HOUSE BILL No. 5763

June 9, 2016, Introduced by Reps. Townsend, Johnson, Brinks and Driskell and referred to the Committee on Commerce and Trade.

A bill to amend 1936 (Ex Sess) PA 1, entitled "Michigan employment security act," by amending section 11 (MCL 421.11), as amended by 2011 PA 269.

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

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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
UNEMPLOYMENT AGENCY 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, UNEMPLOYMENT AGENCY, any member of the
commission, UNEMPLOYMENT AGENCY 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 UNEMPLOYMENT AGENCY shall be available
for examination by the employer or employee affected.

(v) Subject to restrictions that the commission UNEMPLOYMENT
AGENCY prescribes by rule, information in the commission's ITs
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 BUREAU
OF INTERNAL REVENUE of the United States department of the
treasury, DEPARTMENT OF THE TREASURY; the bureau of the census
BUREAU OF THE CENSUS of the economics and statistics administration
ECONOMICS AND STATISTICS ADMINISTRATION of the United States
department of commerce, DEPARTMENT OF COMMERCE; or the social
security administration SOCIAL SECURITY ADMINISTRATION of the
United States department of health and human services DEPARTMENT OF
HEALTH AND HUMAN SERVICES.
(vi) Information obtained in connection with the administration of this act may be made available to persons or agencies for purposes appropriate to the operation of a public employment service or unemployment compensation program. Subject to restrictions that the commission prescribe 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; to the departments of this state; and to federal, state, and local law enforcement agencies in connection with a criminal investigation involving the health, safety, or welfare of the public. Information so released shall be used only for purposes not inconsistent with the purposes of this act. The information shall only be released upon assurance by the entity receiving the information that it will reimburse the cost of providing the information and will not disclose the information except to the individual or employer that is the subject of the information, an attorney or agent of the individual or employer, or a prosecuting authority for or on behalf of the entity receiving the information.

(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 or for course or training program planning or evaluation to a college, university, or community college, or workforce development agency or to an 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. The unemployment agency shall implement an online system to identify the information that it collects that may be made available to those institutions and agencies and to assist them in the application process required to gain access to that information. 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 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, community college, workforce development agency, or public agency who discloses confidential information.
(ix) The UNEMPLOYMENT AGENCY 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 UNEMPLOYMENT AGENCY 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 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 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; 2036C; 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—MEDICAID program under title XIX of the
social security act, 42 USC 1396 to 1396W-5.

(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; 2036C.

(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
UNEMPLOYMENT AGENCY 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—UNEMPLOYMENT AGENCY shall cooperate with the
THIS STATE'S department of HEALTH AND 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—UNEMPLOYMENT
AGENCY 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—UNEMPLOYMENT AGENCY is authorized to enter into an agreement with any qualified requesting agency for the purposes described in this subdivision. The agreement or agreements shall MUST comply with all federal laws and regulations applicable to such agreements.

(3) The commission—UNEMPLOYMENT AGENCY shall enable the United States department of health and human services—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—679C. Access to the information shall not be provided unless the requesting agency agrees to reimburse the commission—UNEMPLOYMENT AGENCY 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—UNEMPLOYMENT AGENCY shall disclose to the United States department of housing and urban development—DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, any state or local public housing agency, or an entity contracting with a state or local public housing agency to provide public housing, or any other agency responsible for verifying an
assignee'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, 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, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT. The information shall not be released unless the requesting agency agrees to reimburse the commission—UNEMPLOYMENT AGENCY 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—UNEMPLOYMENT AGENCY 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—UNEMPLOYMENT AGENCY 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—UNEMPLOYMENT AGENCY 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—UNEMPLOYMENT AGENCY 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—UNEMPLOYMENT AGENCY 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—UNEMPLOYMENT AGENCY may make the state's records relating to the administration of this act available and may furnish to the railroad retirement board—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—RAILROAD RETIREMENT BOARD considers necessary for its purpose.

(f) The commission—UNEMPLOYMENT AGENCY 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—UNEMPLOYMENT AGENCY 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—UNEMPLOYMENT AGENCY 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—UNEMPLOYMENT AGENCY acting as agent for the THAT 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—UNEMPLOYMENT AGENCY 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—UNEMPLOYMENT AGENCY 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—UNEMPLOYMENT AGENCY 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 AGENCY'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 UNEMPLOYMENT AGENCY 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—UNEMPLOYMENT AGENCY 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—UNEMPLOYMENT AGENCY 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 THIS state; and may
provide that the commission—UNEMPLOYMENT AGENCY will reimburse other state or federal agencies charged with the administration of unemployment compensation laws with such—the 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—UNEMPLOYMENT AGENCY 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—UNEMPLOYMENT AGENCY 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—UNEMPLOYMENT AGENCY 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—UNEMPLOYMENT AGENCY 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—UNEMPLOYMENT AGENCY, 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—UNEMPLOYMENT AGENCY 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—THOSE payments, the
The commission—UNEMPLOYMENT AGENCY—may participate in the programs by using funds appropriated by the legislature to the extent provided by the legislature for the programs.

(j) The commission—UNEMPLOYMENT AGENCY—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—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—UNEMPLOYMENT AGENCY—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—UNEMPLOYMENT AGENCY.

Enacting section 1. This amendatory act takes effect 90 days after the date it is enacted into law.

Enacting section 2. This amendatory act does not take effect
unless Senate Bill No. ____ or House Bill No. 5764 (request no. 05834'16) of the 98th Legislature is enacted into law.