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 provide for the collection of such contributions; 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 the provisions of this act; and to repeal all acts and parts of acts inconsistent with the provisions of 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.

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 §421.91 of the Michigan Compiled Laws.

For transfer of the authority, powers, functions, duties, and responsibilities of the Unemployment Agency to the Bureau of Worker's and Unemployment Compensation, see Executive Order No. 2002-1. Also, see Section 5b of the Michigan Employment Security Act, being MCL §421.5b.

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;~~Y—R~~ 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 §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 §421.91 of the Michigan Compiled Laws.

For transfer of the authority, powers, functions, duties, and responsibilities of the Unemployment Agency to the Bureau of Worker's and Unemployment Compensation, see Executive Order No. 2002-1. Also, see Section 5b of the Michigan Employment Security Act, being MCL §421.5b.

Cited in other sections: Section 421.1 et seq. is cited in §§15.263, 24.315, 125.1510, 206.30, 418.358, 421.91, 600.2421b, 600.6419, 750.411f.

421.2 Declaration of public policy.

Sec. 2. Declaration of policy. 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 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.

History: 1936, Ex. Sess., Act 1, Imd. Eff. Dec. 24, 1936;¥—R 1948, 421.2.

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.

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;¥—R 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.

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 §421.92 of the Michigan Compiled Laws.

Transfer of powers: See §16.479.

Cited in other sections: Section 421.3 is cited in §§16.479 and 421.91.

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;¥—Ŕ 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 §421.92 of the Michigan Compiled Laws.

Transfer of powers: See §16.479.

Cited in other sections: Section 421.3a is cited in §§16.479 and 421.91.

421.3b Michigan employment security commission; conducting business at public meeting; notice of meeting; availability of certain writings to public.

History: Add. 1977, Act 202, Imd. Eff. Nov. 17, 1977. Repealed, 2002, Act 192, Imd. Eff. Apr. 26, 2002.

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;¥—Ŕ 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.

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421.4a Employment security commission; parking facility, approval.

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 §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;~~Y—R~~ 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.

Cited in other sections: Section 421.5 is cited in §421.91.

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 power 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 §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 Employment security commission; records; destruction; reproduction, compilation, or summary admissible as evidence.

Sec. 6a. By resolution adopted by a majority of its members, the commission may destroy or dispose of a document that has been retained in the commission files for not less than 2 years and that in the commission's opinion is of no value to the commission, and may authorize the director to make or cause to be made a reproduction pursuant to the records media act, or a summary or compilation, that he or she considers advisable to preserve the information contained in the document. 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 media act, a reproduction consisting of a printout or other output readable by sight from such a medium, or a summary or compilation of the document, if certified by the director to be a true and accurate official reproduction, compilation, or summary of the original is admissible in evidence the same as the original in any proceeding before the commission, referee, or appeal board 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;—Rl 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.

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. 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;~~Ｒ~~ 1948, 421.7.

421.8 Legislative purpose; annual review of maximum weekly benefit rates; comparison of consumers' price indexes; "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;~~Y—R~~ 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 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;~~Y—R~~ 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 U.S.C. 1103, 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 U.S.C. 1103, 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 U.S.C. 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 pursuant to the Wagner-Peyser act, chapter 49, 48 Stat. 113, or any money made available by this state or its political subdivisions and matched by money granted to this state pursuant to the Wagner-Peyser act, chapter 49, 48 Stat. 113, 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 commission 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 shall not be construed to relieve this state of its obligation with respect to funds received prior to July 1, 1941, pursuant to the provisions of title III of the social security act, 42 U.S.C. 501 to 504.

(5) If any funds expended or disbursed by the commission 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, shall be liable to this state in an amount equal to the sum of money appropriated to replace those funds. The director shall be required by the governor to post a proper bond in a sum not less than $25,000.00 to cover his or her liability as prescribed in this section, the cost of the bond to be paid from the general fund of this state.

(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 otherwise provided in subsections (7) and (8), 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 unemployment agency and for the payment of interest on advances from the federal government to the unemployment compensation fund under section 1201 of title XII of the social security act, 42 U.S.C. 1321, to be expended only if authorized by the unemployment agency. Money deposited from the solvency taxes collected pursuant to 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 commission. Immediately upon receipt of administrative grants from the appropriate agency of the United States to cover administrative costs for which the commission 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 pursuant to 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) On June 30, 2002, the unemployment agency shall authorize the withdrawal of $79,500,000.00 from the contingent fund (Michigan employment security act) for deposit into the general fund.

(8) At the close of the state fiscal year in 2002 and each year after 2002, all funds in the contingent fund (Michigan employment security act) in excess of $15,000,000.00 shall lapse to

the unemployment trust 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;~~Ÿ—Ŕ~~ 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.

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 from time to time require, and shall comply with such provisions as the appropriate agency of the United States may from time to time prescribe 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 such sums as may be 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 shall be held confidential and shall not be disclosed or open to public inspection other than to public employees in the performance of their official duties pursuant to this act in any manner revealing the individual's or the employing unit's identity. However, all of the following apply:

(*i*) Information in the commission's possession that may affect a claim for worker's disability compensation under the worker's disability compensation act of 1969, Act No. 317 of the Public Acts of 1969, being sections 418.101 to 418.941 of the Michigan Compiled Laws, shall be available to interested parties, regardless of whether the commission is a party to an action or proceeding arising under Act No. 317 of the Public Acts of 1969.

(*ii*) Any information in the commission's possession that may affect a claim for benefits or a charge to an employer's rating account shall be available to interested parties.

(*iii*) Except as provided in this act, such 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 pursuant to

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 law shall be 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. Such records and reports in the custody of the commission shall be available for examination by the employer or employee affected.

(*v*) Subject to restrictions as the commission may by rule prescribe, information in the commission's possession may be made available to any agency of this or 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; or the social security administration of the United States department of health and human services.

(*vi*) Information obtained in connection with the administration of the employment service may be made available to persons or agencies for purposes appropriate to the operation of a public employment service. Subject to such restrictions as the commission may by rule prescribe, the commission may also make such information available to agencies of other states which are responsible for the administration of public assistance to unemployed workers, and to the departments of this state. Information so released shall be used only for purposes not inconsistent with the purposes of this act.

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

(*viii*) 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.

(*ix*) Subject to restrictions as the commission may prescribe, by rule or otherwise, the commission may also make such information available to colleges, universities, and public agencies of this state for use in connection with research projects of a public service nature. A person associated with such institutions or agencies shall not disclose the information in any manner which would reveal the identity of any individual or employing unit from or concerning whom the information was obtained by the commission.

(*x*) 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 pursuant to 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.

(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 U.S.C. 651 to 669; 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 U.S.C. 401 to 433 and 42 U.S.C. 1381 to 1383d; 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 U.S.C. 2011 to 2032; 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 U.S.C. 601 to 617.

(*ii*) The medicaid program under Title XIX of the social security act, 42 U.S.C. 1396 to 1396u.

(*iii*) The unemployment compensation program under section 3304 of the internal revenue code of 1954, 26 U.S.C. 3304.

(*iv*) The food stamp program under the food stamp act of 1977, 7 U.S.C. 2011 to 2032.

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

(*vi*) Any program administered under the social welfare act, Act No. 280 of the Public Acts of 1939, being

sections 400.1 to 400.119b of the Michigan Compiled Laws.

The information shall be disclosed only if the qualified requesting agency has executed an agreement with the commission to obtain such 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 Titles II and XVI of the social security act; for establishing and collecting child support obligations from, and locating individuals owing such obligations which are being enforced pursuant to a plan described in section 454 of the social security act, 42 U.S.C. 654; or for investigating or prosecuting alleged fraud under any of these programs.

The commission shall cooperate with the department of social services in establishing the computer data matching system authorized in section 83 of Act No. 280 of the Public Acts of 1939, being section 400.83 of the Michigan Compiled Laws, 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 shall 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 shall be applicable to such officers and employees. A qualified requesting agency may redisclose information only to the following individuals or agencies: (1) the individual who is the subject of the information, (2) 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 (3) any criminal or civil prosecuting authorities 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. Such agreement or agreements must 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 might be useful in locating an absent parent or an absent parent's employer, for purposes of section 453 of the social security act, 42 U.S.C. 653, in carrying out the child support enforcement program under title IV. 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 and any state or local public housing 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 made application 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 subsection, "public housing agency" means an agency described in section 3(b)(6) of the United States housing act of 1937, 42 U.S.C. 1437a.

(c) The commission is authorized to 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 such a law of the federal government, or both, may constitute the basis for the payment of benefits through a single appropriate agency under plans which the commission finds will be fair and reasonable as to all affected interests and will not result in substantial loss to the unemployment compensation fund.

(d) (1) The commission is authorized to 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 is authorized to 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 deemed 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 deems 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 is authorized to make investigations, 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 deems necessary or appropriate to facilitate the administration of any unemployment compensation or public employment service law, and in like manner, to 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 which administers an employment security law of another state or foreign government and which 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.

To the extent permissible under the laws and constitution of the United States, the commission is authorized to 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 the Dominion 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 the Dominion 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, shall be deemed thereby to appoint 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 such an action against any employer, the commission shall cause such process or notice to be filed with the secretary of state, and such service shall be sufficient

and shall be of the same force and validity as if served upon the employer personally within this state. The commission immediately shall send notice of the service of process or notice, together with a copy thereof, by registered 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 which extend a like comity to this state.

The attorney general is empowered to 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 which extend a like comity to this state are empowered to 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 shall be conclusive evidence of that authority.

The attorney general is authorized to 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 is also authorized to enter into reciprocal agreements with the appropriate and authorized agencies of other states or of the federal government whereby remuneration and services, upon the basis of which an individual may become entitled to benefits under the unemployment compensation law of another state or of the federal government, shall be deemed to be 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, and wages and employment, on the basis of which an individual may become entitled to benefits under this act, shall be deemed to be wages or services on the basis of which unemployment compensation under the law of another state or of the federal government is payable, and whereby services performed by an individual for a single employing unit for which services are customarily performed by the individual in more than 1 state shall be deemed to be 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 such services, an election approved by the agency charged with the administration of the state's unemployment compensation law, pursuant to which all the services performed by the individual for the employing unit are deemed to be performed entirely within the state, and whereby 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 so payable shall be deemed to be benefits for the purpose of limiting duration of benefits and for the purposes of sections 20a and 26, and the payments shall be charged to the contributing employer's rating account for the purposes of sections 17, 18, 19, and 20, or the reimbursing employer's account under section 13c or 13g, 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 pursuant to this section.

(h) The commission is authorized and directed to enter into any agreement necessary in order that it may 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 thereunder, and for those purposes may accept and administer funds made available by the federal government and may accept and exercise any delegated function as may be provided thereunder. The commission shall not have power to 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 whereby, 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, shall provide 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 which 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;¥—R 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.

Administrative rules: R 421.1 of the Michigan Administrative Code.

Cited in other sections: Section 421.11 is cited in §400.83.

421.11a Repealed. 1965, Act 281, Eff. Sept. 5, 1965.

Compiler's note: The repealed section pertained to agreements for benefits under federal temporary unemployment compensation act of 1958.

421.12 Acceptance of Wagner-Peyser act.

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

Free employment service.

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.

Employment service for persons over age 45.

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.

Administration fund; appropriations.

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.

Free employment service; agreements.

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, defined.

“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, defined.

"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;—R 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 programs.

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; computation and payment; reports; records; quarterly wage report.

Sec. 13. (1) Each employer subject to this act shall pay to the commission 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 commission, for the unemployment compensation fund, by each employer semiannually or for shorter periods of not less than 28 days, as the commission may by rule prescribe. 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. In the payment of contributions, a fractional part of a cent shall be disregarded unless it amounts to 1/2 cent or more, in which case it shall be increased to 1 cent. The commission may prescribe by rule the details of the computation and payment of contributions. Every employing unit shall file with the commission periodic reports on forms and at a time as the commission shall prescribe 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 commission or to the employing unit's employees or former employees as the commission may by rule prescribe as necessary to carry out

this act.

(2) Beginning with the first quarter of 1986, each employer shall file a quarterly wage report with the commission, on forms and at a time as the commission shall prescribe, 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.

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;¥—R 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.

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

Cited in other sections: Section 421.13 is cited in §400.83.

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.

Sec. 131. Indian tribe or tribal unit as employer; requirements.

Sec. 131. (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.

421.14 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;—R 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 commission, 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 commission. Amounts illegally obtained or previously withheld from payment and damages that are recovered by the commission under section 54(a) and (b) and sections 54a to 54c of this act shall bear interest at the rate of 1% per month, computed on a day-to-day basis for each day the amounts remain unpaid until payment plus accrued interest is received by the commission. The interest on unpaid contributions, exclusive of penalties, shall not exceed 50% of the amount of contributions due at due date. Interest and penalties collected pursuant to this section shall be paid into the contingent fund. The commission 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 commission, or fraud.

(b) The commission may make assessments against an employer, claimant, employee of the commission, or third party who fails to pay contributions, reimbursement payments in lieu of contributions, penalties, forfeitures, or interest as required by this act. The commission shall immediately notify the employer, claimant, employee of the commission, or third party of the assessment in writing by first-class mail. An assessment by the commission against a claimant, an employee of the commission, or a third party under this subsection shall be made only for penalties and interest on those penalties for violations of section 54(a) or (b) or sections 54a to 54c. The assessment, which shall constitute a determination, shall be final unless the employer, claimant, employee of the commission, or third party files with the commission an application for a redetermination of the assessment in accordance with section 32a. A review by the commission or an appeal to a referee or the appeal board on the assessment shall not reopen a question concerning an employer's liability for contributions or reimbursement payments in lieu of contributions, unless the 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 commission may issue a warrant under its official seal for the collection of an amount required to be paid pursuant to the assessment. The commission through its authorized employees, under a warrant issued, 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 shall not be exempt from levy under the warrant. Wages subject to a notice to withhold shall be exempt to the extent the wages are exempt from garnishment under the laws of this state. The warrant shall be returned to the commission together with the money collected by virtue of 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 commission shall proceed upon the warrant in all respects and with like effect and in the same manner as prescribed by law in respect to executions issued against property upon judgments by a court of record. The state, through the commission or some other officer or agent designated by it, may bid for and purchase property sold under the provisions of this subsection. If an employer, claimant, employee of the commission, 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 commission 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 possession or under control a credit or other intangible property

belonging to the employer, claimant, employee of the commission, or third party, or who owes a debt to the employer, claimant, employee of the commission, or third party at the time of the receipt of the notice. A person or legal entity so notified shall not transfer or make a disposition of the credit, other intangible property, or debt without retaining an amount sufficient to pay the amount specified in the notice unless the commission 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 commission within 5 days after receipt of the notice of a credit, other intangible property, or debt, which 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 commission 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 commission, or third party subject to a notice to withhold shall be paid to the commission 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 commission, or third party defaults in the payment of a penalty or interest on a penalty, the commission 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 commission, or third party adjudged in default shall pay costs of the action. An action by the commission against a claimant, employee of the commission, 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 commission. 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 commission, 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 commission. The circuit court of the county in which the employer or employing unit or claimant, employee of the commission, 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, shall have 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 commission or heard or reviewed by a referee or the appeal board. The court shall not have jurisdiction of the action unless written notice of claim is given to the commission 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 to such an extent and in a manner as it may consider proper. Either party to the action shall have the right of appeal, as is now provided by law, in other civil actions. An action by a claimant, employee of the commission, or third party against the commission under this subsection shall be brought only to recover penalties and interest on those penalties improperly assessed by the commission 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 commission, 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 may be allowed by the court, in an amount not to exceed the actual earnings of the contributions as may have been 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 commission from an employer, claimant, employee of the commission, or third party that neglects to pay the same when due shall be a first and prior lien upon all property and rights to property, real and personal, belonging to the employer, claimant, employee of the commission, or third party. The lien shall continue 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 shall attach to the property and rights to property of the employer, claimant, employee of the commission, or third party, whether real or personal, from and after the date that a report upon which the specific tax is computed is required by this act to be filed. 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. This subsection shall apply only to penalties and interest on those penalties assessed by the commission against a claimant, employee of the commission, 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, Act No. 317 of the Public Acts of 1969, being sections 418.101 to 418.941 of the Michigan Compiled Laws. In the distribution of estates of decedents, claims for funeral expenses and expenses of last sickness shall also be 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 defined in section 41(2), is liable for contributions and interest due to the commission 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 commission 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 commission. 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 commission, 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 such other information, as determined by the commission, as would be required for a transferee to estimate future unemployment compensation costs based on the transferor's benefit charge and tax reporting and payment experience with the commission. 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 is not to be construed to reduce any other right or remedy against any party provided for in this or any other act. Nothing in this subsection shall be construed to decrease the liability of the transferee as a successor in interest, or to prevent the transfer of a rating account balance as provided in this act. The foregoing provisions are in addition to the remedies the commission 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 the rules of the commission, but without intention to defraud, 5% of the total amount of the deficiency, in addition to the deficiency and in addition to all other interest charges and penalties provided herein, shall be assessed, collected, and paid in the same manner as if it were 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 in addition to 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 commission pursuant to this act, the commission may make an estimate of the liability of that employing unit from information it may obtain and, according to that estimate so made, assess the employing unit for the contributions, penalties, and interest due. The commission shall have the power only after a default continues for 30 days and after the commission 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 commission by this section is additional to other powers and rights vested in the commission in pursuance of the other provisions of this act. The commission is not precluded from exercising any of the collection remedies provided for by this act even though an application for a redetermination or an appeal is pending final disposition.

(*l*) A person recording a lien provided for in this section shall pay a fee of $2.00 for recording a lien and a fee of

$2.00 for recording a discharge of a lien.

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;¥—R 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.

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

Cited in other sections: Section 421.15 is cited in §600.2567a.

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

Compiler's note: The repealed sections provided for legal representation of state and commission by attorney general, and for fees for registering certain liens and recording the discharge thereof.

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;¥—R 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; definitions; pooling of contributions.

Sec. 17. (1) The commission shall maintain in the fund a nonchargeable benefits account, and a separate experience account for each employer as provided in this section. As used in this act, “experience account” means an

account in the 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. "Nonchargeable benefits account" means the account in the fund maintained as provided in subsections (2) and (3). A reference in this act to the "solvency account" shall be construed to refer to the nonchargeable benefits account and 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. But this act shall not be construed to grant 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 which may be paid or advanced by the federal government under section 903 or section 1201 of the social security act, 42 U.S.C. 1103 and 1321, to the account of the state in the federal unemployment trust fund.

(f) All benefits improperly paid to claimants which have been recovered and which 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, or any claimant restitution refund check duly issued which 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 pursuant to 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 pursuant to this subsection.

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

(f) The amounts received by the fund under section 903 of the social security act, 42 U.S.C. 1103, that may be appropriated to the commission in accordance with subsection (9).

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

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

(i) The amount of any benefit check issued which 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 which become nonchargeable to an employer under section 29(3) or section 19(b) or (c).

(k) For benefit years beginning before the conversion date prescribed in section 75, with benefits allocated under section 20(e)(2) for a week of unemployment in which a claimant earns remuneration with a contributing employer which equals or exceeds the amount of benefits allocated to that contributing employer, and for benefit years beginning after the

conversion date prescribed in section 75, with benefits allocated under section 20(e)(3) for a week of unemployment in which a claimant earns remuneration with a contributing employer which 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).

(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 which 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 balance transferred as provided in subsection (2) 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, shall thereafter again become subject to this act within 6 years after that computation date, the employer may apply, within 60 days after the commission's determination that the employer is again subject to this act, to the commission to have the positive balance, adjusted by the debits and credits as have been made subsequent to the date of transfer, credited to the employer's new experience account. If the application is timely, the commission shall credit the positive balance 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 U.S.C. 1103, to the account of the state in the federal unemployment trust fund shall immediately be credited by the commission to the fund's nonchargeable benefits account. There is authorized to be appropriated to the commission from the money credited to the nonchargeable benefits account under this subsection, sums found necessary for the proper and efficient administration by the commission of this act for purposes for which federal grants under Title 3 of the social security act, 42 U.S.C. 501 to 504, and the Wagner-Peyser national employment system act, 29 U.S.C. 49 to 49k, 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 which 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 which may be obligated by the commission during a fiscal year to an amount which 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 commission pursuant to 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 which 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;¥—R 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.

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;~~Y—R~~ 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 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 8 or more consecutive calendar quarters during which the employer has not had workers in covered employment, and if the employer becomes liable for contributions, the employer shall be considered as newly liable for contributions for the purposes of table A or table B of this subsection.

(*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.

(*iii*) For the calendar years 1983 and 1984, the contribution rate of a construction employer shall not exceed its 1982 contribution rate with respect to wages, paid by that employer, related to the execution of a fixed price construction contract that was entered into prior to January 1, 1983. Furthermore, that contribution rate shall be reduced, by the solvency tax rate assessed against the employer under section 19a, for the year in which the solvency tax rate is applicable. Furthermore, notwithstanding section 44, the taxable wage limit, for calendar years 1983 and 1984, with respect to wages paid under a fixed price contract, shall be the maximum amount of remuneration paid within a calendar year by an employer subject to the federal unemployment tax act, chapter 23 of subtitle C of the internal revenue code of 1986, 26 U.S.C. 3301 to 3311, to an individual with respect to employment as defined in that act which is subject to tax under that act during that year.

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)
4	+ 2/3 average construction contractor rate as determined by the commission
5	2/3 (chargeable benefits component)
6	+ 1/3 average construction contractor rate as determined by the commission
5 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 for each calendar year after 1977 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). Each employer's contribution rate for calendar years before 1978 shall be determined by the provisions of this act in effect during the years in question.

(3) (*i*) 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%.

(*ii*) For benefit years established before the conversion date prescribed in section 75, 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 the conversion date prescribed in section 75, 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 U.S.C. 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 U.S.C. 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).

(7) Unless an employer's contribution rate is 1/10 of 1% for calendar years beginning after December 31, 1995, the employer's contribution rate shall be reduced by any of the following calculation methods that results in the lowest rate: (*i*) The chargeable benefits component, the account building component, and the nonchargeable benefits component of the contribution rate calculated under this section shall each be reduced by 10% and if the resulting quotient is not an exact multiple of 1/10 of 1%, that quotient shall be increased to the next higher multiple of 1/10 of 1%. The 3 components as increased shall then be added together. (*ii*) One-tenth of 1% shall be deducted from the contribution rate. (*iii*) The contribution rate shall be reduced by 10% and if the resulting quotient is not an exact multiple of 1/10 of 1%, that quotient shall be increased to the next higher multiple of 1/10 of 1%.

The contribution rate reduction described in this section applies to employers who have been liable for the payment of contributions in accordance with this act for more than 4 consecutive years, if the balance of money in the unemployment compensation fund established under section 26, excluding money borrowed from the federal unemployment trust fund, is equal to or greater than 1.2% of the aggregate amount of all contributing employers' payrolls for the 12-month period ending on the computation date. If the employer's contribution rate is reduced by a

1/10 of 1% deduction in accordance with this subdivision, the employer's contributions shall be credited to each of the components of the contribution rate on a pro rata basis. As used in this subdivision: (*i*) "Federal unemployment trust fund" means the fund created under section 904 of title IX of the social security act, 42 U.S.C. 1104. (*ii*) "Payroll" means that term as defined in section 18(f).

(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 U.S.C. 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 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)

(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 taxable wage limit of a distressed employer for the 1983, 1984, and 1985 calendar years shall be the maximum amount of remuneration paid within a calendar year by a distressed employer subject to the federal unemployment tax act, 26 U.S.C. 3301 to 3311, to an individual with respect to employment as defined in that act which is subject to tax under that act during that year. Commencing with the fourth quarter of 1986, 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, 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;¥—R 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. (sine die)-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.

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.

Sec. 19a. (1) Except for the first 4 consecutive years of liability, a contributing employer shall be subject to a solvency tax for a calendar year after 1982 if the employers 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 U.S.C. 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 shall be in addition to the employers contribution rate and shall not be subject to the limiting provisions of section 19(a)(6).

(2) The solvency tax rate shall be determined for the respective calendar years as follows:

(a) For the 1983 calendar year, the solvency tax rate shall be 0.5%.

(b) For the 1984 calendar year, the solvency tax rate shall be 1%.

(c) For the 1985 calendar year, the solvency tax rate shall be calculated in the manner provided in this subdivision. By February 1, 1985, the commission shall estimate the amount of interest due on federal loans during the 1985 calendar year, without regard to any deferral permitted under section 1202(b)(3) or (8) of the social security act, 42 U.S.C. 1322, the amount of funds required for the unemployment insurance automation project for the 1985 calendar year, and the amount of deferred solvency taxes which cannot be collected because of employer bankruptcies. The total of these estimated amounts plus any amounts advanced from the state treasury under subsection (3) during the 1984 calendar year and any interest thereon shall be divided by the estimated total taxable payroll for the 1985 calendar year of all active employers who had negative balances in their experience accounts as of June 30, 1984. Total taxable payroll shall be estimated by using the total taxable payroll for such employers for the 12-month period ending June 30, 1984 and adjusting this figure for any change in the taxable wage limit for the 1985 calendar year. The solvency tax rate thus calculated for the 1985 calendar year shall be adjusted to the next highest 1/10 of 1%, but shall not exceed 2%.

(d) For the 1986 calendar year, the solvency tax rate shall be calculated in the manner provided in this subdivision. By February 1, 1986, the commission shall estimate the amount of interest due during the 1986 calendar year on federal loans, without regard to any deferral which may be permitted under section 1202(b)(3) or (8) of the social security act, 42 U.S.C. 1322, the amount of funds required for the unemployment insurance automation project for the 1986 calendar year, and the expected balance on December 31, 1986, if any, of unrepaid interest bearing federal advances. The total of these amounts plus any amounts advanced from the state treasury under subsection (3) during the 1985 calendar year and any interest thereon 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, 1985. Total taxable payroll shall be estimated by using the total taxable payroll for such employers for the 12-month period ending on June 30, 1985 and adjusting this figure for any change in the taxable wage limit for the 1986 calendar year. The quotient shall be adjusted to the next highest 1/10 of 1%. If this adjusted percentage is 0.8% or less, the employer's solvency tax rate for the 1986 calendar year shall be the adjusted 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 aggregate solvency tax revenues sufficient to pay the interest due during the year on federal loans, to pay for the unemployment insurance automation project, to repay the balance of interest bearing loans by December 31, 1986, and to repay amounts advanced from the state treasury during the 1985 calendar year and any interest thereon, but shall not exceed the lesser of 1/4 of the percentage calculated or 2%.

(e) For calendar years after 1986, the solvency tax rate shall be calculated as follows:

(*i*) If there is no balance on December 31, 1986, of unrepaid interest bearing federal advances, the solvency tax rate, if any, 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%.

(*ii*) If there is a balance on December 31, 1986, of unrepaid interest bearing federal advances, the solvency tax rate for the 1987 calendar year and for each calendar year thereafter shall be calculated in the manner provided in this subparagraph until the balance of the interest bearing federal advances on December 31, 1986 has been reduced to zero. By February 1 of the calendar year, the commission shall calculate the sum of (a) the estimated interest due during the calendar on federal loans, without regard to any interest deferral which may be permitted under section 1202 of the social security act, 42 U.S.C. 1322, (b) the estimated amount of funds required for the unemployment insurance automation

project, (c) the remaining balance on December 31 of the preceding year of the December 31, 1986 balance of unrepaid interest bearing federal advances, and (d) any amounts advanced from the state treasury under subsection (3) during the preceding year and any interest thereon. For purposes of calculating the remaining balance, any loan repayments during the year shall first be applied toward reducing the December 31, 1986 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 such 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, 1986 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%. For any calendar year after the first calendar year that the remaining balance of the December 31, 1986 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%.

(*iii*) Notwithstanding subparagraph (*i*), if there is no interest bearing federal loan balance on December 31, 1986, but the state will have interest due during the 1987 calendar year on federal advances made prior to January 1, 1987, or the state must repay in the 1987 calendar year any advances made from the state treasury during the 1986 calendar year, plus any interest thereon, the employer's solvency tax rate for the 1987 calendar year shall be calculated in the same manner as in subparagraph (*ii*). If there is no federal interest bearing loan balance on December 31, 1986, and there will be no federal or state interest due during the 1987 calendar year based on advances made prior to January 1, 1987, but on June 30, 1986, the balance in the unemployment compensation fund was less than the total amount of unrepaid interest bearing federal advances, the employer's solvency tax rate for the 1987 calendar year shall be zero.

(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, 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 U.S.C. 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 U.S.C. 3302(f), such provision shall be invalid to the extent necessary to

maintain qualification for such interest relief provisions and federal unemployment tax credits.

History: Add. 1982, Act 535, Eff. Jan. 2, 1983-Am. 1983, Act 247, Imd. Eff. Dec. 5, 1983.

Compiler's note: In subsection (2)(e)(*ii*) of this section, "interest due during the calendar on federal loans" evidently should read "interest due during the calendar year on federal loans".

Former § 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; separate determination of amount and duration of benefits; disqualifying act or discharge; order of charges; separating employee; limitation on charges for regular benefits; benefits based on multiemployer credit weeks; training benefits and extended benefits; notice of charges.

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 current period or, in the discretion of the unemployment agency as of the date of the charge. Benefits paid to an individual as a result of an employer's failure to provide the unemployment agency with separation, employment, and wage data as required by section 32 shall be considered as benefits properly paid to the extent that the benefits are chargeable to the noncomplying employer.

(b) For benefit years established before the conversion date prescribed in section 75, benefits paid to an individual shall be based upon the credit weeks earned during the individual's base period and shall be charged against the experience accounts of the contributing employers or charged to the accounts of the reimbursing employers from whom the individual earned credit weeks. If the individual earned credit weeks from more than 1 employer, a separate determination shall be made of the amount and duration of benefits based upon the total credit weeks and wages earned with each employer. Benefits paid in accordance with the determinations shall be charged against the experience account of a contributing employer or charged to the account of a reimbursing employer beginning with the most recent employer first and thereafter as necessary against other base period employers in inverse order to that in which the claimant earned his or her last credit week with those employers. If there

is any disqualifying act or discharge under section 29(1) with an employer, benefits based upon credit weeks earned from that employer before the disqualifying act or discharge shall be charged only after the exhaustion of charges as provided above. Benefits based upon those

credit weeks shall be charged first against the experience account of the contributing employer involved or to the account of the reimbursing employer involved in the most recent disqualifying act or discharge and thereafter as necessary in similar inverse order against other base period employers involved in disqualifying acts or discharges. The order of charges determined as of the beginning date of a benefit year shall remain fixed during the benefit year. For benefit years established after the conversion date prescribed in section 75, 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 the amount a claimant must earn, in the manner prescribed in section 29(3), to requalify for benefits following a disqualification under section 29(1)(a), (b), (i), or (k) 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 the amount a claimant must earn, in the manner prescribed in section 29(3), to requalify for benefits following a disqualification under section 29(1)(a), (b), (i), or (k) 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 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. The "separating employer" is the employer that caused the individual to be unemployed as defined in section 48.

(c) For benefit years established before the conversion date prescribed in section 75, and except as otherwise provided in section 11(d) or (g) or section 46a, the charges for regular benefits to any reimbursing employer or to any contributing employer' s experience account shall not exceed the weekly benefit rate multiplied by 3/4 the number of credit weeks earned by the individual during his or her base period from that employer. If the resultant product is not

an even multiple of 1/2 the weekly benefit rate, the amount shall be raised to an amount equal to the next higher multiple of 1/2 the weekly benefit rate, and in the case of an individual who was employed by only 1 employer in his or her base period and who earned 34 credit weeks with that employer, the product shall be raised to the next higher multiple of the weekly benefit rate.

(d) For benefit years beginning after the conversion date prescribed in section 75, 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 the conversion date prescribed in section 75:

(1) When an individual has multiemployer credit weeks in his or her base period, and when it becomes necessary to use those credit weeks as a basis for benefit payments, a single determination shall be made of the individual's weekly benefit rate and maximum amount of benefits based on the individual's multiemployer credit weeks and the wages earned in those credit weeks. Each employer involved in the individual's multiemployer credit weeks shall be an interested party to the determination. The proviso in section 29(2) shall not be applicable to multiemployer credit weeks, nor shall the reduction provision of section 29(4) apply to benefit entitlement based upon those credit weeks.

(2) The charge for benefits based on multiemployer credit weeks shall be allocated to each employer involved on the basis of the ratio that the total wages earned during the total multiemployer credit weeks counted under section 50(b) with the employer bears to the total amount of wages earned during the total multiemployer credit weeks counted under section 50(b) with all such employers, computed to the nearest cent. However, if an adjusted weekly benefit rate is determined in accordance with section 27(f), the charge to the employer who has contributed to the financing of the retirement plan shall be reduced by the same amount by which the weekly benefit rate was adjusted under section 27(f). Benefits for a week of unemployment allocated under this subsection to a contributing employer shall be charged to the nonchargeable benefits account if the claimant during that week earns remuneration with that employer that equals or exceeds the amount of benefits allocated to that employer.

(3) Benefits paid in accordance with the determination based on multiemployer credit weeks shall be allocated to each employer involved and charged as of the quarter in which the payments are made. Notice of charges made under this subsection shall be given to each employer by means of a current listing of charges, at least weekly, or of a quarterly statement of charges. The listing or statement shall specify the weeks for which benefits were paid based on

multiemployer credit weeks and the amount of benefits paid chargeable to that employer for each week. The notice shall be considered to satisfy the requirements of sections 21(a) and 32(d) that notification be given each employer of benefits charged against that employer' s account by means of a copy or listing of the benefit check, and all protest and appeal rights applicable to benefit check copies or listings shall also be applicable to the notice of charges. If an employer receives both a current listing of charges and a quarterly statement of charges under this subsection, all protest and appeal rights shall only be applicable to the first notice given.

(f) For benefit years beginning after the conversion date prescribed in section 75, if benefits for a week of unemployment are charged to 2 or more base period employers, the share of the benefits allocated and charged under this section to a contributing employer shall be charged to the nonchargeable benefits account if the claimant during that week earns remuneration with that employer that equals or exceeds the amount of benefits charged to that employer.

(g) For benefit years beginning before the conversion date prescribed in section 75:

(1) Training benefits as provided in section 27(g), and extended benefits as provided in section 64, shall be allocated to each reimbursing employer involved in the individual' s base period of the claim to which the benefits are related, on the basis of the ratio that the total wages earned during the total credit weeks counted under section 50(b) with a reimbursing employer bears to the total amount of wages earned during the total credit weeks counted under section 50(b) with all employers.

(2) Training benefits and extended benefits, to the extent that 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 that 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 that 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 during 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 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(d) that notification be given each employer of benefits charged against that employer's account by means of a listing of the benefit check. All protest and appeal rights applicable to benefit check listings shall also be applicable to the notice of charges. If an employer receives both a current listing of charges and a quarterly statement of charges under this subsection, all protest and appeal rights shall only be applicable to the first notice given.

(h) For benefit years beginning after the conversion date prescribed in section 75:

(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(d) that notification be given to each employer of benefits charged against that employer's account by means of a listing of the benefit check. All protest and appeal rights applicable to benefit check listings shall also be applicable 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 shall only be applicable to the first notice given.

(i) If a benefit year is established after the conversion date prescribed in section 75, 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 the conversion date shall not be charged to the employer or employers who paid those wages but shall be charged instead 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;~~Y—R~~ 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.

421.20a Benefits payments under protest or appeal; charge to suspense 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. 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 employers 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 a referee.

(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;~~Y—R~~ 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.

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 employers 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 employers 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 §421.21a, pertaining to seasonal employees and their rate of contribution, was repealed by Act 281 of 1965.

421.21b Employment security; seamen on American vessel on Great Lakes, benefits; definitions.

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;¥—R 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 subsequent to June 30, 1954, any of the assets of his business by any means otherwise than in the ordinary course of trade, such transfer shall be deemed a "transfer of business" for the purposes of this section if the commission determines:

(1) That the transferee is an employer subject to this act on the transfer date, has become so subject as of the

transfer date under section 41 (2)(a) or elects to become subject as of the transfer date under section 25; and

(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 the provisions of subsection (a), a transfer of assets to a transferee which 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 the request therefor, a written approval by the transferor and transferee of a rating account transfer determined in accordance with the provisions of subsection (d).

(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 his right to elect.

(c) Notwithstanding any other provisions of this section, if an employer subject to this act transfers subsequent to December 31, 1973, any of the assets of his business, by any means otherwise than in the ordinary course of trade, to any transferee or transferees substantially owned or controlled, in whole or major part, either directly or indirectly by legally enforceable means or otherwise, by the same interest or interests which owned or controlled the transferor at the time of such transfer, such transfer shall be deemed a "transfer of business" for the purposes of this section.

(d) (1) In the case of a transfer of business as defined in subsections (a), (b), and (c), the commission shall assign the transferor's rating account, or a pro rata part thereof, to the transferee. The commission shall make such assignment as of the date on which the business was 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 rating account to be assigned to the transferee shall be determined on the basis of the percentage relationship to the nearest 1/2 of 1% of the insured payroll for the 4 completed calendar quarters immediately prior to the date of transfer properly allocable to the transferred portion of the business, to the insured payroll for the same period allocable to the entire business of the transferor immediately prior to the date of the transfer.

(2) When the commission transfers an employer's rating 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 transferred business; and such transferred account shall be liable to be

charged for all benefit payments based on employment in the business or portion thereof transferred.

(3) In determining whether the transferee is a “qualified employer” under section 19, the experience of the transferred account shall be deemed to be part of the experience of the transferee’s rating account. If on the date of the transfer the transferee was a “qualified employer” and the transferor was not a “qualified employer” because of the provisions of section 19(a)(1), the transferee shall not thereby lose his status as a “qualified employer”.

(e) In the case of a transfer of business as defined in subsections (a), (b), and (c) of this section:

(1) The rates of contributions applicable to the transferor and transferee for calendar year subsequent to the calendar year containing transfer date shall be respectively determined in accordance with section 19. In case of a transfer of part of an employer’s rating account under subsection (d), 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 rating account under subsection (d):

(a) the transferor shall have no further interest in the rating account, his coverage shall be terminated as of the effective date of the transfer under section 24 (b), and if he again becomes an employer as defined in section 41 in the same calendar year in which his coverage has been thus terminated his contribution rate for the remainder of the calendar year shall be 2.7% as provided in section 19; and (b) 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 or transferees, having no rate of contributions applicable immediately prior to the transfer date, shall, beginning with the first day of the quarter in which the transfer occurs, be assigned the same rate of contributions which was applicable to the transferor on the date of the transfer and a contribution rate of 2.7% for any portion of the calendar year prior to the first day of the quarter in which the transfer occurs.

(3) Where transfers of businesses simultaneously involve 2 or more transferors and a single transferee who has no rate of contributions applicable immediately prior to the transfer date, such transferee shall be assigned a contribution rate beginning with the first day of the quarter in which the transfers occur based upon the rating account percentage determined by the transferred rating 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 prior to 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;¥—R 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.

Cited in other sections: Section 421.22 is cited in §208.38a.

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.

421.23 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;~~R~~ 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;¥—R 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;¥—R 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; establishment; administration; contents.

Sec. 26. (a) There is established as a special fund, separate and apart from all public moneys 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. Such 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 moneys belonging to the fund; (4) all earnings of such property or securities; (5) amounts transferred from the contingent fund pursuant to section 10; and (6) any other moneys received by the commission for unemployment compensation, except interest, penalties, and damages collected under the provisions of this act. All moneys in the fund shall be mingled and undivided.

Treasurer and custodian of fund; maintenance of clearing account, unemployment trust fund account, and benefit account; deposits; refunds.

(b) The commission shall designate a treasurer and custodian of the fund who shall administer such fund in accordance with the directions of the commission and shall issue his or her vouchers upon it in accordance with such regulations as the commission shall prescribe. 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 moneys payable to the fund, upon receipt thereof by the commission, shall be forwarded to the treasurer who shall immediately deposit them in the clearing account. Refunds payable pursuant to section 16 of this act may be paid from the clearing account upon vouchers issued by the treasurer under the direction of the commission. After clearance thereof, all other moneys 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, as amended. The benefit account shall consist of all moneys requisitioned from this state's account in the unemployment trust fund. Except as herein otherwise provided, moneys 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.

Requisition from unemployment trust fund; deposits; vouchers; disposition of moneys unclaimed or unpaid.

(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 therein, as it deems necessary for the payment of benefits for a reasonable future period. Upon receipt thereof, the treasurer shall deposit such moneys in the benefit account and shall issue his or her vouchers for the payment of benefits solely from such 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 moneys requisitioned from the unemployment trust fund which remains unclaimed or unpaid in the benefit account after the expiration of the period for which such 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) of this section.

(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, as amended. Upon receipt of such moneys, the treasurer shall deposit them in the administration fund, but such moneys shall remain a part of the unemployment compensation fund until expended.

Discontinuance of unemployment trust fund; transfer of moneys, properties, or securities; investments; disposition of fund properties.

(d) The provisions of subsections (a), (b), and (c), to the extent that they relate to the unemployment trust fund, shall be operative only so long as such unemployment trust fund continues to exist and so long as the secretary of the treasury of the United States of America continues to maintain for this state a separate account of all funds deposited therein by this state for benefit purposes, together with this state's proportionate share of the earnings of such unemployment trust fund, from which no other state is permitted to make withdrawals. If and when such unemployment trust fund ceases to exist, or such separate account is no longer maintained, all moneys, 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 such moneys, 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 the state of Michigan. Such investment shall be so made that all the assets of the fund shall be 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.

Audits.

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

Assistant treasurer.

(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 section 26(b), shall be authorized to perform such duties as are conferred upon the treasurer and custodian under the provisions of this act.

Advance or grant of funds; agreement; repayment; avoidance of additional tax; transfer of funds; payment of interest.

(g) The commission is hereby authorized to enter into such agreement as may be 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 as amended, or under any other act of congress extending such 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 U.S.C. 3302(g), direct payment of the additional federal unemployment tax imposed under section 3302(c)(2) of the federal unemployment tax act, funds sufficient to qualify for such avoidance shall be transferred from the account of the state of Michigan in the federal unemployment trust fund to the federal unemployment account in such trust fund, unless precluded by federal law.

Any interest required to be paid on advances under title XII of the social security act, 42 U.S.C. 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 the state of Michigan 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;¥—R 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.

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

Compiler's note: The repealed sections 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 shall 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 the conversion date prescribed in section 75, a new separation issue arises resulting from subsequent work.

(2) Benefits shall be paid in person or by mail through employment offices in accordance with rules promulgated by the commission.

(b)(1) Subject to subsection (f), the weekly benefit rate for an individual, with respect to benefit years beginning before the conversion date prescribed in section 75, shall be 67% of the individual's average after tax weekly wage, except that the individual's maximum weekly benefit rate shall not exceed $300.00. However, with respect to benefit years beginning after the conversion date as prescribed in section 75, the individual's weekly benefit rate shall be 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 (3), 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 shall not exceed $300.00 before the effective date of the amendatory act that added section 13*l* and $362.00 for claims filed on and after the effective date of the amendatory act that added section 13l. The weekly benefit rate for an individual claiming benefits on and after the effective date of the amendatory act that added section 13*l* shall 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. With respect to benefit years beginning on or after October 2, 1983, the weekly benefit rate shall be adjusted to the next lower multiple of $1.00.

(2) For benefit years beginning before the conversion date prescribed in section 75, the state average weekly wage for a calendar year shall be computed on the basis of the 12 months ending the June 30 immediately preceding that calendar year. The commission shall prepare a table of weekly benefit rates based on an "average after tax weekly wage" calculated by subtracting, from an individual' s average weekly wage as determined in accordance with section

51, a reasonable approximation of the weekly amount required to be withheld by the employer from the remuneration of the individual based on dependents and exemptions for income taxes under chapter 24 of subtitle C of the internal revenue code of 1986, 26 U.S.C. 3401 to 3406, and under section 351 of the income tax act of 1967, 1967 PA 281, MCL 206.351, and for old age and survivor' s disability insurance taxes under the federal insurance contributions act, chapter

21 of subtitle C of the internal revenue code of 1986, 26 U.S.C. 3128. For purposes of applying the table to an individual' s claim, a dependent shall be as defined in subdivision (3). The table applicable to an individual' s claim shall be the table reflecting the number of dependents claimed by the individual under subdivision (3). The commission shall adjust the

tables based on changes in withholding schedules published by the United States department of treasury, internal revenue service, and by the department of treasury. The number of dependents

allowed shall be determined with respect to each week of unemployment for which an individual is claiming benefits.

(3) For benefit years beginning before the conversion date prescribed in section 75, a dependent means any of the following persons who is receiving and for at least 90 consecutive days immediately preceding 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 half 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 after the conversion date prescribed in section 75, a dependent means any of the following persons who received for at least 90 consecutive days immediately preceding 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) For benefit years beginning before the conversion date prescribed in section 75, dependency status of a dependent, child or otherwise, once established or fixed in favor of an individual continues during the individual's benefit year until terminated. Dependency status of a dependent terminates at the end of the week in which the dependent ceases to be an individual described in subdivision (3)(a), (b), (c), or (d) because of age, death, or divorce. For benefit years beginning after the conversion date prescribed in section 75, 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) For benefit years beginning before the conversion date prescribed in section 75, 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 when the individual files a claim for benefits with respect to a week shall be considered good cause for

the issuance of a redetermination as to the amount of benefits based on the number of the individual's dependents as of the beginning date of that week. 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.

For benefit years beginning after the conversion date as prescribed in section 75, 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 shall be considered good cause for the issuance of 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 shall 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 shall be 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) Each eligible individual shall have his or her weekly benefit rate reduced with respect to each week in which the individual earns or receives remuneration at the rate of 50 cents for each whole $1.00 of remuneration earned or received during that week.

(3) An individual who receives or earns partial remuneration may not receive a total of benefits and earnings that exceeds 1-1/2 times his or her weekly benefit amount. For each dollar of total benefits and earnings that exceeds 1-1/2 times the individual's weekly benefit amount, benefits shall be reduced by $1.00.

(4) If the reduction in a claimant's benefit rate for a week in accordance with subparagraph (2) or (3) results in a benefit rate greater than zero for that week, the claimant's balance of weeks of benefit payments will be 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 shall be considered to have been earned by the eligible individual on the preceding day.

(d) For benefit years beginning before the conversion date prescribed in section 75, and subject to subsection (f) and this subsection, the amount of benefits to which an individual who is otherwise eligible is entitled during a benefit year from an employer with respect to employment during the base period is the amount obtained by multiplying the weekly benefit rate with respect to that employment by 3/4 of the number of credit weeks earned in the employment. For the purpose of this subsection and section 20(c), if the resultant product is not an even multiple of 1/2 the weekly benefit rate, the product shall be raised to an amount equal to the next higher multiple of 1/2 the weekly benefit rate, and, for an individual who was employed by only 1 employer in the individual' s base period and earned 34 credit weeks with that employer, the product shall be raised to the next higher multiple of the weekly benefit rate. The maximum amount of benefits payable to an individual within a benefit year, with respect to employment by an employer, shall not exceed 26 times the weekly benefit rate with respect to that employment. The maximum amount of benefits payable to an individual within a benefit year shall not exceed the amount to which the individual would be entitled for 26 weeks of unemployment in which remuneration was not earned or received. 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). For benefit years beginning after the conversion date prescribed in section 75, and 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(c) 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 shall be rounded down to the nearest half number. However, not more than 26 weeks of benefits or less than 14 weeks of benefits shall be payable to an individual in a benefit year. The

limitation of total benefits set forth in this subsection shall 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, shall 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 the conversion date prescribed in section 75, 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), shall be 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 shall be 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 shall 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 shall be 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 shall not be 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 shall 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 shall 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 shall apply only to benefits as may be claimed after the information on which the reconsideration is based was received by the commission.

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

(*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 shall not be considered to be 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 half of the cost of the benefit, then only half of the benefit shall be treated as a retirement benefit.

(*ii*) Half or more of the cost of the benefit, then none of the benefit shall be 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 shall be 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 shall be made only if it is required as a condition for full tax credit against the tax imposed by the federal unemployment tax act, chapter 23 of subtitle C of the internal revenue code of 1986, 26 U.S.C. 3301 to 3311.

(6) For benefit years beginning after the conversion date prescribed in section 75, 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), shall be 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 shall be 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 shall continue to be applicable in connection with the benefit claims of those retired persons.

(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 shall not 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 shall be 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 shall 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 shall 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 shall not be made 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 shall not be paid 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 shall not be paid 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 shall not be paid 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 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 shall not be 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, chapter 23 of subtitle C of the internal revenue code of 1986, 26 U.S.C. 3301 to 3311.

(6) For benefit years established before the conversion date prescribed in section 75, 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 shall be charged in accordance with the normal sequence of charging as provided in section 20(b).

(7) For benefit years beginning after the conversion date prescribed in section 75, and notwithstanding subdivisions (1), (2), and (3), the denial of benefits shall not prevent an individual from completing requalifying weeks in accordance with section 29(3) nor shall the denial 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, when benefits are paid based on service with 1 or more base period employers other than an educational institution, the individual's weekly benefit rate shall be calculated in accordance with subsection (b)(1) but during the denial period the individual's weekly benefit payment shall be 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 shall not be charged for benefits payable to the individual. When a denial of benefits under subdivision (1) is no longer applicable, benefits shall be 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 shall be 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 shall not be paid 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 shall not be 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, chapter 477, 66 Stat. 182, 8 U.S.C. 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) Where an individual whose application for benefits would otherwise be approved, a determination that benefits to that individual are not payable because of the individual's alien status shall 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 commission 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 commission 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 section 454(19)(B)(*i*) of part D of title IV of the social security act, 42 U.S.C. 654, by the state or local child support enforcement agency.

(c) Any amount otherwise required to be deducted and withheld from unemployment compensation pursuant to legal process, as that term is defined in section 462(e) of part D of title IV of the social security act, 42 U.S.C. 662, 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) Any amount deducted and withheld under subdivision (2) shall be paid by the commission to the appropriate state or local child support enforcement agency.

(5) Any amount deducted and withheld under subdivision (2) shall be 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) This subsection applies only if the state or local child support enforcement agency agrees in writing to reimburse and does reimburse the commission for the administrative costs incurred by the commission 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 shall be determined by the commission. The commission, 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) through (5), means any compensation payable under this act, including amounts payable by the commission 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 section 454 of part D of title IV of the social security act, 42 U.S.C. 654, that has been approved by the secretary of health and human services under part D of title IV of the social security act, chapter 531, 49 Stat. 620, 42 U.S.C. 651 to 655, 656 to 660, and 663 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.

(o)(1) For weeks of unemployment beginning after July 1, 1996, unemployment benefits based on services by a seasonal worker performed in seasonal employment shall be payable only for weeks of unemployment that occur during the normal seasonal work period. Benefits shall not be paid 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 a referee or the board of review, or of 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 shall be 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 notice shall be furnished by the commission. The notice shall 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 in the event that 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 shall become 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 shall 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 whether 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 pursuant to rules promulgated by the commission 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 in an industry, other than the construction industry, that does either of the following:

(1) Customarily operates during regularly recurring periods of 26 weeks or less in any 52-consecutive-week period.

(2) Customarily employs at least 50% of its employees for regularly recurring periods of 26 weeks or less within a period of 52 consecutive weeks.

(d) "Seasonal employer" means an employer, other than an employer in the construction industry, who applies to the commission for designation as a seasonal employer and who the commission determines to be an employer whose operations and business are substantially engaged in seasonal employment.

(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) If this subsection is found by the United States department of labor to be contrary to the federal unemployment tax act, chapter 23 of the internal revenue code of 1986, 26 U.S.C. 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 or as a condition for receipt by the commission of federal administrative grant funds under the social security act, this subsection shall be invalid.

(p) Benefits shall not be paid 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;¥—R 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.

Cited in other sections: Section 421.27 is cited in §37.1103.

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 sentence beginning "Benefits shall be payable", the phrase "who had been paid benefit" apparently should read "who had been paid benefits". Near the end of this section, "section become effective" apparently 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.

421.27n 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 for benefits; conditions.

Sec. 28. (1) An unemployed individual shall be eligible to receive benefits with respect to any week only if the commission finds that:

(a) For benefit years established before the conversion date prescribed in section 75, the individual has registered for work at and thereafter has continued to report at an employment office in accordance with such rules as the commission may prescribe 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 commission if the individual is laid off and the employer who laid the individual off notifies the commission 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 commission 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 commission 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 shall 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 commission 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 commission. For benefit years established after the conversion date prescribed in section 75, the individual has registered for work and has continued to report in accordance with such rules as the commission may prescribe and is 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 commission if the individual is laid off and the employer who laid the

individual off notifies the commission 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 commission 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 commission 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 wages during or after the base period. This waiver shall not apply to a claimant enrolled and attending classes as a full-time student. An individual shall be 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 commission 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 commission.

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

(c) The individual is able and available 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 commission that such work is available.

(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 commission to be likely to exhaust regular benefits and need reemployment services pursuant to a profiling system established by the commission.

(2) The commission may authorize an individual with an unexpired benefit year to pursue vocational training or retraining only if the commission 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 commission.

(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 commission.

(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 commission. For each week that the commission finds that an individual who is claiming benefits under this act and who is participating in training with the approval of the commission, 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 commission.

(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 U.S.C. 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 U.S.C. 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.

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;¥—R 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.

Administrative rules: R 421.1 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.

421.29 Disqualification from benefits.

Sec. 29. (1) 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 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. However, if 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, the leaving does not disqualify the individual.

(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 for available suitable work after receiving from the employment office or the commission notice of the availability of that work.

(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 commission. 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.

(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 (*i*) Illegally ingesting, injecting, inhaling, or possessing a controlled substance on the premises of the employer, (*ii*) Refusing to submit to a drug test that was required to be administered in a nondiscriminatory manner, or (*iii*) Testing positive on a drug test, if the test was administered in a nondiscriminatory manner. If the worker disputes the result of the testing, a generally accepted confirmatory test shall be administered

and shall also indicate a positive result for the presence of a controlled substance before a disqualification of the worker under this subdivision. As used in this subdivision:

(A) "Controlled substance" means that term as defined in section 7104 of the public

health code, 1978 PA 368, MCL 333.7104.

(B) "Drug test" means a test designed to detect the illegal use of a controlled substance.

(C) "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.

(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), except that for benefit years beginning before the conversion date prescribed in section 75, the disqualification does not prevent the payment of benefits if there are credit weeks, other than multiemployer credit weeks, after the most recent disqualifying act or discharge.

(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 the conversion date described in section 75, 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 subsection shall be 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 the conversion date prescribed in section 75, 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 the conversion date prescribed in section 75, 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 after the conversion date prescribed in section 75, subsequent to 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), or (m). A requalifying week required under this subsection shall be 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 were not disqualified under subsection (1).

(e) For benefit years beginning after the conversion date prescribed in section 75 and beginning before the effective date of the amendatory act that added section 131, 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 after the conversion date prescribed in section 75 and after the effective date of the amendatory act that added section 131, 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 after the conversion date prescribed in section 75 and after the effective date of the amendatory act that added section 131, 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 commission 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 commission of the claimant's possible ineligibility or disqualification. 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 the conversion date prescribed in section 75, 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 shall apply 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 the conversion date prescribed in section 75, 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 after the conversion date prescribed in section 75, 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 subsection.

(*ii*) The number of weeks of benefit entitlement remaining on the claim.

(g) For benefit years beginning after the conversion date prescribed in section 75, the benefits of an individual disqualified under subsection (1)(h), (i), (j), (k), or (m) 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), or (m).

(5) If an individual leaves work to accept permanent full-time work with another employer and performs services for that employer, or if an individual leaves work to accept a recall from a former employer:

(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 commission 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 commission 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 commission 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.

(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 with respect to those weeks based on the individual's employment with the employer involved in the labor dispute.

(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 1 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 commission of possible ineligibility or disqualification beyond the time limits prescribed by commission rule, the notice shall not form the basis of a determination of ineligibility or disqualification for a claim period compensated before the receipt of the notice by the commission.

(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;¥—R 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.

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;¥—Ƣ 1948, 421.30.

421.31 Waiver of rights; limitation of fees; representation.

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;¥—Ƣ 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)(1) For benefit years established before the conversion date prescribed in section 75,

the unemployment agency may prescribe regulations for notifying and shall notify the employer, whose experience account may be charged, and the employing unit where the claimant last worked that the claimant has filed an application for benefits. The notice shall require the employer and employing unit to furnish information to the unemployment agency necessary to determine the claimant' s benefit rights.

(2) Upon receipt of the employer' s reports, the unemployment agency shall promptly make a determination based upon the available information. The claimant and the employer, whose experience account may be charged pursuant to the determination, shall be promptly notified of the determination. The notice shall show the name and account number of the employer whose experience account may be charged pursuant to the determination, the weekly benefit amount

and the maximum number of credit weeks against which the claimant may draw benefits, and whether or not the claimant is eligible and qualified to draw 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.

(3) If an employer or employing unit fails to respond within 10 days after mailing of the request for information, the unemployment agency shall make a determination upon the available information. In the absence of a showing by the employer satisfying the unemployment agency that the employer reasonably could not submit the requested information, the determination shall be final as to the noncomplying employer, as to benefits paid before the week following the receipt of the employer' s reply, and chargeable against the employer' s experience account as a result of the employer' s late reply, and the payments shall be considered to have been proper payments. The unemployment agency may require an employer who consistently fails to meet the unemployment agency' s requirements, as to submission of reports covering employment of individuals, to provide the reports automatically upon the separation of individuals from employment, in the manner and within the time limits the unemployment agency prescribes by

regulation necessary to carry out this section. An employer may be permitted to provide the reports automatically upon separation of individuals from employment, in the manner and within the time limits prescribed by the unemployment agency.

(4) After an application for benefits is filed, the unemployment agency' s determination shall include only the most recent employer. Subsequently, as necessary, the unemployment agency shall issue determinations covering other base period employers, individually in inverse order to that in which the claimant earned his or her last credit week with the employers.

(5) For benefit years established after the conversion date prescribed in section 75, 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. Benefits paid in accordance

with the monetary determination shall be considered proper payments and shall not be changed unless the unemployment agency receives new, corrected, or additional information from the employer, within 10 calendar days after the mailing of the monetary determination, and the information results in a change in the monetary determination. New, additional, or corrected information received by the unemployment agency after the 10-day period shall be considered a

request for reconsideration by the employer of the monetary determination and shall be reviewed as provided in section 32a.

(6) 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), (j), (l), or (m) 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.

(7) 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. The determination shall be final and any payment made shall be considered a proper payment with respect to benefits paid before the week following the receipt of the employer's reply and chargeable against the employer's account or experience account as a result of the employer's late reply.

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

(d) 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 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, improperly as the result of administrative error, false statement, misrepresentation, or nondisclosure of a material fact. If the unemployment agency finds that the claimant has obtained benefits through administrative error, false statement, misrepresentation, or nondisclosure of a material

fact, the unemployment agency shall proceed under the appropriate provisions of section 62.

(e) 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.

(f) 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.

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;~~Y—R~~ 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.

421.32a Review of determination; redetermination; notice; reconsideration; applicability of disqualification or ineligibility to compensable period; finality of redetermination.

Sec. 32a. (1) Upon application by an interested party for review of a determination, upon request for transfer to a referee for a hearing filed with the commission within 30 days after the mailing or personal service of a notice of determination, or upon the commission's own motion within that 30-day period, the commission shall review any determination. After review, the commission 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 a referee for a hearing. If a redetermination is issued, the commission 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 commission for a hearing on the redetermination before a referee in accordance with section 33.

(2) The commission 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 a referee for a hearing. A reconsideration shall not be made unless the request is filed with the commission, or reconsideration is initiated by the commission 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 commission 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 a referee 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 a referee in a case involving the payment of unemployment benefits.

(b) If both the commission and the employer agree, the matter may be transferred directly to a referee in a case involving unemployment contributions or reimbursements in lieu of contributions.

History: Add. 1941, Act 364, Imd. Eff. July 1, 1941;¥—R 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.

Compiler's Note: In subsection (1), in the last sentence, after the second appearance of the word "redetermination", the comma should evidently be a period, and the following word "the" should evidently be capitalized.

421.3b Internet site, establishment; access; purpose.

Sec. 32b. (1) Not later than 6 months after the effective date of the amendatory act that added this section, 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 request for redetermination or a protest from an employer or employing unit, the unemployment agency shall post a statement confirming receipt of the request for redetermination or protest from that employer or employing unit on the internet site required under subsection (1).

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

421.33 Appointment of referees; appeals and transferred matters; procedure, appeal to board of review; availability of writings to public.

Sec. 33. (1) The commission shall appoint an adequate number of impartial referees to hear and decide appeals from a redetermination issued by the commission in accordance with section 32a or to hear and decide a matter transferred in accordance with section 32a. If the commission transfers a matter, or an interested party requests a hearing before a referee 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 a referee. The referee shall afford all interested parties a reasonable

opportunity for a fair hearing and, unless the appeal is withdrawn, the referee shall decide the rights of the interested parties and shall notify the interested parties of the decision within 60 days, setting forth the findings of fact upon which the decision is based, together with the reasons for the decision. However, with respect to an appeal from a denial of redetermination, if the referee 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. However, when the same or substantially similar evidence is material to the matter in issue with respect to more than 1 interested party, the same time and place for considering all the cases may be fixed, hearing on the cases jointly conducted, a single record of the proceedings made, and evidence introduced with respect to 1 proceeding considered as introduced in the others, if an interested party is not prejudiced thereby. If the appellant fails to appear or prosecute the appeal the referee may dismiss the proceedings or take other action considered advisable. A referee 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. However, the application or motion shall be made within 30 days after the date of mailing of the decision. The referee may, for good cause, reopen and review a prior decision of a referee and issue a new decision after the 30-day appeal period has expired. However, a request for review shall be made within 1 year after the date of mailing of the prior decision. A referee shall not participate in a case in which he or she has a direct or indirect interest.

(2) An interested party within 30 days after the mailing of a copy of a decision of the referee or of a denial of a motion for rehearing may file an appeal to the board of review, and unless such an appeal is filed the decision or denial shall be final.

(3) A writing prepared, owned, used, in the possession of, or retained by a referee in the performance of an official function shall be made available to the public in compliance with Act No. 442 of the Public Acts of 1976, being sections 15.231 to 15.246 of the Michigan Compiled Laws.

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;¥—R 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.

421.34 Appeal to board of review from findings of fact and decision or from denial of motion for rehearing or reopening.

Sec. 34. An appeal to the board of review from the findings of fact and decision of the referee or from a denial by the referee of a motion for a rehearing or reopening, shall be a matter of right by an interested party. The board of

review, 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 referee or a denial by the referee of a motion for rehearing or reopening. The board shall conduct an oral hearing in a matter before the board 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 board assigned to review the appeal. If an application for an oral hearing is not approved, the board shall not consider a written argument unless 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 board shall decide the case on the referee record. The board shall notify each interested party of its decision or order within 60 days after the date of the last board of review hearing on a contested matter. The board, in its discretion, may omit the giving of reasons in cases where the decision of a referee is affirmed without alteration or modification. If the appellant fails to appear, the board of review may dismiss the proceedings or take other action as it may deem advisable. The board of review 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 board of review may, for good cause, reopen and review a prior decision of the board of review 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 board, or review is initiated by the board 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 board of review 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.

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;~~Y—R~~ 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.

421.35 Board of review; powers and duties; creation; appointment, qualifications, and terms of members; vacancy; abolition of Michigan employment security appeal board; salaries and expenses; report.

Sec. 35. (1) The board of review may on its own motion affirm, modify, set aside, or reverse a decision or order of a referee 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 board of review shall permit a further appeal by a party interested in a decision or order of a referee or by the commission if its initial ruling has been overruled or modified by a referee. The board of review may remove to itself or transfer to another referee the proceedings on an

appeal, rehearing, or review pending before a referee. The board of review shall promptly notify the interested parties of its findings and decisions.

(2) A member of the board of review may administer oaths; take depositions; and issue and enforce subpoenas requiring a person to appear before it and be examined with reference to a matter within the scope of the inquiry or investigation being conducted by the board, and to produce books, records, and papers in the same manner as provided in section 9 with respect to the issuance of a subpoena by a member of the commission.

(3) A board of review is created as an autonomous entity within the department of labor, effective January 1, 1978. Except as provided in subsection (4), the board of review shall consist of 5 members appointed by the governor, with the advice and consent of the senate. Except for the members first appointed, the term of a member appointed under this subsection is 4 years or until a successor is appointed and confirmed. Two of these members shall be representative of employee interests in the state; 2 members shall be representative of employer interests in the state; and 1 member shall be a representative of the general public and shall serve as chairperson. Of the members first appointed under this subsection, 1 representing the employee interests and 1 representing the employer interests shall be appointed for 4 years. Of the members first appointed under this subsection, 1 representing the employee interests and 1 representing the employer interests shall be appointed for 2 years. The first member appointed representing the general public shall be appointed for 3 years. A vacancy shall be filled in the same manner as the original appointment, and a vacancy occurring during a term of office shall be filled by appointment for the remainder of the unexpired term. The Michigan employment security appeal board is abolished upon the creation of the board of review. A case pending at the time that board is abolished shall be transferred to and continued by the board of review.

(4) In addition to the 5 members of the board of review as provided for in subsection (3), the governor shall fill 2 temporary positions with the advice and consent of the senate, effective February 1, 1981 to April 1, 1987. One member shall be representative of employee interests in the state, and 1 member shall be representative of employer interests in the state. If a member for any reason is not able to serve his or her 4-year term, the vacancy shall be filled in the same manner as the original appointment for the remainder of the unexpired term.

(5) Each member appointed to the board under this section, except for the member representing the general public, shall have 1 of the following types of experience:

(a) Three years of experience in the aggregate as a Michigan employment security referee or as an attorney practicing before the commission, its referees, or the board.

(b) Three years of experience as an employer representative or employee representative, or as an agent of employee or employer interests responsible for commission matters.

(6) The member representing the general public shall not have been an employer representative or employee representative in the 5 years immediately preceding the member's appointment.

(7) A member of the board shall not participate in a case in which the member is an interested party or in which the member previously participated. A member of the board shall devote his or her full time to the functions of the board. Each member shall personally perform the duties of the office during the hours generally worked by other officers and employees of the executive department of the state.

(8) The annual salary of the members of the board and the schedule for reimbursement of expenses shall be established annually by the legislature. The salaries and expenses shall be paid from the administration fund.

(9) Within 6 months after the end of each fiscal year, the board of review shall submit to the senate and house committees that have the responsibility for employment security legislation a report covering the number of cases that were processed each month during the preceding fiscal year and the backlog of cases, if any, that existed at the end of each month of the preceding fiscal year.

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;¥—R 1948, 421.35-Am. 1949, Act 282, Imd. Eff. June 11, 1949-Am. 1951, Act 251, Imd. Eff. June 17, 1951-Am. 1959, Act 270, Imd. Eff. Oct. 30, 1959-Am. 1964, Act 231, Eff. Aug. 28, 1964-Am. 1965, Act 361, Imd. Eff. July 23, 1965-Am. 1968, Act 338, Imd. Eff. July 19, 1968-Am. 1975, Act 161, Imd. Eff. July 14, 1975-Am. 1977, Act 52, Imd. Eff. July 5, 1977-Am. 1980, Act 358, Eff. Mar. 1, 1981-Am. 1983, Act 164, Imd. Eff. July 24, 1983.

Compiler's note: For effective date of subsection (4), see §421.70.

Transfer of powers: See § 16.479.

Cited in other sections: Section 421.35 is cited in §16.479.

421.36 Appeals to referees and board of review; rules governing presentation, reports, and procedure; assignment of matters to panels; composition of panels; final decision of board; request for full review; commission as interested party; unreasonable reports not required; record of proceedings; recording and transcribing testimony; cost of transcript; availability of certain writings to public; filing and contents of certified record of proceedings in circuit court; appeals consolidated for hearing.

Sec. 36. (1) The manner in which appeals to referees and the board shall be presented, the appeal-related reports required from an interested party, and the procedure governing the appeals shall be in accordance with rules promulgated by the board.

(2) A matter to be heard by the board shall be assigned to a panel of 3 members of the board for disposition. The composition of panels shall be alternated so that each member of the board serves on panels with other members of the board with a frequency which is as substantially equal as possible. If the board is operating with 5 members, the chairperson may appoint 2 panels, each of which shall have 1 member representative of employer interests and 1 member representative of employee interests. If the board is operating with 7 members, the chairperson may appoint 3 panels, each of which shall have 1 member representative of employer interests and 1 member representative of employee interests. The chairperson shall participate on a panel only if the 2 members cannot agree to a decision or order, and in all matters where an oral hearing has been granted. With all panels, the decision reached by 2 members shall be the final decision of the board, unless 2 members of the board from different representational sectors request that the matter be brought for a full review by the entire board. The request shall be made within 5 working days after the decision of the panel. A decision of the full board of review which is equally divided shall constitute an affirmance of the next lower decision.

(3) The commission shall be considered to be an interested party. Unreasonable reports shall not be required. A full and complete record shall be kept of all proceedings in connection with an appeal. The testimony at a hearing before a referee or the board of review shall be recorded, but need not be transcribed unless the decision is further appealed or a transcript is requested by an interested party who shall pay the cost of preparing the transcript. However, a charge shall not be made for the transcript if an appeal is filed by the interested party. A writing prepared, owned, used, in the possession of, or retained by the appeal board in the performance of an official function shall be made available to the public in compliance with Act No. 442 of the Public Acts of 1976, as amended, being sections 15.231 to 15.246 of the Michigan Compiled Laws. The certified copy of the record of proceedings that the board of review is required to file in the circuit court in connection with an order or decision of the board from which an appeal has been taken pursuant to section 38 shall include the testimony taken in the case by the referee and the board, their orders and decisions filed in the case, and the exhibits admitted in evidence, excluding, however, the notices of hearings and adjournments that may have been admitted as exhibits unless the notices themselves are the subject of dispute in the case. In the case of an appeal involving more than 1 interested party that the referee was empowered to consolidate for purposes of hearing pursuant to section 33, only the orders and decisions issued by the referee and the board of review to 1 of the individuals involved in the appeals consolidated for hearing need be made a part of the record on appeal, if the orders and decisions issued to the other individuals involved in the consolidated hearing with respect to the dispositive issues involved are the

same.

History: 1936, Ex. Sess., Act 1, Imd. Eff. Dec. 24, 1936-Am. 1941, Act 364, Imd. Eff. July 1, 1941;¥—Ŕ 1948, 421.36-Am. 1951, Act 251, Imd. Eff. June 17, 1951-Am. 1957, Act 311, Imd. Eff. June 21, 1957-Am. 1974, Act 104, Eff. June 9, 1974-Am. 1977, Act 52, Imd. Eff. July 5, 1977-Am. 1977, Act 202, Imd. Eff. Nov. 17, 1977-Am. 1978, Act 471, Imd. Eff. Oct. 18, 1978-Am. 1980, Act 358, Eff. Mar. 1, 1981.

Administrative rules: R 421.1101 et seq. of the Michigan Administrative Code.

421.37 Fees for subpoenaed witnesses; fees and expenses of proceedings; issuance of subpoena.

Sec. 37. 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 a referee or the board of review shall be considered a part of the expense of administering this act. If an interested party to a hearing formally requests the commission, a referee, or the board of review to obtain a subpoena for witnesses whose evidence it considers necessary, the commission, referee or board of review shall promptly issue the subpoena as provided in sections 9 and 35 of 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;¥—Ŕ 1948, 421.37-Am. 1967, Act 254, Imd. Eff. July 19, 1967-Am. 1977, Act 52, Imd. Eff. July 5, 1977.

421.38 Review by circuit court; direct appeal of order or decision of hearing referee; commission 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 referee and the board of review involved in a final order or decision of the board, 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 a hearing referee 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 referee. A hearing referee'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 if the employer and commission execute and file with the hearing referee a written stipulation agreeing to the direct appeal to the circuit court.

(3) The commission is a party to any judicial action involving an order or decision of the board of review or a referee.

(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;¥—R 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.

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;¥—R 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;¥—R 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) Beginning January 1, 1969, an employing unit (*i*) which 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 (*ii*) 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 which acquired the organization, trade, or business, or 75% or more of the assets thereof, of another which at the time of the acquisition was an employer subject to this act.

(b) Any individual, legal entity, or employing unit described as a transferee in section 22(c).

(3) Any employing unit which having become an employer under subdivisions (1), (2), (4), (5), (6), (7), or (9) has not, under sections 24 and 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 which has elected to become fully subject to this act.

(5) (a) Beginning January 1, 1978, an employing unit which 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 which, 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 crew leader to perform agricultural service for any farm operator shall be treated as an employee of that crew leader if the crew leader holds a valid certificate of registration under the farm labor contractor registration act of 1963, 7 U.S.C. 2041 to 2055; 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 crew leader; and if the crew leader 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 crew leader to perform agricultural service for a farm operator and who is not treated as an employee of the crew leader under paragraph (b), the farm operator and not the crew leader 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 crew leader, either on his 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 “crew leader” means an individual who does all of the following:

(i) Furnishes individuals to perform agricultural service for a farm operator.

(ii) Pays, either on his own behalf or on behalf of a farm operator, the individuals furnished by him for the agricultural service performed by them.

(iii) Has not entered into a written agreement with the farm operator under which the crew leader is designated as an employee of the farm operator.

(6) Beginning January 1, 1978, an employing unit which 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 an employer by reason of any other paragraph of this section for which services in employment are performed with respect to which such 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 such employing unit shall constitute employment for the purposes of this act only to the extent that such services constitute employment with respect to which such federal tax is payable.

(8) For purposes of this section, a week which falls in 2 calendar years shall be considered to fall entirely within that calendar year which contains the majority of days of that week.

(9) Notwithstanding subdivision (1), after December 31, 1977, an employer means any employing unit for which services are performed as defined in section 42(8) or (9).

(10) For the purpose of determining the amount of contributions due pursuant to section 44(2), the provisions of subdivisions (5) and (6) shall first apply with respect to remuneration paid after December 31, 1977, for services performed after that date.

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;¥—R 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.

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.

Uncompiled section: Section 41b of this act was not compiled.

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 commission 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 commission 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 commission before January 30 of any year stating the employer's desire to cancel the election or at any time by submitting to the commission 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 commission 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 commission 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) Services performed by an individual for remuneration shall not be deemed to be 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 which 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 shall be deemed employment subject to this act. Service 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, which provides for the individual's control and direction, is engaged by the person, firm, or corporation to operate the motor vehicle equipment shall be deemed to be employment subject to 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, 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 commission 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 shall 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, except a political subdivision which has a local unemployment compensation system as provided in section 13j, 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 section 42(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" shall include 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;~~Y—R~~ 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.

Compiler's note: For effective date of subsection (8), see §421.66(3).

421.42a Repealed. 1951, Act 251, Imd. Eff. June 17, 1951.

Compiler's note: The repealed section defined term "employment office."

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) Agricultural service performed by an individual who is an alien admitted to the United States to perform that service pursuant to sections 214(c) and 101(a)(15)(H) of the immigration and nationality act, 8 U.S.C. 1184 and 8 U.S.C. 1101.

(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, 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, chapter 24, 46 Stat. 18, 12 U.S.C. 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 pursuant to 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, other than an organization described in section 401(a) of the internal revenue code of 1986, or under section 521 of the internal revenue code of 1986, 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. 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 pursuant to 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 pursuant 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.

History: 1936, Ex. Sess., Act 1, Imd. Eff. Dec. 24, 1936-Am. 1937, Act 347, Imd. Eff. Aug. 5, 1937;—R 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.

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. For benefit years beginning after the conversion date prescribed in section 75, 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. Beginning January 1, 1986, remuneration shall include tips actually reported to an employer under section 6053(a) of the internal revenue code 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 under section 501(c) of the internal revenue code of 1986, 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, beginning January 1, 1986, includes tips actually reported to an employer under section 6053(a) of the internal revenue code 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 U.S.C. 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 U.S.C. 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 shall be limited by the taxable wage limit applicable under subsection (4). For this purpose, wages shall exclude all remuneration paid within a calendar year to an individual by an employing unit after the individual was paid within that year by that employing unit remuneration equal to the taxable wage limit on which unemployment taxes were paid or were payable in this state and in any other states. If an employing unit, hereinafter referred to as successor, during any calendar year becomes a transferee in a transfer of business as defined in section 22 of another, hereinafter referred to as a predecessor, 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 shall be $8,000.00 in the 1983 calendar year, $8,500.00 in the 1984 calendar year, $9,000.00 in the 1985 calendar year, $9,500.00 in the 1986 calendar year, and $9,500.00 for calendar years after 1986 through 2002, and $9,000.00 for calendar years after 2002, or the maximum amount of remuneration paid within a calendar year by an employer subject to the federal unemployment tax act, 26 U.S.C. 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.

(5) For the purposes of this act, the term "wages" shall 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 that is exempt from tax under section 501(a) of the internal revenue code of 1986 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, 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 U.S.C. 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.

(6) The amendments made to this section by amendatory act 1977 PA 155 shall apply to all remuneration paid after December 31, 1977.

(7) The amendments made in subsection (1) by the amendatory act that added this subsection shall first apply to remuneration paid after December 31, 1977.

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;¥—R 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.

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;¥—R 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 (g), for benefit years beginning before the conversion date prescribed in section 75, "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 after the conversion date prescribed in section 75, "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, or (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 commission.

(c) For benefit years beginning after the conversion date prescribed in section 75, 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 commission for the most recent completed calendar quarter, the commission may 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. 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 commission 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.

(g) Notwithstanding subsection (a), for services performed on or after January 2, 1983, and with respect to benefit years established before the conversion date prescribed in section 75, an individual shall not be entitled to establish a benefit year based in whole or in part on credit weeks for service in the employ of an employing unit, not otherwise excluded under section 43(g), in which more than 50% of the proprietary interest is owned by the individual or his or her son, daughter, or spouse, or any combination of these individuals, or in which more than 50% of the proprietary interest is owned by the mother or father of a child under the age of 18, or mother and father combined, unless both the individual and the employer notify the commission, in response to the commission's request for information, of the individual's relationship to the owners of the proprietary interest in the employing unit. Upon timely notification to the commission, a benefit year may be established for the individual, if the individual meets all of the following conditions: (1) has earned 20 credit weeks in the 52 consecutive calendar weeks preceding the week with respect to which the individual filed an application for benefits; (2) with respect to the week for which the individual is filing an application for benefits is unemployed, and meets all of the other requirements of section 28; (3) with respect to the week for which the individual is filing an application for benefits the individual is not disqualified nor subject to disqualification, except in case of a labor dispute under section 29(8), with respect to the most recent period of employment with the most recent employer with whom the individual earned a credit week. If an individual files an application for a 7-day period as provided in section 27(c), the benefit year with respect to the individual shall begin with the calendar week which contains the first day of that 7-day period.

(h) For benefit years established on or after July 1, 1983, not more than 10 credit weeks based on services shall be used to pay benefits. For the purpose of calculating the individual's average weekly wage, all base period wages and credit weeks shall be used. With respect to benefit years beginning after the conversion date prescribed in section 75, and notwithstanding subsection (a), an individual shall not be entitled to establish a benefit year based in whole or in part on wages earned in service, not otherwise excluded under section 43(g), in the employ of an employing unit in which more than 50% of the proprietary interest is owned by the individual or his or her son, daughter, spouse, or any combination of these individuals, or in which more than 50% of the proprietary interest is owned by the mother or father of a child under the age of 18, or mother and father combined, unless both the individual and the employer notify the commission, in response to the commission's request for information, of the individual's relationship to the owners of the proprietary interest in the employing unit. Upon timely notification to the commission, a benefit year may be established for the individual if the individual meets the requirements of subsection (a). If wages in an individual's base period were earned

in service in the employ of such an employing unit, the individual's weekly benefit rate shall be calculated in accordance with section 27(b)(1) but the portion of the benefit rate attributable to this service shall be payable for not more than 7 weeks. The weekly benefit payment shall be reduced thereafter by the percentage of charge attributable to service with this employer, in accordance with section 20.

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;~~Y—R~~ 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.

421.46a Establishment of benefit year where individual unable to establish benefit year under § 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;¥—R 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 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 commission. 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;~~Y—R~~ 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.

421.48a Repealed. 1951, Act 251, Imd. Eff. June 17, 1951.

Compiler's note: The repealed section defined terms "unemployed" and "weekly benefit rate".

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 §421.49, defining "partial employment," was repealed by Act 251 of 1951.

421.50 "Week," "credit week," "uncharged credit week," and "uncanceled credit week," defined; certain payments not counted toward wages.

Sec. 50. (a) "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.

(b) Subject to subdivisions (1) and (2), for benefit years established before January 1, 1996, "credit week" means a calendar week of an individual's base period during which the individual earned wages equal to or greater than

20 times the state minimum hourly wage in effect on the first day of the calendar week in which the individual filed an application for benefits. However, for benefit years established on or after January 1, 1996 and before the conversion date prescribed in section 75, “credit week” means a calendar week of an individual’s base period during which the individual earned wages equal to or greater than 30 times the state minimum hourly wage in effect on the first day of the calendar week in which the individual filed an application for benefits. This subsection is subject to the following:

(1) If an individual earns wages from more than 1 employer in a credit week, that week shall be counted as 1 multiemployer credit week and shall be governed by the provisions of section 20(e), unless the individual has earned sufficient wages in the base period with only 1 of the employers for whom the individual performed services in the week of concurrent employment to entitle the individual to a maximum weekly benefit rate, in which case, the week shall be a credit week with respect to that employer only and not a multiemployer credit week.

(2) Not more than 35 uncanceled and uncharged credit weeks shall be counted as credit weeks. In determining the 35 credit weeks to be used for computing and paying benefits, credit weeks shall be counted in the following sequence:

(a) First, all credit weeks which are not multiemployer credit weeks and which were earned with employers not involved in a disqualifying act or discharge under section 29(1), and all credit weeks earned with an employer involved in such a disqualifying act or discharge which were earned subsequent to the last act or discharge in which the employer was involved, shall be counted in inverse order of most recent employment with each employer.

(b) Second, if the credit weeks counted under subparagraph (a) total less than 35, all credit weeks which are not multiemployer credit weeks and which were earned with each employer before a disqualifying act or discharge shall be counted, in inverse order to that in which the most recent disqualifying act or discharge with each employer occurred, to the extent necessary to use all available credit weeks with respect to the employers, or a total of 35 credit weeks, whichever is less.

(c) Third, if the credit weeks counted under subparagraphs (a) and (b) total less than 35, all multiemployer credit weeks shall be counted, in inverse chronological order of their occurrence, to the extent necessary to count all available credit weeks, or a total of 35 credit weeks, whichever is less.

(3) As used in this subsection:

(a) “Uncharged credit week” means a credit week which has not been used as a basis for a benefit payment, a reduction of benefits under section 29(4), or a penalty disqualification under section 62(b).

(b) “Uncanceled credit week” means a credit week which is not canceled in accordance with section 62(b).

(4) There shall not be counted toward the wages required to establish a credit week under this subsection payments in the form of termination, separation, severance, or dismissal allowances; or any payments for a vacation or a holiday unless the payment has been made, or the right to receive it has irrevocably vested, within 14 days following the vacation or holiday.

History: 1936, Ex. Sess., Act 1, Imd. Eff. Dec. 24, 1936-Am. 1947, Act 360, Eff. Jan. 1, 1948;¥—R 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.

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;¥—R 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, defined.

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;—R 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," and "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;~~Y—R~~ 1948, 421.53-Am. 1971, Act 231, Imd. Eff. Jan. 3, 1972-Am. 1977, Act 277, Eff. Jan. 1, 1978.

421.54 Penalties.

Sec. 54. (a) A person who willfully violates or intentionally fails to comply with any of the provisions of this act, or a regulation of the commission promulgated under the authority of this act for which a penalty is not otherwise provided by this act is punishable as provided in subdivision (*i*), (*ii*), (*iii*), or (*iv*), notwithstanding any other statute of this state or of the United States:

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

(*ii*) 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 (*i*), the penalty sought by the prosecutor shall include the amount described in subdivision (*i*) and shall also include 1 or more of the following penalties:

(A) 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 commission determines that an amount has been obtained or withheld as a result of a knowing violation of this act, the commission 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 commission may refer a matter under subdivision (*iii*) 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 (*iii*), the penalty sought by the prosecutor shall include the amount described in subdivision (*iii*) and shall also include 1 or more of the following penalties:

(A) 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 officer or agent of an employing unit, a claimant, an employee of the commission, 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 punishable as follows, notwithstanding any other penalties imposed under any other statute of this state or of the United States:

(*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 commission 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.

(*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 commission 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 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 or

more of the following penalties if the amount obtained is $1,000.00 or more:

(A) 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 penalty 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 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 commission shall be subject to the assessment of a penalty for each report not submitted within the time prescribed by the commission, as follows: In the case of contribution reports not received within 10 days after the end of the reporting month the penalty 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 commission nonwork day, the 10-day period shall run until the end of the next day which is not a Saturday, Sunday, legal holiday, or other commission nonwork day. In the case of all other reports referred to in this subsection the penalty shall be $10.00 for a report.

(2) Notwithstanding subdivision (1), any employer or an 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) shall be subject to a penalty of $25.00 for each untimely report.

(3) When 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 penalty shall not be imposed. The assessment of a penalty as provided in this subsection shall constitute a determination which shall be final unless the employer files with the commission an application for a redetermination of the assessment in accordance with section 32a.

(d) If any commissioner, employee, or agent of the commission or member of the appeal board willfully makes a disclosure of 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 having obtained a list of applicants for work, or of claimants or recipients of benefits, under this act shall use or permit the 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 and upon conviction shall be punished by imprisonment for not more than 90 days, or by a fine of not more than $1,000.00, or both. Notwithstanding the preceding sentence, if any commissioner, commission employee, agent of the commission, or member of the board of review 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 commission, represents himself or herself to be an employee of the commission to an employing unit or person for the purpose of securing information regarding the unemployment or employment record of an individual is guilty of a misdemeanor and upon conviction shall be punished by imprisonment for not more than 90 days, or by 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 commission 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 commission, or for any purpose other than use in connection with that research project, is guilty of a misdemeanor and upon conviction shall be punished by imprisonment for not more than 90 days, or by a fine of not more than $1,000.00, or both.

(g) As used in this section, "person" includes an individual, copartnership, joint venture, corporation, receiver, or trustee in bankruptcy.

(h) 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 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 penalty provisions of this section and, where applicable, the requirements of section 62.

(j) Amounts recovered by the commission under subsection (a) or (b) 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) and (b) shall be credited to the penalty and interest account of the contingent fund. Fines and penalties 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) The revisions in the penalties in subsections (a) and (b) provided by the 1991

amendatory act that added this subsection shall apply 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.

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;~~Y—R~~; 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.

Administrative rules: R 421.1 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 Definition of "American vessel" and "American aircraft".

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 1936 Ex. 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 commission determines that a person has obtained benefits to which that person is not entitled, the commission may recover a sum equal to the amount received by 1 or more of the following methods: (1) deduction from benefits payable to the individual, (2) payment by the individual to the commission in cash, or (3) deduction from a tax refund payable to the individual as provided under section 30a of Act No. 122 of the Public Acts of 1941, being

section 205.30a of the Michigan Compiled Laws. Deduction from benefits payable to the individual shall be limited to not more than 20% of each weekly benefit check due the claimant. The commission shall not recover improperly paid benefits from an individual more than 3 years, or more than 6 years in the case of a violation of section 54(a) or (b) or sections 54a to 54c, after the date of receipt of the improperly paid benefits unless: (1) a civil action is filed in a court by the commission within the 3-year or 6-year period, (2) the individual made an intentional false statement, misrepresentation, or concealment of material information to obtain the benefits, or (3) the commission issued a determination requiring restitution within the 3-year or 6-year period. Furthermore, except in a case of an intentional false statement, misrepresentation, or concealment of material information, the commission may 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.

(b) For benefit years beginning before the conversion date prescribed in section 75, if the commission 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 penalties, have all of his or her uncharged credit weeks with respect to the benefit year in which the act occurred canceled as of the date the commission receives notice of, or initiates investigation of, the possible false statement, misrepresentation, or concealment of material information, whichever date is earlier. Before receiving benefits in a benefit year established within 2 years after cancellation of uncharged credit weeks under this subsection, the individual, in addition to making the restitution of benefits established under subsection (a), may be liable to the commission, by cash, deduction from benefits, or deduction from a tax refund, for an additional amount as determined by the commission under this act. Restitution resulting from the intentional false statement, misrepresentation, or concealment of material information is not subject to the 20% limitation provided in subsection (a). For benefit years beginning after the conversion date prescribed in section 75, if the commission 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 penalties, have his or her rights to benefits for the benefit year in which the act occurred canceled as of the date the commission receives notice of, or initiates investigation of, a possible false statement, misrepresentation, or concealment of material information, whichever date is earlier, and wages used to establish that benefit year shall not be

used to establish another benefit year. Before receiving benefits in a benefit year established within 2 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 to the commission, by cash, deduction from benefits, or deduction from a tax refund, for an additional amount as otherwise determined by the commission under this act. Restitution resulting from the intentional false statement, misrepresentation, or concealment of material information is not subject to the 20% limitation provided in subsection (a).

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

(d) The commission shall take the action necessary to recover all benefits improperly obtained or paid under this act, and to enforce all penalties under subsection (b).

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;¥—R 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.

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 as defined in subsection (6)(d), for any week of unemployment which 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 and 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, or 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:

(*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, or

(*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 which apply to claims for regular benefits and to the payment of those benefits shall 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 commission 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 commission will 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 whichever of the following is the lesser:

(a) Fifty percent of the total amount of regular benefits payable to the individual under this act during the benefit year.

(b) Thirteen times the individual's weekly extended benefit rate.

In case any amount determined under subdivision (a) or (b) of 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) An extended benefit period:

(a) Shall begin 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) Shall end with the third week after the first week for which there is both a national "off" indicator and a Michigan "off" indicator.

(c) Shall not last for a period of less than 13 consecutive weeks, and shall 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, as amended. However, an extended benefit period shall terminate 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, 26 U.S.C. section 3304.

(4) An individual's "eligibility period" shall consist of the weeks in his or her benefit year which begin in an extended benefit period, and if his or her benefit year ends within the extended benefit period, any weeks thereafter which 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 the rate of insured unemployment under this act for the period consisting of that week and the immediately preceding 12 weeks:

(*i*) 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

(*ii*) Equaled or exceeded 4% for weeks beginning before September 26, 1982, or 5% for weeks beginning after September 25, 1982.

(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 Michigan is in a period in which emergency unemployment compensation is payable in Michigan under section 102 of the emergency unemployment compensation act of 1991, Public Law 102-164 or another similar federal law, and if the governor has the authority under this 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 emergency unemployment compensation is payable in Michigan, 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) For purposes of this subsection, the term "rate of insured unemployment" means the percentage arrived at 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 commission, 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 commission and shall conform to regulations, if any, prescribed by the United States secretary of labor under authority of the federal-state extended unemployment compensation act of 1970, as amended.

(h) Notwithstanding subdivisions (c) and (d), but subject to subsection (3)(c), for weeks of unemployment beginning after March 30, 1977 and before September 26, 1982, there is a Michigan "on" indicator for a week if the rate of insured unemployment under this act for the period consisting of that week and the immediately preceding 12 weeks equaled or exceeded 5%; and for weeks beginning after September 25, 1982, there is a Michigan "on" indicator for a week if the rate of insured unemployment under this act for the period consisting of that week and the immediately preceding 12 weeks equaled or exceeded 6%. However, any week for which there would otherwise be a Michigan "on" indicator shall continue to be such a week and shall not be determined to be a week for which there is a Michigan "off" indicator.

(6) For purposes of 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 U.S.C. 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 U.S.C. 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 such weekly 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 which required a reduction.

(7)(a) An extended benefit period on the basis of a national “on” indicator may not begin with a calendar week starting before January 1, 1972.

(b) With respect to calendar weeks beginning before January 1, 1972, an extended benefit period under this section shall be determined solely by reference to the Michigan “on” indicator and the Michigan “off” indicator, however an extended benefit period established on the basis of a Michigan “on” indicator may not begin with a week earlier than 60 days after the date of the enactment of the federal-state extended unemployment compensation act of 1970, as amended.

(8)(a) Notwithstanding the provisions of subsection (1)(b), an individual shall be ineligible for payment of extended benefits for any week of unemployment beginning after March 31, 1981 in the individual’s eligibility period if the commission finds that during that period:

(*i*) The individual failed to accept any offer of suitable work, as defined in subdivision (c), or failed to apply for any suitable work, as defined in subdivision (c), to which the individual was referred by the commission; or

(*ii*) The individual failed to actively engage in seeking work as prescribed in subdivision (f).

(b) Any individual who has been found ineligible for extended benefits pursuant to 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) For purposes of this subsection, the term "suitable work" means, with respect to any individual, any work which is within that individual's capabilities, if the gross weekly remuneration payable for the work exceeds the sum of:

(*i*) The individual's extended weekly benefit amount as determined under subsection (2), plus

(*ii*) The amount, if any, of supplemental unemployment compensation benefits, as defined in section 501(c)(17)(d) of the internal revenue code, payable to the individual for that week; and further,

(*iii*) That 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 U.S.C. 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 which meets the definition of suitability as described in subdivision (c) if:

(*i*) The position was not offered to the individual in writing and was not listed with the state employment service; or

(*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); or

(*iii*) The individual furnishes satisfactory evidence to the commission 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 specified by subdivision (c).

(e) Notwithstanding subsection (1)(b), work shall not be considered suitable work for an individual which does not meet the labor standard provisions required by section 3304(a)(5) of the internal revenue code and section 29(7) of this act.

(f) For the purposes of subdivision (a)(*ii*), an individual shall be treated as actively engaged in seeking work during any week if:

(*i*) The individual has engaged in a systematic and sustained effort to obtain work during that week, and

(*ii*) The individual furnishes tangible evidence to the commission that he or she has engaged in a systematic and

sustained effort during that week.

(g) The commission shall refer any applicant for extended benefits to any suitable work which meets the criteria prescribed in subdivisions (c) and (d).

(h) With respect to initial extended benefit claims filed after March 31, 1981, an individual shall not be 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 which caused the disqualification.

(i) For weeks of unemployment beginning on or after March 7, 1993 and before January 1, 1995, subsection (8) shall not be considered in determining the eligibility of an individual for the payment of extended benefits. This subdivision shall take effect for weeks of unemployment beginning on or after March 7, 1993 and before January 1, 1995.

(9)(a) Except as provided in subdivision (b), payment of extended benefits shall not be made to any individual for any week of unemployment, beginning on or after June 1, 1981, which 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 such week in the state in which the interstate claim is filed.

(b) Subdivision (a) shall 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.

(10) Notwithstanding the provisions of subsection (1)(b), an individual who established a benefit year under section 46a 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 which is used to establish the individual's extended benefit account under subsection (2).

(11) This subsection shall be 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, as amended, 19 U.S.C. 2101 to 2487, 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.

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...". In the fourth sentence of subsection (4), there evidently should be a period after $30.00", and a new sentence should begin with the next word, "supplemental".

421.67a Repealed. 1996, Act 535, Eff. Jan. 13, 1997.

Compiler's note: The repealed section pertained to reports to be filed with the 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.

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 23, 2000.