

# SENATE BILL NO. 948

March 03, 2022, Introduced by Senators IRWIN, HOLLIER, MOSS, BRINKS, MCCANN, BAYER, WOJNO, HERTEL, ANANICH, GEISS, CHANG, MCMORROW, POLEHANKI and ALEXANDER and referred to the Committee on Economic and Small Business Development.

A bill to amend 1936 (Ex Sess) PA 1, entitled  
"Michigan employment security act,"  
by amending sections 15 and 62 (MCL 421.15 and 421.62), section 15  
as amended by 2017 PA 229 and section 62 as amended by 2017 PA 231,  
and by adding section 62a.

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

1       Sec. 15. (a) Contributions unpaid on the date on which they  
2       are due and payable, as prescribed by the unemployment agency, and  
3       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 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. Nothing in this act authorizes 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 pursuant to section 54(k). With regard to contribution payments, the unemployment agency may cancel any interest and any penalty when it is shown that the failure to pay on or before the last day on which the tax could have been paid without interest and penalty was not the result of negligence, intentional disregard of the rules of the unemployment agency, or fraud. 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 agency's determination or redetermination or an administrative law judge's, the Michigan compensation appellate commission's, or a court's order that a claimant owes restitution is final.

(2) The unemployment agency shall not assess interest for improperly paid benefits that were the result of an administrative or clerical error made by the unemployment agency. Interest assessed for improperly paid benefits that is later determined to have been the result of an administrative or clerical error made by

1 the unemployment agency must be waived, and any payment made by a  
2 claimant for such interest must be refunded.

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

10 (b) The unemployment agency may make assessments against an  
11 employer, claimant, employee of the unemployment agency, or third  
12 party who fails to pay contributions, restitution of benefit  
13 overpayments, reimbursement payments in lieu of contributions,  
14 penalties, forfeitures, or interest as required by this act. The  
15 unemployment agency shall immediately notify the employer,  
16 claimant, employee of the unemployment agency, or third party of  
17 the assessment in writing by first-class mail. The unemployment  
18 agency shall not make an assessment against a claimant, an employee  
19 of the unemployment agency, or a third party under this subsection  
20 unless the assessment is for a penalty for a violation of section  
21 54(a) or (b) or sections 54a to 54c. An assessment made under this  
22 subsection is a final determination unless the employer, claimant,  
23 employee of the unemployment agency, or third party files with the  
24 unemployment agency an application for a redetermination of the  
25 assessment pursuant to section 32a. A review by the unemployment  
26 agency or an appeal to an administrative law judge or the Michigan  
27 compensation appellate commission on the assessment does not reopen  
28 a question concerning an employer's liability for contributions or  
29 reimbursement payments in lieu of contributions or a claimant's

1 entitlement to benefits, unless the claimant or employer was not a  
2 party to the proceeding or decision where the basis for the  
3 assessment was determined. An employer may pay an assessment under  
4 protest and file an action to recover the amount paid as provided  
5 under subsection (d). If an assessment is not paid within 15 days  
6 after it becomes final, the unemployment agency may issue a warrant  
7 under its official seal for the collection of the assessed amount.  
8 The unemployment agency, through its authorized employees and under  
9 a warrant issued, may place a lien on any bank account of a  
10 claimant or employer and may levy upon and sell the property of an  
11 employer that is used in connection with the employer's business,  
12 or that is subject to a notice to withhold, found within this  
13 state, for the payment of the amount of the contributions including  
14 penalties, interests, and the cost of executing the warrant.  
15 Property of the employer used in connection with the employer's  
16 business is not exempt from levy under the warrant. Wages subject  
17 to a notice to withhold are exempt to the extent the wages are  
18 exempt from garnishment under the laws of this state. The warrant  
19 must be returned to the unemployment agency together with the money  
20 collected under the warrant within the time specified in the  
21 warrant, which must not be less than 20 or more than 90 days after  
22 the date of the warrant. The unemployment agency shall proceed upon  
23 the warrant as prescribed by law in respect to executions issued  
24 against property upon judgments by a court of record. This state,  
25 through the unemployment agency or some other officer or agent  
26 designated by it, may bid for and purchase property sold under this  
27 subsection. If an employer, claimant, employee of the unemployment  
28 agency, or third party is delinquent in the payment of a  
29 contribution, reimbursement payment in lieu of contribution,

penalty, forfeiture, or interest provided for in this act, the unemployment agency may give notice of the amount of the delinquency served either personally or by mail, to a person or legal entity, including 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 agency, or third party, or who owes a debt to the employer, claimant, employee of the unemployment agency, or third party at the time of the receipt of the notice. A person or legal entity 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 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 agency within 5 days after receipt of the notice of a credit, other intangible property, or debt, that is in its possession, under its control, or owed by it. A person or legal entity that is notified and that transfers or disposes of credits or personal property in violation of this section is liable to the unemployment agency for the value of the property or the amount of the debts thus transferred or paid, but not more than the amount specified in the notice. An amount due a delinquent employer, claimant, employee of the unemployment agency, or third party subject to a notice to withhold must be paid to the unemployment agency upon service upon the debtor of a warrant issued under this section.

(c) In addition to the mode of collection provided in subsection (b), if, after proper notice, an employer defaults in payment of contributions or interest on the contributions, or a

1 claimant, employee of the unemployment agency, or third party  
2 defaults in the payment of a penalty, the unemployment agency may  
3 bring an action at law in a court of competent jurisdiction to  
4 collect and recover the amount of a contribution, and any interest  
5 on the contribution, or the penalty, and in addition 10% of the  
6 amount of contributions or penalties found to be due, as damages.  
7 An employer, claimant, employee of the unemployment agency, or  
8 third party adjudged in default shall pay costs of the action. The  
9 unemployment agency shall not bring an action against a claimant,  
10 employee of the unemployment agency, or third party under this  
11 subsection unless the action is brought only to recover penalties  
12 for violations of section 54(a) or (b) or sections 54a to 54c. A  
13 court shall hear civil actions brought under this section at the  
14 earliest possible date. If a judgment is obtained against an  
15 employer for contributions and an execution on that judgment is  
16 returned unsatisfied, a court may enjoin the employer from  
17 operating and doing business in this state until the judgment is  
18 satisfied. The circuit court of the county in which the judgment is  
19 docketed, or the Ingham County circuit court, may grant an  
20 injunction upon the petition of the unemployment agency. A copy of  
21 the petition for injunction and a notice of when and where the  
22 court shall act on the petition must be served on the employer at  
23 least 21 days before the court may grant the injunction.

24 (d) An employer or employing unit improperly charged or  
25 assessed contributions provided for under this act, or a claimant,  
26 employee of the unemployment agency, or third party improperly  
27 assessed a penalty under this act and who paid the contributions or  
28 penalty under protest within 30 days after the mailing of the  
29 notice of determination of assessment, may recover the amount

1 improperly collected or paid, together with interest, in any proper  
2 action against the unemployment agency. The circuit court of the  
3 county in which the employer or employing unit or claimant,  
4 employee of the unemployment agency, or third party resides, or, in  
5 the case of an employer or employing unit, in which the principal  
6 office or place of business of the employer or employing unit is  
7 located, has original jurisdiction of an action to recover  
8 contributions improperly paid or collected or a penalty improperly  
9 assessed whether or not the charge or assessment has been reviewed  
10 by the unemployment agency or heard or reviewed by an  
11 administrative law judge or the Michigan compensation appellate  
12 commission. The court does not have jurisdiction of the action  
13 unless written notice of the claim is given to the unemployment  
14 agency at least 30 days before the institution of the action. In an  
15 action to recover contributions paid or collected or penalties  
16 assessed, the court shall allow costs it considers proper. Either  
17 party to the action has the same right of appeal as provided by law  
18 in other civil actions. A claimant, employee of the unemployment  
19 agency, or third party shall not bring an action against the  
20 unemployment agency under this subsection unless it is brought only  
21 to recover penalties and interest on those penalties improperly  
22 assessed by the unemployment agency under section 54(a) or (b) or  
23 sections 54a to 54c. If a final judgment is rendered in favor of  
24 the plaintiff in an action to recover the amount of contributions  
25 illegally collected or charged, the treasurer of the unemployment  
26 agency, upon receipt of a certified copy of the final judgment,  
27 shall pay the amount of contributions illegally collected or  
28 charged or penalties assessed from the clearing account, and pay  
29 interest as allowed by the court, in an amount not to exceed the

1 actual earnings of the contributions as found to have been  
2 illegally collected or charged, from the contingent fund.

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

27 If there is a distribution of an employer's assets pursuant to  
28 an order of a court under the laws of this state, including a  
29 receivership, assignment for benefit of creditors, adjudicated



1 insolvency, composition, or similar proceedings, contributions then  
2 or thereafter due must be paid in full before all other claims  
3 except for wages and compensation under the worker's disability  
4 compensation act of 1969, 1969 PA 317, MCL 418.101 to 418.941. In  
5 the distribution of estates of decedents, claims for funeral  
6 expenses and expenses of last sickness are also entitled to  
7 priority.

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

11 (g) A person or employing unit that acquires the organization,  
12 trade, business, or 75% or more of the assets from an employing  
13 unit, as a successor described in section 41(2), is liable for  
14 contributions and interest due to the unemployment agency from the  
15 transferor at the time of the acquisition in an amount not to  
16 exceed the reasonable value of the organization, trade, business,  
17 or assets acquired, less the amount of a secured interest in the  
18 assets owned by the transferee that are entitled to priority. If a  
19 transferor or transferee who has, not less than 10 days before the  
20 acquisition, requested from the unemployment agency in writing a  
21 statement certifying the status of contribution liability of the  
22 transferor, the unemployment agency shall provide the transferor or  
23 transferee with that statement and the transferee is not liable for  
24 any amount due from the transferor in excess of the amount of  
25 liability computed as prescribed in this subsection and certified  
26 by the unemployment agency. At least 2 calendar days, not including  
27 a Saturday, Sunday, or legal holiday, before the acceptance of an  
28 offer, the transferor, or the transferor's real estate broker or  
29 other agent representing the transferor, shall disclose to the

1 transferee on a form provided by the unemployment agency the  
2 amounts of the transferor's outstanding unemployment tax liability,  
3 unreported unemployment tax liability, and the tax payments, tax  
4 rates, and cumulative benefit charges for the most recent 5 years;  
5 a listing of all individuals currently employed by the transferor;  
6 and a listing of all employees separated from employment with the  
7 transferor in the most recent 12 months. The form must specify any  
8 other information the unemployment agency determines is required  
9 for a transferee to estimate future unemployment compensation costs  
10 based on the transferor's benefit charge and unemployment tax  
11 reporting and payment experience. Failure of the transferor, or the  
12 transferor's real estate broker or other agent representing the  
13 transferor, to provide accurate information required by this  
14 subsection is a misdemeanor punishable by imprisonment for not more  
15 than 90 days, or a fine of not more than \$2,500.00, or both. In  
16 addition, the transferor, or the transferor's real estate broker or  
17 other agent representing the transferor, is liable to the  
18 transferee for any consequential damages resulting from the failure  
19 to comply with this subsection. However, the real estate broker or  
20 other agent is not liable for consequential damages if he or she  
21 exercised good faith in compliance with the disclosure of  
22 information. The remedy provided ~~to~~ the transferee is not exclusive  
23 ~~—~~and does not reduce any other right or remedy against any party  
24 provided for in this or any other act. Nothing in this subsection  
25 decreases the liability of the transferee as a successor in  
26 interest, or prevents the transfer of a rating account balance as  
27 provided in this act. The remedies under this subsection are in  
28 addition to the remedies the unemployment agency has against the  
29 transferor.

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

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

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

25           (k) The rights respecting the collection of contributions and  
26 the levy of interest and penalties and damages made available to  
27 the unemployment agency by this section are additional to other  
28 powers and rights vested in the unemployment agency under other  
29 provisions of this act. The unemployment agency may exercise any of

1 the collection remedies under this act even though an application  
2 for a redetermination or an appeal is pending final disposition.

3 (l) A person recording a lien or a discharge of a lien under  
4 this section shall pay to the register of deeds a recording fee  
5 that is equivalent to the fee for entering and recording a mortgage  
6 as authorized under section 2567 of the revised judicature act of  
7 1961, 1961 PA 236, MCL 600.2567.

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

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

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

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

16 (n) To obtain an administrative garnishment, the unemployment  
17 agency must notify the claimant of its intention to issue an  
18 administrative garnishment on the claimant's employer and the  
19 amount determined to be due from the claimant. The notice must  
20 include a demand for immediate payment of the amount due, a  
21 statement that it is not subject to appeal, and a statement that  
22 the claimant may, within 30 days ~~of~~**after** the issuance of the  
23 notice, object to the garnishment by providing information to the  
24 **unemployment** agency, with supporting documentation, that the  
25 claimant does not owe the stated amount of restitution. Not less  
26 than 30 days after issuing the notice to the claimant, the  
27 unemployment agency shall notify the claimant's employer to  
28 withhold from earnings due or to become due from the claimant the  
29 amount shown on the notice plus accrued interest. The employer

1 shall comply with the notice to withhold and shall continue to  
2 withhold each pay period the amount shown on the notice plus  
3 accrued interest until the garnishment amount plus accrued interest  
4 has been satisfied and the notice is released by the unemployment  
5 agency. The unemployment agency's administrative garnishment has  
6 priority over any subsequent garnishment or wage assignment. The  
7 amount subject to garnishment for any pay period must be decreased  
8 by any other irrevocable and previously effective assignment of  
9 wages or other garnishment action served on the employer before  
10 service of the **unemployment** agency's garnishment notice. The amount  
11 of the unemployment agency's garnishment must not exceed 25% of the  
12 balance. In response to the administrative garnishment, the  
13 employer shall do all of the following:

14 (1) Within 10 calendar days after the date of the unemployment  
15 agency's notice to withhold wages, notify the unemployment agency  
16 of the amount of any irrevocable and previously effective  
17 assignment of wages or garnishment actions.

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

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

24 (o) Before payment of a prize of \$1,000.00 or more under the  
25 McCauley-Traxler-Law-Bowman-McNeeley lottery act, 1972 PA 239, MCL  
26 432.1 to 432.47, the bureau of state lottery shall determine  
27 whether a lottery prize winner has a current liability for  
28 restitution of unemployment benefits, penalty, or interest,  
29 assessed by the unemployment agency and the amount of the prize

owing to the unemployment agency and shall remit that amount to the unemployment agency.

(p) If the unemployment agency does not record the discharge of lien with the register of deeds and seek reimbursement for that recording fee, the unemployment agency shall provide the discharge of lien document and a notice of lien recording fee to the debtor, who 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 agency paid for recording the lien that is the subject of the discharge and may include any other relevant information.

(q) ~~In~~ **Except as otherwise provided in section 62a, in** addition to any other remedy provided under this act, the unemployment agency may seek to recover unemployment compensation debt as provided by 26 USC 6402(f), 42 USC 503(m), or other applicable federal law. The debtor is liable for any fee the federal government imposes with respect to implementing the deduction from a federal tax refund.

Sec. 62. (a) If the unemployment agency determines that an individual has obtained benefits to which the individual is not entitled, or a subsequent determination by the **unemployment** agency or a decision of an appellate authority reverses a prior qualification for benefits, the **unemployment** agency may recover a sum equal to the amount received plus interest pursuant to section 15(a) by 1 or more of the following methods: deduction from benefits or wages payable to the individual, payment by the individual in cash, or, **except as otherwise provided in section 62a**, deduction from a tax refund payable to the individual as

1 provided under section 30a of 1941 PA 122, MCL 205.30a. Deduction  
2 from benefits or wages payable to the individual is limited to not  
3 more than 50% of each payment due the claimant. The unemployment  
4 agency shall issue a determination requiring restitution within 3  
5 years after the date of finality of a determination,  
6 redetermination, or decision reversing a previous finding of  
7 benefit entitlement. Except in the case of benefits improperly paid  
8 because of suspected identity fraud, the unemployment agency shall  
9 not initiate administrative or court action to recover improperly  
10 paid benefits from an individual more than 3 years after the date  
11 that the last determination, redetermination, or decision  
12 establishing restitution is final. Except in the case of benefits  
13 improperly paid because of suspected identity fraud, the  
14 unemployment agency shall issue a restitution determination on an  
15 issue within 3 years from the date the claimant first received  
16 benefits in the benefit year in which the issue arose, or in the  
17 case of an issue of intentional false statement, misrepresentation,  
18 or concealment of material information in violation of section  
19 54(a) or (b) or sections 54a to 54c, within 3 years after the  
20 receipt of the improperly paid benefits unless the unemployment  
21 agency filed a civil action in a court within the 3-year period;  
22 the individual made an intentional false statement,  
23 misrepresentation, or concealment of material information to obtain  
24 the benefits; or the unemployment agency issued a determination  
25 requiring restitution within the 3-year period. The time limits in  
26 this section do not prohibit the unemployment agency from pursuing  
27 collection methods to recover the amounts found to have been  
28 improperly paid. Except in a case of an intentional false  
29 statement, misrepresentation, or concealment of material

1 information, the unemployment agency shall waive recovery of an  
2 improperly paid benefit if repayment would be contrary to equity  
3 and good conscience and shall waive any interest. If the  
4 **unemployment** agency or an appellate authority waives collection of  
5 restitution and interest, except as provided in subdivision (ii),  
6 the waiver is prospective and does not apply to restitution and  
7 interest payments already made by the individual. As used in this  
8 subsection, "contrary to equity and good conscience" means any of  
9 the following:

10 (i) The claimant provided incorrect wage information without  
11 the intent to misrepresent, and the employer provided either no  
12 wage information upon request or provided inaccurate wage  
13 information that resulted in the overpayment.

14 (ii) The claimant's average net household income and household  
15 cash assets, exclusive of social welfare benefits, were, during the  
16 6 months immediately preceding the date of the application for  
17 waiver, at or below 150% of the annual update of the poverty  
18 guidelines most recently published in the Federal Register by the  
19 United States Department of Health and Human Services under the  
20 authority of 42 USC 9902(2), and the claimant has applied for a  
21 waiver under this subsection. The unemployment agency shall not  
22 consider a new application for a waiver from a claimant within 6  
23 months after receiving an application for a waiver from the  
24 claimant. A waiver granted under the conditions described in this  
25 subdivision applies from the date the application is filed. If the  
26 waiver is granted, the unemployment agency shall promptly refund  
27 any restitution or interest payments made by the individual after  
28 the date of the application for waiver. As used in this  
29 subdivision:



1 (A) "Cash assets" means cash on hand and funds in a checking  
2 or savings account.

3 (B) "Dependent" means that term as defined in section  
4 27(b)(4).

5 (C) "Household" means a claimant and the claimant's  
6 dependents.

7 (iii) The improper payments resulted from an administrative or  
8 clerical error by the unemployment agency. A requirement to repay  
9 benefits as the result of a change in judgment at any level of  
10 administrative adjudication or court decision concerning the facts  
11 or application of law to a claim adjudication is not an  
12 administrative or clerical error for purposes of this subdivision.

13 (b) If the unemployment agency determines that a claimant has  
14 intentionally made a false statement or misrepresentation or has  
15 concealed material information to obtain benefits, whether or not  
16 the claimant obtains benefits by or because of the intentional  
17 false statement, misrepresentation, or concealment of material  
18 information, the unemployment agency shall, in addition to any  
19 other applicable interest and penalties, cancel his or her rights  
20 to benefits for the benefit year in which the act occurred as of  
21 the date the claimant made the false statement or misrepresentation  
22 or concealed material information, and shall not use wages used to  
23 establish that benefit year to establish another benefit year. A  
24 chargeable employer may protest a claim filed after October 1, 2014  
25 to establish a successive benefit year under section 46(c), if  
26 there was a determination by the unemployment agency or decision of  
27 a court or administrative tribunal finding that the claimant made a  
28 false statement, made a misrepresentation, or concealed material  
29 information related to his or her report of earnings for a

1 preceding benefit year claim. If a protest is made, the  
2 unemployment agency shall not use any unreported earnings from the  
3 preceding benefit year that were falsely stated, misrepresented, or  
4 concealed to establish a benefit year for a successive claim.

5 Before receiving benefits in a benefit year established within 4  
6 years after cancellation of rights to benefits under this  
7 subsection, the claimant, in addition to making the restitution of  
8 benefits established under subsection (a), may be liable for an  
9 additional amount as otherwise determined by the unemployment  
10 agency under this act, which may be paid by cash, deduction from  
11 benefits, or, **except as otherwise provided in section 62a,**  
12 deduction from a tax refund. The claimant is liable for any fee the  
13 federal government imposes with respect to instituting a deduction  
14 from a federal tax refund. Restitution resulting from the  
15 intentional false statement, misrepresentation, or concealment of  
16 material information is not subject to the 50% limitation provided  
17 in subsection (a).

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

21 (d) The unemployment agency shall take the action necessary to  
22 recover all benefits improperly obtained or paid under this act,  
23 and to enforce all interest and penalties under subsection (b). The  
24 unemployment agency may conduct an amnesty program for a designated  
25 period under which penalties and interest assessed against an  
26 individual owing restitution for improperly paid benefits may be  
27 waived if the individual pays the full amount of restitution owing  
28 within the period specified by the **unemployment** agency.

29 (e) Interest recovered under this section must be deposited in

1 the contingent fund.

2 (f) The unemployment agency shall not make a determination  
3 that a claimant made an intentional false statement,  
4 misrepresentation, or concealment of material information that is  
5 subject to sanctions under this section based solely on a computer-  
6 identified discrepancy in information supplied by the claimant or  
7 employer. An unemployment agency employee or agent must examine the  
8 facts and independently determine that the claimant or the employer  
9 is responsible for a willful or intentional violation before the  
10 **unemployment** agency makes a determination under this section.

11 (g) By January 31 each year, beginning in 2019, the  
12 unemployment agency shall provide a written report regarding  
13 waivers under subsection (a) (ii) to the chairpersons of the standing  
14 committees and the appropriations subcommittees of the house of  
15 representatives and senate having jurisdiction over legislation  
16 pertaining to employment security. The report must include all of  
17 the following information from the immediately preceding calendar  
18 year in a form that does not identify an individual, claimant, or  
19 employer:

20 (i) The procedures relating to waivers that the unemployment  
21 agency used or adopted.

22 (ii) The number of applications for a waiver the unemployment  
23 agency received.

24 (iii) The number of individuals who submitted an application for  
25 a waiver.

26 (iv) The number of waivers that were granted by each of the  
27 following methods:

28 (A) An unemployment agency determination.

29 (B) An unemployment agency redetermination.

1 (C) An administrative law judge order.

2 (D) A Michigan compensation appellate commission order.

3 (E) A court order.

4 (v) The number of waivers that were denied, tabulated by the  
5 reason for the denial, by each of the following methods:

6 (A) An unemployment agency determination.

7 (B) An unemployment agency redetermination.

8 (C) An administrative law judge order.

9 (D) A Michigan compensation appellate commission order.

10 (E) A court order.

11 (vi) The total amount of restitution waived.

12 **Sec. 62a. Notwithstanding sections 15(q) and 62(a) and (b),**  
13 **for the 2021 and 2022 tax years, the unemployment agency shall not**  
14 **recover an improperly paid benefit by deducting the amount from a**  
15 **state or federal tax refund if the improperly paid benefit was paid**  
16 **on a claim that was submitted after February 29, 2020 but before**  
17 **September 5, 2021.**