

HOUSE BILL No. 4415

February 24, 2005, Introduced by Reps. Robertson, Gosselin, Stahl, Taub and Gonzales and referred to the Committee on Employment Relations, Training, and Safety.

A bill to amend 1936 (Ex Sess) PA 1, entitled
"Michigan employment security act,"
by amending section 26 (MCL 421.26), as amended by 1984 PA 172.

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 ~~moneys~~ **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 exclusively for the
5 purposes of this act. ~~Such~~ **THE** fund shall consist of (1) all
6 contributions and payments in lieu of contributions collected under
7 the provisions of this act as well as reimbursement payments by the
8 federal government for its portion of sharable extended benefits;
9 (2) interest earned upon any moneys in the fund; (3) any property

1 or securities acquired through the use of ~~moneys~~ **MONEY** belonging
2 to the fund; (4) all earnings of such property or securities; (5)
3 amounts transferred from the contingent fund pursuant to section
4 10; **(6) ALL MONEY COLLECTED, INCLUDING FINES, CIVIL PENALTIES, AND**
5 **INTEREST, UNDER SECTION 22B;** and ~~(6)~~ **(7)** any other ~~moneys~~ **MONEY**
6 received by the commission for unemployment compensation, except
7 interest, penalties, and damages collected under ~~the~~ **OTHER**
8 provisions of this act. All ~~moneys~~ **MONEY** in the fund shall be
9 mingled and undivided.

10 (b) The commission shall designate a treasurer and custodian
11 of the fund who shall administer ~~such~~ **THE** fund in accordance with
12 the directions of the commission and shall issue his or her
13 vouchers upon it in accordance with ~~such~~ **THE** regulations as the
14 commission ~~shall prescribe~~ **PRESCRIBES**. The treasurer shall
15 maintain within the fund 3 separate accounts: (1) a clearing
16 account, (2) an unemployment trust fund account, and (3) a benefit
17 account. All ~~moneys~~ **MONEY** payable to the fund, upon receipt
18 ~~thereof~~ by the commission, shall be forwarded to the treasurer who
19 shall immediately deposit ~~them~~ **IT** in the clearing account.
20 Refunds payable pursuant to section 16 ~~of this act~~ may be paid
21 from the clearing account upon vouchers issued by the treasurer
22 under the direction of the commission. After clearance ~~thereof~~ **OF**
23 **THE VOUCHERS**, all other ~~moneys~~ **MONEY** in the clearing account,
24 except amounts needed for refunds and judgments, shall be
25 immediately deposited with the secretary of the treasury of the
26 United States of America to the credit of the account of this state
27 in the unemployment trust fund, established and maintained pursuant

1 to section 904 of the social security act, ~~as amended~~ **42 USC**
2 **1104**. The benefit account shall consist of all ~~moneys~~ **MONEY**
3 requisitioned from this state's account in the unemployment trust
4 fund. Except as ~~herein~~ otherwise provided **IN THIS ACT**, ~~moneys~~
5 **MONEY** in the clearing and benefit accounts may be deposited by the
6 treasurer, under the direction of the commission, in any depository
7 designated by the commission.

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

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

5 (2) The commission may requisition from this state's account
 6 in the unemployment trust fund such amounts, or portions thereof,
 7 as have been specifically appropriated by the legislature for the
 8 administration of this act in accordance with the provisions of
 9 section 903(c)(2) of the federal social security act, ~~as amended~~
 10 **42 USC 1103(C)(2)**. Upon receipt, ~~of such moneys,~~ the treasurer
 11 shall deposit ~~them~~ **THAT MONEY** in the administration fund, but
 12 ~~such moneys~~ **IT** shall remain a part of the unemployment
 13 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 ~~so long as such~~ **WHILE THE** unemployment trust fund
 17 continues to exist and ~~so long as~~ **UNTIL** the secretary of the
 18 treasury of the United States of America continues to maintain for
 19 this state a separate account of all funds deposited ~~therein~~ **IN**
 20 **IT** by this state for benefit purposes, together with this state's
 21 proportionate share of the earnings of ~~such~~ **THE** unemployment
 22 trust fund, from which no other state is permitted to make
 23 withdrawals. If ~~and when such~~ **THE** unemployment trust fund ceases
 24 to exist, or ~~such~~ **THE** separate account is no longer maintained,
 25 all ~~moneys~~ **MONEY**, properties, or securities therein, belonging to
 26 the unemployment compensation fund of this state, shall be
 27 transferred to the treasurer of the unemployment compensation fund,

1 who shall hold, invest, transfer, sell, deposit, and release ~~such~~
2 ~~moneys~~ **THE MONEY**, properties, or securities in a manner approved by
3 the commission, in bonds or other interest bearing obligations of
4 the United States of America or of ~~the~~ **THIS** state. ~~of Michigan.~~
5 ~~Such investment~~ **THE INVESTMENTS** shall be so made that all the
6 assets of the fund ~~shall be~~ **ARE** readily convertible into cash
7 when needed for the payment of benefits. The treasurer shall
8 dispose of securities or other properties belonging to the
9 unemployment compensation fund only under the direction of the
10 commission.

11 (e) The unemployment compensation fund shall be audited by the
12 auditor general at ~~such~~ **THE** times ~~as shall be~~ requested by the
13 state administrative board.

14 (f) The commission may designate an assistant treasurer who,
15 in the absence of the treasurer and custodian as designated by the
16 commission under the authority conferred upon it under ~~section~~
17 ~~26(b)~~ **SUBSECTION (B)**, ~~shall be authorized to~~ **MAY** perform ~~such~~
18 **THE** duties ~~as are~~ conferred upon the treasurer and custodian
19 under ~~the provisions of~~ this act.

20 (g) The commission ~~is hereby authorized to~~ **MAY** enter into
21 ~~such agreement as may be~~ **AGREEMENTS THAT ARE** necessary to secure
22 any advance or grant of funds by the secretary of the treasury of
23 the United States in accordance with the authority extended under
24 section 1201 of the social security act, ~~as amended~~ **42 USC 1321**,
25 or under any other act of congress extending ~~such~~ **THAT** authority.

26 Any amount transferred to the unemployment trust fund by the
27 secretary of the treasury of the United States under the terms of

1 any agreement entered into in accordance with the authority
 2 extended in this subsection shall be repaid to the secretary of the
 3 treasury of the United States for the unemployment trust fund.

4 Whenever all interest bearing advances from the federal
 5 government have been repaid, if employers will be able to avoid,
 6 under the provisions of section 3302(g) of the federal unemployment
 7 tax act, 26 ~~U.S.C.~~ **USC** 3302(g), direct payment of the additional
 8 federal unemployment tax imposed under section 3302(c)(2) of the
 9 federal unemployment tax act, **26 USC 3302(C)(2)**, funds sufficient
 10 to qualify for ~~such~~ avoidance shall be transferred from the
 11 account of ~~the~~ **THIS** state ~~of Michigan~~ in the federal
 12 unemployment trust fund to the federal unemployment account in
 13 ~~such~~ **THAT** trust fund, unless precluded by federal law.

14 Any interest required to be paid on advances under title XII
 15 of the social security act, 42 ~~U.S.C.~~ **USC** 1321 to 1324, shall be
 16 paid in a timely manner and shall not be paid, directly or
 17 indirectly by an equivalent reduction in contributions or payments
 18 in lieu of contributions, from amounts in ~~the state of Michigan~~
 19 **THIS STATE'S** account in the federal unemployment trust fund.

20 Enacting section 1. This amendatory act takes effect July 1,
 21 2005.

22 Enacting section 2. This amendatory act does not take effect
 23 unless all of the following bills of the 93rd Legislature are
 24 enacted into law:

25 (a) Senate Bill No.____ or House Bill No.____ (request no.
 26 00316'05).

27 (b) Senate Bill No.____ or House Bill No. 4414(request no.

1 01095'05).

2 (c) Senate Bill No.____ or House Bill No.____ (request no.

3 01738'05).