STATE OF MICHIGAN
102ND LEGISLATURE
REGULAR SESSION OF 2024

Introduced by Senator Cherry

ENROLLED SENATE BILL No. 976

AN ACT to amend 1936 (Ex Sess) PA 1, entitled "An act to protect the welfare of the people of this state through the establishment of an unemployment compensation fund, and to provide for the disbursement thereof; to create certain other funds; to create the Michigan employment security commission, and to prescribe its powers and duties; to provide for the protection of the people of this state from the hazards of unemployment; to levy and provide for contributions from employers; to levy and provide for obligation assessments; to provide for the collection of those contributions and assessments; to enter into reciprocal agreements and to cooperate with agencies of the United States and of other states charged with the administration of any unemployment insurance law; to furnish certain information to certain governmental agencies for use in administering public benefit and child support programs and investigating and prosecuting fraud; to provide for the payment of benefits; to provide for appeals from redeterminations, decisions and notices of assessments; and for referees and a board of review to hear and decide the issues arising from redeterminations, decisions and notices of assessment; to provide for the cooperation of this state and compliance with the provisions of the social security act and the Wagner-Peyser act passed by the Congress of the United States of America; to provide for the establishment and maintenance of free public employment offices; to provide for the transfer of funds; to make appropriations for carrying out the provisions of this act; to prescribe remedies and penalties for the violation of this act; and to repeal all acts and parts of acts inconsistent with this act," by amending sections 11, 11a, 12, 13, 13a, 13b, 13c, 13d, 13e, 13f, 13g, 13i, 13k, 13*l*, 13m, 14, 15, 15a, 16, 17, 18, 19, and 19a (MCL 421.11, 421.11a, 421.12, 421.13, 421.13a, 421.13b, 421.13c, 421.13d, 421.13e, 421.13f, 421.13g, 421.13i, 421.13k, 421.13*l*, 421.13m, 421.14, 421.15, 421.15a, 421.16, 421.17, 421.18, 421.19, and 421.19a), section 11 as amended by 2018 PA 72, section 11a as added by 2012 PA 422, section 13 as amended by 2022 PA 96, sections 13a and 13d as amended by 1989 PA 236, sections 13f, 13g, and 13k as amended by 1994 PA 162, section 13*l* as added by 2002 PA 192, section 13m as amended by 2012 PA 219, section 14 as amended by 1983 PA 164, section 15 as amended by 2017 PA 229, section 15a as added and sections 19 and 19a as amended by 2011 PA 269, section 17 as amended by 2020 PA 258, and section 18 as amended by 1993 PA 296; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

Sec. 11. (a) In the administration of this act, the unemployment insurance agency shall cooperate with the appropriate agency of the United States under the social security act, 42 USC 301 to 1397mm. The unemployment insurance agency shall make reports, in a form and containing information as the appropriate agency of the United States may require, and shall comply with the provisions that the appropriate agency of the United States prescribes to assure the correctness and verification of the reports. The unemployment insurance agency, subject to this act, shall comply with the regulations prescribed by the appropriate agency of the United States relating

to the receipt or expenditure of the sums that are allotted and paid to this state for the purpose of assisting in the administration of this act. The unemployment insurance agency shall comply with 20 CFR 603.8 for any disclosure it makes under this section.

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

(*i*) Information in the unemployment insurance agency's possession that might affect a claimant's claim for worker's disability compensation under the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.101 to 418.941, must be available to the claimant or the claimant's employer, regardless of whether the unemployment insurance agency is a party to an action or proceeding arising under the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.101 to 418.941. All of the following apply to a claimant or employer that is provided with information under this subparagraph:

(A) The claimant is entitled to receive only an uncertified printout of the unemployment benefits paid to the individual from the individual's date of injury to the present day.

(B) The employer is entitled to receive only an uncertified printout of the unemployment benefits paid to the claimant from the claimant's date of injury to the present day if the claimant consents to the release of the information in a manner that is consistent with the requirements of 20 CFR 603.5(d).

(C) The claimant or employer shall pay reasonable costs, as determined by the unemployment insurance agency, for processing the claimant's or employer's request for information, copying, and producing the list of the individual's unemployment benefit payments.

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

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

(B) If the request is made by an elected official performing constituent services and the elected official presents reasonable evidence that the identified individual authorized the disclosure.

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

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

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

(*v*) Subject to restrictions that the unemployment insurance agency prescribes by rule, information in its possession may be made available to any agency of this state, including, but not limited to, the Michigan center for data and analytics, 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 Internal Revenue Service of the United States Department of the Treasury; the Bureau of the Census of the Economics and Statistics Administration of the United States Department of Commerce; or the United States Social Security Administration.

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

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

(*viii*) Subject to restrictions it prescribes, by rule or otherwise, the unemployment insurance agency may also make information that it obtains available for use in connection with research projects of a public service nature; for course, program, or training program planning, improvement, or evaluation; for grant application or evaluation; for institutional or program accreditation; for economic development or workforce research; for award eligibility; or for federal or state mandated reporting, to a public official, eligible educational institution, or Michigan works agency or to an agency of this state that is acting as a contractor or agent of a public official and conducting research that assists the public official in carrying out the duties of the office. The unemployment insurance agency shall identify online the information that it collects that may be made available to public officials, eligible educational institutions, and Michigan works agencies and shall assist them in the application process required to gain access to that information. A person associated with those institutions or agencies or an agency of this state shall not disclose the information in a manner that would reveal the identity of an individual or employing unit from or concerning whom the information was obtained by the unemployment insurance agency. The unemployment insurance agency shall enter into a written, enforceable agreement with the public official for a period of not more than 10 years that holds the public official, eligible educational institution, or Michigan works agency responsible for ensuring that the confidentiality of the information is maintained. If the agreement is violated, the agreement must be terminated and the public official, eligible educational institution, or Michigan works agency may be subject to penalties equivalent to those that apply under section 54(f). The unemployment insurance agency, at the request of an independent educational institution, shall perform data analysis of information that the unemployment insurance agency has obtained and provide the results of the analysis to the independent educational institution. The unemployment insurance agency may perform analysis for course, program, or training program planning, improvement, or evaluation; grant application or evaluation; institutional or program accreditation; economic development or workforce research; award eligibility; or federal or state mandated reporting. The unemployment insurance agency shall not disclose information to an independent educational institution in a manner that would reveal the identity of an individual or employing unit from or concerning whom the information was obtained by the unemployment insurance agency. As used in this subparagraph:

(a) "Eligible educational institution" means a public community or junior college established under section 7 of article VIII of the state constitution of 1963 or part 25 of the revised school code, 1976 PA 451, MCL 380.1601 to 380.1607, or a state university described in section 4, 5, or 6 of article VIII of the state constitution of 1963.

(b) "Independent educational institution" means an independent nonprofit college or university located in this state.

(c) "Michigan works agency" means an entity described in section 17(a) or (d) of the Michigan works one-stop service center system act, 2006 PA 491, MCL 408.127.

(d) "Public official" means that term as defined in 20 CFR 603.2 and includes an eligible educational institution and a Michigan works agency.

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

(*x*) Subject to the requirements of 20 CFR 603.8, the unemployment insurance agency shall calculate its costs to process and handle requests for disclosure of information in its possession. The recipient of the disclosure of information shall pay the costs calculated by the unemployment insurance agency unless either of the following applies:

(A) The costs reflect an incidental amount of unemployment insurance agency staff time and there are only nominal processing costs.

(B) The unemployment insurance agency has a reciprocal cost agreement or arrangement with the person that receives the disclosure of information where the relative benefits received by the unemployment insurance agency and the recipient are approximately equal.

(*xi*) Any information in the unemployment insurance agency's possession must be made available in response to a court order or to an official with subpoena authority in accordance with 20 CFR 603.7(b).

(*xii*) Except as otherwise provided in this section and this subparagraph, any records of the methods used by the unemployment insurance agency to identify and investigate fraudulent claims are exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, unless a licensed attorney who is in good standing with the state bar of Michigan makes a request for the records under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(2) The unemployment insurance agency 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 that the qualified requesting agency considers useful in verifying eligibility for, and the amount of, benefits. For purposes of this subdivision, "qualified requesting agency" means any state or local child support enforcement agency responsible for enforcing child support obligations under a plan approved under part d of title IV of the social security act, 42 USC 651 to 669b; the United States Social Security Administration for purposes of establishing or verifying eligibility or benefit amounts under titles II and XVI of the social security act, 42 USC 401 to 434 and 42 USC 1381 to 1383f; the United States Department of Agriculture for the purposes of determining eligibility for, and amount of, benefits under the food stamp program established under the food stamp act of 1977, 7 USC 2011 to 2036d; and any other state or local agency of this or any other state responsible for administering the following programs:

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

(*ii*) The Medicaid program under title XIX of the social security act, 42 USC 1396 to 1396w-7.

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

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

(*v*) Any state program under a plan approved under title I, X, XIV, or XVI of the social security act, 42 USC 301 to 306, 42 USC 1201 to 1206, 42 USC 1351 to 1355, and 42 USC 1381 to 1385.

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

The information must be disclosed only if the qualified requesting agency has executed an agreement with the unemployment insurance agency to obtain the information and the information is requested for the purpose of determining the eligibility of applicants for benefits, or the type and amount of benefits for which applicants are eligible, under any of the programs listed above or under title II and XVI of the social security act, 42 USC 401 to 434 and 42 USC 1381 to 1385; for establishing and collecting child support obligations from, and locating individuals owing such obligations that are being enforced under a plan described in section 454 of the social security act, 42 USC 654; or for investigating or prosecuting alleged fraud under any of these programs.

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

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

The unemployment insurance agency may enter into an agreement with any qualified requesting agency for the purposes described in this subdivision. The agreement or agreements must comply with all federal laws and regulations applicable to those agreements.

(3) The unemployment insurance agency shall enable the United States Department of Health and Human Services to obtain prompt access to any wage and unemployment benefit claims information, including any information that may be useful in locating an absent parent or an absent parent's employer for purposes of section 453 of the social security act, 42 USC 653, or in carrying out the child support enforcement program under title IV of the social security act, 42 USC 601 to 681. The unemployment insurance agency shall not provide the requesting agency access to the information unless the requesting agency agrees to reimburse the unemployment insurance agency 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 unemployment insurance agency shall disclose to the United States Department of Housing and Urban Development, any state or local public housing agency, or an entity contracting with a state or local public housing agency to provide public housing, or any other agency responsible for verifying an applicant's or participant's eligibility for, or level of benefits in, any housing assistance program administered by the United States Department of Housing and Urban Development, the name; address; wage information; whether an individual is receiving, has received, or has applied for unemployment benefits; and the amount of unemployment benefits the individual is receiving or is entitled to receive under this act. This information must 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 unemployment insurance agency shall not release the information unless the requesting agency agrees to reimburse the unemployment insurance agency for the costs incurred in furnishing the information. For purposes of this subdivision, "public housing agency" means an agency described in section 3(b)(6) of the United States housing act of 1937, 42 USC 1437a.

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

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

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

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

(2) The unemployment insurance agency may enter into reciprocal agreements with agencies of other states administering unemployment compensation under which 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 are considered contributions, required and paid under this act as of the date the contributions were received by the other state. The unemployment insurance agency 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 unemployment insurance agency may make this 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 or agency, copies of the records as the Railroad Retirement Board considers necessary for its purpose.

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

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

If under this subsection a claimant is liable to repay an amount to the agency of another state or a foreign government, the amount may be collected by civil action in the name of the unemployment insurance agency acting as agent for that agency. Court costs must be paid or guaranteed by the agency of that state.

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

Any employer who is not a resident of this state and who exercises the privilege of having 1 or more individuals perform service for the employer within this state, and any resident employer who exercises that privilege and thereafter leaves this state, is considered to have appointed the secretary of state as the employer's agent and attorney for the acceptance of process in any civil action under this act. In instituting an action, the unemployment insurance agency shall cause process or notice to be filed with the secretary of state, and the service is sufficient and of the same force and validity as if served on the nonresident or absent employer personally within this state. The unemployment insurance agency shall immediately send a notice and copy of the service of process or notice by certified mail, return receipt requested, to the employer at the employer's last known address. The return receipt, the unemployment insurance agency's affidavit of compliance with this section, and a copy of the notice of service must be attached to the original of the process filed in the court in which the civil action is pending.

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

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

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

(g) The unemployment insurance agency may enter into reciprocal agreements with the appropriate and authorized agencies of other states or of the federal government under which remuneration and services that determine entitlement to benefits under the unemployment compensation law of another state or of the federal government are considered wages and employment for the purposes of sections 27 and 46, if the other state or federal agency 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 unemployment insurance agency finds will be fair and reasonable as to all affected interests. A reciprocal agreement may provide that wages and employment that determine entitlement to benefits under this act are considered wages or services on the basis of which unemployment compensation under the law of another state or of the federal government is payable; that services performed by an individual for a single employing unit for which services are customarily performed by the individual in more than 1 state are considered services performed entirely within any 1 of the states in which any part of the individual's service is performed, in which the individual is a resident, or in which the employing unit maintains a place of business, if there is in effect, as to those services, an election approved by the agency charged with the administration of that state's unemployment compensation law, under which all the services performed by the individual for the employing unit are considered to be performed entirely within this state; and that the unemployment insurance agency will reimburse other state or federal agencies charged with the administration of unemployment compensation laws with the 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 unemployment insurance agency finds will be fair and reasonable as to all affected interests. Reimbursements payable under this subsection are considered benefits for the purpose of limiting duration of benefits and for the purposes of sections 20(a) and 26, and the payments are chargeable to the contributing employer's experience account for the purposes of sections 17, 18, 19, and 20, or the reimbursing employer's account under section 13c, 13g, 13i, or 13*l*, as applicable. Benefits paid under a combined wage plan must be allocated and charged to each employer involved in the quarter in which the paying

state requires reimbursement. Benefits charged to this state must 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 unemployment insurance agency may make to and receive from other state or federal agencies reimbursements from or to the fund, pursuant to arrangements made under this section.

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

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

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

(j) The unemployment insurance agency shall participate in any arrangement that provides for the payment of compensation on the basis of combining an individual's wages and employment covered under this act with the individual's 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 must 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) The attorney general of this state or attorneys designated by the attorney general shall represent the unemployment insurance agency and this state in a proceeding before any court. Only the attorney general or other attorneys designated by the attorney general shall act as legal counsel for the unemployment insurance agency.

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

Sec. 12. (1) This state accepts the provisions of the Wagner-Peyser act.

(2) The state employment service is established in the department of labor and economic opportunity, which is administered 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.

(3) All money made available by or received by this state under the Wagner-Peyser act must be paid into the Wagner-Peyser administration fund created by this act. The money appropriated and made available to the state employment service must be expended only for the uses and purposes for which that money is received, as provided by this act and by the Wagner-Peyser act.

(4) As used in this section, "Wagner-Peyser act" means the Wagner-Peyser act, 29 USC 49 to 49*l*-2.

Sec. 13. (1) Each employer subject to this act shall pay to the unemployment insurance agency a tax in the form of payments in lieu of contributions if the employer is liable for those payments, or shall pay tax contributions equal to a standard rate of 5.4%, subject to an adjustment in rate of contributions as provided for in section 19.

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

(2) Each employer shall file a quarterly wage report with the unemployment insurance agency, on forms and at a time as the unemployment insurance agency prescribes, which must include for each of the employer's employees the employee's name, Social Security number, gross wages paid during each quarter, and the name, address, and federal and state employer identification number of the individual's employer. If the unemployment insurance agency discovers an error in a report filed timely, the unemployment insurance agency shall provide written notification to the employer of the error. If the employer provides corrected information not more than 14 days after the notification, the administrative fine provided in section 54 for a late, incomplete, or erroneous report does not apply. An employer that has more than 25 employees on January 1, 2013 shall file quarterly reports beginning with the report for the first quarter of 2013 by an electronic method approved by the unemployment insurance agency. An employer that has more than 5 but fewer than 26 employees on January 1, 2013 shall file quarterly reports beginning with the report for the first quarter of 2014 by an electronic method approved by the unemployment insurance agency. An employer that has 5 or fewer employees on January 1, 2013 shall file quarterly reports beginning with the report for the first quarter of 2015 by an electronic method approved by the unemployment insurance agency, except that the director of the unemployment insurance agency, upon application by the employer, may grant additional time for the employer to comply with the electronic filing method if the director concludes that satisfying the requirement of electronic filing will cause economic hardship for the employer. The employer shall provide, and the director shall consider, information about the employer's anticipated cost expenditure for preparing for electronic filing and about the employer's annual income. An employer that complies with the reporting requirements of this subsection by filing electronically a quarterly wage report using a method approved by the unemployment insurance agency is not required to file periodically to disclose contributions under this act.

(3) If in the first quarter of a year an eligible contributing employer incurs a contribution obligation that is equal to 50% or more of the eligible contributing employer's total contribution obligation for the immediately preceding year, the eligible contributing employer may discharge the liability for that first-quarter contribution obligation by making quarterly payments that distribute the first-quarter contribution obligation equally over the first quarter and the immediately succeeding 3 quarters. To avoid interest and penalties otherwise applicable to the payments described in this subsection, an employer that meets the requirements of this subsection shall notify the unemployment insurance agency of its election to make apportioned payments with the first quarter's payment and timely file each succeeding quarterly payment in the amounts prescribed in section 15a. This subsection applies to contributions beginning in the 2013 tax year. The unemployment insurance agency shall include a description of the optional payment method described in this subsection on the form, whether electronic or otherwise, that it provides to contributing employers for the payment of taxes and contributions required under this section. As used in this subsection, "eligible contributing employer" means a contributing employer that employed either of the following:

(a) 25 or fewer individuals during the pay period that includes January 12, 2022.

(b) 100 or fewer individuals during the pay period that includes March 31, 2022 or during the corresponding pay period in a succeeding calendar year.

Sec. 13a. (1) A nonprofit organization that is, or becomes, subject to this act after December 31, 1971 shall pay contributions as a contributing employer in accordance with section 13, unless it elects to make reimbursement payments in lieu of contributions as a reimbursing employer in accordance with this section and sections 13b and 13c. For the purpose of this act, a nonprofit organization is an organization or group of organizations described in section 501(c)(3) of the internal revenue code of 1986, 26 USC 501, and is exempt from income tax under section 501(a) of the internal revenue code of 1986, 26 USC 501.

(2) A nonprofit organization that 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 unemployment insurance agency a written notice of its election not later than 30 days after January 1, 1972.

(3) A nonprofit organization that 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 unemployment insurance agency 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 December 21, 1989 shall execute and file a surety bond, irrevocable letter of credit, or other security as approved by the unemployment insurance agency in an amount approved by the unemployment insurance agency to secure the payment of its obligations under this act. This subsection does not apply to any nonprofit reimbursing employer who pays $100,000.00 or less remuneration per calendar year for employment as determined by the unemployment insurance agency.

Sec. 13b. (1) A nonprofit organization that makes an election in accordance with section 13a(2) or (3) is liable for reimbursement payments in lieu of contributions until it files with the unemployment insurance agency 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 that pays contributions under this act for a period after January 1, 1972 may elect to become a reimbursing employer by filing a written notice of election with the unemployment insurance agency 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 unemployment insurance agency for good cause may extend for 30 days the period within which a notice of election or a notice of termination must be filed under this section or under section 13a.

(4) The unemployment insurance agency, in accordance with section 14, shall notify a nonprofit organization of a determination made regarding its status as an employer, the effective date of an election that it makes, and the termination of the election. The determinations are final unless further proceedings are taken under section 32a.

Sec. 13c. (1) A nonprofit organization or group of nonprofit organizations liable for reimbursement payments in lieu of contributions shall pay to the unemployment insurance agency 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 that is not reimbursable by the federal government. The amount that a nonprofit organization or group of nonprofit organizations is required to pay must be ascertained by the unemployment insurance agency as soon as practicable after the end of each calendar quarter and a statement of charges must be mailed to each nonprofit organization or group of organizations. Payment of the amount indicated in the statement of charges must not be made later than 30 days after the statement of charges was mailed.

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

Sec. 13d. If a nonprofit organization is delinquent in making reimbursement payments in lieu of contributions as required under sections 13a to 13c, the unemployment insurance agency 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 is effective for that and the next calendar year, or the unemployment insurance agency may require the nonprofit organization to execute and file with the unemployment insurance agency a surety bond, irrevocable letter of credit, or other security as approved by the unemployment insurance agency in an amount approved by the unemployment insurance agency to secure the payment of its obligations under this act.

Sec. 13e. (1) Two or more employers who become liable for reimbursement payments in lieu of contributions under sections 13a to 13c, or 2 or more employers who become liable for reimbursement payments in lieu of contributions under section 13i, may file a joint application with the unemployment insurance agency 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 must identify and authorize a representative to act for the group for the purposes of this act. Upon approval of the application, the unemployment insurance agency shall establish a group account for the employers that is 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 unemployment insurance agency shall notify the group's representative of the effective date of the account. The account remains in effect for not less than 2 calendar years until terminated at the discretion of the unemployment insurance agency or upon application by the group.

Upon written notice to the unemployment insurance agency, 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 unemployment insurance agency, not later than 30 days before the start of a calendar year, an employer shall be removed from a group account. However, an employer remains a member of the group for not less than 2 calendar years.

(2) For a group composed of nonprofit organizations, the group is 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 does not relieve a member of liability for charges attributable to service in its employ.

(3) For a group composed of governmental entities, the group is 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 does not relieve a member of liability for charges attributable to service in its employ.

Sec. 13f. Benefits paid on the basis of base period wages paid by a nonprofit organization while it was a reimbursing employer must be reimbursed by the nonprofit organization in accordance with 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 must be charged to the experience account of the nonprofit organization in accordance with 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 must be charged to the experience account of the nonprofit organization if it was a contributing employer at the time of the separation, or must be reimbursed by the nonprofit organization if it was a reimbursing employer at the time of the separation.

Sec. 13g. (1) This state, as a reimbursing employer, is liable for reimbursement payments in lieu of contributions and shall pay to the unemployment insurance agency 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 this state and not reimbursable by the federal government. The amount that is required to be paid into the fund must be ascertained by the unemployment insurance agency as soon as practicable after the end of each calendar quarter. Payments by this state must be made at the times and in the manner as the unemployment insurance agency prescribes.

(2) The unemployment insurance agency shall maintain a separate account in the fund for each department, commission, or other budgetary unit of this state. Reimbursement payments made by this state to the unemployment fund under this section must 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) This state is 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 must be by concurrent resolution of the legislature adopted before the beginning of a calendar year that the election is to be effective.

(4) If this 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 must be adopted before the beginning of a calendar year that the election is to be effective. The election to become 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) Benefits paid on the basis of base period wages paid by this state while it was a reimbursing employer must be reimbursed by this state and benefits paid on the basis of base period wages paid by this state while it was a contributing employer must be charged to the experience account of this state in accordance with section 20.

Benefits paid to an individual and chargeable to this state on the basis that this state was the separating employer in the claim for benefits must be charged to the experience account of this state if it was a contributing employer at the time of the separation, or must be reimbursed by this state if it was a reimbursing employer at the time of the separation.

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

Sec. 13i. (1) Except as provided in section 13g, all of the following apply to a governmental entity:

(a) A governmental entity subject to this act shall make reimbursement payments in lieu of contributions as a reimbursing employer for not less than 2 calendar years, unless it elects to pay contributions as a contributing employer pursuant to section 13.

(b) A governmental entity subject to this act may elect to become a contributing employer beginning with the calendar year that contains the day when it becomes subject to this act by filing a written notice of its election with the unemployment insurance agency not later than 30 days after the date of determination that it was subject to this act.

(c) A governmental entity that pays contributions under this act may elect to become a reimbursing employer by filing a written notice of the election with the unemployment insurance agency not later than 30 days before the beginning of a calendar year that 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) A governmental entity that becomes a reimbursing employer under subdivision (a) or elects to become a reimbursing employer in accordance with subdivision (c), is liable for reimbursement payments in lieu of contributions until it files with the unemployment insurance agency 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 unemployment insurance agency for good cause may extend for 30 days the period within which a notice of election must be filed under this section.

(3) The unemployment insurance agency, in accordance with section 14, shall notify a governmental entity of a determination regarding its status as an employer, the effective date of an election which it makes and the termination of any prior election. The determination is final unless further proceedings are taken under section 32a.

Sec. 13k. (1) Except as provided in section 13g, a governmental entity liable for reimbursement payments in lieu of contributions shall pay to the unemployment insurance agency 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 that are not reimbursable by the federal government.

(2) The amount required to be paid by a governmental entity must be ascertained by the unemployment insurance agency as soon as practicable after the end of each calendar quarter and a statement of charges must be mailed to each entity. A governmental entity shall reimburse the fund not more than 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 are subject to the interest, penalty, assessment, and collection provisions provided in section 15.

(4) A school district or community college district liable for contributions for a calendar year shall pay the contributions not more than 30 days after the start of its next fiscal year after that calendar year.

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

(6) If a governmental entity other than this state is delinquent for 2 consecutive calendar years in making reimbursement payments in lieu of contributions, the unemployment insurance agency 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 is effective for that calendar year and the next calendar year.

(7) Benefits paid on the basis of base period wages paid by a governmental entity while it was a reimbursing employer must 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 must be charged to the experience account of the employer in accordance with 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 must be charged to the experience account of the governmental entity if it was a contributing employer at the time of the separation, or must be reimbursed by the governmental entity if it was a reimbursing employer at the time of the separation.

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

(2) An Indian tribe or tribal unit that elects to make contributions shall file with the unemployment insurance agency a written request for that election before January 1 of the calendar year in which the election will be effective. 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 must 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 not more than 30 calendar days after the mailing of the final billing for the immediately preceding calendar year.

(4) If an Indian tribe or tribal unit does not make payments in lieu of contributions, including assessments of interest and penalties, not more than 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 insurance agency by December 1 of that calendar year. An Indian tribe that loses the ability to make payments in lieu of contributions must be made a contributing employer and shall not 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 must 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 does not pay in full all contributions, payments in lieu of contributions, interest, and penalties not more than 90 calendar days after a notice of delinquency, the unemployment insurance 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 insurance 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 must include information that failure to make full payment not more than 90 days after 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 is required to post a security, subject to all of the following conditions:

(a) A reimbursing tribe or tribal unit shall post the security by November 30 of the year before the year for which the security is required.

(b) The security must be in the form of a surety bond, irrevocable letter of credit, or other banking device that is acceptable to the unemployment insurance agency and that provides for payment to the unemployment insurance 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 insurance 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 insurance agency not more than 60 days after the date its payroll equals or exceeds $100,000.00. The security must be posted not more than 30 days after notice by the unemployment insurance 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 insurance agency. Indian tribes or tribal units that have a previous wage payment history are 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), "employer" includes an Indian tribe or tribal unit for which services are performed in employment as defined in subsection (9).

(9) "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 USC 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, 26 USC 3306, 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 USC 3306.

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

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

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

(a) The PEO shall comply with all requirements of this act that apply to a contributing employer. The PEO shall file a single quarterly wage report and unemployment contribution report and pay contributions of its client employers based on the account information of each client employer. The unemployment insurance agency shall convert a reimbursing employer to a contributing employer beginning with the calendar quarter in which the employer becomes a client employer of a PEO. The PEO shall file reports required under R 421.121 of the Michigan Administrative Code and make contribution payments by electronic reporting and payment methods approved by the agency. The PEO shall notify the unemployment insurance agency not more than 30 days after any employer becomes its client employer and not more than 30 days after any client employer discontinues its association with the PEO. All of the following apply to a rate calculation for client employers of the PEO:

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

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

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

(C) If the client employer's account has been terminated for more than 1 year or if the client employer never previously registered with the unemployment insurance agency, the client shall be separately registered using a method approved by the unemployment insurance agency not more than 30 days after the employer becomes a client employer of the PEO. The client employer shall be assigned the new employer unemployment tax rate.

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

(b) A PEO that is a liable employer and that was operating in this state before January 1, 2011 shall report using the method in subdivision (a).

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

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

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

(6) The unemployment insurance agency shall issue a FUTA certification in accordance with the internal revenue code of 1986, 26 USC 1 to 9834, and regulations, rulings, instructions, and directives of the Internal Revenue Service of the United States Department of Treasury.

(7) The requirements of this section do not preclude the agency from enforcing any provision of this act based on any act or omission by a PEO that occurred before January 1, 2011.

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

Sec. 14. (1) The unemployment insurance agency, after affording reasonable opportunity for submitting 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 the individual's request, must be promptly notified of the determination and the reasons for the determination. The determination is final as to those parties unless the employing unit or other interested parties file an application for a review and redetermination in accordance with section 32a or, not more than 30 days after the mailing or personal service of the notice of determination, pay under protest the amount charged or found to be due as contributions. If evidence is presented indicating that an employing unit that has been determined not to be an employer is or was actually an employer, or that services that have been held not to constitute employment are or were actually employment, the previous determination must be reopened and reconsidered by the unemployment insurance agency 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 are not 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 must not be retroactively determined to be an employer for any period before the 3 calendar years preceding the issuance of the determination.

(2) A determination or redetermination of the unemployment insurance agency, 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 found and the determination, redetermination, or decision made are conclusive unless substantial evidence to the contrary is introduced by or on behalf of the claimant.

Sec. 15. (a) Contributions unpaid on the date that the contributions are due and payable, as prescribed by the unemployment insurance agency, and unpaid restitution of benefit overpayments, except as otherwise provided under this subsection, bear interest at the rate of 1% per month, computed on a day-to-day basis for each day the delinquency is unpaid, from and after that date until payment plus accrued interest is received by the unemployment insurance agency. The interest on unpaid contributions and on unpaid restitution of benefit overpayments, exclusive of penalties, must not exceed 50% of the amount of contributions due at due date or 50% of the amount of restitution owing. This act does not authorize the assessment or collection of interest on a penalty imposed under this act. Interest collected under this section must be paid into the contingent fund. Penalties collected under this section must be credited in accordance with section 54(k). With regard to contribution payments, the unemployment insurance agency may cancel any interest and any penalty when it is shown that the failure to pay on or before the last day on which the tax could have been paid without interest and penalty was not the result of negligence, intentional disregard of the rules of the unemployment insurance agency, or fraud. All of the following apply to interest on unpaid restitution of benefit overpayments:

(1) Except as provided in subdivisions (2) and (3), interest begins accruing 1 year after the date the unemployment insurance agency's determination or redetermination or an administrative law judge's, the unemployment insurance appeals commission's, or a court's order that a claimant owes restitution is final.

(2) The unemployment insurance agency shall not assess interest for improperly paid benefits that were the result of an administrative or clerical error made by the unemployment insurance agency. Interest assessed for improperly paid benefits that is later determined to have been the result of an administrative or clerical error made by the unemployment insurance agency must be waived, and any payment made by a claimant for such interest must be refunded.

(3) If the unemployment insurance agency determines or redetermines or an administrative law judge, the unemployment insurance appeals commission, or a court orders that a claimant made an intentional false statement, misrepresentation, or concealed material information to obtain or increase benefits, interest begins accruing on the date the unemployment insurance agency's determination or redetermination or the order is final.

(b) The unemployment insurance agency may make assessments against an employer, claimant, employee of the unemployment insurance agency, or third party who fails to pay contributions, restitution of benefit overpayments, reimbursement payments in lieu of contributions, penalties, forfeitures, or interest as required by this act. The unemployment insurance agency shall immediately notify the employer, claimant, employee of the unemployment insurance agency, or third party of the assessment in writing by first-class mail. The unemployment insurance agency shall not make an assessment against a claimant, an employee of the unemployment insurance agency, or a third party under this subsection unless the assessment is for a penalty for a violation of section 54(a) or (b) or sections 54a to 54c. An assessment made under this subsection is a final determination unless the employer, claimant, employee of the unemployment insurance agency, or third party files with the unemployment insurance agency an application for a redetermination of the assessment in accordance with section 32a. A review by the unemployment insurance agency or an appeal to an administrative law judge or the unemployment insurance appeals commission on the assessment does not reopen a question concerning an employer's liability for contributions or reimbursement payments in lieu of contributions or a claimant's entitlement to benefits, unless the claimant or employer was not a party to the proceeding or decision where the basis for the assessment was determined. An employer may pay an assessment under protest and file an action to recover the amount paid as provided under subsection (d). If an assessment is not paid not more than 15 days after it becomes final, the unemployment insurance agency may issue a warrant under its official seal for the collection of the assessed amount. The unemployment insurance agency, through its authorized employees and under a warrant issued, may place a lien on any bank account of a claimant or employer and may levy upon and sell the property of an employer that is used in connection with the employer's business, or that is subject to a notice to withhold, found within this state, for the payment of the amount of the contributions including penalties, interests, and the cost of executing the warrant. Property of the employer used in connection with the employer's business is not exempt from levy under the warrant. Wages subject to a notice to withhold are exempt to the extent the wages are exempt from garnishment under the laws of this state. The warrant must be returned to the unemployment insurance agency together with the money collected under the warrant within the time specified in the warrant which must not be less than 20 or more than 90 days after the date of the warrant. The unemployment insurance agency shall proceed upon the warrant as prescribed by law in respect to executions issued against property upon judgments by a court of record. This state, through the unemployment insurance agency or some other officer or agent designated by it, may bid for and purchase property sold under this subsection. If an employer, claimant, employee of the unemployment insurance agency, or third party is delinquent in the payment of a contribution, reimbursement payment in lieu of contribution, penalty, forfeiture, or interest provided for in this act, the unemployment insurance agency may give notice of the amount of the delinquency served either personally or by mail, to a person or legal entity, including this state and its subdivisions, that has in its possession or under its control a credit or other intangible property belonging to the employer, claimant, employee of the unemployment insurance agency, or third party, or who owes a debt to the employer, claimant, employee of the unemployment insurance agency, or third party at the time of the receipt of the notice. A person or legal entity that is notified shall not transfer or dispose of the credit, other intangible property, or debt without retaining an amount sufficient to pay the amount specified in the notice unless the unemployment insurance agency consents to a transfer or disposition or 45 days have elapsed from the receipt of the notice. A person or legal entity that is notified shall advise the unemployment insurance agency not more than 5 days after receipt of the notice of a credit, other intangible property, or debt, that is in its possession, under its control, or owed by it. A person or legal entity that is notified and that transfers or disposes of credits or personal property in violation of this section is liable to the unemployment insurance agency for the value of the property or the amount of the debts thus transferred or paid, but not more than the amount specified in the notice. An amount due a delinquent employer, claimant, employee of the unemployment insurance agency, or third party subject to a notice to withhold must be paid to the unemployment insurance agency upon service upon the debtor of a warrant issued under this section.

(c) In addition to the mode of collection provided in subsection (b), if, after proper notice, an employer defaults in payment of contributions or interest on the contributions, or a claimant, employee of the unemployment insurance agency, or third party defaults in the payment of a penalty, the unemployment insurance agency may bring an action at law in a court of competent jurisdiction to collect and recover the amount of a contribution, and any interest on the contribution, or the penalty, and in addition 10% of the amount of contributions or penalties found to be due, as damages. An employer, claimant, employee of the unemployment insurance agency, or third party adjudged in default shall pay costs of the action. The unemployment insurance agency shall not bring an action against a claimant, employee of the unemployment insurance agency, or third party under this subsection unless the action is brought only to recover penalties for violations of section 54(a) or (b) or sections 54a to 54c. A court shall hear civil actions brought under this section at the earliest possible date. If a judgment is obtained against an employer for contributions and an execution on that judgment is returned unsatisfied, a court may

enjoin the employer 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 Ingham County circuit court, may grant an injunction upon the petition of the unemployment insurance agency. A copy of the petition for injunction and a notice of when and where the court shall act on the petition must be served on the employer not less than 21 days before the court may grant the injunction.

(d) An employer or employing unit improperly charged or assessed contributions provided for under this act, or a claimant, employee of the unemployment insurance agency, or third party improperly assessed a penalty under this act and who paid the contributions or penalty under protest not more than 30 days after the mailing of the notice of determination of assessment, may recover the amount improperly collected or paid, together with interest, in any proper action against the unemployment insurance agency. The circuit court of the county in which the employer or employing unit or claimant, employee of the unemployment insurance agency, or third party resides, or, in the case of an employer or employing unit, in which the principal office or place of business of the employer or employing unit is located, has original jurisdiction of an action to recover contributions improperly paid or collected or a penalty improperly assessed whether or not the charge or assessment has been reviewed by the unemployment insurance agency or heard or reviewed by an administrative law judge or the unemployment insurance appeals commission. The court does not have jurisdiction of the action unless written notice of the claim is given to the unemployment insurance agency not less than 30 days before the institution of the action. In an action to recover contributions paid or collected or penalties assessed, the court shall allow costs it considers proper. Either party to the action has the same right of appeal as provided by law in other civil actions. A claimant, employee of the unemployment insurance agency, or third party shall not bring an action against the unemployment insurance agency under this subsection unless it is brought only to recover penalties and interest on those penalties improperly assessed by the unemployment insurance agency under section 54(a) or (b) or sections 54a to 54c. If a final judgment is rendered in favor of the plaintiff in an action to recover the amount of contributions illegally collected or charged, the treasurer of the unemployment insurance agency, upon receipt of a certified copy of the final judgment, shall pay the amount of contributions illegally collected or charged or penalties assessed from the clearing account, and pay interest as allowed by the court, in an amount not to exceed the actual earnings of the contributions as found to have been illegally collected or charged, from the contingent fund.

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

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

(f) A court shall not issue an injunction to stay proceedings for the assessment or collection of a contribution, or interest or penalty on a contribution, levied and required by this act.

(g) A person or employing unit that acquires the organization, trade, business, or 75% or more of the assets from an employing unit, as a successor described in section 41(2), is liable for contributions and interest due to the unemployment insurance agency from the transferor at the time of the acquisition in an amount not to exceed the reasonable value of the organization, trade, business, or assets acquired, less the amount of a secured interest in the assets owned by the transferee that are entitled to priority. If a transferor or transferee who has, not less than 10 days before the acquisition, requested from the unemployment insurance agency in writing a statement certifying the status of contribution liability of the transferor, the unemployment insurance agency shall provide the transferor or transferee with that statement and the transferee is not liable for any amount due from the

transferor in excess of the amount of liability computed as prescribed in this subsection and certified by the unemployment insurance agency. Not less than 2 calendar days not including a Saturday, Sunday, or legal holiday before the acceptance of an offer, the transferor, or the transferor's real estate broker or other agent representing the transferor, shall disclose to the transferee on a form provided by the unemployment insurance agency the amounts of the transferor's outstanding unemployment tax liability, unreported unemployment tax liability, and the tax payments, tax rates, and cumulative benefit charges for the most recent 5 years; a listing of all individuals currently employed by the transferor; and a listing of all employees separated from employment with the transferor in the most recent 12 months. The form must specify any other information the unemployment insurance agency determines is required for a transferee to estimate future unemployment compensation costs based on the transferor's benefit charge and unemployment tax reporting and payment experience. If the transferor, or the transferor's real estate broker or other agent representing the transferor, does not provide accurate information required by this subsection, the transferor, or the transferor's real estate broker or other agent representing the transferor, is guilty of 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 violation of this subsection. However, the real estate broker or other agent is not liable for consequential damages if the real estate broker or other agent exercised good faith in compliance with the disclosure of information. The remedy provided the transferee is not exclusive, and does not reduce any other right or remedy against any party provided for in this or any other act. This subsection does not decrease the liability of the transferee as a successor in interest, or prevent the transfer of a rating account balance as provided in this act. The remedies under this subsection are in addition to the remedies the unemployment insurance agency has against the transferor.

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

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

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

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

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

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

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

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

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

(n) To obtain an administrative garnishment, the unemployment insurance agency must notify the claimant of its intention to issue an administrative garnishment on the claimant's employer and the amount determined to be due from the claimant. The notice must include a demand for immediate payment of the amount due, a statement that it is not subject to appeal, and a statement that the claimant may, not more than 30 days after the issuance of the notice, object to the garnishment by providing information to the agency, with supporting documentation, that the claimant does not owe the stated amount of restitution. Not less than 30 days after

issuing the notice to the claimant, the unemployment insurance agency shall notify the claimant's employer to withhold from earnings due or to become due from the claimant the amount shown on the notice plus accrued interest. The employer shall comply with the notice to withhold and shall continue to withhold each pay period the amount shown on the notice plus accrued interest until the garnishment amount plus accrued interest has been satisfied and the notice is released by the unemployment insurance agency. The unemployment insurance agency's administrative garnishment has priority over any subsequent garnishment or wage assignment. The amount subject to garnishment for any pay period must be decreased by any other irrevocable and previously effective assignment of wages or other garnishment action served on the employer before service of the unemployment insurance agency's garnishment notice. The amount of the unemployment insurance agency's garnishment must not exceed 25% of the balance. In response to the administrative garnishment, the employer shall do all of the following:

(1) Not more than 10 calendar days after the date of the unemployment insurance agency's notice to withhold wages, notify the unemployment insurance agency of the amount of any irrevocable and previously effective assignment of wages or garnishment actions.

(2) Not more than 10 days after the end of each pay period in which wages are required to be withheld under the administrative garnishment, remit to the unemployment insurance agency the amount withheld pursuant to the administrative garnishment.

(3) Not more than 10 days after the date on which the claimant ceases to be employed by the employer, notify the unemployment insurance agency.

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

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

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

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

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

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

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

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

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

Sec. 16. If, not later than 3 years after the date of payment of an amount as contributions or interest, an employing unit that paid the amount applies for an adjustment or refund of the amount, the unemployment insurance agency shall determine whether the contributions or interest or any portion of the contributions or interest was erroneously collected, and the employing unit must be promptly notified of the determination, which

becomes final unless the employing unit files with the unemployment insurance agency an application for redetermination in accordance with section 32a. If it is finally determined, redetermined, or otherwise decided that any amount at issue was erroneously collected, the unemployment insurance agency shall allow the employing unit to make an adjustment of the amount, without interest, in connection with subsequent contribution payments by the employing unit. If the adjustment cannot be made within the ensuing 3 months, the unemployment insurance agency 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 unemployment insurance agency 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 becomes due and payable to the person who appears to the unemployment insurance agency upon investigation to be the legal heir or guardian of the individual owner, or to any other person found by the unemployment insurance agency to be equitably entitled to the refund by reason of having incurred expenses in behalf of the individual owner for the individual owner's burial or other necessary expenses.

Sec. 17. (1) The unemployment insurance agency shall maintain in the unemployment compensation fund a nonchargeable benefits account and a separate experience account for each employer as provided in this section. This act does not give an employer or individuals in the employer's service prior claims or rights to the amount paid by the employer to the unemployment compensation fund. All contributions to that fund must 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 must be credited with the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(k) For benefit years with benefits allocated under section 20(f) for a week of unemployment in which a claimant earns remuneration with a contributing employer that equals or exceeds the amount of benefits allocated to that contributing employer.

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

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

(4) All contributions paid by an employer must 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, the contributions paid during any July must 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, must be credited to the employer's experience account as if paid when due, if the payment is received not more than 30 days after the issuance of the initial assessment that results from the contribution rate adjustment and a written request for the application is filed by the employer during this period.

(5) If an employer who has ceased to be subject to this act, and who has had a positive or negative balance transferred as provided in subsection (2) or (3) from the employer's experience account to the solvency or nonchargeable benefits account as of the second computation date after the employer has ceased to be subject to this act, becomes subject to this act again not more than 6 years after that computation date, the unemployment insurance agency shall transfer the positive or negative balance, adjusted by the debits and credits that are made after the date of transfer, to the employer's new experience account.

(6) If an employer's status as a reimbursing employer is terminated not more than 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 that was transferred to the solvency or nonchargeable benefits account must 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 must 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 is not considered a "qualified employer" until the employer has again been subject to this act for the period set forth in section 19(a)(1).

(8) All money credited under section 903 of the social security act, 42 USC 1103, to the account of this state in the federal unemployment trust fund must immediately be credited by the unemployment insurance agency to the fund's nonchargeable benefits account. There is authorized to be appropriated to the unemployment insurance agency from the money credited to the nonchargeable benefits account under this subsection, an amount determined to be necessary for the proper and efficient administration by the unemployment insurance agency of this act for purposes for which federal grants under title III of the social security act, 42 USC 501 to 506, and the Wagner-Peyser act, 29 USC 49 to 49*l*-2, are not available or are insufficient. The appropriation expires not more than 2 years after the date of enactment and must provide that any unexpended balance is credited to the nonchargeable benefits account. An appropriation under this subsection must not exceed the "adjusted balance" of the nonchargeable benefits account on the most recent computation date. Appropriations made under this subsection must limit the total amount that may be obligated by the unemployment insurance agency during a fiscal year to an amount that does not exceed the amount by which the aggregate of the amounts credited to the nonchargeable benefits account under this subsection during the fiscal year and the 24 preceding fiscal years, exceeds the aggregate of the amounts obligated by the unemployment insurance agency by appropriation under this subsection and charged against the amounts thus credited to the nonchargeable benefits account during any of the 25 fiscal years and any amounts credited to the nonchargeable benefits account that have been used for the payment of benefits.

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 Department of the 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 USC 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 USC 1103.

(*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 USC 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 must be set so that the employer's contribution rate for the calendar year affected must 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, must be imposed on the employer. The unemployment insurance agency 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 must be set so that the employer's contribution rate for the calendar year affected must not be 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, must be imposed on the employer. An employer whose contribution rate and penalty have been determined under this section may have the employer's contribution rate redetermined in accordance with section 19(a) and may have the employer's 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 the employer's contribution rate redetermined in accordance with section 19(a) and shall have the employer's penalty redetermined to 2%. However, if the unemployment insurance agency finds that the employer had good cause for filing the missing reports after the 30-day period but within 1 year, the unemployment insurance agency shall redetermine the employer's contribution rate in accordance with section 19(a) and shall redetermine and remove the penalty. The unemployment insurance agency 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 must not be considered, but the employer's contribution rate must be redetermined in accordance with section 19(a) and the employer's penalty remains at 3%. A penalty paid by an employer pursuant to this section must not be credited to the employer's experience account nor to the unemployment compensation fund. The penalty must 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, 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 USC 3301 to 3311 or the social security act, 42 USC 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 USC 3302, 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 must be included in the balance of the unemployment fund and in the adjusted balance of the nonchargeable benefits account.

Sec. 19. (a) The unemployment insurance agency 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 must be calculated as described in table A, A-1, or A-2 with respect to wages paid by the employer in each calendar year for employment. If an employer's coverage is terminated under section 24, or at the conclusion of 12 or more consecutive calendar quarters during which the employer has not had workers in covered employment, and if the employer again becomes liable for contributions, the employer must be considered as newly liable for contributions for the purposes of the tables in this subsection. An employer that becomes liable under section 41(2) will not be assigned the new employer rate but instead the employer's most recent prior rate as a predecessor employer will be assigned to its new account.

(*ii*) To provide against the high risk of net loss to the fund in such cases, an employing unit that becomes newly liable for contributions under this act in a calendar year beginning on or after January 1, 1983 in which it employs in "employment", not necessarily simultaneously but in any 1 week 2 or more individuals in the performance of 1 or more contracts or subcontracts for construction in this state of roads, bridges, highways, sewers, water mains, utilities, public buildings, factories, housing developments, or similar construction projects, is liable for contributions to that employer's account under this act for the first 4 years of operations in this state at a rate equal to the average rate paid by employers engaged in the construction business as determined by contractor type in the manner provided in table B, B-1, or B-2.

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

Table A

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

Table B

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

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

Table A-1

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

Table B-1

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

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

Table A-2

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

Table B-2

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

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

(3)(*i*) For calendar years beginning before January 1, 2012, the chargeable benefits component of an employer's contribution rate is the percentage determined by dividing: the total amount of benefits charged to the employer's experience account within the lesser of 60 consecutive months ending on the computation date or the number of consecutive months ending on the computation date with respect to which the employer has been continuously liable for contributions; by the amount of wages, subject to contributions, paid by the employer within the same period. If the resulting quotient is not an exact multiple of 1/10 of 1%, it must be increased to the next higher multiple of 1/10 of 1%. For the calendar year 2012, the chargeable benefits component of an employer's contribution rate is the percentage determined by dividing: the total amount of benefits charged to the employer's experience account within the lesser of 48 consecutive months ending on the computation date or the number of consecutive months ending on the computation date with respect to which the employer has been continuously

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

(*ii*) The chargeable benefits component must 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 must 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 must 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 must 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 must be zero; but (*iv*) if the remainder is a positive quantity, the account building component of the employer's contribution rate must 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 must 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 must 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 must 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 must 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 must be zero; but (*iv*) if the remainder is a positive quantity, the nonchargeable benefits component of employers' contribution rates must 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 must 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 must 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 must 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 must 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 must 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 must not exceed 1/10 of 1%. For calendar years after 2002, the maximum nonchargeable benefits component must 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 must 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 must receive for that calendar year a credit in an amount equal to 1/2 of the extra federal unemployment tax paid in the preceding calendar year under section 3302(c)(2) of the federal unemployment tax act, 26 USC 3302, because of an outstanding balance of unrepaid advances from the federal government to the unemployment compensation fund under section 1201 of title XII of the social security act, 42 USC 1321. However, the credit for any calendar year must 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 must be credited to the employer's experience account, in accordance with section 17(5), without regard to any credit given under this subsection. The amount credited to an employer's experience account must 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 must 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 must 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 must be considered to be entirely in the experience component of the employer's contribution rate, as defined in section 18(d).

(b) An employer previously liable for contributions under this act that on or after January 1, 1978 filed a petition for arrangement under the bankruptcy act of July 1, 1898, chapter 541, 30 Stat. 544, or on or after October 1, 1979 filed a petition for reorganization under title 11 of the United States Code, 11 USC 101 to 1532, pursuant to which a plan of arrangement or reorganization for rehabilitation purposes has been confirmed by order of the United States bankruptcy court, must be considered as a reorganized employer and must 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 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 unemployment insurance agency 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 unemployment insurance agency all contributions previously owed by the employer pursuant to this act for all calendar years before 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, not more than 180 days after notifying the unemployment insurance agency of its intention to elect the status of a reorganized employer, makes a cash payment to the unemployment insurance agency, 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 unemployment insurance agency must 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 does not pay the amount determined, not more than 180 days after electing status as a reorganized employer, the unemployment insurance agency 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 must then be used to redetermine the employer's quarterly contributions for that calendar year. The redetermined contributions are 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 are 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 this state of roads, bridges, highways, sewers, water mains, utilities, public buildings, factories, housing developments, or similar major construction projects, is 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 unemployment insurance agency
2	average construction contractor rate as determined by the unemployment insurance agency
3	1/3 (chargeable benefits component) + 2/3 average construction contractor rate as determined by the unemployment insurance agency
4	2/3 (chargeable benefits component) + 1/3 average construction contractor rate as determined by the unemployment insurance agency
5 and over	(chargeable benefits component) + (account building component) + (nonchargeable benefits component)

(c) Upon application by an employer to the unemployment insurance agency for designation as a distressed employer, the unemployment insurance agency, not more than 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 unemployment insurance agency 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 must be considered to be a "distressed employer" as of January 1 of the year in which the determination is made. The unemployment insurance agency 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 unemployment insurance agency 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 is entitled to a credit on future quarterly installments for any excess contributions paid during that initial calendar year. The employer shall notify the unemployment insurance agency 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 unemployment insurance agency with each return required to be filed. The unemployment insurance agency may periodically determine continued eligibility of an employer under this subsection. When the unemployment insurance agency makes a

determination that an employer no longer qualifies as a distressed employer, the unemployment insurance agency shall notify the employer of that determination. After notice by the unemployment insurance agency 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 must be calculated under the law in effect for the 1982 calendar year except that the rate determined must be reduced by the applicable solvency tax rate assessed against the employer under section 19a. The distressed employer shall 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 must 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 this 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 former 1975 PA 228, or section 105 of the Michigan business tax act, 2007 PA 36, MCL 208.1105, as applicable, has resulted in an aggregate loss of $1,000,000,000.00 or more during the 5-year period ending in the second year before 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 unemployment insurance agency, are irrevocable. A payment made by an employer not more than 30 days after mailing to the employer by the unemployment insurance agency of a notice of the adjusted contribution rate of the employer must 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 must be further adjusted accordingly. However, a payment made more than 120 days after the beginning of a calendar year must not affect the employer's contribution rate for that year.

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

(2) The solvency tax rate is determined as follows:

(a) If there is a balance on December 31, 2011, of unrepaid interest bearing federal advances, the solvency tax rate for the 2012 calendar year and for each calendar year thereafter must be calculated in the manner provided in this subdivision until the balance of the interest bearing federal advances on December 31, 2011 has been reduced to zero. By February 1 of the calendar year, the unemployment insurance agency shall calculate the sum of the estimated interest due during the calendar on federal loans, without regard to any interest deferral that is permitted under section 1202 of the social security act, 42 USC 1322, the remaining balance on December 31 of the preceding year of the December 31, 2011 balance of unrepaid interest bearing federal advances, and any amounts advanced from the state treasury under subsection (3) during the preceding year and any interest on the balance. For purposes of calculating the remaining balance, any loan repayments during the year must first be applied toward reducing the December 31, 2011 loan balance. The amount so calculated must be divided by the estimated total taxable payroll for the calendar year of all active employers who had negative balances in the employers' experience accounts as of June 30 of the previous year. Total taxable payroll must be estimated by

using the total taxable payroll for those employers for the 12-month period ending June 30 of the previous calendar year and adjusting this figure for any change in the taxable wage limit for the calendar year. The quotient must 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 must be the percentage calculated. If the adjusted percentage is more than 0.8%, the employer's solvency tax rate must be calculated in the same manner as the account building component of the employer's contribution rate as determined under section 19(a)(4), adjusted to generate sufficient aggregate solvency tax revenues to pay the interest due during the year on federal loans, to pay for the unemployment insurance automation project, to repay the remaining balance of the December 31, 2011 balance of unrepaid federal interest bearing loans, and to repay advances from the state treasury and any interest due thereon, but must not exceed the lesser of 1/4 of the percentage calculated or 2%.

(b) For any calendar year after the first calendar year that the remaining balance of the December 31, 2011 balance of unrepaid interest bearing federal advances has been reduced to zero by December 31 of that year, an employer's solvency tax rate must 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 must not exceed the lesser of 1/4 of the percentage calculated or 2%.

(3) Solvency taxes become due and payable in the manner, and at the times, specified for contributions in rules promulgated by the unemployment insurance agency. However, if this state is permitted to defer interest payments due during a calendar year under section 1202(b)(3) or (8) of the social security act, 42 USC 1322, payment of the solvency tax may likewise be deferred by an employer and paid in installments in a manner prescribed by the unemployment insurance agency. 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 become immediately due and payable. Further, if the unemployment insurance agency 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 must be reduced by the unemployment insurance agency 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 unemployment insurance agency 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, must be repaid to this state as soon as possible from the solvency tax revenues in the contingent fund.

(4) Amounts obtained pursuant to this section must 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, must 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 must 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 must be determined by the unemployment insurance agency, but must reasonably reflect each employer's pro rata share of the amount transferred. Past due payments of the solvency tax are subject to the interest, penalty, assessment, and collection provisions of section 15. Interest and penalties collected must be paid into the contingent fund. Adjustments and refunds of erroneously collected solvency taxes must 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 this state from qualifying for any federal interest relief provisions provided under section 1202 of the social security act, 42 USC 1322, or prevents employers in this state from qualifying for the limitation on the reduction of federal unemployment tax act credits as provided under section 3302(f) of the federal unemployment tax act, 26 USC 3302, that provision is invalid to the extent necessary to maintain qualification for the interest relief provisions and federal unemployment tax credits.

(6) Notwithstanding any other provision of this section, if interest due during a calendar year on federal advances is forgiven or postponed under federal law and is no longer due during that calendar year, a solvency tax must not be assessed against an employer for that calendar year and any solvency tax already assessed and collected against an employer before the forgiveness or postponement of the interest for that calendar year must be credited to the employer's experience account.

Enacting section 1. Section 12a of the Michigan employment security act, 1936 (Ex Sess) PA 1, MCL 421.12a, is repealed.

Enacting section 2. This amendatory act does not take effect unless Senate Bill No. 40 of the 102nd Legislature is enacted into law.

Secretary of the Senate

Clerk of the House of Representatives

Approved_____

_____
Governor