. Eff. Sept. 23, 1982;—Am. 1983, Act 164, Imd. Eff. July 24, 1983;—Am. 1984, Act 172, Imd. Eff. June 29, 1984;—Am. 1993, Act 275, Imd. Eff. Dec. 28, 1993;—Am. 2003, Act 174, Imd. Eff. Aug. 14, 2003;—Am. 2009, Act 19, Imd. Eff. Apr. 13, 2009;—Am. 2011, Act 14, Imd. Eff. Mar. 29, 2011;—Am. 2011, Act 269, Imd. Eff. Dec. 19, 2011.

421.65 Effective dates of Act 231 of 1971; recomputation of benefits.

Sec. 65. (1) If this 1971 amendatory act is given immediate effect, the effective date of paragraph (1a) of subsection (b) of section 27 and paragraph (4) of subsection (g) of section 27 shall be the first day of the calendar week containing the thirtieth day after it is approved by the governor or becomes law without his approval.

(2) An individual who has a current and unexhausted benefit year on the effective date as provided in subsection (1) shall have his weekly benefit rate and the maximum amount of benefits recomputed in accordance with this amendatory act with respect to any week of unemployment beginning on or after that date on that portion of his benefit rights not exhausted prior to that date but his weekly benefit rate and maximum amount of benefits established and not exhausted prior to the aforementioned effective date shall not be subject to reduction or elimination by such recomputation.

(3) Except as provided in subsections (1) and (2), this 1971 amendatory act shall become effective January 1, 1972.

History: Add. 1971, Act 231, Imd. Eff. Jan. 3, 1972.

421.66 Effective dates of Act 104 of 1974; recomputation of benefits.

Sec. 66. (1) If this 1974 amendatory act is given immediate effect, the effective date of this amendatory act shall be the first day of the calendar week containing the thirtieth day after it is approved by the governor or becomes law without his approval.

(2) An individual who has a current and unexhausted benefit year on the effective date as provided in subsection (1) shall have his weekly benefit rate and the maximum amount of benefits recomputed in accordance with this amendatory act with respect to any week of unemployment beginning on or after that date on that portion of his benefit rights not exhausted prior to that date but his weekly benefit rate and maximum amount of benefits established and not exhausted prior to the aforementioned effective date shall not be subject to reduction or elimination by the recomputation. In the recalculation of weekly benefit rates and maximum amounts of benefits, an individual who had been in family class “B” or “C” prior to the effective date of this amendatory act and has 1 dependent shall be assigned to dependency class “1”, an individual who had been in family class “C” or “D” and has 2 dependents shall be assigned to dependency class “2”, an individual who had been in family class “D” or “E” and has 3 dependents shall be assigned to dependency class “3”, and an individual who had been in family class “E” or “F” and has 4 or more dependents shall be assigned to dependency class “4”.

(3) Notwithstanding subsection (1), the amended provisions of sections 11(g), 13g, 13i, 13j, 13k, 19(a) (1), 25, 27(i), 42(8), 43, 50, and 50a shall become effective January 1, 1975.

(4) Notwithstanding subsection (1), the provisions of sections 17(c) (iii) and 27(j), in effect prior to this amendatory act, shall apply until January 1, 1975.

History: Add. 1974, Act 104, Eff. June 9, 1974.

421.67 Effective dates of Act 110 of 1975; recomputation of weekly benefit rate and maximum amount of benefits; supplemental benefits.

Sec. 67. (1) If this 1975 amendatory act is given immediate effect, the effective date of this amendatory act

shall be the first day of the calendar week containing the eighth day after it is approved by the governor or becomes law without his approval.

(2) An individual who has a current and unexhausted benefit year on the effective date as provided in subsection (1) shall have his weekly benefit rate and the maximum amount of benefits recomputed in accordance with this amendatory act with respect to any week of unemployment beginning on or after that date on that portion of his benefit rights not exhausted before that date but his weekly benefit rate and maximum amount of benefits established and not exhausted before the aforementioned effective date shall not be subject to reduction or elimination by the recomputation.

(3) Notwithstanding subsection (1), the changes provided in section 44(2) shall first apply to remuneration paid after December 31, 1975.

(4) An individual who becomes eligible for 1 or more weeks of extended benefits under section 64 on or after the effective date of this amendatory act shall receive the increase in benefits provided in section 27 (b)(1) and (2) with respect to each such week. Any increase in benefits over those provided in section 64 shall be deemed supplemental benefits and shall be payable at an individual's weekly supplemental benefit rate. This rate shall be the difference between a weekly extended benefit rate that could have been established if the increase in benefits provided in section 27(b) (1) and (2) and been in effect during the individual's entire benefit year and his weekly extended benefit rate established under section 64. However, an individual's weekly supplemental benefit rate shall not exceed $30.00 supplemental benefits paid under this subsection based on services performed for employers liable for contributions on a contributory basis shall be charged to the solvency account. Supplemental benefits paid under this subsection based on services performed for reimbursing employers shall be reimbursed to the commission by those reimbursing employers.

(5) Notwithstanding subsection (1), the amended provisions of section 29(3) and (4), with respect to requalification and reduction in benefit entitlement based on disqualifications imposed under section 29(1)(a) and (b), shall first apply to any disqualifying act or discharge occurring on or after November 30, 1975.

History: Add. 1975, Act 110, Eff. June 8, 1975.

Compiler's note: In the third sentence of subsection (4), the phrase "in section 27(b)(1) and (2) and..." evidently should read "in section 27(b)(1) and (2) had...".

The fourth sentence of subsection (4) evidently should read as the following two sentences: "However, an individual's weekly supplemental benefit rate shall not exceed $30.00. Supplemental benefits paid under this subsection based on services performed for employers liable for contributions on a contributory basis shall be charged to the solvency account."

421.67a Repealed. 1996, Act 535, Imd. Eff. Jan. 13, 1997.

Compiler's note: The repealed section pertained to reports to governor and legislature.

421.67b Annual report to legislature; validating representations made by employer to legislature.

Sec. 67b. (1) The commission shall annually report to the legislature on the number of claimants who qualify for benefits under section 46a; the average weekly benefit amount drawn by such claimants; and the average duration of regular and extended benefits drawn by such claimants. The first report required by this subsection shall be transmitted not later than August 31, 1984.

(2) When an employer subject to this act makes representations to the legislature as to the amount of contributions paid by the employer either currently or under proposed changes in this act, the committee to whom the representations were made may request the commission to validate the representations made by the employer. The commission shall calculate the contributions made by the employer and the contributions which would be made by the employer under any proposed changes to the act and transmit the results to the committee making the request.

History: Add. 1982, Act 535, Eff. Jan. 2, 1983.

421.68, 421.69 Repealed. 1982, Act 535, Eff. Jan. 2, 1983.

Compiler's note: The repealed sections pertained to eligibility and disqualification for benefits.

421.70 Effective date of Act 358 of 1980; recomputation of weekly benefit rate and maximum amount of benefits; supplemental benefits.

Sec. 70. (1) Except as provided in section 35(4), the effective date of the 1980 amendatory act which added this section 70 shall be March 1, 1981.

(2) An individual who has a current and unexhausted benefit year on March 1, 1981, shall have his or her weekly benefit rate and the maximum amount of benefits recomputed in accordance with the 1980 amendatory act which added this section 70 with respect to any week of unemployment beginning March 1, 1981, on that portion of his or her benefit rights not exhausted before March 1, 1981, but his or her weekly

benefit rate and maximum amount of benefits established and not exhausted before March 1, 1981, shall not be subject to reduction or elimination by the recomputation.

(3) An individual who is eligible for 1 or more weeks of extended benefits under section 64 on or after March 1, 1981, shall receive the increase in benefits provided in section 68 with respect to each such week. Any increase in benefits over those provided in section 64 shall be deemed supplemental benefits and shall be payable at an individual's weekly supplemental benefit rate. This rate shall be the difference between a weekly extended benefit rate that could have been established if the increase in benefits provided in section 68 had been in effect during the individual's entire benefit year and his or her weekly extended benefit rate established under section 64. Supplemental benefits paid under this subsection based on services performed for employers liable for contributions on a contributory basis shall be charged to the nonchargeable benefits account. Supplemental benefits paid under this subsection based on services performed for reimbursing employers shall be reimbursed to the commission by those reimbursing employers.

History: Add. 1980, Act 358, Eff. Mar. 1, 1981.

421.71 Effective dates of Act 535 of 1982.

Sec. 71. (1) Except as otherwise provided in this section, the 1982 amendatory act which added this section shall take effect January 2, 1983.

(2) The amendments to sections 5(3), 10, 17(c), 20, and 26 shall be effective January 2, 1983.

(3) The amendments to sections 19 and 44 and section 19a shall be effective for calendar years after 1982.

(4) The amendments to section 27(b) shall be effective for benefit years beginning on or after January 2, 1983. The repeal of section 68 shall be effective on January 2, 1983. Benefit rates established under section 68 shall not be recomputed or changed as a result of the amendment of section 27(b)(1).

(5) The amendment to section 28(1)(a)(2) shall be effective for weeks of unemployment beginning on or after January 2, 1983.

(6) The amendments to section 29(1)(a), (1)(b), (3), and (4) shall be effective for separations occurring on or after January 2, 1983. The amendment to section 29(9) shall be effective January 2, 1983. The repeal of section 69 shall be effective January 2, 1983.

(7) The amendments to sections 46 and 50 shall be effective for benefit years established on or after January 2, 1983. Section 46a shall be effective for benefit years established on or after January 2, 1983.

History: Add. 1982, Act 535, Eff. Jan. 2, 1983.

421.72 Effective date of Act 164 of 1983.

Sec. 72. (1) Except as otherwise provided in this section and the 1983 amendatory act which added this section, the 1983 amendatory act which added this section shall take effect upon its date of enactment.

(2) The amendments made to section 43(g) by the 1983 amendatory act which added this section shall take effect January 1, 1983.

(3) The amendments made to sections 14, 15, 18, 21, 22a, 24, 32a, 33, 34, and 49 by the 1983 amendatory act which added this section which amendments provide for the extension of certain appeal periods from 20 to 30 days shall take effect October 1, 1983.

History: Add. 1983, Act 164, Imd. Eff. July 24, 1983.

421.73 Rounding benefits to next lower full dollar.

Sec. 73. Notwithstanding any other provision of this act to the contrary, any amount of unemployment benefits payable to an individual for any week if not an even dollar amount shall be rounded to the next lower full dollar.

History: Add. 1984, Act 172, Imd. Eff. June 29, 1984.

421.75 Conversion date to wage record system; effective date; report.

Sec. 75. The conversion date to a wage record system prescribed by 1994 PA 162 is October 1, 2000. The unemployment agency shall provide the standing committees of the senate and the house of representatives that address labor issues a report on the wage record system conversion process once every 6 months after August 1, 1997 until the conversion is fully completed.

History: Add. 1994, Act 162, Imd. Eff. June 17, 1994;—Am. 1995, Act 25, Eff. Mar. 28, 1996;—Am. 1997, Act 90, Imd. Eff. Aug. 1, 1997;—Am. 2000, Act 186, Imd. Eff. June 20, 2000.