

# SENATE BILL No. 68

February 1, 1989, Introduced by Senators DILLINGHAM, ENGLER, WELBORN, ARTHURHULTZ and N. SMITH and referred to the Committee on Human Resources and Senior Citizens.

A bill to amend section 10 of Act No. 1 of the Public Acts of the Extra Session of 1936, entitled as amended "Michigan employment security act," as amended by Act No. 247 of the Public Acts of 1983, being section 421.10 of the Michigan Compiled Laws.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Section 1. Section 10 of Act No. 1 of the Public Acts of  
2 the Extra Session of 1936, as amended by Act No. 247 of the  
3 Public Acts of 1983, being section 421.10 of the Michigan  
4 Compiled Laws, is amended to read as follows:

5       Sec. 10. (1) There is hereby created in the state treasury  
6 a special fund to be known and designated as the administration  
7 fund (Michigan employment security act). Any balances in this  
8 fund at the end of any fiscal year of the state shall be carried  
9 over as a part of the fund and shall not revert to the general

1 fund of the state. Except as otherwise provided in subsection  
2 (3), all money deposited into the administration fund under the  
3 provisions of this act ~~are hereby~~ SHALL BE appropriated BY THE  
4 LEGISLATURE to the commission to pay the expenses of the adminis-  
5 tration of this act.

6 (2) The administration fund shall be credited with all money  
7 appropriated to the fund by the legislature, all money received  
8 from the United States of America or any agency thereof for such  
9 purpose, and all money received by the state for the fund. All  
10 money in this fund which is received from the federal government  
11 or any agency thereof or which is appropriated by this state for  
12 the purposes of this act, except money requisitioned from the  
13 account of this state in the unemployment trust fund pursuant to  
14 a specific appropriation made by the legislature in accordance  
15 with section 903(c)(2) of the federal social security act, as  
16 amended, 42 U.S.C. 1103, and with section 17(f) of this act,  
17 shall be expended solely for the purposes and in the amounts  
18 found necessary by the appropriate agency of the United States of  
19 America AND THE LEGISLATURE for the proper and efficient adminis-  
20 tration of this act.

21 (3) All money requisitioned from the account of this state  
22 in the unemployment trust fund pursuant to a specific appropria-  
23 tion made by the legislature in accordance with section 903(c)(2)  
24 of the federal social security act, as amended, 42 U.S.C. 1103,  
25 and with section 17(f) of this act, shall be deposited in the  
26 administration fund. Any such money which remains unexpended at  
27 the close of the 2-year period beginning on the date of enactment

1 of a specific appropriation shall be immediately redeposited with  
2 the secretary of the treasury of the United States of America to  
3 the credit of this state's account in the unemployment trust  
4 fund; or any such money which for any reason cannot be expended  
5 or is not to be expended for the purpose for which appropriated  
6 before the close of this 2-year period shall be so redeposited at  
7 the earliest practicable date.

8       (4) If any money received after June 30, 1941, from the  
9 appropriate agency of the United States of America under title 3  
10 of the social security act, 42 U.S.C. 501 to 504, or any unencum-  
11 bered balances in the administration fund (Michigan employment  
12 security act) as of that date, or any money granted after that  
13 date to this state pursuant to the Wagner-Peyser act, or any  
14 money made available by this state or its political subdivisions  
15 and matched by money granted to this state pursuant to the  
16 Wagner-Peyser act, is found by the appropriate agency of the  
17 United States, because of any action or contingency, to have been  
18 lost or been expended for purposes other than, or in amounts in  
19 excess of, those found necessary by such agency of the United  
20 States for the proper administration of this act, it is the  
21 policy of this state that the money shall be replaced by money  
22 appropriated for that purpose from the general funds of this  
23 state to the administration fund (Michigan employment security  
24 act) for expenditure as provided in this act. Upon receipt of  
25 notice of such a finding by the appropriate agency of the United  
26 States, the commission shall promptly report the amount required  
27 for such replacement to the governor and the governor shall, at

1 the earliest opportunity, submit to the legislature a request for  
2 the appropriation of that amount. This subsection shall not be  
3 construed to relieve this state of its obligation with respect to  
4 funds received prior to July 1, 1941, pursuant to the provisions  
5 of title 3 of the social security act, 42 U.S.C. 501 to 504.

6 (5) If any funds expended or disbursed by the commission are  
7 so found by the appropriate agency of the United States to have  
8 been lost or expended for purposes other than, or in amounts in  
9 excess of, those found necessary by such agency of the United  
10 States for the proper administration of this act, and if these  
11 funds are replaced as aforesaid by money appropriated for such  
12 purpose from the general funds of the state, then those members  
13 of the commission who voted for or otherwise approved the expen-  
14 diture or disbursement of such funds for such purposes or in such  
15 amounts, shall be jointly and severally liable to the state in an  
16 amount equal to the sum of money appropriated to replace such  
17 funds; and the members of the commission shall be required by the  
18 governor to post a proper bond in a sum not less than \$25,000.00  
19 to cover their liability as prescribed in this section, the cost  
20 of the bond to be paid from the general fund of the state of  
21 Michigan.

22 (6) There is hereby created in the state treasury a separate  
23 fund to be known as the contingent fund (Michigan employment  
24 security act) into which shall be deposited all solvency taxes  
25 collected under section 19a and all interest on contributions,  
26 penalties and damages collected under this act. All amounts in  
27 the contingent fund (Michigan employment security act) and all

1 earnings on those amounts are hereby continuously appropriated  
2 without regard to fiscal year for the administration of the com-  
3 mission, FOR OTHER PURPOSES AS PROVIDED BY SUBSECTION (7), and  
4 for the payment of interest on advances from the federal govern-  
5 ment to the unemployment compensation fund under section 1201 of  
6 the social security act, 42 U.S.C. 1321, to be expended only when  
7 authorized by the commission. Money deposited from the solvency  
8 taxes collected pursuant to section 19a shall not be used for the  
9 administration of the commission, ~~except for the unemployment~~  
10 ~~insurance automation project and~~ except for the repayment of  
11 loans from the state treasury and interest on such loans made  
12 under section 19a(3). However, an authorization or expenditure  
13 shall not be made as a substitution for a grant of federal funds  
14 or for any portion of such grant or grants, which, in the absence  
15 of an authorization, would be available to the commission, and  
16 that immediately upon receipt of administrative grants from the  
17 appropriate agency of the United States of America to cover  
18 administrative costs for which the commission has authorized and  
19 made expenditures from the contingent fund, such grants shall be  
20 transferred to the contingent fund to the extent necessary to  
21 reimburse the contingent fund for the amount of such  
22 expenditures. Amounts needed to refund interest, damages, and  
23 penalties erroneously collected shall be withdrawn and expended  
24 for such a purpose from the contingent fund upon order of the  
25 commission. Any amount authorized to be expended for administra-  
26 tion pursuant to this section may be transferred to the  
27 administration fund. An amount not needed for the purpose for

1 which authorized shall, upon order of the commission, be returned  
2 to the contingent fund. ~~If at anytime the commission determines~~  
3 ~~that there are more funds in the contingent fund than are neces-~~  
4 ~~sary to pay interest obligations for a reasonable future period,~~  
5 ~~the commission may transfer all or part of the excess funds to~~  
6 ~~the unemployment compensation fund. Amounts transferred shall be~~  
7 ~~credited to the experience accounts of employers as provided in~~  
8 ~~section 19a(4).~~ Amounts needed to refund erroneously collected  
9 solvency taxes shall be withdrawn and expended for that purpose  
10 upon order of the commission.

11 (7) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION,  
12 \$28,400,000.00 SHALL BE PAID TO EMPLOYERS LIABLE FOR THE SOLVENCY  
13 TAX FOR 1983, 1984, OR 1985, ON A PRO RATA BASIS. THE PAYMENT  
14 SHALL BE MADE TO THESE EMPLOYERS BY SEPTEMBER 30, 1989 FROM  
15 EXCESS SOLVENCY TAXES AND INTEREST ON CONTRIBUTIONS, PENALTIES,  
16 AND DAMAGES COLLECTED UNDER THIS ACT IN THE CONTINGENT FUND. AS  
17 USED IN THIS SUBSECTION, "EXCESS SOLVENCY TAXES" MEANS THE BAL-  
18 ANCE OF THE SOLVENCY TAXES IN THE CONTINGENT FUND AS OF  
19 SEPTEMBER 30, 1987, PLUS PROJECTED 1985 SOLVENCY TAX REVENUES  
20 WHICH HAVE BEEN DEFERRED BY EMPLOYERS UNDER SECTION 19A(3), MINUS  
21 1984 AND 1985 FEDERAL INTEREST OBLIGATIONS WHICH HAVE BEEN  
22 DEFERRED PURSUANT TO SECTION 1202(b)(8) OF THE SOCIAL SECURITY  
23 ACT, 42 U.S.C. 1322, AND WHICH ARE PAYABLE THROUGH 1989. IF  
24 PAYMENT OF THE \$28,400,000.00 IS NOT MADE BY SEPTEMBER 30, 1989,  
25 THE PAYMENT SHALL BE MADE AS SOON AS POSSIBLE THEREAFTER. IF THE  
26 AMOUNT AVAILABLE FOR PAYMENT IS LESS THAN THE AMOUNT OWED AS  
27 PROVIDED IN THIS SUBSECTION, PAYMENTS SHALL BE CONTINUOUSLY MADE

1 EACH YEAR, WITHIN 6 MONTHS AFTER THE END OF THE FISCAL YEAR,  
2 UNTIL AN AMOUNT EQUAL TO THE ENTIRE AMOUNT OWED HAS BEEN PAID.  
3 UNTIL THIS ENTIRE AMOUNT HAS BEEN FULLY PAID, THE COMMISSION MAY  
4 NOT USE FUNDS IN THE CONTINGENT FUND FOR ANY PURPOSE OTHER THAN  
5 THE PAYMENT OF FEDERAL INTEREST OBLIGATIONS AND REFUNDS OF INTER-  
6 EST, DAMAGES, AND PENALTIES ERRONEOUSLY COLLECTED UNDER THIS  
7 ACT. FOR PURPOSES OF THIS SUBSECTION, THE TOTAL SOLVENCY TAX  
8 LIABILITY FOR 1983, 1984, AND 1985 REPORTED BY EMPLOYERS AS OF  
9 JANUARY 25, 1986 SHALL PROVIDE THE BASIS FOR PRORATION OF THE  
10 PAYMENTS. THE PAYMENT TO EACH EMPLOYER SHALL BE REDUCED BY ANY  
11 DELINQUENT SOLVENCY TAXES OWED AND BY ANY PENALTIES AND INTEREST  
12 ON SUCH DELINQUENT AMOUNT. THE AMOUNT OF SUCH REDUCTIONS SHALL  
13 BE APPLIED TO THE EMPLOYER'S ACCOUNT. THE PAYMENT TO EACH  
14 EMPLOYER MAY NOT EXCEED THE AMOUNT ACTUALLY PAID BY THE EMPLOYER  
15 FOR 1983, 1984, AND 1985.