

SENATE BILL NO. 534

June 10, 2021, Introduced by Senators HORN and BUMSTEAD and referred to the Committee on Economic and Small Business Development.

A bill to amend 1936 (Ex Sess) PA 1, entitled "Michigan employment security act," by amending section 26 (MCL 421.26), as amended by 2013 PA 145.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 26. (a) There is established as a special fund, separate
2 and apart from all public money or funds of this state, an
3 unemployment compensation fund, herein referred to as the fund,
4 which shall be administered by the ~~commission~~**unemployment agency**
5 exclusively for the purposes of this act. The fund shall consist of
6 (1) all contributions and payments in lieu of contributions

1 collected under the provisions of this act as well as reimbursement
2 payments by the federal government for its portion of sharable
3 extended benefits; (2) interest earned upon any moneys in the fund;
4 (3) any property or securities acquired through the use of money
5 belonging to the fund; (4) all earnings of such property or
6 securities; (5) amounts transferred from the contingent fund
7 pursuant to section 10; (6) all money collected, including fines,
8 civil penalties, and interest, under section 22b; (7) amounts
9 credited to the fund under section 54; and (8) any other money
10 received by the ~~commission~~**unemployment agency** for unemployment
11 compensation, except interest, penalties, and damages collected
12 under other provisions of this act. All money in the fund shall be
13 mingled and undivided.

14 (b) The ~~commission~~**unemployment agency** shall designate a
15 treasurer and custodian of the fund who shall administer the fund
16 in accordance with the directions of the ~~commission~~**unemployment**
17 **agency** and shall issue his or her vouchers upon it in accordance
18 with the regulations as the ~~commission~~**unemployment agency**
19 prescribes. The treasurer shall maintain within the fund 3 separate
20 accounts: (1) a clearing account, (2) an unemployment trust fund
21 account, and (3) a benefit account. All money payable to the fund,
22 upon receipt by the ~~commission~~**unemployment agency**, shall be
23 forwarded to the treasurer who shall immediately deposit it in the
24 clearing account. Refunds payable pursuant to section 16 may be
25 paid from the clearing account upon vouchers issued by the
26 treasurer under the direction of the ~~commission~~**unemployment**
27 **agency**. After clearance of the vouchers, all other money in the
28 clearing account, except amounts needed for refunds and judgments,
29 shall be immediately deposited with the ~~secretary of the treasury~~

1 **Secretary of the Treasury** of the United States of America to the
2 credit of the account of this state in the unemployment trust fund,
3 established and maintained pursuant to section 904 of the social
4 security act, 42 USC 1104. The benefit account shall consist of all
5 money requisitioned from this state's account in the unemployment
6 trust fund. Except as otherwise provided in this act, money in the
7 clearing and benefit accounts may be deposited by the treasurer,
8 under the direction of the ~~commission~~, **unemployment agency**, in any
9 depository designated by the ~~commission~~. **unemployment agency**.

10 (c) (1) Except as provided in paragraph (2) of this subsection,
11 money shall be requisitioned from this state's account in the
12 unemployment trust fund solely for the payment of benefits and in
13 accordance with regulations prescribed by the ~~commission~~.
14 **unemployment agency**. The ~~commission~~ **unemployment agency** shall from
15 time to time requisition from the unemployment trust fund such
16 amounts, not exceeding the amounts standing to its account in that
17 fund, as it deems necessary for the payment of benefits for a
18 reasonable future period. Upon receipt, the treasurer shall deposit
19 the requisitioned money in the benefit account and shall issue his
20 or her vouchers for the payment of benefits solely from the benefit
21 account. All vouchers issued by the treasurer for the payment of
22 benefits and refunds shall bear the signature of the treasurer and
23 the counter-signature of a ~~member~~ **the director** of the ~~commission~~
24 **unemployment agency** or ~~its~~ **the director's** duly authorized agent for
25 that purpose. Any balance of money requisitioned from the
26 unemployment trust fund which remains unclaimed or unpaid in the
27 benefit account after the expiration of the period for which the
28 sums were requisitioned shall either be deducted from estimates
29 for, and may be utilized for the payment of, benefits during

1 succeeding periods, or, in the discretion of the ~~commission,~~
2 **unemployment agency**, shall be redeposited with the ~~secretary of the~~
3 ~~treasury~~ **Secretary of the Treasury** of the United States of America,
4 to the credit of this state's account in the unemployment trust
5 fund, as provided in subsection (b).

6 (2) The ~~commission~~ **unemployment agency** may requisition from
7 this state's account in the unemployment trust fund such amounts,
8 or portions thereof, as have been specifically appropriated by the
9 legislature for the administration of this act in accordance with
10 the provisions of section 903(c)(2) of the federal social security
11 act, 42 USC ~~1103(e)(2)~~. **1103**. Upon receipt, the treasurer shall
12 deposit that money in the administration fund, but it shall remain
13 a part of the unemployment compensation fund until expended.

14 (d) The provisions of subsections (a), (b), and (c), to the
15 extent that they relate to the unemployment trust fund, shall be
16 operative only while the unemployment trust fund continues to exist
17 and until the ~~secretary of the treasury~~ **Secretary of the Treasury**
18 of the United States of America continues to maintain for this
19 state a separate account of all funds deposited in it by this state
20 for benefit purposes, together with this state's proportionate
21 share of the earnings of the unemployment trust fund, from which no
22 other state is permitted to make withdrawals. If the unemployment
23 trust fund ceases to exist, or the separate account is no longer
24 maintained, all money, properties, or securities therein, belonging
25 to the unemployment compensation fund of this state, shall be
26 transferred to the treasurer of the unemployment compensation fund,
27 who shall hold, invest, transfer, sell, deposit, and release the
28 money, properties, or securities in a manner approved by the
29 ~~commission,~~ **unemployment agency**, in bonds or other interest bearing

1 obligations of the United States of America or of this state. The
 2 investments shall be so made that all the assets of the fund are
 3 readily convertible into cash when needed for the payment of
 4 benefits. The treasurer shall dispose of securities or other
 5 properties belonging to the unemployment compensation fund only
 6 under the direction of the ~~commission~~**unemployment agency**.

7 (e) The unemployment compensation fund shall be audited by the
 8 auditor general at the times requested by the state administrative
 9 board. **The auditor general shall conduct an audit of the**
 10 **unemployment compensation fund, including an audit of fraudulent or**
 11 **suspected fraudulent payments made from the fund, that covers the**
 12 **period that begins on March 1, 2020 and ends on September 6, 2021**
 13 **and shall, within 120 days after the effective date of the**
 14 **amendatory act that added this sentence, make the results of the**
 15 **audit available to the public on the auditor general's website and**
 16 **provide the results of the audit to the house of representatives**
 17 **and the senate.**

18 (f) The ~~commission~~**unemployment agency** may designate an
 19 assistant treasurer who, in the absence of the treasurer and
 20 custodian as designated by the ~~commission~~**unemployment agency** under
 21 the authority conferred upon it under subsection (b), may perform
 22 the duties conferred upon the treasurer and custodian under this
 23 act.

24 (g) The ~~commission~~**unemployment agency** may enter into
 25 agreements that are necessary to secure any advance or grant of
 26 funds by the ~~secretary of the treasury~~**Secretary of the Treasury** of
 27 the United States in accordance with the authority extended under
 28 section 1201 of the social security act, 42 USC 1321, or under any
 29 other act of ~~congress~~**the United States Congress** extending that

1 authority.

2 Any amount transferred to the unemployment trust fund by the
3 ~~secretary of the treasury~~ **Secretary of the Treasury** of the United
4 States under the terms of any agreement entered into in accordance
5 with the authority extended in this subsection shall be repaid to
6 the ~~secretary of the treasury~~ **Secretary of the Treasury** of the
7 United States for the unemployment trust fund.

8 Whenever all interest bearing advances from the federal
9 government have been repaid, if employers will be able to avoid,
10 under the provisions of section 3302(g) of the federal unemployment
11 tax act, 26 USC ~~3302(g)~~, **3302**, direct payment of the additional
12 federal unemployment tax imposed under section 3302(c)(2) of the
13 federal unemployment tax act, 26 USC ~~3302(c)(2)~~, **3302**, funds
14 sufficient to qualify for avoidance shall be transferred from the
15 account of this state in the federal unemployment trust fund to the
16 federal unemployment account in that trust fund, unless precluded
17 by federal law.

18 Any interest required to be paid on advances under title XII
19 of the social security act, 42 USC 1321 to 1324, shall be paid in a
20 timely manner and shall not be paid, directly or indirectly by an
21 equivalent reduction in contributions or payments in lieu of
22 contributions, from amounts in this state's account in the federal
23 unemployment trust fund.