

**SUBSTITUTE FOR
HOUSE BILL NO. 4239**

A bill to amend 1936 (Ex Sess) PA 1, entitled
"Michigan employment security act,"
by amending sections 11 and 19a (MCL 421.11 and 421.19a), section
11 as amended by 2005 PA 182 and section 19a as amended by 1983 PA
247.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 11. (a) In the administration of this act, the commission
2 shall cooperate with the appropriate agency of the United States
3 under the social security act. The commission shall make reports,
4 in a form and containing information as the appropriate agency of
5 the United States may require, and shall comply with the provisions
6 that the appropriate agency of the United States prescribes to
7 assure the correctness and verification of the reports. The
8 commission, subject to this act, shall comply with the regulations
9 prescribed by the appropriate agency of the United States relating

1 to the receipt or expenditure of the sums that are allotted and
2 paid to this state for the purpose of assisting in the
3 administration of this act. As used in this section, "social
4 security act" means the social security act, chapter 531, 49 Stat.
5 620.

6 (b)(1) Information obtained from any employing unit or
7 individual pursuant to the administration of this act ~~—and~~
8 determinations as to the benefit rights of any individual ~~shall be~~
9 ~~held~~ **ARE** confidential and shall not be disclosed or open to public
10 inspection other than to public employees **AND PUBLIC OFFICIALS** in
11 the performance of their official duties under this act **AND TO**
12 **AGENTS OR CONTRACTORS OF THOSE PUBLIC OFFICIALS, INCLUDING THOSE**
13 **DESCRIBED IN SUBDIVISION (viii),** in any manner ~~revealing~~ **THAT REVEALS**
14 the individual's or the employing unit's identity **OR ANY**
15 **IDENTIFYING PARTICULAR ABOUT ANY INDIVIDUAL OR ANY PAST OR PRESENT**
16 **EMPLOYING UNIT OR THAT COULD FORESEEABLY BE COMBINED WITH OTHER**
17 **PUBLICLY AVAILABLE INFORMATION TO REVEAL IDENTIFYING PARTICULARS.**
18 However, all of the following apply:

19 (i) Information in the commission's possession that might
20 affect a claim for worker's disability compensation under the
21 worker's disability compensation act of 1969, 1969 PA 317, MCL
22 418.101 to 418.941, shall be available to interested parties **AS**
23 **DEFINED IN R 421.201 OF THE MICHIGAN ADMINISTRATIVE CODE,**
24 regardless of whether the commission is a party to an action or
25 proceeding arising under that act.

26 (ii) Any information in the commission's possession that may
27 affect a claim for benefits or a charge to an employer's experience

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1 account shall be available to interested parties AS DEFINED IN R
2 421.201 OF THE MICHIGAN ADMINISTRATIVE CODE, AND TO THEIR AGENTS,
3 IF THEIR AGENTS PROVIDE THE UNEMPLOYMENT INSURANCE AGENCY WITH A
4 WRITTEN AUTHORIZATION OF REPRESENTATION FROM THE PARTY REPRESENTED.
5 A WRITTEN AUTHORIZATION OF REPRESENTATION IS NOT REQUIRED IN ANY OF
6 THE FOLLOWING CIRCUMSTANCES:

7 (A) IF THE REQUEST IS MADE BY AN ATTORNEY WHO IS RETAINED [BY AN
8 INTERESTED PARTY AND FILES AN APPEARANCE FOR PURPOSES RELATED TO A CLAIM
9 FOR UNEMPLOYMENT BENEFITS.

10]

11 (B) IF THE REQUEST IS MADE BY AN ELECTED OFFICIAL PERFORMING
12 CONSTITUENT SERVICES AND THE ELECTED OFFICIAL PRESENTS REASONABLE
13 EVIDENCE THAT THE IDENTIFIED INDIVIDUAL AUTHORIZED THE DISCLOSURE.

14 (C) IF THE REQUEST IS MADE BY A THIRD PARTY WHO IS NOT ACTING
15 AS AN AGENT FOR AN INTERESTED PARTY AND THE THIRD PARTY PRESENTS A
16 RELEASE FROM AN INTERESTED PARTY FOR THE INFORMATION. THE RELEASE
17 SHALL BE SIGNED BY AN INTERESTED PARTY; SPECIFY THE INFORMATION TO
18 BE RELEASED AND ALL INDIVIDUALS WHO MAY RECEIVE THE INFORMATION;
19 AND STATE THE SPECIFIC PURPOSE FOR WHICH THE INFORMATION IS SOUGHT,
20 THAT FILES OF THE STATE MAY BE ACCESSED TO OBTAIN THE INFORMATION,
21 AND THAT THE INFORMATION SOUGHT WILL ONLY BE USED FOR THE PURPOSE
22 INDICATED. THE PURPOSE SPECIFIED IN THE RELEASE SHALL BE LIMITED TO
23 THAT OF PROVIDING A SERVICE OR BENEFIT TO THE INDIVIDUAL SIGNING
24 THE RELEASE OR CARRYING OUT ADMINISTRATION OR EVALUATION OF A
25 PUBLIC PROGRAM TO WHICH THE RELEASE PERTAINS.

26 (iii) Except as provided in this act, the information and
27 determinations shall not be used in any action or proceeding before

1 any court or administrative tribunal unless the commission is a
2 party to or a complainant in the action or proceeding, or unless
3 used for the prosecution of fraud, civil proceeding, or other legal
4 proceeding in the programs indicated in subdivision (2).

5 (iv) Any report or statement, written or verbal, made by any
6 person to the commission, any member of the commission, or to any
7 person engaged in administering this act is a privileged
8 communication, and a person, firm, or corporation shall not be held
9 liable for slander or libel on account of a report or statement.

10 The records and reports in the custody of the commission shall be
11 available for examination by the employer or employee affected.

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

22 (vi) Information obtained in connection with the administration
23 of the employment service may be made available to persons or
24 agencies for purposes appropriate to the operation of a public
25 employment service. Subject to restrictions that the commission
26 prescribes by rule, the commission may also make that information
27 available to agencies of other states that are responsible for the

1 administration of public assistance to unemployed workers, and to
2 the departments of this state. Information so released shall be
3 used only for purposes not inconsistent with the purposes of this
4 act.

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

11 (viii) Subject to restrictions the commission prescribes, by
12 rule or otherwise, the commission may also make information that it
13 obtains available **FOR USE IN CONNECTION WITH RESEARCH PROJECTS OF A**
14 **PUBLIC SERVICE NATURE** to ~~colleges, universities, and public~~
15 ~~agencies of this state for use in connection with research projects~~
16 ~~of a public service nature~~ **A COLLEGE, UNIVERSITY, OR AGENCY OF THIS**
17 **STATE THAT IS ACTING AS A CONTRACTOR OR AGENT OF A PUBLIC OFFICIAL**
18 **AND CONDUCTING RESEARCH THAT ASSISTS THE PUBLIC OFFICIAL IN**
19 **CARRYING OUT THE DUTIES OF THE OFFICE.** A person associated with
20 those institutions or agencies shall not disclose the information
21 in any manner that would reveal the identity of any individual or
22 employing unit from or concerning whom the information was obtained
23 by the commission. **THE UNEMPLOYMENT INSURANCE AGENCY SHALL ENTER**
24 **INTO A WRITTEN, ENFORCEABLE AGREEMENT WITH THE PUBLIC OFFICIAL THAT**
25 **HOLDS THE OFFICIAL RESPONSIBLE FOR ENSURING THAT THE AGENT OR**
26 **CONTRACTOR MAINTAINS THE CONFIDENTIALITY OF THE INFORMATION. IF THE**
27 **AGREEMENT IS VIOLATED, THE AGREEMENT SHALL BE TERMINATED AND THE**

1 PUBLIC OFFICIAL MAY BE SUBJECT TO PENALTIES EQUIVALENT TO THOSE
2 THAT APPLY UNDER SECTION 54 (F) TO A PERSON ASSOCIATED WITH A
3 COLLEGE, UNIVERSITY, OR PUBLIC AGENCY WHO DISCLOSES CONFIDENTIAL
4 INFORMATION.

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

12 (2) The commission shall disclose to qualified requesting
13 agencies, upon request, with respect to an identified individual,
14 information in its records pertaining to the individual's name;
15 social security number; gross wages paid during each quarter; the
16 name, address, and federal and state employer identification number
17 of the individual's employer; any other wage information; whether
18 an individual is receiving, has received, or has applied for
19 unemployment benefits; the amount of unemployment benefits the
20 individual is receiving or is entitled to receive; the individual's
21 current or most recent home address; whether the individual has
22 refused an offer of work and if so a description of the job offered
23 including the terms, conditions, and rate of pay; and any other
24 information which the qualified requesting agency considers useful
25 in verifying eligibility for, and the amount of, benefits. For
26 purposes of this subdivision, "qualified requesting agency" means
27 any state or local child support enforcement agency responsible for

1 enforcing child support obligations under a plan approved under
2 part d of title IV of the social security act, 42 USC 651 to 669b;
3 the United States department of health and human services for
4 purposes of establishing or verifying eligibility or benefit
5 amounts under titles II and XVI of the social security act, 42 USC
6 401 to 434 and 42 USC 1381 to 1383f; the United States department
7 of agriculture for the purposes of determining eligibility for, and
8 amount of, benefits under the food stamp program established under
9 the food stamp act of 1977, 7 USC 2011 to 2036; and any other state
10 or local agency of this or any other state responsible for
11 administering the following programs:

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

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

16 (iii) The unemployment compensation program under section 3304
17 of the internal revenue code of ~~1954~~ 1986, 26 USC 3304.

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

20 (v) Any state program under a plan approved under title I, X,
21 XIV, or XVI of the social security act, 42 USC 301 to 306, 42 USC
22 1201 to 1206, 42 USC 1351 to 1355, and 42 USC 1381 to 1383f.

23 (vi) Any program administered under the social welfare act,
24 1939 PA 280, MCL 400.1 to 400.119b.

25 The information shall be disclosed only if the qualified
26 requesting agency has executed an agreement with the commission to
27 obtain the information and if the information is requested for the

1 purpose of determining the eligibility of applicants for benefits,
2 or the type and amount of benefits for which applicants are
3 eligible, under any of the programs listed above or under title II
4 and XVI of the social security act, **42 USC 401 TO 434 AND 42 USC**
5 **1381 TO 1383F**; for establishing and collecting child support
6 obligations from, and locating individuals owing such obligations
7 ~~which~~ **THAT** are being enforced ~~pursuant to~~ **UNDER** a plan described in
8 section 454 of the social security act, 42 USC 654; or for
9 investigating or prosecuting alleged fraud under any of these
10 programs.

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

18 In addition to the requirements of this section, except as
19 later provided in this subdivision, all other requirements with
20 respect to confidentiality of information obtained in the
21 administration of this act ~~shall apply to the use of the~~
22 information by the officers and employees of the qualified
23 requesting agencies, and the sanctions imposed under this act for
24 improper disclosure of the information ~~shall be applicable~~ **APPLY** to
25 those officers and employees. A qualified requesting agency may
26 redisclose information only to the individual who is the subject of
27 the information, an attorney or other duly authorized agent

1 representing the individual if the information is needed in
2 connection with a claim for benefits against the requesting agency,
3 or any criminal or civil prosecuting authority acting for or on
4 behalf of the requesting agency.

5 The commission is authorized to enter into an agreement with
6 any qualified requesting agency for the purposes described in this
7 subdivision. The agreement or agreements ~~must~~ **SHALL** comply with all
8 federal laws and regulations applicable to such agreements.

9 (3) The commission shall enable the United States department
10 of health and human services to obtain prompt access to any wage
11 and unemployment benefit claims information, including any
12 information that ~~might~~ **MAY** be useful in locating an absent parent
13 or an absent parent's employer, for purposes of section 453 of the
14 social security act, 42 USC 653, in carrying out the child support
15 enforcement program under title IV of ~~that~~ **THE SOCIAL SECURITY** act,
16 **42 USC 601 TO 679B**. Access to the information shall not be provided
17 unless the requesting agency agrees to reimburse the commission for
18 the costs incurred in furnishing the information.

19 (4) Upon request accompanied by presentation of a consent to
20 the release of information signed by an individual, the commission
21 shall disclose to the United States department of housing and urban
22 development and any state or local public housing agency
23 responsible for verifying an applicant's or participant's
24 eligibility for, or level of benefits in, any housing assistance
25 program administered by the United States department of housing and
26 urban development, the name, address, wage information, whether an
27 individual is receiving, has received, or has ~~made application~~

1 **APPLIED** for unemployment benefits, and the amount of unemployment
 2 benefits the individual is receiving or is entitled to receive
 3 under this act. This information shall be used only to determine an
 4 individual's eligibility for benefits or the amount of benefits to
 5 which an individual is entitled under a housing assistance program
 6 of the United States department of housing and urban development.
 7 The information shall not be released unless the requesting agency
 8 agrees to reimburse the commission for the costs incurred in
 9 furnishing the information. For purposes of this ~~subsection~~
 10 **SUBDIVISION**, "public housing agency" means an agency described in
 11 section 3(b)(6) of the United States housing act of 1937, 42 USC
 12 ~~1437a-1437A(B)(6)~~ .

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

17 (6) **A RECIPIENT OF CONFIDENTIAL INFORMATION UNDER THIS ACT**
 18 **SHALL USE THE DISCLOSED INFORMATION ONLY FOR PURPOSES AUTHORIZED BY**
 19 **LAW AND CONSISTENT WITH AN AGREEMENT ENTERED INTO WITH THE**
 20 **UNEMPLOYMENT INSURANCE AGENCY. THE RECIPIENT SHALL NOT REDISCLOSE**
 21 **THE INFORMATION TO ANY OTHER INDIVIDUAL OR ENTITY WITHOUT THE**
 22 **WRITTEN PERMISSION OF THE UNEMPLOYMENT INSURANCE AGENCY.**

23 (c) The commission ~~is authorized to~~ **MAY** enter into agreements
 24 with the appropriate agencies of other states or the federal
 25 government whereby potential rights to benefits accumulated under
 26 the unemployment compensation laws of other states or of the
 27 federal government, or both, may constitute the basis for the

1 payment of benefits through a single appropriate agency under plans
2 that the commission finds will be fair and reasonable to all
3 affected interests and will not result in substantial loss to the
4 unemployment compensation fund.

5 (d) (1) The commission ~~is authorized to~~ **MAY** enter into
6 reciprocal agreements with the appropriate agencies of other states
7 or of the federal government adjusting the collection and payment
8 of contributions by employers with respect to employment not
9 localized within this state.

10 (2) The commission ~~is authorized to~~ **MAY** enter into reciprocal
11 agreements with agencies of other states administering unemployment
12 compensation, whereby contributions paid by an employer to any
13 other state may be received by the other state as an agent acting
14 for and on behalf of this state to the same extent as if the
15 contributions had been paid directly to this state if the payment
16 is remitted to this state. Contributions so received by another
17 state shall be ~~deemed~~ **CONSIDERED** contributions, required and paid
18 under this act as of the date the contributions were received by
19 the other state. The commission may collect contributions in a like
20 manner for agencies of other states administering unemployment
21 compensation and remit the contributions to the agencies under the
22 terms of the reciprocal agreements.

23 (e) The commission may make the state's records relating to
24 the administration of this act available and may furnish to the
25 railroad retirement board or any other state or federal agency
26 administering an unemployment compensation law, at the expense of
27 that board, state, or agency, copies of the records as the railroad

1 retirement board ~~deems~~**CONSIDERS** necessary for its purpose.

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

6 The commission may ~~make investigations~~**INVESTIGATE**, secure,
7 and transmit information, make available services and facilities,
8 and exercise other powers provided in this act with respect to the
9 administration of this act as it ~~deems~~**CONSIDERS** necessary or
10 appropriate to facilitate the administration of any unemployment
11 compensation or public employment service law, and may accept and
12 utilize information, services, and facilities made available to
13 this state by the agency charged with the administration of any
14 other unemployment compensation or public employment service law.

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

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

26 To the extent permissible under the laws and constitution of
27 the United States, the commission ~~is authorized to~~**MAY** enter into

1 or cooperate in arrangements whereby facilities and services
2 provided under this act and facilities and services provided under
3 the unemployment compensation law of ~~the Dominion of~~ Canada may be
4 utilized for the taking of claims and the payment of benefits under
5 the unemployment compensation law of this state or under a similar
6 law of ~~the Dominion of~~ Canada.

7 Any employer who is not a resident of this state and who
8 exercises the privilege of having 1 or more individuals perform
9 service for him or her within this state, and any resident employer
10 who exercises that privilege and thereafter leaves this state, is
11 considered to have appointed the secretary of state as his or her
12 agent and attorney for the acceptance of process in any civil
13 action under this act. In instituting the action, the commission
14 shall cause process or notice to be filed with the secretary of
15 state, and the service shall be sufficient and shall be of the same
16 force and validity as if served upon the nonresident or absent
17 employer personally within this state. The commission immediately
18 shall send notice of the service of process or notice, together
19 with a copy thereof, by ~~registered~~ **CERTIFIED** mail, return receipt
20 requested, to the employer at his or her last known address. The
21 return receipt, the commission's affidavit of compliance with this
22 section, and a copy of the notice of service shall be attached to
23 the original of the process filed in the court in which the civil
24 action is pending.

25 The courts of this state shall recognize and enforce
26 liabilities, as provided in this act, for unemployment compensation
27 contributions, penalties, and interest imposed by other states

1 ~~which~~**THAT** extend a like comity to this state.

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

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

21 (g) The commission may also enter into reciprocal agreements
22 with the appropriate and authorized agencies of other states or of
23 the federal government whereby remuneration and services ~~—~~that
24 determine entitlement to benefits under the unemployment
25 compensation law of another state or of the federal government ~~—~~
26 are considered wages and employment for the purposes of sections 27
27 and 46, if the other state agency or agency of the federal

1 government has agreed to reimburse the fund for that portion of
2 benefits paid under this act upon the basis of the remuneration and
3 services as the commission finds will be fair and reasonable as to
4 all affected interests. A reciprocal agreement may provide that
5 wages and employment ~~—~~that determine entitlement to benefits under
6 this act ~~—~~are considered wages or services on the basis of which
7 unemployment compensation under the law of another state or of the
8 federal government is payable; may provide that services performed
9 by an individual for a single employing unit for which services are
10 customarily performed by the individual in more than 1 state are
11 considered services performed entirely within any 1 of the states
12 in which any part of the individual's service is performed, in
13 which the individual has his or her residence, or in which the
14 employing unit maintains a place of business, if there is in effect
15 as to those services, an election approved by the agency charged
16 with the administration of the state's unemployment compensation
17 law, ~~pursuant to~~ **UNDER** which all the services performed by the
18 individual for the employing unit are considered to be performed
19 entirely within the state; and may provide that the commission will
20 reimburse other state or federal agencies charged with the
21 administration of unemployment compensation laws with such
22 reasonable portion of benefits, paid under the law of any other
23 state or of the federal government upon the basis of employment and
24 wages, as the commission finds will be fair and reasonable as to
25 all affected interests. Reimbursements payable under this
26 subsection are considered benefits for the purpose of limiting
27 duration of benefits and for the purposes of sections 20(a) and 26,

1 and the payments shall be charged to the contributing employer's
2 experience account for the purposes of sections 17, 18, 19, and 20,
3 or the reimbursing employer's account under section 13c, 13g, 13i,
4 or 13l, as applicable. Benefits paid under a combined wage plan
5 shall be allocated and charged to each employer involved in the
6 quarter in which the paying state requires reimbursement. Benefits
7 charged to this state shall be allocated to each employer of this
8 state who has employed the claimant during the base period of the
9 paying state in the same ratio that the wages earned by the
10 claimant during the base period of the paying state in the employ
11 of the employer bears to the total amount of wages earned by the
12 claimant in the base period of the paying state in the employ of
13 all employers of the state. The commission is authorized to make to
14 other state or federal agencies and receive from other state or
15 federal agencies reimbursements from or to the fund, in accordance
16 with arrangements made ~~pursuant to~~ **UNDER** this section.

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

1 state's unemployment trust fund for purposes not authorized by this
2 act.

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

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

20 (j) The commission shall participate in any arrangement ~~which~~
21 **THAT** provides for the payment of compensation on the basis of
22 combining an individual's wages and employment covered under this
23 act with his or her wages and employment covered under the
24 unemployment compensation laws of other states, if the arrangement
25 is approved by the United States secretary of labor in consultation
26 with the state unemployment compensation agencies as reasonably
27 calculated to assure the prompt and full payment of compensation.

1 An arrangement shall include provisions for both of the following:

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

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

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

12 Sec. 19a. (1) Except for the first 4 consecutive years of
13 liability, a contributing employer ~~shall be~~ **IS** subject to a
14 solvency tax for a calendar year after 1982 if the employer's
15 experience account has a negative balance on the June 30 preceding
16 that calendar year, and if on the June 30 preceding that calendar
17 year the balance in the unemployment compensation fund is less than
18 the total amount of unrepaid interest bearing advances from the
19 federal government to the fund under section 1201 of the social
20 security act, 42 ~~U.S.C.~~ **USC** 1321, or the commission projects that
21 interest will be due during the calendar year on federal advances
22 and there will be insufficient solvency tax funds in the contingent
23 fund to meet the federal interest obligations when due or there are
24 outstanding advances from the state treasury from the previous year
25 and any interest thereon and there will be insufficient solvency
26 tax funds in the contingent fund to repay such advances and
27 interest. The solvency tax rate ~~shall be~~ **IS** in addition to the

1 employer's contribution rate and ~~shall not be~~ **IS NOT** subject to the
2 limiting provisions of section 19(a)(6).

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

5 (a) For the 1983 calendar year, the solvency tax rate shall be
6 0.5%.

7 (b) For the 1984 calendar year, the solvency tax rate shall be
8 1%.

9 (c) For the 1985 calendar year, the solvency tax rate shall be
10 calculated in the manner provided in this subdivision. By February
11 1, 1985, the commission shall estimate the amount of interest due
12 on federal loans during the 1985 calendar year, without regard to
13 any deferral permitted under section 1202(b)(3) or (8) of the
14 social security act, 42 ~~U.S.C.~~ **USC** 1322, the amount of funds
15 required for the unemployment insurance automation project for the
16 1985 calendar year, and the amount of deferred solvency taxes which
17 cannot be collected because of employer bankruptcies. The total of
18 these estimated amounts plus any amounts advanced from the state
19 treasury under subsection (3) during the 1984 calendar year and any
20 interest thereon shall be divided by the estimated total taxable
21 payroll for the 1985 calendar year of all active employers who had
22 negative balances in their experience accounts as of June 30, 1984.
23 Total taxable payroll shall be estimated by using the total taxable
24 payroll for ~~such~~ **THOSE** employers for the 12-month period ending
25 June 30, 1984 and adjusting this figure for any change in the
26 taxable wage limit for the 1985 calendar year. The solvency tax
27 rate thus calculated for the 1985 calendar year shall be adjusted

1 to the next highest 1/10 of 1%, but shall not exceed 2%.

2 (d) For the 1986 calendar year, the solvency tax rate shall be
3 calculated in the manner provided in this subdivision. By February
4 1, 1986, the commission shall estimate the amount of interest due
5 during the 1986 calendar year on federal loans, without regard to
6 any deferral ~~which~~ **THAT** may be permitted under section 1202(b)(3)
7 or (8) of the social security act, 42 ~~U.S.C.~~ **USC** 1322, the amount
8 of funds required for the unemployment insurance automation project
9 for the 1986 calendar year, and the expected balance on December
10 31, 1986, if any, of unrepaid interest bearing federal advances.
11 The total of these amounts plus any amounts advanced from the state
12 treasury under subsection (3) during the 1985 calendar year and any
13 interest thereon shall be divided by the estimated total taxable
14 payroll for the calendar year of all active employers who had
15 negative balances in their experience accounts as of June 30, 1985.
16 Total taxable payroll shall be estimated by using the total taxable
17 payroll for ~~such~~ **THOSE** employers for the 12-month period ending on
18 June 30, 1985 and adjusting this figure for any change in the
19 taxable wage limit for the 1986 calendar year. The quotient shall
20 be adjusted to the next highest 1/10 of 1%. If this adjusted
21 percentage is 0.8% or less, the employer's solvency tax rate for
22 the 1986 calendar year shall be the adjusted percentage calculated.
23 If the adjusted percentage is more than 0.8%, the employer's
24 solvency tax rate shall be calculated in the same manner as the
25 account building component of the employer's contribution rate as
26 determined under section 19(a)(4), adjusted to generate aggregate
27 solvency tax revenues sufficient to pay the interest due during the

1 year on federal loans, to pay for the unemployment insurance
2 automation project, to repay the balance of interest bearing loans
3 by December 31, 1986, and to repay amounts advanced from the state
4 treasury during the 1985 calendar year and any interest thereon,
5 but shall not exceed the lesser of 1/4 of the percentage calculated
6 or 2%.

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

9 (i) If there is no balance on December 31, 1986, of unrepaid
10 interest bearing federal advances, the solvency tax rate, if any,
11 shall be calculated in the same manner as the account building
12 component of the employer's contribution rate as determined under
13 section 19(a)(4), but shall not exceed the lesser of 1/4 of the
14 percentage calculated or 2%.

15 (ii) If there is a balance on December 31, 1986, of unrepaid
16 interest bearing federal advances, the solvency tax rate for the
17 1987 calendar year and for each calendar year thereafter shall be
18 calculated in the manner provided in this subparagraph until the
19 balance of the interest bearing federal advances on December 31,
20 1986 has been reduced to zero. By February 1 of the calendar year,
21 the commission shall calculate the sum of (a) the estimated
22 interest due during the calendar on federal loans, without regard
23 to any interest deferral which may be permitted under section 1202
24 of the social security act, 42 ~~U.S.C.~~ USC 1322, (b) the estimated
25 amount of funds required for the unemployment insurance automation
26 project, (c) the remaining balance on December 31 of the preceding
27 year of the December 31, 1986 balance of unrepaid interest bearing

1 federal advances, and (d) any amounts advanced from the state
2 treasury under subsection (3) during the preceding year and any
3 interest thereon. For purposes of calculating the remaining
4 balance, any loan repayments during the year shall first be applied
5 toward reducing the December 31, 1986 loan balance. The amount so
6 calculated shall be divided by the estimated total taxable payroll
7 for the calendar year of all active employers who had negative
8 balances in their experience accounts as of June 30 of the previous
9 year. Total taxable payroll shall be estimated by using the total
10 taxable payroll for such employers for the 12-month period ending
11 June 30 of the previous calendar year and adjusting this figure for
12 any change in the taxable wage limit for the calendar year. The
13 quotient shall be adjusted to the next 1/10 of 1%. If this adjusted
14 percentage is 0.8% or less, an employer's solvency tax rate for
15 that calendar year shall be the percentage calculated. If the
16 adjusted percentage is more than 0.8%, the employer's solvency tax
17 rate shall be calculated in the same manner as the account building
18 component of the employer's contribution rate as determined under
19 section 19(a)(4), adjusted to generate sufficient aggregate
20 solvency tax revenues to pay the interest due during the year on
21 federal loans, to pay for the unemployment insurance automation
22 project, to repay the remaining balance of the December 31, 1986
23 balance of unrepaid federal interest bearing loans, and to repay
24 advances from the state treasury and any interest due thereon, but
25 shall not exceed the lesser of 1/4 of the percentage calculated or
26 2%. For any calendar year after the first calendar year that the
27 remaining balance of the December 31, 1986 balance of unrepaid

1 interest bearing federal advances has been reduced to zero by
2 December 31 of that year, an employer's solvency tax rate shall be
3 calculated in the same manner as the account building component of
4 the employer's contribution rate as determined under section
5 19(a)(4), but shall not exceed the lesser of 1/4 of the percentage
6 calculated or 2%.

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

22 (3) Solvency taxes shall become due and payable in the manner,
23 and at the times, specified for contributions in rules promulgated
24 by the commission. However, if the state is permitted to defer
25 interest payments due during a calendar year under section
26 1202(b)(3) or (8) of the social security act, **42 USC 1322**, payment
27 of the solvency tax may likewise be deferred by an employer and

1 paid in installments in a manner prescribed by the commission. If a
2 deferral of interest payment is subsequently disallowed by the
3 United States department of labor, either prospectively or
4 retroactively, amounts of solvency taxes deferred under this
5 section shall become immediately due and payable. Further, if the
6 commission estimates that the solvency taxes to be collected by
7 September 30 of the calendar year will be insufficient to meet the
8 interest obligations due during that calendar year, the percentages
9 of amounts of solvency taxes deferred in any year shall be reduced
10 by the commission in an amount sufficient to meet the interest
11 obligations due in that calendar year. Furthermore, if the amount
12 of solvency taxes to be collected by the time the federal interest
13 obligations are due in any year are insufficient to meet the
14 obligations when due, the commission shall recommend to the
15 legislature that it appropriate an amount sufficient to meet the
16 interest obligations due. Any amount so appropriated and used to
17 pay federal interest obligations, and interest due on such state
18 appropriation, if any, shall be repaid to the state as soon as
19 possible from the solvency tax revenues in the contingent fund.

20 (4) Amounts obtained pursuant to this section shall be paid
21 into the contingent fund created under section 10 and, except for
22 solvency taxes transferred to the unemployment compensation fund as
23 provided in this subsection, shall not be credited to the
24 employer's experience account. Amounts collected from solvency
25 taxes which are transferred to the unemployment compensation fund
26 and used to repay federal advances to the unemployment compensation
27 fund shall be credited to the employers' experience accounts by

1 June 30 of the year following the calendar year in which the
2 transfer occurred. The amount to be credited to an employer's
3 account shall be determined by the commission, but shall reasonably
4 reflect each employer's pro rata share of the amount transferred.
5 Past due payments of the solvency tax shall be subject to the
6 interest, penalty, assessment, and collection provisions of section
7 15. Interest and penalties collected shall be paid into the
8 contingent fund. Adjustments and refunds of erroneously collected
9 solvency taxes shall be made in accordance with section 16.

10 Solvency tax determinations are appealable under the appeal process
11 provided for review and appeal of determinations under this act.

12 (5) If any provision of this section prevents the state from
13 qualifying for any federal interest relief provisions provided
14 under section 1202 of the social security act, 42 ~~U.S.C.~~ **USC** 1322,
15 or prevents employers in this state from qualifying for the
16 limitation on the reduction of federal unemployment tax act credits
17 as provided under section 3302(f) of the federal unemployment tax
18 act, 26 ~~U.S.C.~~ **USC** 3302(f), ~~such THAT~~ provision ~~shall be~~ **IS** invalid
19 to the extent necessary to maintain qualification for ~~such THE~~
20 interest relief provisions and federal unemployment tax credits.

21 (6) **NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, IF**
22 **INTEREST DUE DURING A CALENDAR YEAR ON FEDERAL ADVANCES IS FORGIVEN**
23 **OR POSTPONED UNDER FEDERAL LAW AND IS NO LONGER DUE DURING THAT**
24 **CALENDAR YEAR, NO SOLVENCY TAX SHALL BE ASSESSED AGAINST AN**
25 **EMPLOYER FOR THAT CALENDAR YEAR AND ANY SOLVENCY TAX ALREADY**
26 **ASSESSED AND COLLECTED AGAINST AN EMPLOYER BEFORE THE FORGIVENESS**
27 **OR POSTPONEMENT OF THE INTEREST FOR THAT CALENDAR YEAR SHALL BE**

1 CREDITED TO THE EMPLOYER'S EXPERIENCE ACCOUNT.