

Act No. 1  
Public Acts of 2009  
Approved by the Governor  
March 11, 2009  
Filed with the Secretary of State  
March 11, 2009  
EFFECTIVE DATE: March 11, 2009

**STATE OF MICHIGAN**  
**95TH LEGISLATURE**  
**REGULAR SESSION OF 2009**

Introduced by Rep. Constan

**ENROLLED HOUSE BILL No. 4239**

AN ACT to amend 1936 (Ex Sess) PA 1, entitled "An act to protect the welfare of the people of this state through the establishment of an unemployment compensation fund, and to provide for the disbursement thereof; to create certain other funds; to create the Michigan employment security commission, and to prescribe its powers and duties; to provide for the protection of the people of this state from the hazards of unemployment; to levy and provide for contributions from employers; to provide for the collection of such contributions; 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," 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:*

Sec. 11. (a) In the administration of this act, the commission shall cooperate with the appropriate agency of the United States under the social security act. The commission shall make reports, in a form and containing information as the appropriate agency of the United States may require, and shall comply with the provisions that the appropriate agency of the United States prescribes to assure the correctness and verification of the reports. The commission, subject to this act, shall comply with the regulations prescribed by the appropriate agency of the United States relating to the receipt or expenditure of the sums that are allotted and paid to this state for the purpose of assisting in the administration of this act. As used in this section, "social security act" means the social security act, chapter 531, 49 Stat. 620.

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

(i) Information in the commission's possession that might affect a claim for worker's disability compensation under the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.101 to 418.941, shall be available to interested parties as defined in R 421.201 of the Michigan administrative code, regardless of whether the commission is a party to an action or proceeding arising under that act.

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

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

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

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

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

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

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

(vi) Information obtained in connection with the administration of the employment service may be made available to persons or agencies for purposes appropriate to the operation of a public employment service. Subject to restrictions that the commission prescribes by rule, the commission may also make that information available to agencies of other states that are responsible for the administration of public assistance to unemployed workers, and to the departments of this state. Information so released shall be used only for purposes not inconsistent with the purposes of this act.

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

(viii) Subject to restrictions the commission prescribes, by rule or otherwise, the commission may also make information that it obtains available for use in connection with research projects of a public service nature to a college, university, or agency of this state that is acting as a contractor or agent of a public official and conducting research that assists the public official in carrying out the duties of the office. A person associated with those institutions or agencies shall not disclose the information in any manner that would reveal the identity of any individual or employing unit from or concerning whom the information was obtained by the commission. The unemployment insurance agency shall enter into a written, enforceable agreement with the public official that holds the official responsible for ensuring that the agent or contractor maintains the confidentiality of the information. If the agreement is violated, the agreement shall be terminated and the public official may be subject to penalties equivalent to those that apply under section 54(f) to a person associated with a college, university, or public agency who discloses confidential information.

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

(2) The commission shall disclose to qualified requesting agencies, upon request, with respect to an identified individual, information in its records pertaining to the individual's name; social security number; gross wages paid during each quarter; the name, address, and federal and state employer identification number of the individual's employer; any other wage information; whether an individual is receiving, has received, or has applied for unemployment benefits; the amount of unemployment benefits the individual is receiving or is entitled to receive; the individual's

current or most recent home address; whether the individual has refused an offer of work and if so a description of the job offered including the terms, conditions, and rate of pay; and any other information which the qualified requesting agency considers useful in verifying eligibility for, and the amount of, benefits. For purposes of this subdivision, "qualified requesting agency" means any state or local child support enforcement agency responsible for enforcing child support obligations under a plan approved under part d of title IV of the social security act, 42 USC 651 to 669b; the United States department of health and human services for purposes of establishing or verifying eligibility or benefit amounts under titles II and XVI of the social security act, 42 USC 401 to 434 and 42 USC 1381 to 1383f; the United States department of agriculture for the purposes of determining eligibility for, and amount of, benefits under the food stamp program established under the food stamp act of 1977, 7 USC 2011 to 2036; and any other state or local agency of this or any other state responsible for administering the following programs:

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

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

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

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

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

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

The information shall be disclosed only if the qualified requesting agency has executed an agreement with the commission to obtain the information and if the information is requested for the purpose of determining the eligibility of applicants for benefits, or the type and amount of benefits for which applicants are eligible, under any of the programs listed above or under title II and XVI of the social security act, 42 USC 401 to 434 and 42 USC 1381 to 1383f; for establishing and collecting child support obligations from, and locating individuals owing such obligations that are being enforced under a plan described in section 454 of the social security act, 42 USC 654; or for investigating or prosecuting alleged fraud under any of these programs.

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

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

The commission is authorized to enter into an agreement with any qualified requesting agency for the purposes described in this subdivision. The agreement or agreements shall comply with all federal laws and regulations applicable to such agreements.

(3) The commission shall enable the United States department of health and human services to obtain prompt access to any wage and unemployment benefit claims information, including any information that may be useful in locating an absent parent or an absent parent's employer, for purposes of section 453 of the social security act, 42 USC 653, in carrying out the child support enforcement program under title IV of the social security act, 42 USC 601 to 679b. Access to the information shall not be provided unless the requesting agency agrees to reimburse the commission for the costs incurred in furnishing the information.

(4) Upon request accompanied by presentation of a consent to the release of information signed by an individual, the commission shall disclose to the United States department of housing and urban development and any state or local public housing agency responsible for verifying an applicant's or participant's eligibility for, or level of benefits in, any housing assistance program administered by the United States department of housing and urban development, the name, address, wage information, whether an individual is receiving, has received, or has applied for unemployment benefits, and the amount of unemployment benefits the individual is receiving or is entitled to receive under this act. This information shall be used only to determine an individual's eligibility for benefits or the amount of benefits to which an individual is entitled under a housing assistance program of the United States department of housing and urban development. The information shall not be released unless the requesting agency agrees to reimburse the commission for the costs incurred in furnishing the information. For purposes of this subdivision, "public housing agency" means an agency described in section 3(b)(6) of the United States housing act of 1937, 42 USC 1437a(b)(6).

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

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

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

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

(2) The commission may enter into reciprocal agreements with agencies of other states administering unemployment compensation, whereby contributions paid by an employer to any other state may be received by the other state as an agent acting for and on behalf of this state to the same extent as if the contributions had been paid directly to this state if the payment is remitted to this state. Contributions so received by another state shall be considered contributions, required and paid under this act as of the date the contributions were received by the other state. The commission may collect contributions in a like manner for agencies of other states administering unemployment compensation and remit the contributions to the agencies under the terms of the reciprocal agreements.

(e) The commission may make the state's records relating to the administration of this act available and may furnish to the railroad retirement board or any other state or federal agency administering an unemployment compensation law, at the expense of that board, state, or agency, copies of the records as the railroad retirement board considers necessary for its purpose.

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

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

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

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

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

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

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

The attorney general may commence action in the appropriate court of any other state or any other jurisdiction of the United States by and in the name of the commission to collect unemployment compensation contributions, penalties, and interest finally determined, redetermined, or decided under this act to be legally due this state. The officials of other states that extend a like comity to this state may sue in the courts of this state for the collection of unemployment

compensation contributions, penalties, and interest, the liability for which has been similarly established under the laws of the other state or jurisdiction. A certificate by the secretary of another state under the great seal of that state attesting the authority of the official or officials to collect unemployment compensation contributions, penalties, and interest is conclusive evidence of that authority.

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

(g) The commission may also enter into reciprocal agreements with the appropriate and authorized agencies of other states or of the federal government whereby remuneration and services that determine entitlement to benefits under the unemployment compensation law of another state or of the federal government are considered wages and employment for the purposes of sections 27 and 46, if the other state agency or agency of the federal government has agreed to reimburse the fund for that portion of benefits paid under this act upon the basis of the remuneration and services as the commission finds will be fair and reasonable as to all affected interests. A reciprocal agreement may provide that wages and employment that determine entitlement to benefits under this act are considered wages or services on the basis of which unemployment compensation under the law of another state or of the federal government is payable; may provide that services performed by an individual for a single employing unit for which services are customarily performed by the individual in more than 1 state are considered services performed entirely within any 1 of the states in which any part of the individual's service is performed, in which the individual has his or her residence, or in which the employing unit maintains a place of business, if there is in effect as to those services, an election approved by the agency charged with the administration of the state's unemployment compensation law, under which all the services performed by the individual for the employing unit are considered to be performed entirely within the state; and may provide that the commission will reimburse other state or federal agencies charged with the administration of unemployment compensation laws with such reasonable portion of benefits, paid under the law of any other state or of the federal government upon the basis of employment and wages, as the commission finds will be fair and reasonable as to all affected interests. Reimbursements payable under this subsection are considered benefits for the purpose of limiting duration of benefits and for the purposes of sections 20(a) and 26, and the payments shall be charged to the contributing employer's experience account for the purposes of sections 17, 18, 19, and 20, or the reimbursing employer's account under section 13c, 13g, 13i, or 13l, as applicable. Benefits paid under a combined wage plan shall be allocated and charged to each employer involved in the quarter in which the paying state requires reimbursement. Benefits charged to this state shall be allocated to each employer of this state who has employed the claimant during the base period of the paying state in the same ratio that the wages earned by the claimant during the base period of the paying state in the employ of the employer bears to the total amount of wages earned by the claimant in the base period of the paying state in the employ of all employers of the state. The commission is authorized to make to other state or federal agencies and receive from other state or federal agencies reimbursements from or to the fund, in accordance with arrangements made under this section.

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

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

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

(j) The commission shall participate in any arrangement that provides for the payment of compensation on the basis of combining an individual's wages and employment covered under this act with his or her wages and employment covered under the unemployment compensation laws of other states, if the arrangement is approved by the United States secretary of labor in consultation with the state unemployment compensation agencies as reasonably calculated to assure the prompt and full payment of compensation. An arrangement shall include provisions for both of the following:

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

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

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

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

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

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

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

(c) For the 1985 calendar year, the solvency tax rate shall be calculated in the manner provided in this subdivision. By February 1, 1985, the commission shall estimate the amount of interest due on federal loans during the 1985 calendar year, without regard to any deferral permitted under section 1202(b)(3) or (8) of the social security act, 42 USC 1322, the amount of funds required for the unemployment insurance automation project for the 1985 calendar year, and the amount of deferred solvency taxes which cannot be collected because of employer bankruptcies. The total of these estimated amounts plus any amounts advanced from the state treasury under subsection (3) during the 1984 calendar year and any interest thereon shall be divided by the estimated total taxable payroll for the 1985 calendar year of all active employers who had negative balances in their experience accounts as of June 30, 1984. Total taxable payroll shall be estimated by using the total taxable payroll for those employers for the 12-month period ending June 30, 1984 and adjusting this figure for any change in the taxable wage limit for the 1985 calendar year. The solvency tax rate thus calculated for the 1985 calendar year shall be adjusted to the next highest 1/10 of 1%, but shall not exceed 2%.

(d) For the 1986 calendar year, the solvency tax rate shall be calculated in the manner provided in this subdivision. By February 1, 1986, the commission shall estimate the amount of interest due during the 1986 calendar year on federal loans, without regard to any deferral that may be permitted under section 1202(b)(3) or (8) of the social security act, 42 USC 1322, the amount of funds required for the unemployment insurance automation project for the 1986 calendar year, and the expected balance on December 31, 1986, if any, of unrepaid interest bearing federal advances. The total of these amounts plus any amounts advanced from the state treasury under subsection (3) during the 1985 calendar year and any interest thereon shall be divided by the estimated total taxable payroll for the calendar year of all active employers who had negative balances in their experience accounts as of June 30, 1985. Total taxable payroll shall be estimated by using the total taxable payroll for those employers for the 12-month period ending on June 30, 1985 and adjusting this figure for any change in the taxable wage limit for the 1986 calendar year. The quotient shall be adjusted to the next highest 1/10 of 1%. If this adjusted percentage is 0.8% or less, the employer's solvency tax rate for the 1986 calendar year shall be the adjusted percentage calculated. If the adjusted percentage is more than 0.8%, the employer's solvency tax rate shall be calculated in the same manner as the account building component of the employer's contribution rate as determined under section 19(a)(4), adjusted to generate aggregate solvency tax revenues sufficient to pay the interest due during the year on federal loans, to pay for the unemployment insurance automation project, to repay the balance of interest bearing loans by December 31, 1986, and to repay amounts advanced from the state treasury during the 1985 calendar year and any interest thereon, but shall not exceed the lesser of 1/4 of the percentage calculated or 2%.

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

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

(ii) If there is a balance on December 31, 1986, of unrepaid interest bearing federal advances, the solvency tax rate for the 1987 calendar year and for each calendar year thereafter shall be calculated in the manner provided in this subparagraph until the balance of the interest bearing federal advances on December 31, 1986 has been reduced to zero. By February 1 of the calendar year, the commission shall calculate the sum of (a) the estimated interest due during the calendar year on federal loans, without regard to any interest deferral which may be permitted under section 1202 of the social security act, 42 USC 1322, (b) the estimated amount of funds required for the unemployment insurance automation project, (c) the remaining balance on December 31 of the preceding year of the December 31, 1986 balance of unrepaid interest bearing federal advances, and (d) any amounts advanced from the state treasury under subsection (3) during the preceding year and any interest thereon. For purposes of calculating the remaining balance, any loan

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

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

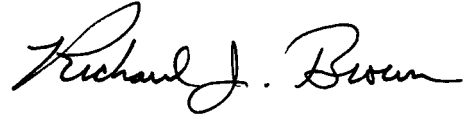
(3) Solvency taxes shall become due and payable in the manner, and at the times, specified for contributions in rules promulgated by the commission. However, if the state is permitted to defer interest payments due during a calendar year under section 1202(b)(3) or (8) of the social security act, 42 USC 1322, payment of the solvency tax may likewise be deferred by an employer and paid in installments in a manner prescribed by the commission. If a deferral of interest payment is subsequently disallowed by the United States department of labor, either prospectively or retroactively, amounts of solvency taxes deferred under this section shall become immediately due and payable. Further, if the commission estimates that the solvency taxes to be collected by September 30 of the calendar year will be insufficient to meet the interest obligations due during that calendar year, the percentages of amounts of solvency taxes deferred in any year shall be reduced by the commission in an amount sufficient to meet the interest obligations due in that calendar year. Furthermore, if the amount of solvency taxes to be collected by the time the federal interest obligations are due in any year are insufficient to meet the obligations when due, the commission shall recommend to the legislature that it appropriate an amount sufficient to meet the interest obligations due. Any amount so appropriated and used to pay federal interest obligations, and interest due on such state appropriation, if any, shall be repaid to the state as soon as possible from the solvency tax revenues in the contingent fund.

(4) Amounts obtained pursuant to this section shall be paid into the contingent fund created under section 10 and, except for solvency taxes transferred to the unemployment compensation fund as provided in this subsection, shall not be credited to the employer's experience account. Amounts collected from solvency taxes which are transferred to the unemployment compensation fund and used to repay federal advances to the unemployment compensation fund shall be credited to the employers' experience accounts by June 30 of the year following the calendar year in which the transfer occurred. The amount to be credited to an employer's account shall be determined by the commission, but shall reasonably reflect each employer's pro rata share of the amount transferred. Past due payments of the solvency tax shall be subject to the interest, penalty, assessment, and collection provisions of section 15. Interest and penalties collected shall be paid into the contingent fund. Adjustments and refunds of erroneously collected solvency taxes shall be made in accordance with section 16. Solvency tax determinations are appealable under the appeal process provided for review and appeal of determinations under this act.

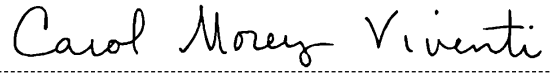
(5) If any provision of this section prevents the state from qualifying for any federal interest relief provisions provided under section 1202 of the social security act, 42 USC 1322, or prevents employers in this state from qualifying for the limitation on the reduction of federal unemployment tax act credits as provided under section 3302(f) of the federal unemployment tax act, 26 USC 3302(f), that provision is invalid to the extent necessary to maintain qualification for the interest relief provisions and federal unemployment tax credits.

(6) Notwithstanding any other provision of this section, if interest due during a calendar year on federal advances is forgiven or postponed under federal law and is no longer due during that calendar year, no solvency tax shall be assessed against an employer for that calendar year and any solvency tax already assessed and collected against an employer before the forgiveness or postponement of the interest for that calendar year shall be credited to the employer's experience account.

This act is ordered to take immediate effect.



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Clerk of the House of Representatives



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Secretary of the Senate

Approved .....

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Governor