

SENATE BILL No. 538

September 7, 2017, Introduced by Senators ANANICH, KNEZEK, HOPGOOD, CONYERS, GREGORY, BIEDA, JOHNSON, HERTEL, WARREN and YOUNG and referred to the Committee on Government Operations.

A bill to amend 1936 (Ex Sess) PA 1, entitled "Michigan employment security act," by amending section 10 (MCL 421.10), as amended by 2016 PA 517.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 10. (1) There is created in the department of treasury a
2 special fund to be known and designated as the administration fund
3 (Michigan employment security act). Any balances in the
4 administration fund at the end of any fiscal year of this state
5 shall be carried over as a part of the administration fund and
6 shall not revert to the general fund of this state. Except as
7 otherwise provided in subsection (3), all money deposited into the
8 administration fund under this act shall be appropriated by the
9 legislature to the unemployment agency to pay the expenses of the
10 administration of this act.

11 (2) The administration fund shall be credited with all money

1 appropriated to the fund by the legislature, all money received
2 from the United States or any agency of the United States for that
3 purpose, and all money received by this state for the fund. All
4 money in the administration fund that is received from the federal
5 government or any agency of the federal government or that is
6 appropriated by this state for the purposes of this act, except
7 money requisitioned from the account of this state in the
8 unemployment trust fund pursuant to a specific appropriation made
9 by the legislature in accordance with section 903(c)(2) of title IX
10 of the social security act, 42 USC 1103(c)(2), and with section
11 17(3)(f), shall be expended solely for the purposes and in the
12 amounts found necessary by the appropriate agency of the United
13 States and the legislature for the proper and efficient
14 administration of this act.

15 (3) All money requisitioned from the account of this state in
16 the unemployment trust fund pursuant to a specific appropriation
17 made by the legislature in accordance with section 903(c)(2) of
18 title IX of the social security act, 42 USC 1103(c)(2), and with
19 section 17(3)(f), shall be deposited in the administration fund.
20 Any money that remains unexpended at the close of the 2-year period
21 beginning on the date of enactment of a specific appropriation
22 shall be immediately redeposited with the secretary of the treasury
23 of the United States to the credit of this state's account in the
24 unemployment trust fund; or any money that for any reason cannot be
25 expended or is not to be expended for the purpose for which
26 appropriated before the close of this 2-year period shall be
27 redeposited at the earliest practicable date.

1 (4) If any money received after June 30, 1941, from the
2 appropriate agency of the United States under title III of the
3 social security act, 42 USC 501 to ~~504, 505~~, or any unencumbered
4 balances in the administration fund (Michigan employment security
5 act) as of that date, or any money granted after that date to this
6 state under the Wagner-Peyser act, as defined in section 12, or any
7 money made available by this state or its political subdivisions
8 and matched by money granted to this state under the Wagner-Peyser
9 act, is found by the appropriate agency of the United States,
10 because of any action or contingency, to have been lost or been
11 expended for purposes other than, or in amounts in excess of, those
12 found necessary by that agency of the United States for the proper
13 administration of this act, the money shall be replaced by money
14 appropriated for that purpose from the general funds of this state
15 to the administration fund (Michigan employment security act) for
16 expenditure as provided in this act. Upon receipt of notice of such
17 a finding by the appropriate agency of the United States, the
18 unemployment agency shall promptly report the amount required for
19 replacement to the governor and the governor shall, at the earliest
20 opportunity, submit to the legislature a request for the
21 appropriation of that amount. This subsection does not relieve this
22 state of its obligation with respect to funds received prior to
23 July 1, 1941, under ~~the provisions of~~ 42 USC 501 to ~~504, 505~~.

24 (5) If any funds expended or disbursed by the unemployment
25 agency are found by the appropriate agency of the United States to
26 have been lost or expended for purposes other than, or in amounts
27 in excess of, those found necessary by that agency of the United

1 States for the proper administration of this act, and if these
2 funds are replaced as provided in subsection (4) by money
3 appropriated for that purpose from the general fund of this state,
4 then the director who approved the expenditure or disbursement of
5 those funds for those purposes or in those amounts, is liable to
6 this state in an amount equal to the sum of money appropriated to
7 replace those funds.

8 (6) There is created in the department of treasury a separate
9 fund to be known as the contingent fund (Michigan employment
10 security act) into which shall be deposited all solvency taxes
11 collected under section 19a and all interest on contributions,
12 penalties, and damages collected under this act. Except as provided
13 in subsection (7), all amounts in the contingent fund (Michigan
14 employment security act) and all earnings on those amounts are
15 continuously appropriated without regard to fiscal year for the
16 administration of the talent investment agency, as established
17 under Executive Reorganization Order No. 2014-6, MCL 125.1995,
18 including, but not limited to, the development and execution of
19 workforce training programs, and for the payment of interest on
20 advances from the federal government to the unemployment
21 compensation fund under **SECTION 1201 OF THE SOCIAL SECURITY ACT**, 42
22 USC 1321, to be expended only if authorized by the unemployment
23 agency. Money deposited from the solvency taxes collected under
24 section 19a shall not be used for the administration of the
25 unemployment agency, except for the repayment of loans from the
26 state treasury and interest on loans made under section 19a(3).
27 However, an authorization or expenditure shall not be made as a

1 substitution for a grant of federal funds or for any portion of a
2 grant that, in the absence of an authorization, would be available
3 to the unemployment agency. Immediately upon receipt of
4 administrative grants from the appropriate agency of the United
5 States to cover administrative costs for which the unemployment
6 agency has authorized and made expenditures from the contingent
7 fund, those grants shall be transferred to the contingent fund to
8 the extent necessary to reimburse the contingent fund for the
9 amount of those expenditures. Amounts needed to refund interest,
10 damages, and penalties erroneously collected shall be withdrawn and
11 expended for those purposes from the contingent fund upon order of
12 the unemployment agency. Any amount authorized to be expended for
13 administration under this section may be transferred to the
14 administration fund. An amount not needed for the purpose for which
15 authorized shall, upon order of the unemployment agency, be
16 returned to the contingent fund. Amounts needed to refund
17 erroneously collected solvency taxes shall be withdrawn and
18 expended for that purpose upon order of the unemployment agency.

19 (7) For the fiscal year ending September 30, 2017 only,
20 \$10,000,000.00 of the money in the contingent fund created in
21 subsection (6) is transferred to and shall be deposited into the
22 general fund.

23 (8) **NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS SECTION, AN**
24 **AMOUNT IS RESERVED IN THE CONTINGENT FUND FOR THE FOLLOWING**
25 **PURPOSES:**

26 (A) **PAYMENTS TO CLAIMANTS FOR BENEFITS, INTEREST, DAMAGES, AND**
27 **PENALTIES RECOVERED AS A RESULT OF ERRONEOUS, COMPUTER-IDENTIFIED**

1 FRAUD DETERMINATIONS MADE FROM JANUARY 1, 2013 THROUGH DECEMBER 31,
2 2015. A CLAIMANT IS ENTITLED TO INTEREST ON THOSE ERRONEOUSLY
3 COLLECTED BENEFITS, INTEREST, DAMAGES, AND PENALTIES AT A RATE OF
4 1% PER MONTH.

5 (B) PAYMENTS TO CLAIMANTS FOR ANY OUT-OF-POCKET EXPENSES
6 INCURRED AS A RESULT OF AN ERRONEOUS, COMPUTER-IDENTIFIED FRAUD
7 DETERMINATION MADE FROM JANUARY 1, 2013 THROUGH DECEMBER 31, 2015,
8 INCLUDING, BUT NOT LIMITED TO, EXPENSES ASSOCIATED WITH LITIGATION
9 OR A BANKRUPTCY PROCEEDING.

10 (C) PAYMENTS FOR CREDIT MONITORING AND REPAIR SERVICES FOR
11 CLAIMANTS WHOSE CREDIT SCORE WAS REDUCED AS A RESULT OF AN
12 ERRONEOUS, COMPUTER-IDENTIFIED FRAUD DETERMINATION MADE FROM
13 JANUARY 1, 2013 THROUGH DECEMBER 31, 2015. THE UNEMPLOYMENT AGENCY
14 SHALL PROVIDE THESE PAYMENTS TO A CLAIMANT FOR A REASONABLE PERIOD
15 OF TIME TO ENSURE THAT THE CLAIMANT'S CREDIT SCORE IS AT THE SAME
16 LEVEL AS BEFORE THE ERRONEOUS DETERMINATION WAS MADE.

17 (9) THE UNEMPLOYMENT AGENCY SHALL NOT USE MONEY IN THE
18 CONTINGENT FUND FOR ANY PURPOSE OTHER THAN THE PURPOSES IN
19 SUBSECTION (8) UNTIL AFTER ALL OF THE PAYMENTS UNDER SUBSECTION (8)
20 HAVE BEEN MADE OR ALL OF THE CONDITIONS UNDER SUBSECTION (8) HAVE
21 BEEN MET.

22 (10) IT IS THE INTENT OF THE LEGISLATURE THAT, IF THE
23 CONTINGENT FUND DOES NOT CONTAIN SUFFICIENT MONEY TO FULFILL THE
24 PURPOSES OF SUBSECTION (8), AN AMOUNT NECESSARY TO FULFILL THOSE
25 PURPOSES BE DEPOSITED INTO THE CONTINGENT FUND FROM THE GENERAL
26 FUND OF THIS STATE.

27 Enacting section 1. This amendatory act takes effect 90 days

1 after the date it is enacted into law.