



HOUSE BILL No. 6109

September 19, 1996, Introduced by Rep. DeLange and referred to the Committee on Human Resources and Labor.

A bill to amend sections 8, 17, and 19 of Act No. 1 of the Public Acts of the Extra Session of 1936, entitled as amended "Michigan employment security act," section 17 as amended by Act No. 162 of the Public Acts of 1994 and section 19 as amended by Act No. 142 of the Public Acts of 1995, being sections 421.8, 421.17, and 421.19 of the Michigan Compiled Laws; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 8, 17, and 19 of Act No. 1 of the
2 Public Acts of the Extra Session of 1936, section 17 as amended
3 by Act No. 162 of the Public Acts of 1994 and section 19 as
4 amended by Act No. 142 of the Public Acts of 1995, being
5 sections 421.8, 421.17, and 421.19 of the Michigan Compiled Laws,
6 are amended to read as follows:

1 Sec. 8. ~~(1) Within 6 months after the end of the fiscal~~
2 ~~year the commission shall submit to the governor a report~~
3 ~~covering the administration and operation of this act during the~~
4 ~~preceding fiscal year, and may make a recommendation with respect~~
5 ~~to an amendment to the act as the commission considers proper.~~
6 ~~The report to the governor shall be printed in the form as the~~
7 ~~commission prescribes, but shall include an annual audit state-~~
8 ~~ment prepared under the supervision of the auditor general and~~
9 ~~statistical data on benefits, contributions, charges to~~
10 ~~employers' rating accounts, charges to the administration fund,~~
11 ~~orders for restitution and recoveries, prosecutions, work regis-~~
12 ~~trations, placements, and all other matters reflecting the opera-~~
13 ~~tion of the commission under this act. The commission shall make~~
14 ~~the annual report available to the public.~~ (2) A basic purpose
15 of this act is to lighten the burden of involuntary unemployment
16 on the unemployed worker and his family. In view of this, the
17 maximum weekly benefit rates under section 27(b) are related to
18 the cost of the necessities of life for the various dependency
19 classes recognized in that section. At the same time, the legis-
20 lature has concluded that the maximum weekly benefit rates estab-
21 lished in that section will finance the most favorable standard
22 of living consistent with maintaining for unemployed individuals
23 generally a proper incentive to seek and accept new work. To
24 maintain this optimum relationship between maximum weekly benefit
25 rates and the standard of living of the unemployed individual,
26 the maximum weekly benefit rates established shall be reviewed
27 annually. The commission shall annually, not later than February

1 28, compare the United States department of labor's consumers'
2 price index for the preceding December with the corresponding
3 United States department of labor's consumers' price index for
4 the base month. The base month, as used in this subsection,
5 means the month of June 1974, which shall remain the base month
6 until the next adjustment of maximum weekly benefit rates is
7 made. Thereafter, the base month shall be the month of December
8 preceding the most recent calendar year in which an adjustment of
9 maximum weekly benefit rates is made. If in a calendar year the
10 United States department of labor's consumers' price index for
11 the preceding December has increased or decreased as compared to
12 the base month, the commission shall determine the percentage of
13 that increase or decrease. The commission shall then multiply
14 the maximum weekly benefit rate for each dependency class by this
15 percentage. If the product thus obtained is \$1.00, or more, the
16 commission shall report that fact to the governor, the legisla-
17 ture, and the Michigan employment security advisory council.

18 Sec. 17. (1) The commission shall maintain in the fund a
19 nonchargeable benefits account, and a separate experience account
20 for each employer as provided in this section. As used in this
21 act, "experience account" means an account in the fund showing an
22 employer's experience with respect to contribution payments and
23 benefit charges under this act, determined and recorded in the
24 manner provided in this act. "Nonchargeable benefits account"
25 means the account in the fund maintained as provided in
26 subsections (2) and (3). A reference in this act to the
27 "solvency account" shall be construed to refer to the

1 nonchargeable benefits account and a reference in this act to an
2 employer's "experience record" or "rating account" shall be con-
3 strued to include reference to the employer's experience
4 account. But this act shall not be construed to grant an
5 employer or individuals in the employer's service prior claims or
6 rights to the amount paid by the employer to the unemployment
7 compensation fund. All contributions to that fund shall be
8 pooled and available to pay benefits to any individual entitled
9 to the benefits under this act, irrespective of the source of the
10 contributions.

11 (2) The nonchargeable benefits account shall be credited
12 with the following:

13 (a) All net earnings received on money, property, or securi-
14 ties in the fund.

15 (b) Any positive balance remaining in the employer's
16 experience account as of the second June 30 computation date
17 occurring after the employer has ceased to be subject to this act
18 or after the employer has elected to change from a contributing
19 employer to a reimbursing employer.

20 (c) The proceeds of the nonchargeable benefits component of
21 employers' contribution rates determined as provided in section
22 19(a)(5).

23 (d) All reimbursements received under section 11(c).

24 (e) All amounts which may be paid or advanced by the federal
25 government under section 903 or section 1201 of the social secur-
26 ity act, 42 U.S.C. 1103 and 1321, to the account of the state in
27 the federal unemployment trust fund.

1 (f) All benefits improperly paid to claimants which have
2 been recovered and which were previously charged to an employer's
3 account.

4 (g) Any benefits forfeited by an individual by application
5 of section 62(b).

6 (h) The amount of any benefit check, any employer refund
7 check, or any claimant restitution refund check duly issued which
8 has not been presented for payment within 1 year after the date
9 of issue.

10 (i) Any other unemployment fund income not creditable to the
11 experience account of any employer.

12 (j) Any negative balance transferred to an employer's new
13 experience account pursuant to this section.

14 (k) Amounts transferred from the contingent fund pursuant to
15 section 10.

16 (3) The nonchargeable benefits account shall be charged with
17 the following:

18 (a) Any negative balance remaining in an employer's
19 experience account as of the second June 30 computation date
20 occurring after the employer has ceased to be subject to this act
21 or has elected to change from a contributing employer to a reim-
22 bursing employer.

23 (b) Refunds of amounts erroneously collected due to the non-
24 chargeable benefits component of an employer's contribution
25 rate.

1 (c) All training benefits paid under section 27(g) not
2 reimbursable by the federal government and based on service with
3 a contributing employer.

4 (d) Any positive balance credited or transferred to an
5 employer's new experience account pursuant to this subsection.

6 (e) Repayments to the federal government of amounts advanced
7 by it under section 1201 of the social security act, 42 U.S.C.
8 1321, to the unemployment compensation fund established by this
9 act.

10 (f) The amounts received by the fund under section 903 of
11 the social security act, 42 U.S.C. 1103, that may be appropri-
12 ated to the commission in accordance with subsection (9).

13 (g) All benefits determined to have been improperly paid to
14 claimants which have been credited to employers' accounts in
15 accordance with section 20(a).

16 (h) The amount of any substitute check issued to replace an
17 uncashed benefit check, employer refund check, or claimant resti-
18 tution refund check previously credited to this account.

19 (i) The amount of any benefit check issued which would be
20 chargeable to the experience account of an employer who has
21 ceased to be subject to this act, and who has had a balance
22 transferred from the employer's experience account to the sol-
23 vency or nonchargeable benefits account.

24 (j) All benefits which become nonchargeable to an employer
25 under section 29(3) or section 19(b) or (c).

26 (k) For benefit years beginning before the conversion date
27 prescribed in section 75, with benefits allocated under section

1 ~~20(d)(2)~~ 20(E)(2) for a week of unemployment in which a
2 claimant earns remuneration with a contributing employer which
3 equals or exceeds the amount of benefits allocated to that con-
4 tributing employer, and for benefit years beginning after the
5 conversion date prescribed in section 75, with benefits allocated
6 under section ~~20(d)(3)~~ 20(E)(3) for a week of unemployment in
7 which a claimant earns remuneration with a contributing employer
8 which equals or exceeds the amount of benefits allocated to that
9 contributing employer.

10 (l) Benefits that are nonchargeable to an employer's account
11 in accordance with section 20(i).

12 ~~(4) The commission shall include in each of its annual~~
13 ~~reports a statement of the condition of the nonchargeable bene-~~
14 ~~fits account, its classified transactions and its contingent~~
15 ~~liabilities as specified in section 18(c). The statement shall~~
16 ~~also show, as of the most recent June 30, the number of the~~
17 ~~employer experience accounts showing negative balances, and the~~
18 ~~amount of those balances, classified by the industry, by the~~
19 ~~annual total and annual taxable payroll, by amount of negative~~
20 ~~balance, and by the duration of coverage under this act of the~~
21 ~~employers involved.~~

22 (4) ~~(5)~~ All contributions paid by an employer shall be
23 credited to the unemployment compensation fund, and, except as
24 otherwise provided with respect to the proceeds of the noncharge-
25 able benefits component of employers' contribution rates by sec-
26 tion 19(a)(5), to the employer's experience account, as of the
27 date when paid. However, those contributions paid during any

1 July shall be credited as of the immediately preceding June 30.
2 Additional contributions paid by an employer as the result of a
3 retroactive contribution rate adjustment, solely for the purpose
4 of this subsection, shall be credited to the employer's
5 experience account as if paid when due, if the payment is
6 received within 30 days after the issuance of the initial assess-
7 ment which results from the contribution rate adjustment and a
8 written request for the application is filed by the employer
9 during this period.

10 (5) ~~(6)~~ If an employer who has ceased to be subject to this
11 act, and who has had a positive balance transferred as provided
12 in subsection (2) from the employer's experience account to the
13 solvency or nonchargeable benefits account as of the second com-
14 putation date after the employer has ceased to be subject to this
15 act, shall thereafter again become subject to this act within 6
16 years after that computation date, the employer may apply, within
17 60 days after the commission's determination that the employer is
18 again subject to this act, to the commission to have the positive
19 balance, adjusted by the debits and credits as have been made
20 subsequent to the date of transfer, credited to the employer's
21 new experience account. If the application is timely, the com-
22 mission shall credit the positive balance to the employer's new
23 experience account.

24 (6) ~~(7)~~ If an employer's status as a reimbursing employer
25 is terminated within 6 years after the date the employer's
26 experience account as a prior contributing employer was
27 transferred to the solvency or nonchargeable benefits account as

1 provided in subsection (2) or (3) and the employer continues to
2 be subject to this act as a contributing employer, any positive
3 or negative balance in the employer's experience account as a
4 prior contributing employer, which was transferred to the sol-
5 vency or nonchargeable benefits account, shall be transferred to
6 the employer's new experience account. However, an employer who
7 is delinquent with respect to any reimbursement payments in lieu
8 of contributions for which the employer may be liable shall not
9 have a positive balance transferred during the delinquency.

10 (7) ~~(8)~~ If a balance is transferred to an employer's new
11 account under subsection ~~(6)~~ (5) or ~~(7)~~ (6), the employer
12 shall not be considered a "qualified employer" until the employer
13 has again been subject to this act for the period set forth in
14 section 19(a)(1).

15 (8) ~~(9)~~ All money credited under section 903 of the social
16 security act, 42 U.S.C. 1103, to the account of the state in the
17 federal unemployment trust fund shall immediately be credited by
18 the commission to the fund's nonchargeable benefits account.
19 There is authorized to be appropriated to the commission from the
20 money credited to the nonchargeable benefits account under this
21 subsection, sums found necessary for the proper and efficient
22 administration by the commission of this act for purposes for
23 which federal grants under Title 3 of the social security act, 42
24 U.S.C. 501 to 504, and the Wagner-Peyser national employment
25 system act, 29 U.S.C. 49 to 49k, are not available or are
26 insufficient. The appropriation shall expire not more than 2
27 years after the date of enactment and shall provide that any

1 unexpended balance shall then be credited to the nonchargeable
2 benefits account. An appropriation shall not be made under this
3 subsection for an amount which exceeds the "adjusted balance" of
4 the nonchargeable benefits account on the most recent computation
5 date. Appropriations made under this subsection shall limit the
6 total amount which may be obligated by the commission during a
7 fiscal year to an amount which does not exceed the amount by
8 which the aggregate of the amounts credited to the nonchargeable
9 benefits account under this subsection during the fiscal year and
10 the 24 preceding fiscal years, exceeds the aggregate of the
11 amounts obligated by the commission pursuant to appropriation
12 under this subsection and charged against the amounts thus cred-
13 ited to the nonchargeable benefits account during any of the 25
14 fiscal years and any amounts credited to the nonchargeable bene-
15 fits account which have been used for the payment of benefits.

16 Sec. 19. (a) The commission shall determine the contribution
17 rate of each contributing employer for each calendar year after
18 1977 as follows:

19 (1) (i) Except as provided in paragraph (ii), an employer's
20 rate shall be calculated as described in table A with respect to
21 wages paid by the employer in each calendar year for employment.
22 If an employer's coverage is terminated under section 24, or at
23 the conclusion of 8 or more consecutive calendar quarters during
24 which the employer has not had workers in covered employment, and
25 if the employer becomes liable for contributions, the employer
26 shall be considered as newly liable for contributions for the
27 purposes of table A or table B of this subsection.

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

15 (iii) For the calendar years 1983 and 1984, the contribution
16 rate of a construction employer shall not exceed its 1982 contri-
17 bution rate with respect to wages, paid by that employer, related
18 to the execution of a fixed price construction contract which was
19 entered into prior to January 1, 1983. Furthermore, such contri-
20 bution rate shall be reduced, by the solvency tax rate assessed
21 against the employer under section 19a, for the year in which
22 such solvency tax rate is applicable. Furthermore, notwithstand-
23 ing section 44, the taxable wage limit, for calendar years 1983
24 and 1984, with respect to wages paid under such fixed price con-
25 tract, shall be the maximum amount of remuneration paid within a
26 calendar year by an employer subject to the federal unemployment
27 tax act, 26 U.S.C. 3301 to 3311, to an individual with respect to

1 employment as defined in that act which is subject to tax under
 2 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
4	2/3 (chargeable benefits component) + 1/3 average construction contractor rate as determined by the commission
5 and over	(chargeable benefits component) + (account building component) + (nonchargeable benefits component)

(2) With the exception of employers who are in the first 4

consecutive years of liability, each employer's contribution rate for each calendar year after 1977 shall be the sum of the following components, all of which are determined as of the

1 computation date: a chargeable benefits component determined
2 under subdivision (3), an account building component determined
3 under subdivision (4), and a nonchargeable benefits component
4 determined under subdivision (5). Each employer's contribution
5 rate for calendar years before 1978 shall be determined by the
6 provisions of this act in effect during the years in question.

7 (3) (i) The chargeable benefits component of an employer's
8 contribution rate is the percentage determined by dividing: the
9 total amount of benefits charged to the employer's experience
10 account within the lesser of 60 consecutive months ending on the
11 computation date or the number of consecutive months ending on
12 the computation date with respect to which the employer has been
13 continuously liable for contributions; by the amount of wages,
14 subject to contributions, paid by the employer within the same
15 period. If the resulting quotient is not an exact multiple of
16 $1/10$ of 1%, it shall be increased to the next higher multiple of
17 $1/10$ of 1%.

18 (ii) For benefit years established before the conversion
19 date prescribed in section 75, the chargeable benefits component
20 shall not exceed 6.0%, unless there is a statutory change in the
21 maximum duration of regular benefit payments or the statutory
22 ratio of regular benefit payments to credit weeks. In the event
23 of a change in the maximum duration of regular benefit payments,
24 the maximum chargeable benefits component shall increase by the
25 same percentage as the statutory percentage change in the dura-
26 tion of regular benefit payments between computation dates. In
27 the event of an increase in the statutory ratio of regular

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

26 (4) The account building component of an employer's
27 contribution rate is the percentage arrived at by the following

1 calculations: (i) Multiply the amount of the employer's total
2 payroll for the 12 months ending on the computation date, by the
3 cost criterion; (ii) Subtract the amount of the balance in the
4 employer's experience account as of the computation date from the
5 product determined under (i); and (iii) if the remainder is zero
6 or a negative quantity, the account building component of the
7 employer's contribution rate shall be zero; but (iv) if the
8 remainder is a positive quantity, the account building component
9 of the employer's contribution rate shall be determined by divid-
10 ing that remainder by the employer's total payroll paid within
11 the 12 months ending on the computation date. The account build-
12 ing component shall not exceed the lesser of 1/4 of the percen-
13 tage thus calculated or 2%. However, except as otherwise pro-
14 vided in this subdivision, the account building component shall
15 not exceed the lesser of 1/2 of the percentage thus calculated or
16 3%, if on the June 30 of the preceding calendar year the balance
17 in the unemployment compensation fund was less than 50% of an
18 amount equal to the aggregate of all contributing employers'
19 annual payrolls, for the 12 months ending March 31, times the
20 cost criterion. For calendar years after 1993 and before 1996,
21 the account building component shall not exceed the lesser of .69
22 of the percentage calculated, or 3%, if on the June 30 of the
23 preceding calendar year the balance in the unemployment compensa-
24 tion fund was less than 50% of an amount equal to the aggregate
25 of all contributing employers' annual payrolls, for the 12 months
26 ending March 31, as defined in section 18(f), times the cost
27 criterion; selected for the computation date under

1 section 18(e). If the account building component determined
2 under this subdivision is not an exact multiple of $1/10$ of 1%, it
3 shall be adjusted to the next higher multiple of $1/10$ of 1%.

4 (5) The nonchargeable benefits component of employers' con-
5 tribution rates is the percentage arrived at by the following
6 calculations: (i) multiply the aggregate amount of all contrib-
7 uting employers' annual payrolls, for the 12 months ending March
8 31, as defined in section 18(f), by the cost criterion selected
9 for the computation date under section 18(e); (ii) subtract the
10 balance of the unemployment fund on the computation date, net of
11 federal advances, from the product determined under (i); and
12 (iii) if the remainder is zero or a negative quantity, the non-
13 chargeable benefits component of employers' contribution rates
14 shall be zero; but (iv) if the remainder is a positive quantity,
15 the nonchargeable benefits component of employers' contribution
16 rates shall be determined by dividing that remainder by the total
17 of wages subject to contributions under this act paid by all con-
18 tributing employers within the 12 months ending on March 31 and
19 adjusting the quotient, if not an exact multiple of $1/10$ of 1%,
20 to the next higher multiple of $1/10$ of 1%. The maximum non-
21 chargeable benefits component shall be 1%. However, for calendar
22 years after 1993, if there are no benefit charges against an
23 employer's account for the 60 months ending as of the computation
24 date, or for calendar years after 1995, if the employer's charge-
25 able benefits component is less than $2/10$ of 1%, the maximum non-
26 chargeable benefit component shall not exceed $1/2$ of 1%. For
27 calendar years after 1995, if there are no benefit charges

1 against an employer's account for the 72 months ending as of the
2 computation date, the maximum nonchargeable benefits component
3 shall not exceed $\frac{4}{10}$ of 1%. For calendar years after 1996, if
4 there are no benefit charges against an employer's account for
5 the 84 months ending as of the computation date, the maximum non-
6 chargeable benefits component shall not exceed $\frac{3}{10}$ of 1%. For
7 calendar years after 1997, if there are no benefit charges
8 against an employer's account for the 96 months ending as of the
9 computation date, the maximum nonchargeable benefits component
10 shall not exceed $\frac{2}{10}$ of 1%. For calendar years after 1998, if
11 there are no benefit charges against an employer's account for
12 the 108 months ending as of the computation date, the maximum
13 nonchargeable benefits component shall not exceed $\frac{1}{10}$ of 1%. An
14 employer with a positive balance in its experience account on the
15 June 30 computation date preceding the calendar year shall
16 receive for that calendar year a credit in an amount equal to $\frac{1}{2}$
17 of the extra federal unemployment tax paid in the preceding cal-
18 endar year under section 3302(c)(2) of the federal unemployment
19 tax act, 26 U.S.C. 3302(c)(2), because of an outstanding balance
20 of unrepaid advances from the federal government to the unemploy-
21 ment compensation fund under section 1201 of the social security
22 act, 42 U.S.C. 1321. However, the credit for any calendar year
23 shall not exceed an amount determined by multiplying the
24 employer's nonchargeable benefit component for that calendar year
25 times the employer's taxable payroll for that year.
26 Contributions paid by an employer shall be credited to the
27 employer's experience account, in accordance with the provisions

1 of section 17(5), without regard to any credit given under this
2 subsection. The amount credited to an employer's experience
3 account shall be the amount of the employer's tax before deduc-
4 tion of the credit provided in this subsection.

5 (6) The total of the chargeable benefits and account build-
6 ing components of an employer's contribution rate shall not
7 exceed by more than 1% in the 1983 calendar year, 1.5% in the
8 calendar year 1984, or 2% in the 1985 calendar year the higher of
9 4% or the total of the chargeable benefits and the account build-
10 ing components which applied to the employer during the preceding
11 calendar year. For calendar years after 1985, the total of the
12 chargeable benefits and account building components of the
13 employer's contribution rate shall be computed without regard to
14 the foregoing limitation provided in this subdivision. During a
15 year in which this subdivision limits an employer's contribution
16 rate, the resulting reduction shall be considered to be entirely
17 in the experience component of the employer's contribution rate,
18 as defined in section 18(d).

19 (7) Unless an employer's contribution rate is 1/10 of 1% for
20 calendar years beginning after December 31, 1995, the chargeable
21 benefits component, the account building component, and the non-
22 chargeable benefits component of the contribution rate calculated
23 under this section shall each be reduced by 10% or by deducting
24 1/10 of 1% from the contribution rate, whichever method results
25 in the lower rate, for employers who have been liable for the
26 payment of contributions in accordance with this act for more
27 than 4 consecutive years, if the balance of money in the

1 unemployment compensation fund established under section 26,
2 excluding money borrowed from the federal unemployment trust
3 fund, is equal to or greater than 1.2% of the aggregate amount of
4 all contributing employers' payrolls for the 12-month period
5 ending on the computation date. If the employer's contribution
6 rate is reduced by a 1/10 of 1% deduction in accordance with this
7 subdivision, the employer's contributions shall be credited to
8 each of the components of the contribution rate on a pro rata
9 basis. As used in this subdivision:

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

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

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

1 (1) An employer whose plan of arrangement or reorganization
2 has been confirmed as of January 1, 1983 shall, within 60 days
3 after January 1, 1983, notify the commission of its intention to
4 elect the status of a reorganized employer. An employer which
5 has not had a plan of arrangement or reorganization confirmed as
6 of January 1, 1983 shall, within 60 days after the entry by the
7 bankruptcy court of the order of confirmation of the plan of
8 arrangement or reorganization, notify the commission of its
9 intention to elect the status of a reorganized employer. An
10 employer shall not make an election under this subdivision after
11 December 31, 1985.

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

16 (3) More than 50% of the employer's total payroll is paid
17 for services rendered in this state during the employer's fiscal
18 year immediately preceding the date the employer notifies the
19 fund administrator of its intention to elect the status of a
20 reorganized employer.

21 (4) The employer, within 180 days after notifying the com-
22 mission of its intention to elect the status of a reorganized
23 employer, makes a cash payment to the commission, for the unem-
24 ployment compensation fund, equal to: .20 times the first
25 \$2,000,000.00 of the employer's negative balance, .35 times the
26 amount of the employer's negative balance above \$2,000,000.00 and
27 up to \$5,000,000.00, and .50 times the amount of the negative

1 balance above \$5,000,000.00. The total amount so determined by
 2 the commission shall be based on the employer's negative balance
 3 existing as of the end of the calendar month immediately preced-
 4 ing the calendar year in which the employer will begin its status
 5 as a reorganized employer. If the employer fails to pay the
 6 amount determined, within 180 days of electing status as a reor-
 7 ganized employer, the commission shall reinstate the employer's
 8 negative balance previously reduced and redetermine the
 9 employer's rate on the basis of such reinstated negative
 10 balance. Such redetermined rate shall then be used to redeter-
 11 mine the employer's quarterly contributions for that calendar
 12 year. Such redetermined contributions shall be subject to the
 13 interest provisions of section 15 as of the date the redetermined
 14 quarterly contributions were originally due.

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

20	Year of Contribution	Contribution Rate
21	Liability	
22		
23		
24	1	2.7% of total taxable wages paid
25	2	2.7%
26	3	2.7%
27	4 and over	(chargeable benefits component based upon 3-year experience) plus (account building component based upon 3-year experience) plus (nonchargeable benefits component)

31 (6) To provide against the high risk of net loss to the fund
 32
 33 in such cases, any reorganized employer which employs in

1 "employment", not necessarily simultaneously but in any 1 week 25
 2 or more individuals in the performance of 1 or more contracts or
 3 subcontracts for construction in the state of roads, bridges,
 4 highways, sewers, water mains, utilities, public buildings, fac-
 5 tories, housing developments, or similar major construction
 6 projects, shall be liable beginning the first calendar year of
 7 the employer's status as a reorganized employer for contribution
 8 rates as follows:

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

29 designation as a distressed employer, the commission, within
 30 60 days after receipt of the application, shall make a determina-
 31 tion whether the employer meets the conditions set forth in this
 32 subsection. Upon finding that the conditions are met, the com-
 33 mission shall notify the legislature of the determination and
 34 request legislative acquiescence in the determination. If the
 35 legislature approves the determination by concurrent resolution,
 36 the employer shall be considered to be a "distressed employer" as

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

1 The contribution rate for a distressed employer shall be
2 calculated under the law in effect for the 1982 calendar year
3 except that the rate thus determined shall be reduced by the
4 applicable solvency tax rate assessed against the employer under
5 section 19a. The taxable wage limit of such distressed employer
6 for the 1983, 1984, and 1985 calendar years shall be the maximum
7 amount of remuneration paid within a calendar year by such an
8 employer subject to the federal unemployment tax act, 26
9 U.S.C. 3301 to 3311, to an individual with respect to employment
10 as defined in that act which is subject to tax under that act
11 during that year. Commencing with the fourth quarter of 1986,
12 the distressed employer will pay in 10 equal annual installments
13 the amount of the unpaid contributions owed to the unemployment
14 compensation fund due to the application of this subsection,
15 without interest. Each installment shall be made with the fourth
16 quarterly return for the respective year. As used in this sub-
17 section, "distressed employer" means an employer whose continued
18 presence in this state is considered essential to the state's
19 economic well-being and who meets the following criteria:

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

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

24 (3) The employer's business income as defined in section 3
25 of Act No. 228 of the Public Acts of 1975, being section 208.3 of
26 the Michigan Compiled Laws, has resulted in an aggregate loss of
27 \$1,000,000,000.00 or more during the 5-year period ending in the

1 second year prior to the year for which the application is being
2 made.

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

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

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

23 Section 2. Section 67a of Act No. 1 of the Public Acts of
24 the Extra Session of 1936, being section 421.67a of the Michigan
25 Compiled Laws, is repealed.