



# HOUSE BILL No. 5134

October 14, 1993, Introduced by Reps. Munsell and DeLange and referred to the Committee on Labor.

A bill to amend section 11 of Act No. 1 of the Public Acts of the Extra Session of 1936, entitled as amended "Michigan employment security act," as amended by Act No. 178 of the Public Acts of 1989, being section 421.11 of the Michigan Compiled Laws.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 11 of Act No. 1 of the Public Acts of  
2 the Extra Session of 1936, as amended by Act No. 178 of the  
3 Public Acts of 1989, being section 421.11 of the Michigan  
4 Compiled Laws, is amended to read as follows:

5 Sec. 11. (a) In the administration of this act, the commis-  
6 sion shall cooperate with the appropriate agency of the United  
7 States under the social security act. - The commission shall make  
8 reports, in a form and containing information as the appropriate  
9 agency of the United States may from time to time require, and

1 shall comply with such provisions as the appropriate agency of  
2 the United States may from time to time prescribe to assure th<sup>e</sup>  
3 correctness and verification of the reports. The commission,  
4 subject to this act, shall comply with the regulations prescrib<sup>ed</sup>  
5 by the appropriate agency of the United States relating to the  
6 receipt or expenditure of such sums as may be allotted and paid<sup>d</sup>  
7 to this state for the purpose of assisting in the administrati<sup>on</sup>  
8 of this act. As used in this section, "social security act"  
9 means the social security act, chapter 531, 49 Stat. 620.

10 (b) (1) Information obtained from any employing unit or  
11 individual pursuant to the administration of this act, and deter<sup>r-</sup>  
12 minations as to the benefit rights of any individual shall be  
13 held confidential and shall not be disclosed or open to public  
14 inspection other than to public employees in the performance of  
15 their official duties pursuant to this act in any manner reveal<sup>-</sup>  
16 ing the individual's or the employing unit's identity. However,  
17 any information in the commission's possession that may affect a  
18 claim for benefits or a charge to an employer's rating account  
19 shall be available to interested parties. Except as provided in  
20 this act, such information and determinations shall not be used  
21 in any action or proceeding before any court or administrative  
22 tribunal unless the commission is a party to or a complainant in  
23 the action or proceeding, or unless used for the prosecution of  
24 fraud, civil proceeding, or other legal proceeding pursuant to  
25 subdivision (2). Any report or statement, written or verbal,  
26 made by any person to the commission, any member of the  
27 commission, or to any person engaged in administering this law

1 shall be a privileged communication, and a person, firm, or  
2 corporation shall not be held liable for slander or libel on  
3 account of a report or statement. Such records and reports in  
4 the custody of the commission shall be available for examination  
5 by the employer or employee affected.

6       Subject to restrictions as the commission may by rule pre-  
7 scribe, such information may be made available to any agency of  
8 this or any other state, or any federal agency, charged with the  
9 administration of an unemployment compensation law or the mainte-  
10 nance of a system of public employment offices; the bureau of  
11 internal revenue of the United States department of the treasury;  
12 or the social security administration of the United States  
13 department of health and human services. Information obtained in  
14 connection with the administration of the employment service may  
15 be made available to persons or agencies for purposes appropriate  
16 to the operation of a public employment service. Subject to such  
17 restrictions as the commission may by rule prescribe, the commis-  
18 sion may also make such information available to agencies of  
19 other states which are responsible for the administration of  
20 public assistance to unemployed workers, and to the departments  
21 of this state. Information so released shall be used only for  
22 purposes not inconsistent with the purposes of this act. The  
23 commission may make available to the department of treasury  
24 information collected for the income eligibility and verification  
25 system begun on October 1, 1988 for the purpose of detection of  
26 potential tax fraud in other areas.

1        Upon request, the commission shall furnish to any agency of  
2 the United States charged with the administration of public works  
3 or assistance through public employment, and may furnish to any  
4 state agency similarly charged, the name, address, ordinary occu-  
5 pation, and employment status of each recipient of benefits and  
6 the recipient's rights to further benefits under this act.

7        Subject to restrictions as the commission may prescribe, by  
8 rule or otherwise, the commission may also make such information  
9 available to colleges, universities, and public agencies of this  
10 state for use in connection with research projects of a public  
11 service nature. A person associated with such institutions or  
12 agencies shall not disclose the information in any manner which  
13 would reveal the identity of any individual or employing unit  
14 from or concerning whom the information was obtained by the  
15 commission.

16        The commission may request the comptroller of the currency  
17 of the United States to cause an examination of the correctness  
18 of any return or report of any national banking association  
19 rendered pursuant to this act, and may, in connection with the  
20 request, transmit the report or return to the comptroller of the  
21 currency of the United States as provided in section 3305(c) of  
22 the internal revenue code.

23        (2) The commission shall disclose to qualified requesting  
24 agencies, upon request, with respect to an identified individual,  
25 information in its records pertaining to the individual's name;  
26 social security number; gross wages paid during each quarter; the  
27 name, address, and federal and state employer identification

1 number of the individual's employer; any other wage information;  
2 whether an individual is receiving, has received, or has applied  
3 for unemployment benefits; the amount of unemployment benefits  
4 the individual is receiving or is entitled to receive; the  
5 individual's current or most recent home address; whether the  
6 individual has refused an offer of work and if so a description  
7 of the job offered including the terms, conditions, and rate of  
8 pay; and any other information which the qualified requesting  
9 agency considers useful in verifying eligibility for, and the  
10 amount of, benefits. For purposes of this subdivision,  
11 "qualified requesting agency" means any state or local child sup-  
12 port enforcement agency responsible for enforcing child support  
13 obligations under a plan approved under part d of Title IV of the  
14 social security act, 42 U.S.C. 651 to ~~667~~ 669; the United  
15 States department of health and human services for purposes of  
16 establishing or verifying eligibility or benefit amounts under  
17 Titles II and XVI of the social security act, 42 U.S.C. 401 to  
18 433 and 42 U.S.C. 1381 to ~~+383e~~ 1383d; the United States  
19 department of agriculture for the purposes of determining eligi-  
20 bility for, and amount of, benefits under the food stamp program  
21 established under the food stamp act of 1977, 7 U.S.C. 2011 to  
22 ~~2027~~ 2032; and any other state or local agency of this or any  
23 other state responsible for administering the following  
24 programs:

25       (i) The aid to families with dependent children program  
26 under part a of Title IV of the social security act, 42  
27 U.S.C. 601 to ~~615~~ 617.

1 (ii) The medicaid program under Title XIX of the social  
2 security act, 42 U.S.C. 1396 to ~~1396c~~ 1396u.

3 (iii) The unemployment compensation program under section  
4 3304 of the internal revenue code of 1954, 26 U.S.C. 3304.

5 (iv) The food stamp program under the food stamp act of  
6 1977, 7 U.S.C. 2011 to ~~2029~~ 2032.

7 (v) Any state program under a plan approved under Title I,  
8 X, XIV, or XVI of the social security act, 42 U.S.C. 301 to 306,  
9 42 U.S.C. 1201 to 1206, 42 U.S.C. 1351 to 1355, and 42  
10 U.S.C. 1381 to ~~1383c~~ 1383d.

11 (vi) Any program administered under the social welfare act,  
12 Act No. 280 of the Public Acts of 1939, being sections 400.1 to  
13 ~~400.12~~ 400.119B of the Michigan Compiled Laws.

14 The information shall be disclosed only if the qualified  
15 requesting agency has executed an agreement with the commission  
16 to obtain such information and if the information is requested  
17 for the purpose of determining the eligibility of applicants for  
18 benefits, or the type and amount of benefits for which applicants  
19 are eligible, under any of the programs listed above or under  
20 Titles II and XVI of the social security act; for establishing  
21 and collecting child support obligations from, and locating indi-  
22 viduals owing such obligations which are being enforced pursuant  
23 to a plan described in section 454 of the social security act, 42  
24 U.S.C. 654; or for investigating or prosecuting alleged fraud  
25 under any of these programs.

26 The commission shall cooperate with the department of social  
27 services in establishing the computer data matching system

1 authorized in section 83 of Act No. 280 of the Public Acts of  
2 1939, being section 400.83 of the Michigan Compiled Laws, to  
3 transmit the information requested on at least a quarterly  
4 basis. The information shall not be released unless the quali-  
5 fied requesting agency agrees to reimburse the commission for the  
6 costs incurred in furnishing the information.

7 In addition to the requirements of this section, except as  
8 later provided in this subdivision, all other requirements with  
9 respect to confidentiality of information obtained in the admin-  
10 istration of this act shall apply to the use of the information  
11 by the officers and employees of the qualified requesting agen-  
12 cies, and the sanctions imposed under this act for improper dis-  
13 closure of the information shall be applicable to such officers  
14 and employees. A qualified requesting agency may redisclose  
15 information only to the following individuals or agencies: (1)  
16 the individual who is the subject of the information, (2) an  
17 attorney or other duly authorized agent representing the individ-  
18 ual if the information is needed in connection with a claim for  
19 benefits against the requesting agency, or (3) any criminal or  
20 civil prosecuting authorities acting for or on behalf of the  
21 requesting agency.

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

26 (3) The commission shall ~~disclose to~~ ENABLE the United  
27 States department of health and human services TO OBTAIN PROMPT

1 ACCESS TO any wage and unemployment benefit claims information,  
2 including any information that might be useful in locating an  
3 absent parent or an absent parent's employer, for purposes of  
4 section 453 of the social security act, 42 U.S.C. 653, in carry-  
5 ing out the child support enforcement program under title IV.

6 ~~The~~ ACCESS TO THE information shall not be ~~released~~ PROVIDED  
7 unless the requesting agency agrees to reimburse the commission  
8 for the costs incurred in furnishing the information.

9 (4) Upon request accompanied by presentation of a consent to  
10 the release of information signed by ~~a claimant~~ AN INDIVIDUAL,  
11 the commission shall disclose to the United States department of  
12 housing and urban development and any state or local public hous-  
13 ing agency responsible for verifying an applicant's or  
14 participant's eligibility for, or level of benefits in, any hous-  
15 ing assistance program administered by the United States depart-  
16 ment of housing and urban development, the name, address, wage  
17 information, whether an individual is receiving, has received, or  
18 has made application for unemployment benefits, and the amount of  
19 unemployment benefits the individual is receiving or is entitled  
20 to receive under this act. This information shall be used only  
21 to determine an individual's eligibility for benefits or the  
22 amount of benefits to which an individual is entitled under a  
23 housing assistance program of the United States department of  
24 housing and urban development. The information shall not be  
25 released unless the requesting agency agrees to reimburse the  
26 commission for the costs incurred in furnishing the information.  
27 For purposes of this subsection, "public housing agency" means an



1 agency described in section 3(b)(6) of the United States housing  
2 act of 1937, 42 U.S.C. 1437a.

3 (c) The commission is authorized to enter into agreements  
4 with the appropriate agencies of other states or the federal gov-  
5 ernment whereby potential rights to benefits accumulated under  
6 the unemployment compensation laws of other states or such a law  
7 of the federal government, or both, may constitute the basis for  
8 the payment of benefits through a single appropriate agency under  
9 plans which the commission finds will be fair and reasonable as  
10 to all affected interests and will not result in substantial loss  
11 to the unemployment compensation fund.

12 (d) (1) The commission is authorized to enter into recipro-  
13 cal agreements with the appropriate agencies of other states or  
14 of the federal government adjusting the collection and payment of  
15 contributions by employers with respect to employment not local-  
16 ized within this state.

17 (2) The commission is authorized to enter into reciprocal  
18 agreements with agencies of other states administering unemploy-  
19 ment compensation, whereby contributions paid by an employer to  
20 any other state may be received by the other state as an agent  
21 acting for and on behalf of this state to the same extent as if  
22 the contributions had been paid directly to this state if the  
23 payment is remitted to this state. Contributions so received by  
24 another state shall be deemed contributions, required and paid  
25 under this act as of the date the contributions were received by  
26 the other state. The commission may collect contributions in a  
27 like manner for agencies of other states administering

1 unemployment compensation and remit the contributions to the  
2 agencies under the terms of the reciprocal agreements.

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

9 (f) The commission may cooperate with or enter into agree-  
10 ments with any agency of another state or of the United States  
11 charged with the administration of any unemployment insurance or  
12 public employment service law.

13 The commission is authorized to make investigations, secure  
14 and transmit information, make available services and facilities,  
15 and exercise other powers provided in this act with respect to  
16 the administration of this act as it deems necessary or appropri-  
17 ate to facilitate the administration of any unemployment compen-  
18 sation or public employment service law, and in like manner, to  
19 accept and utilize information, services, and facilities made  
20 available to this state by the agency charged with the adminis-  
21 tration of any other unemployment compensation or public employ-  
22 ment service law.

23 On request of an agency which administers an employment  
24 security law of another state or foreign government and which has  
25 found, in accordance with that law, that a claimant is liable to  
26 repay benefits received under that law, the commission may

1 collect the amount of the benefits from the claimant to be  
2 refunded to the agency.

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

8 To the extent permissible under the laws and constitution of  
9 the United States, the commission is authorized to enter into or  
10 cooperate in arrangements whereby facilities and services pro-  
11 vided under this act and facilities and services provided under  
12 the unemployment compensation law of the Dominion of Canada may  
13 be utilized for the taking of claims and the payment of benefits  
14 under the unemployment compensation law of this state or under a  
15 similar law of the Dominion of Canada.

16 Any employer who is not a resident of this state and who  
17 exercises the privilege of having 1 or more individuals perform  
18 service for him or her within this state, and any resident  
19 employer who exercises that privilege and thereafter leaves this  
20 state, shall be deemed thereby to appoint the secretary of state  
21 as his or her agent and attorney for the acceptance of process in  
22 any civil action under this act. In instituting such an action  
23 against any employer, the commission shall cause such process or  
24 notice to be filed with the secretary of state, and such service  
25 shall be sufficient and shall be of the same force and validity  
26 as if served upon the employer personally within this state. The  
27 commission immediately shall send notice of the service of

1 process or notice, together with a copy thereof, by registered  
2 mail, return receipt requested, to the employer at his or her  
3 last known address. The return receipt, the commission's affidavit  
4 of compliance with this section, and a copy of the notice of  
5 service shall be attached to the original of the process filed in  
6 the court in which the civil action is pending.

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

11       The attorney general is empowered to commence action in the  
12 appropriate court of any other state or any other jurisdiction of  
13 the United States by and in the name of the commission to collect  
14 unemployment compensation contributions, penalties, and interest  
15 finally determined, redetermined, or decided under this act to be  
16 legally due this state. The officials of other states which  
17 extend a like comity to this state are empowered to sue in the  
18 courts of this state for the collection of unemployment compensation  
19 contributions, penalties, and interest, the liability for  
20 which has been similarly established under the laws of the other  
21 state or jurisdiction. A certificate by the secretary of another  
22 state under the great seal of that state attesting the authority  
23 of the official or officials to collect unemployment compensation  
24 contributions, penalties, and interest shall be conclusive evidence  
25 dence of that authority.

26       The attorney general is authorized to commence action in  
27 this state as agent for or on behalf of any other state to

1 enforce judgments and established liabilities for unemployment  
2 compensation taxes or contributions, penalties, and interest due  
3 the other state if the other state extends a like comity to this  
4 state.

5 (g) The commission is also authorized to enter into recipro-  
6 cal agreements with the appropriate and authorized agencies of  
7 other states or of the federal government ~~-(+)~~ whereby remunera-  
8 tion and services, upon the basis of which an individual may  
9 become entitled to benefits under the unemployment compensation  
10 law of another state or of the federal government, shall be  
11 deemed to be wages and employment for the purposes of sections 27  
12 and 46, if the other state agency or agency of the federal gov-  
13 ernment has agreed to reimburse the fund for that portion of ben-  
14 efits paid under this act upon the basis of the remuneration and  
15 services as the commission finds will be fair and reasonable as  
16 to all affected interests, and wages and employment, on the basis  
17 of which an individual may become entitled to benefits under this  
18 act, shall be deemed to be wages or services on the basis of  
19 which unemployment compensation under the law of another state or  
20 of the federal government is payable, and ~~-(2)~~ whereby services  
21 performed by an individual for a single employing unit for which  
22 services are customarily performed by the individual in more than  
23 1 state shall be deemed to be services performed entirely within  
24 any 1 of the states ~~-(a)~~ in which any part of the individual's  
25 service is performed, ~~-(b)~~ in which the individual has his or  
26 her residence, or ~~-(c)~~ in which the employing unit maintains a  
27 place of business, ~~provided~~ IF there is, in effect as to such

1 services, an election approved by the agency charged with the  
2 administration of the state's unemployment compensation law, pur/  
3 suant to which all the services performed by the individual for  
4 the employing unit are deemed to be performed entirely within th  
5 state, and ~~-(3)-~~ whereby the commission will reimburse other  
6 state or federal agencies charged with the administration of  
7 unemployment compensation laws with such reasonable portion of  
8 benefits, paid under the law of any other state or of the federal  
9 government upon the basis of employment and wages, as the commis/  
10 sion finds will be fair and reasonable as to all affected  
11 interests. Reimbursements so payable shall be deemed to be bene-  
12 fits for the purpose of limiting duration of benefits and for the  
13 purposes of sections 20a and 26, and the payments shall be  
14 charged to the contributing employer's rating account for the  
15 purposes of sections 17, 18, 19, and 20, or the reimbursing  
16 employer's account under section 13c or 13g, as applicable.  
17 Benefits paid under a combined wage plan shall be allocated and  
18 charged to each employer involved in the quarter in which the  
19 paying state requires reimbursement. Benefits charged to this  
20 state shall be allocated to each employer of this state who has  
21 employed the claimant during the base period of the paying state  
22 in the same ratio that the wages earned by the claimant during  
23 the base period of the paying state in the employ of the employer  
24 bears to the total amount of wages earned by the claimant in the  
25 base period of the paying state in the employ of all employers of  
26 the state. The commission is authorized to make to other state  
27 or federal agencies and receive from other state or federal

1 agencies reimbursements from or to the fund, in accordance with  
2 arrangements made pursuant to this section.

3       (h) The commission is authorized and directed to enter into  
4 any agreement necessary in order that it may cooperate with any  
5 agency of the United States charged with the administration of  
6 any program for the payment of primary or supplemental benefits  
7 to individuals recently discharged from the military services of  
8 the United States, and to assist in the establishing of eligibil-  
9 ity and in the payments of benefits thereunder, and for those  
10 purposes may accept and administer funds made available by the  
11 federal government and may accept and exercise any delegated  
12 function as may be provided thereunder. The commission shall not  
13 have power to enter into any agreement providing for, or exercise  
14 any function connected with, the disbursement of the state's  
15 unemployment trust fund for purposes not authorized by this act.

16       (i) The commission may enter into agreements with the appro-  
17 priate agency of the United States whereby, in accordance with  
18 the laws of the United States, the commission, as agent of the  
19 United States, or from funds provided by the United States, shall  
20 provide for the payment of unemployment compensation or unemploy-  
21 ment allowances of any kind, including the payment of any bene-  
22 fits and allowances that are made available for manpower develop-  
23 ment, training, retraining, readjustment, and relocation. The  
24 commission may receive and disburse funds from the United States  
25 or any appropriate agency of the United States in accordance with  
26 any such agreements.

1        If the federal enactment providing for unemployment  
2 compensation, training allowance, or relocation payments require~~e~~  
3 joint federal-state financing of such payments, the commission  
4 may participate in the programs by using funds appropriated by  
5 the legislature to the extent provided by the legislature for  
6 such programs.

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

17        (i) Applying the base period of a single state law to a  
18 claim involving the combining of an individual's wages and  
19 employment covered under 2 or more state unemployment compensa-  
20 tion laws.

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

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