



# HOUSE BILL No. 6199

November 14, 1996, Introduced by Rep. DeLange and referred to the Committee on Human Resources and Labor.

A bill to amend section 19 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. 142 of the Public Acts of 1995, being section 421.19 of the Michigan Compiled Laws.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 19 of Act No. 1 of the Public Acts of  
2 the Extra Session of 1936, as amended by Act No. 142 of the  
3 Public Acts of 1995, being section 421.19 of the Michigan  
4 Compiled Laws, is amended to read as follows:

5 Sec. 19. (a) The commission shall determine the contribution  
6 rate of each contributing employer for each calendar year after  
7 1977 as follows:

8 (1) (i) Except as provided in paragraph (ii), an employer's  
9 rate shall be calculated as described in table A with respect to

1 wages paid by the employer in each calendar year for employment.  
2 If an employer's coverage is terminated under section 24, or at  
3 the conclusion of 8 or more consecutive calendar quarters during  
4 which the employer has not had workers in covered employment, and  
5 if the employer becomes liable for contributions, the employer  
6 shall be considered as newly liable for contributions for the  
7 purposes of table A or table B of this subsection.

8       (ii) To provide against the high risk of net loss to the  
9 fund in such cases, an employing unit which becomes newly liable  
10 for contributions under this act in a calendar year beginning on  
11 or after January 1, 1983 in which it employs in "employment", not  
12 necessarily simultaneously but in any 1 week 2 or more individu-  
13 als in the performance of 1 or more contracts or subcontracts for  
14 construction in the state of roads, bridges, highways, sewers,  
15 water mains, utilities, public buildings, factories, housing  
16 developments, or similar construction projects, shall be liable  
17 for contributions to that employer's account under this act for  
18 the first 4 years of operations in this state at a rate equal to  
19 the average rate paid by employers engaged in the construction  
20 business as determined by contractor type in the annual report  
21 published by the commission in the manner provided in table B.

22       (iii) For the calendar years 1983 and 1984, the contribution  
23 rate of a construction employer shall not exceed its 1982 contri-  
24 bution rate with respect to wages, paid by that employer, related  
25 to the execution of a fixed price construction contract which was  
26 entered into prior to January 1, 1983. Furthermore, such  
27 contribution rate shall be reduced, by the solvency tax rate

1 assessed against the employer under section 19a, for the year in  
 2 which such solvency tax rate is applicable. Furthermore, not-  
 3 withstanding section 44, the taxable wage limit, for calendar  
 4 years 1983 and 1984, with respect to wages paid under such fixed  
 5 price contract, shall be the maximum amount of remuneration paid  
 6 within a calendar year by an employer subject to the federal  
 7 unemployment tax act, 26 U.S.C. 3301 to 3311, to an individual  
 8 with respect to employment as defined in that act which is  
 9 subject to tax under that act during that year.

TABLE A

Year of Contribution Liability	Contribution Rate
1	2.7%
2	2.7%
3	1/3 (chargeable benefits component) + 1.8%
4	2/3 (chargeable benefits component) + 1.0%
5 and over	(chargeable benefits component) + (account building component) + (nonchargeable benefits component)

Table B

Year of Contribution Liability	Contribution Rate
1	average construction contractor rate as determined by the commission
2	average construction contractor rate as determined by the commission
3	1/3 (chargeable benefits component) + 2/3 average construction contractor rate as determined by the commission

1	4	2/3 (chargeable benefits component)
2		+ 1/3 average construction contrac-
3		tor rate as determined by the com-
4		mission
5	5 and over	(chargeable benefits component) +
6		(account building component) +
7		(nonchargeable benefits component)

8 (2) With the exception of employers who are in the first 4  
 9 consecutive years of liability, each employer's contribution rate  
 10 for each calendar year after 1977 shall be the sum of the follow-  
 11 ing components, all of which are determined as of the computation  
 12 date: a chargeable benefits component determined under subdivi-  
 13 sion (3), an account building component determined under subdivi-  
 14 sion (4), and a nonchargeable benefits component determined under  
 15 subdivision (5). Each employer's contribution rate for calendar  
 16 years before 1978 shall be determined by the provisions of this  
 17 act in effect during the years in question.

18 (3) (i) The chargeable benefits component of an employer's  
 19 contribution rate is the percentage determined by dividing: the  
 20 total amount of benefits charged to the employer's experience  
 21 account within the lesser of 60 consecutive months ending on the  
 22 computation date or the number of consecutive months ending on  
 23 the computation date with respect to which the employer has been  
 24 continuously liable for contributions; by the amount of wages,  
 25 subject to contributions, paid by the employer within the same  
 26 period. If the resulting quotient is not an exact multiple of  
 27 1/10 of 1%, it shall be increased to the next higher multiple of  
 28 1/10 of 1%.

29 (ii) For benefit years established before the conversion  
 30 date prescribed in section 75, the chargeable benefits component  
 31 shall not exceed 6.0%, unless there is a statutory change in the

1 maximum duration of regular benefit payments or the statutory  
2 ratio of regular benefit payments to credit weeks. In the event  
3 of a change in the maximum duration of regular benefit payments,  
4 the maximum chargeable benefits component shall increase by the  
5 same percentage as the statutory percentage change in the dura-  
6 tion of regular benefit payments between computation dates. In  
7 the event of an increase in the statutory ratio of regular bene-  
8 fit payments to credit weeks, as described in section 27(d), the  
9 maximum chargeable benefits component determined as of the compu-  
10 tation dates occurring after the effective date of the increased  
11 ratio shall increase by  $1/2$  the same percentage as the increase  
12 in the ratio of regular benefit payments to credit weeks. If the  
13 resulting increase is not already an exact multiple of  $1/10$  of  
14 1%, it shall be adjusted to the next higher multiple of  $1/10$  of  
15 1%. For benefit years established after the conversion date pre-  
16 scribed in section 75, the chargeable benefits component shall  
17 not exceed 6.0%, unless there is a statutory change in the maxi-  
18 mum duration of regular benefit payments or the percentage factor  
19 of base period wages, which defines maximum duration, as provided  
20 in section 27(d). If there is a statutory change in the maximum  
21 duration of regular benefit payments, the maximum chargeable ben-  
22 efits component shall increase by the same percentage as the  
23 statutory percentage change in the duration of regular benefit  
24 payments between computation dates. If there is an increase in  
25 the statutory percentage factor of base period wages, as  
26 described in section 27(d), the maximum chargeable benefits  
27 component determined as of the computation dates occurring after

1 the effective date of the increased ratio shall increase by  $1/2$   
2 the same percentage as the increase in the percentage factor of  
3 base period wages. If the resulting increase is not already an  
4 exact multiple of  $1/10$  of 1%, it shall be adjusted to the next  
5 higher multiple of  $1/10$  of 1%.

6 (4) The account building component of an employer's contri-  
7 bution rate is the percentage arrived at by the following  
8 calculations: (i) Multiply the amount of the employer's total  
9 payroll for the 12 months ending on the computation date, by the  
10 cost criterion; (ii) Subtract the amount of the balance in the  
11 employer's experience account as of the computation date from the  
12 product determined under (i); and (iii) if the remainder is zero  
13 or a negative quantity, the account building component of the  
14 employer's contribution rate shall be zero; but (iv) if the  
15 remainder is a positive quantity, the account building component  
16 of the employer's contribution rate shall be determined by divid-  
17 ing that remainder by the employer's total payroll paid within  
18 the 12 months ending on the computation date. The account build-  
19 ing component shall not exceed the lesser of  $1/4$  of the percen-  
20 tage thus calculated or 2%. However, except as otherwise pro-  
21 vided in this subdivision, the account building component shall  
22 not exceed the lesser of  $1/2$  of the percentage thus calculated or  
23 3%, if on the June 30 of the preceding calendar year the balance  
24 in the unemployment compensation fund was less than 50% of an  
25 amount equal to the aggregate of all contributing employers'  
26 annual payrolls, for the 12 months ending March 31, times the  
27 cost criterion. For calendar years after 1993 and before 1996,

1 the account building component shall not exceed the lesser of .69  
2 of the percentage calculated, or 3%, if on the June 30 of the  
3 preceding calendar year the balance in the unemployment compensa-  
4 tion fund was less than 50% of an amount equal to the aggregate  
5 of all contributing employers' annual payrolls, for the 12 months  
6 ending March 31, as defined in section 18(f), times the cost cri-  
7 terion; selected for the computation date under section 18(e).  
8 If the account building component determined under this subdivi-  
9 sion is not an exact multiple of 1/10 of 1%, it shall be adjusted  
10 to the next higher multiple of 1/10 of 1%.

11 (5) The nonchargeable benefits component of employers' con-  
12 tribution rates is the percentage arrived at by the following  
13 calculations: (i) multiply the aggregate amount of all contrib-  
14 uting employers' annual payrolls, for the 12 months ending March  
15 31, as defined in section 18(f), by the cost criterion selected  
16 for the computation date under section 18(e); (ii) subtract the  
17 balance of the unemployment fund on the computation date, net of  
18 federal advances, from the product determined under (i); and  
19 (iii) if the remainder is zero or a negative quantity, the non-  
20 chargeable benefits component of employers' contribution rates  
21 shall be zero; but (iv) if the remainder is a positive quantity,  
22 the nonchargeable benefits component of employers' contribution  
23 rates shall be determined by dividing that remainder by the total  
24 of wages subject to contributions under this act paid by all con-  
25 tributing employers within the 12 months ending on March 31 and  
26 adjusting the quotient, if not an exact multiple of 1/10 of 1%,  
27 to the next higher multiple of 1/10 of 1%. The maximum

1 nonchargeable benefits component shall be 1%. However, for  
2 calendar years after 1993, if there are no benefit charges  
3 against an employer's account for the 60 months ending as of the  
4 computation date, or for calendar years after 1995, if the  
5 employer's chargeable benefits component is less than  $\frac{2}{10}$  of 1%,  
6 the maximum nonchargeable benefit component shall not exceed  $\frac{1}{2}$   
7 of 1%. For calendar years after 1995, if there are no benefit  
8 charges against an employer's account for the 72 months ending as  
9 of the computation date, the maximum nonchargeable benefits com-  
10 ponent shall not exceed  $\frac{4}{10}$  of 1%. For calendar years after  
11 1996, if there are no benefit charges against an employer's  
12 account for the 84 months ending as of the computation date, the  
13 maximum nonchargeable benefits component shall not exceed  $\frac{3}{10}$  of  
14 1%. For calendar years after 1997, if there are no benefit  
15 charges against an employer's account for the 96 months ending as  
16 of the computation date, the maximum nonchargeable benefits com-  
17 ponent shall not exceed  $\frac{2}{10}$  of 1%. For calendar years after  
18 1998, if there are no benefit charges against an employer's  
19 account for the 108 months ending as of the computation date, the  
20 maximum nonchargeable benefits component shall not exceed  $\frac{1}{10}$  of  
21 1%. An employer with a positive balance in its experience  
22 account on the June 30 computation date preceding the calendar  
23 year shall receive for that calendar year a credit in an amount  
24 equal to  $\frac{1}{2}$  of the extra federal unemployment tax paid in the  
25 preceding calendar year under section 3302(c)(2) of the federal  
26 unemployment tax act, 26 U.S.C. 3302(c)(2), because of an  
27 outstanding balance of unrepaid advances from the federal



1 government to the unemployment compensation fund under section  
2 1201 of the social security act, 42 U.S.C. 1321. However, the  
3 credit for any calendar year shall not exceed an amount deter-  
4 mined by multiplying the employer's nonchargeable benefit compo-  
5 nent for that calendar year times the employer's taxable payroll  
6 for that year. Contributions paid by an employer shall be cred-  
7 ited to the employer's experience account, in accordance with the  
8 provisions of section 17(5), without regard to any credit given  
9 under this subsection. The amount credited to an employer's  
10 experience account shall be the amount of the employer's tax  
11 before deduction of the credit provided in this subsection.

12 (6) The total of the chargeable benefits and account build-  
13 ing components of an employer's contribution rate shall not  
14 exceed by more than 1% in the 1983 calendar year, 1.5% in the  
15 calendar year 1984, or 2% in the 1985 calendar year the higher of  
16 4% or the total of the chargeable benefits and the account build-  
17 ing components which applied to the employer during the preceding  
18 calendar year. For calendar years after 1985, the total of the  
19 chargeable benefits and account building components of the  
20 employer's contribution rate shall be computed without regard to  
21 the foregoing limitation provided in this subdivision. During a  
22 year in which this subdivision limits an employer's contribution  
23 rate, the resulting reduction shall be considered to be entirely  
24 in the experience component of the employer's contribution rate,  
25 as defined in section 18(d).

26 (7) Unless an employer's contribution rate is 1/10 of 1% for  
27 calendar years beginning after December 31, 1995, the EMPLOYER'S

1 CONTRIBUTION RATE SHALL BE REDUCED BY ANY OF THE FOLLOWING  
2 CALCULATION METHODS THAT RESULTS IN THE LOWEST RATE:

3 (i) THE chargeable benefits component, the account building  
4 component, and the nonchargeable benefits component of the con-  
5 tribution rate calculated under this section shall each be  
6 reduced by 10% ~~or by deducting 1/10 of 1%~~ AND IF THE RESULTING  
7 QUOTIENT IS NOT AN EXACT MULTIPLE OF 1/10 OF 1%, THAT QUOTIENT  
8 SHALL BE INCREASED TO THE NEXT HIGHER MULTIPLE OF 1/10 OF 1%.  
9 THE 3 COMPONENTS AS INCREASED SHALL THAN BE ADDED TOGETHER.

10 (ii) ONE-TENTH OF 1% SHALL BE DEDUCTED from the contribution  
11 rate. ~~, whichever method results in the lower rate, for~~

12 (iii) THE CONTRIBUTION RATE SHALL BE REDUCED BY 10% AND IF  
13 THE RESULTING QUOTIENT IS NOT AN EXACT MULTIPLE OF 1/10 OF 1%,  
14 THAT QUOTIENT SHALL BE INCREASED TO THE NEXT HIGHER MULTIPLE OF  
15 1/10 OF 1%.

16 THE CONTRIBUTION RATE REDUCTION DESCRIBED IN THIS SECTION  
17 APPLIES TO employers who have been liable for the payment of con-  
18 tributions in accordance with this act for more than 4 consecu-  
19 tive years, if the balance of money in the unemployment compensa-  
20 tion fund established under section 26, excluding money borrowed  
21 from the federal unemployment trust fund, is equal to or greater  
22 than 1.2% of the aggregate amount of all contributing employers'  
23 payrolls for the 12-month period ending on the computation date.  
24 If the employer's contribution rate is reduced by a 1/10 of 1%  
25 deduction in accordance with this subdivision, the employer's  
26 contributions shall be credited to each of the components of the

1 contribution rate on a pro rata basis. As used in this  
2 subdivision:

3 (i) "Federal unemployment trust fund" means the fund created  
4 under section 904 of title IX of the social security act, 42  
5 U.S.C. 1104.

6 (ii) "Payroll" means that term as defined in section 18(f).

7 (b) An employer previously liable for contributions under  
8 this act which on or after January 1, 1978 filed a petition for  
9 arrangement under the bankruptcy act of 1898, chapter 541,  
10 30 Stat. 544, or on or after October 1, 1979 filed a petition for  
11 reorganization under title 11 of the United States code, entitled  
12 bankruptcy, 11 U.S.C. 101 to 1330 pursuant to which a plan of  
13 arrangement or reorganization for rehabilitation purposes has  
14 been confirmed by order of the United States bankruptcy court,  
15 shall be considered as a reorganized employer and shall have a  
16 reserve fund balance of zero as of the first calendar year imme-  
17 diately following court confirmation of the plan of arrangement  
18 or reorganization, but not earlier than the calendar year begin-  
19 ning January 1, 1983, if the employer meets each of the following  
20 requirements:

21 (1) An employer whose plan of arrangement or reorganization  
22 has been confirmed as of January 1, 1983 shall, within 60 days  
23 after January 1, 1983, notify the commission of its intention to  
24 elect the status of a reorganized employer. An employer which  
25 has not had a plan of arrangement or reorganization confirmed as  
26 of January 1, 1983 shall, within 60 days after the entry by the  
27 bankruptcy court of the order of confirmation of the plan of

1 arrangement or reorganization, notify the commission of its  
2 intention to elect the status of a reorganized employer. An  
3 employer shall not make an election under this subdivision after  
4 December 31, 1985.

5 (2) The employer has paid to the commission all contribu-  
6 tions previously owed by the employer pursuant to this act for  
7 all calendar years prior to the calendar year as to which the  
8 employer elects to begin its status as a reorganized employer.

9 (3) More than 50% of the employer's total payroll is paid  
10 for services rendered in this state during the employer's fiscal  
11 year immediately preceding the date the employer notifies the  
12 fund administrator of its intention to elect the status of a  
13 reorganized employer.

14 (4) The employer, within 180 days after notifying the com-  
15 mission of its intention to elect the status of a reorganized  
16 employer, makes a cash payment to the commission, for the unem-  
17 ployment compensation fund, equal to: .20 times the first  
18 \$2,000,000.00 of the employer's negative balance, .35 times the  
19 amount of the employer's negative balance above \$2,000,000.00 and  
20 up to \$5,000,000.00, and .50 times the amount of the negative  
21 balance above \$5,000,000.00. The total amount so determined by  
22 the commission shall be based on the employer's negative balance  
23 existing as of the end of the calendar month immediately preced-  
24 ing the calendar year in which the employer will begin its status  
25 as a reorganized employer. If the employer fails to pay the  
26 amount determined, within 180 days of electing status as a  
27 reorganized employer, the commission shall reinstate the

1 employer's negative balance previously reduced and redetermine  
 2 the employer's rate on the basis of such reinstated negative  
 3 balance. Such redetermined rate shall then be used to redeter-  
 4 mine the employer's quarterly contributions for that calendar  
 5 year. Such redetermined contributions shall be subject to the  
 6 interest provisions of section 15 as of the date the redetermined  
 7 quarterly contributions were originally due.

8 (5) Except as provided in subdivision (6), the employer con-  
 9 tribution rates for a reorganized employer beginning with the  
 10 first calendar year of the employer's status as a reorganized  
 11 employer shall be as follows:

Year of Contribution Liability	Contribution Rate
1	2.7% of total taxable wages paid
2	2.7%
3	2.7%
4 and over	(chargeable benefits component based upon 3-year experience) plus (account building component based upon 3-year experience) plus (nonchargeable benefits component)
(6) To provide against the high risk of net loss to the fund	

26 in such cases, any reorganized employer which employs in  
 27 "employment", not necessarily simultaneously but in any 1 week 25  
 28 or more individuals in the performance of 1 or more contracts or  
 29 subcontracts for construction in the state of roads, bridges,  
 30 highways, sewers, water mains, utilities, public buildings, fac-  
 31 tories, housing developments, or similar major construction  
 32 projects, shall be liable beginning the first calendar year of

1 the employer's status as a reorganized employer for contribution  
2 rates as follows:

3		
4	Year of Contribution	Contribution Rate
5	Liability	
6		
7	1	average construction contractor rate as determined by the commission
8		
9	2	average construction contractor rate as determined by the commission
10		
11	3	1/3 (chargeable benefits component) + 2/3 average construction contrac- tor rate as determined by the com- mission
12		
13		
14		
15	4	2/3 (chargeable benefits component) + 1/3 average construction contrac- tor rate as determined by the com- mission
16		
17		
18		
19	5 and over	(chargeable benefits component) + (account building component) + (nonchargeable benefits component)
20		
21		
22	(c) Upon application by an employer to the commission for	

23 designation as a distressed employer, the commission, within  
24 60 days after receipt of the application, shall make a determina-  
25 tion whether the employer meets the conditions set forth in this  
26 subsection. Upon finding that the conditions are met, the com-  
27 mission shall notify the legislature of the determination and  
28 request legislative acquiescence in the determination. If the  
29 legislature approves the determination by concurrent resolution,  
30 the employer shall be considered to be a "distressed employer" as  
31 of January 1 of the year in which the determination is made. The  
32 commission shall notify the employer of such determination and  
33 notify the employer of its contribution rate as a distressed  
34 employer and the contribution rate that would apply if the  
35 employer was not a distressed employer. The distressed employer  
36 shall determine its tax contribution using the 2 rates furnished

1 by the commission and shall pay its tax contribution based on the  
2 lower of the 2 rates. If the determination of distressed  
3 employer status is made during the calendar year, the employer  
4 shall be entitled to a credit on future quarterly installments  
5 for any excess contributions paid during that initial calendar  
6 year. The employer shall notify the commission of the difference  
7 between the amount paid and the amount which would have been paid  
8 if the employer were not determined to be a distressed employer  
9 and the difference will be owed to the unemployment compensation  
10 fund, payable in accordance with this subsection. Cumulative  
11 totals of the difference must be reported to the commission with  
12 each return required to be filed. The commission may periodi-  
13 cally determine continued eligibility of an employer under this  
14 subsection. When the commission makes a determination that an  
15 employer no longer qualifies as a distressed employer, the com-  
16 mission shall notify the employer of that determination. After  
17 notice by the commission that the employer no longer qualifies as  
18 a distressed employer, the employer will be liable for contribu-  
19 tions, beginning with the first quarter occurring after receipt  
20 of notification of disqualification, on the basis of the rate  
21 that would apply if the employer was not a distressed employer.  
22 The contribution rate for a distressed employer shall be calcu-  
23 lated under the law in effect for the 1982 calendar year except  
24 that the rate thus determined shall be reduced by the applicable  
25 solvency tax rate assessed against the employer under section  
26 19a. The taxable wage limit of such distressed employer for the  
27 1983, 1984, and 1985 calendar years shall be the maximum amount

1 of remuneration paid within a calendar year by such an employer  
2 subject to the federal unemployment tax act, 26 U.S.C. 3301 to  
3 3311, to an individual with respect to employment as defined in  
4 that act which is subject to tax under that act during that  
5 year. Commencing with the fourth quarter of 1986, the distressed  
6 employer will pay in 10 equal annual installments the amount of  
7 the unpaid contributions owed to the unemployment compensation  
8 fund due to the application of this subsection, without  
9 interest. Each installment shall be made with the fourth quar-  
10 terly return for the respective year. As used in this subsec-  
11 tion, "distressed employer" means an employer whose continued  
12 presence in this state is considered essential to the state's  
13 economic well-being and who meets the following criteria:

14 (1) The employer's average annual Michigan payroll in the 5  
15 previous years exceeded \$500,000,000.00.

16 (2) The employer's average quarterly number of employees in  
17 Michigan in the 5 previous years exceeded 25,000.

18 (3) The employer's business income as defined in section 3  
19 of THE SINGLE BUSINESS TAX ACT, Act No. 228 of the Public Acts of  
20 1975, being section 208.3 of the Michigan Compiled Laws, has  
21 resulted in an aggregate loss of \$1,000,000,000.00 or more during  
22 the 5-year period ending in the second year prior to the year for  
23 which the application is being made.

24 (4) The employer has received from the state of Michigan  
25 loans totaling \$50,000,000.00 or more or loan guarantees from the  
26 federal government in excess of \$500,000,000.00, either of which  
27 are still outstanding.



1 (5) Failure to give an employer designation as a distressed  
2 employer would adversely impair the employer's ability to repay  
3 the outstanding loans owed to the state of Michigan or which are  
4 guaranteed by the federal government.

5 (d) An employer may at any time make payments to that  
6 employer's experience account in the fund in excess of the  
7 requirements of this section, but these payments, when accepted  
8 by the commission, shall be irrevocable. A payment made by an  
9 employer within 30 days after mailing to the employer by the com-  
10 mission of a notice of the adjusted contribution rate of the  
11 employer shall be credited to the employer's account as of the  
12 computation date for which the adjusted contribution rate was  
13 computed, and the employer's contribution rate shall be further  
14 adjusted accordingly. However, a payment made more than 120 days  
15 after the beginning of a calendar year shall not affect the  
16 employer's contribution rate for that year.