SENATE BILL No. 484

June 16, 2011, Introduced by Senator JANSEN and referred to the Committee on Economic Development.

A bill to amend 1936 (Ex Sess) PA 1, entitled "Michigan employment security act," by amending the title and section 2 (MCL 421.2) and by adding sections 10a and 26a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

TITLE

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

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of ~~such~~ **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 ~~the provisions of~~ this act; and to repeal all acts and parts of acts inconsistent with ~~the provisions of~~ this act.

Sec. 2. **(1)** ~~Declaration of policy.~~ The legislature acting in the exercise of the police power of the state declares that the public policy of the state is as follows: Economic insecurity due to unemployment is a serious menace to the health, morals, and welfare of the people of this state. Involuntary unemployment is a subject of general interest and concern which requires action by the legislature to prevent its spread and to lighten its burden which so often falls with crushing force upon the unemployed worker and his **OR HER** family, to the detriment of the welfare of the people of this state. Social security requires protection against this hazard of our economic life. Employers should be encouraged to provide stable employment. The systematic accumulation of funds during periods of employment to provide benefits for periods of unemployment by the setting aside of unemployment reserves to be used for the benefit of persons unemployed through no fault of their own, thus maintaining purchasing power and limiting the serious social consequences of relief assistance, is for the public good, and the general welfare of the people of this state.

(2) THE LEGISLATURE FINDS THAT FROM TIME TO TIME HIGH LEVELS OF UNEMPLOYMENT HAVE RESULTED IN THE EXHAUSTION OF THE FUNDS IN THIS STATE'S ACCOUNT OF THE UNEMPLOYMENT TRUST FUND, HAS REQUIRED ADVANCES OR LOANS TO THE STATE FROM THE FEDERAL ACCOUNT OF THE UNEMPLOYMENT TRUST FUND, AND HAS CAUSED THE IMPOSITION OF LAWFUL PENALTY TAXES AND SOLVENCY TAXES TO REPAY THOSE ADVANCES AND THE INTEREST ON THOSE ADVANCES. THE FINANCING AND PAYMENT OF THE OUTSTANDING PRINCIPAL AMOUNT HERETOFORE OR HEREAFTER ADVANCED OR LOANED TO THIS STATE FROM THE FEDERAL ACCOUNT OF THE UNEMPLOYMENT TRUST FUND AND THE INTEREST ON THOSE LOANS, IF ANY, THE FUNDING OF UNEMPLOYMENT COMPENSATION BENEFITS, AND THE FINANCING AND FUNDING OF THIS STATE'S ACCOUNT IN THE UNEMPLOYMENT TRUST FUND INCLUDING, WITHOUT LIMITATION, THE FUNDING OF SUFFICIENT FUND BALANCES IN THE UNEMPLOYMENT TRUST FUND, ARE AN ESSENTIAL GOVERNMENTAL FUNCTION AND PUBLIC PURPOSE OF THIS STATE. THE LEGISLATURE FURTHER FINDS THAT THE ISSUANCE OF BONDS BY THE MICHIGAN FINANCE AUTHORITY OR OTHER ISSUER TO FINANCE THE FOREGOING PAYMENTS AND TO AVOID OR REDUCE THE

IMPOSITION OF PENALTY TAXES AND SOLVENCY TAXES WILL FURTHER AND FACILITATE AN ESSENTIAL GOVERNMENTAL FUNCTION AND PUBLIC PURPOSE OF THIS STATE THAT WILL ENCOURAGE THE DEVELOPMENT OF INDUSTRY AND COMMERCE, FOSTER ECONOMIC GROWTH, PROVIDE EMPLOYMENT OPPORTUNITIES FOR THE CITIZENS AND RESIDENTS OF THIS STATE AND FURTHER OTHER ECONOMIC DEVELOPMENT AND ACTIVITIES IN THIS STATE, AND IN GENERAL PROMOTE THE PUBLIC HEALTH AND GENERAL WELFARE OF THE PEOPLE OF THIS STATE.

SEC. 10A. (1) THE OBLIGATION TRUST FUND IS CREATED AS A SEPARATE FUND IN THE STATE TREASURY. THE ASSETS OF THE OBLIGATION TRUST FUND SHALL NOT BE COMMINGLED WITH ANY OTHER FUND AND SHALL NOT BE CONSIDERED PART OF THE GENERAL FUND OF THE STATE.

(2) THE STATE TREASURER MAY RECEIVE MONEY OR OTHER ASSETS FROM ANY SOURCE FOR DEPOSIT INTO THE FUND. ALL OBLIGATION ASSESSMENTS ON EMPLOYERS COLLECTED UNDER SECTION 26A; ALL INTEREST ON PAYMENTS, PENALTIES, AND DAMAGES COLLECTED IN CONNECTION WITH THE OBLIGATION ASSESSMENTS MADE UNDER SECTION 26A; AND A PORTION OF THE PROCEEDS OF ANY OBLIGATIONS, AS DESCRIBED IN SECTION 26A, IN AMOUNTS SPECIFIED BY THE ISSUER, SHALL BE DEPOSITED INTO THE OBLIGATION TRUST FUND. THE STATE TREASURER SHALL DIRECT THE INVESTMENT OF THE FUND. THE STATE TREASURER SHALL CREDIT TO THE FUND INTEREST AND EARNINGS FROM FUND INVESTMENTS.

(3) MONEY IN THE OBLIGATION TRUST FUND AT THE CLOSE OF THE FISCAL YEAR SHALL REMAIN IN THE FUND AND SHALL NOT LAPSE TO THE GENERAL FUND. MONEY IN THE FUND IS CONTINUOUSLY APPROPRIATED FOR THE PURPOSES SPECIFIED IN SECTION 26A.

(4) THE DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS SHALL

BE THE ADMINISTRATOR OF THE FUND FOR AUDITING PURPOSES.

(5) THE DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS SHALL EXPEND MONEY FROM THE FUND ONLY FOR 1 OR MORE OF THE FOLLOWING PURPOSES:

(A) TO PAY OBLIGATIONS, ADMINISTRATIVE EXPENSES, AND ASSOCIATED EXPENSES DESCRIBED IN SECTION 26A.

(B) TO REFUND ERRONEOUSLY COLLECTED ASSESSMENTS UNDER SECTION 26A.

(C) FOR ANY OTHER PURPOSE DESCRIBED IN SECTION 26A(1).

SEC. 26A. (1) THE DIRECTOR OF THE DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS MAY REQUEST THE MICHIGAN FINANCE AUTHORITY TO ISSUE NOTES, BONDS, FINANCIAL INSTRUMENTS, OR OTHER EVIDENCES OF INDEBTEDNESS, THE PROCEEDS OF WHICH MAY BE USED FOR ANY OF THE FOLLOWING PURPOSES:

(A) TO FINANCE, REFINANCE, REFUND, OR ADVANCE REFUND ANY PAYMENT REQUIRED OR OBLIGATION ARISING UNDER THIS SECTION OR UNDER 42 USC 1321 AND 1322.

(B) TO REPAY AMOUNTS OWED OR TO BE OWED TO THE UNITED STATES TREASURY RESULTING FROM ADVANCES MADE TO THIS STATE BY THE FEDERAL GOVERNMENT UNDER FEDERAL LAW, INCLUDING 42 USC 1321, TOGETHER WITH INTEREST ON THOSE ADVANCES.

(C) TO FUND UNEMPLOYMENT COMPENSATION BENEFITS AND THIS STATE'S ACCOUNT WITHIN THE FEDERAL GOVERNMENT UNEMPLOYMENT TRUST FUND, INCLUDING BALANCES IN THAT ACCOUNT.

(D) TO FUND CAPITALIZED INTEREST; DEBT SERVICE RESERVE FUNDS; AND PAYMENT OF COSTS OF, AND ADMINISTRATIVE EXPENSES IN CONNECTION WITH, ISSUING OBLIGATIONS.

(2) IN 2011 AND IN EACH YEAR THEREAFTER IN WHICH ANY OBLIGATION IS OUTSTANDING, AN EMPLOYER IS SUBJECT TO, SHALL BE ASSESSED, AND SHALL PAY AN UNEMPLOYMENT OBLIGATION ASSESSMENT, WHICH SHALL BE COLLECTED QUARTERLY AND SHALL BE DEPOSITED TO THE CREDIT OF THE OBLIGATION TRUST FUND. THE OBLIGATION ASSESSMENT IS IN ADDITION TO THE EMPLOYER'S REQUIRED CONTRIBUTIONS, IS NOT SUBJECT TO THE LIMITING PROVISIONS FOR CONTRIBUTIONS REQUIRED UNDER THIS ACT, AND IS IN ADDITION TO AND SEPARATE FROM THE SOLVENCY TAX IMPOSED UNDER SECTION 19A.

(3) THE UNEMPLOYMENT OBLIGATION ASSESSMENT RATE SHALL BE DETERMINED BY THE STATE TREASURER AFTER CONSULTATION WITH THE DIRECTOR OF THE DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS AND SHALL BE AN AMOUNT SUFFICIENT TO ENSURE TIMELY PAYMENT OF ALL OF THE FOLLOWING:

(A) PRINCIPAL, INTEREST, AND ANY REDEMPTION PREMIUM ON THE OBLIGATIONS.

(B) ADMINISTRATIVE EXPENSES, CREDIT ENHANCEMENT AND TERMINATION FEES, AND OTHER FEES, IF ANY, IN CONNECTION WITH ISSUING THE OBLIGATIONS.

(C) ALL OTHER AMOUNTS REQUIRED TO BE MAINTAINED AND PAID UNDER THE TERMS OF A RESOLUTION, INDENTURE, OR AUTHORIZING STATUTE UNDER WHICH THE OBLIGATION IS ISSUED.

(D) AMOUNTS NECESSARY TO MAINTAIN THE RATINGS ON THE OBLIGATIONS THAT ARE ASSIGNED BY A NATIONALLY RECOGNIZED RATING SERVICE AT A LEVEL DETERMINED BY THE STATE TREASURER, IN HIS OR HER SOLE DISCRETION.

(4) THE OBLIGATION ASSESSMENT RATE MAY TAKE INTO ACCOUNT THE

EMPLOYER'S EXPERIENCE RATING FROM THE PREVIOUS YEAR. THE OBLIGATION ASSESSMENT RATE SHALL BE APPLIED TO THE SAME WAGE BASE AS THE EMPLOYER'S SOLVENCY TAX.

(5) THE OBLIGATION ASSESSMENT IS DUE AT THE SAME TIME, COLLECTED IN THE SAME MANNER, AND SUBJECT TO THE SAME PENALTIES AND INTEREST AS CONTRIBUTIONS ASSESSED UNDER THIS ACT.

(6) THE PROCEEDS OF OBLIGATION ASSESSMENTS RECEIVED EACH YEAR ARE IRREVOCABLY PLEDGED AND DEDICATED TO THE PAYMENT OF OBLIGATIONS AND ADMINISTRATIVE EXPENSES ON THOSE EXPENSES AND ARE SUBJECT TO THE PLEDGE AND LIEN MADE TO THE EXTENT AND AS DESCRIBED IN THE RESOLUTION, INDENTURE, OR THE AUTHORIZING STATUTE UNDER WHICH THE OBLIGATION IS ISSUED.

(7) THE DIRECTOR OF THE DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS SHALL ADMINISTER AND CAUSE THE OBLIGATION ASSESSMENTS TO BE COLLECTED.

(8) THE DIRECTOR OF THE DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS MAY REQUEST THE STATE TREASURER TO ESTABLISH ADDITIONAL SPECIAL SUBACCOUNTS WITHIN THE OBLIGATION TRUST FUND FOR THE PURPOSE OF IDENTIFYING MORE PRECISELY THE SOURCES OF PAYMENTS INTO AND DISBURSEMENTS FROM THE OBLIGATION TRUST FUND, OR AS MAY BE REQUIRED UNDER THE RESOLUTION OR INDENTURE AUTHORIZING THE OBLIGATIONS.

(9) THE DIRECTOR OF THE DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS OR HIS OR HER DESIGNEE MAY ENTER INTO AGREEMENTS WITH THE ISSUER OF THE OBLIGATIONS OR A THIRD PARTY AS IS NECESSARY TO ISSUE THE OBLIGATIONS. NOTHING IN THIS ACT OR ANY PROVISION OF ANY DOCUMENT AUTHORIZED UNDER THIS SECTION CREATES OR CONSTITUTES STATE

INDEBTEDNESS.

(10) AS USED IN THIS SECTION AND SECTION 10A:

(A) "MICHIGAN FINANCE AUTHORITY" MEANS THE AUTHORITY CREATED UNDER EXECUTIVE ORDER NO. 2010-2, MCL 12.194, AND THE EMPLOYMENT SECURITY FINANCING ACT.

(B) "OBLIGATION" MEANS A NOTE, BOND, FINANCIAL INSTRUMENT OR OTHER EVIDENCE OF INDEBTEDNESS ISSUED AS PROVIDED IN THIS SECTION.

(C) "UNEMPLOYMENT OBLIGATION ASSESSMENT" MEANS AN ASSESSMENT ON AN EMPLOYER UNDER THIS SECTION.

(D) "OBLIGATION TRUST FUND" MEANS THE FUND CREATED IN SECTION 10A.

Enacting section 1. This amendatory act does not take effect unless Senate Bill No. 483 of the 96th Legislature is enacted into law.