

# HOUSE BILL No. 6589

December 6, 2018, Introduced by Reps. Hertel, Clemente, Hammoud, Lasinski, Gay-Dagnogo, Geiss, Wittenberg, Greig and Camilleri and referred to the Committee on Commerce and Trade.

A bill to amend 1936 (Ex Sess) PA 1, entitled  
"Michigan employment security act,"  
by amending section 44 (MCL 421.44), as amended by 2015 PA 240.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 44. (1) "Remuneration" means all compensation paid for  
2       personal services, including commissions and bonuses, and except  
3       for agricultural and domestic services, the cash value of all  
4       compensation payable in a medium other than cash. Any remuneration  
5       payable to an individual that has not been actually received by  
6       that individual within 21 days after the end of the pay period in  
7       which the remuneration was earned, shall, for the purposes of  
8       subsections (2) to (5) and section 46, be considered to have been  
9       paid on the twenty-first day after the end of that pay period. If  
10      back pay is awarded to an individual and is allocated by an

1 employer or legal authority to a period of weeks within 1 or more  
2 calendar quarters, the back pay shall be considered paid in that  
3 calendar quarter or those calendar quarters for purposes of section  
4 46. The reasonable cash value of compensation payable in a medium  
5 other than cash shall be estimated and determined in accordance  
6 with rules promulgated by the unemployment agency. Remuneration  
7 includes tips actually reported to an employer under section  
8 6053(a) of the internal revenue code, 26 USC 6053(a), by an  
9 employee who receives tip income. Remuneration does not include  
10 ~~either~~ **ANY** of the following:

11 (a) Money paid an individual by a unit of government for  
12 services rendered as a member of the National Guard of this state,  
13 or for similar services to another state or the United States.

14 (b) Money paid by an employer to a worker under a supplemental  
15 unemployment benefit plan consistent with the criteria for a  
16 supplemental unemployment benefit plan as described in Internal  
17 Revenue Service ~~publication~~ **PUBLICATION** 15-A, ~~employer's~~  
18 ~~supplemental tax guide,~~ **EMPLOYER'S SUPPLEMENTAL TAX GUIDE**,  
19 regardless of whether the benefits are paid from a trust or by the  
20 employer.

21 **(C) MONEY PAID UNDER SECTION 5 OF THE RELOCATION, CLOSING, AND**  
22 **MASS LAYOFF SEVERANCE PAY ACT, BY AN EMPLOYER TO AN ELIGIBLE**  
23 **EMPLOYEE, AS THAT TERM IS DEFINED IN SECTION 3 OF THE RELOCATION,**  
24 **CLOSING, AND MASS LAYOFF SEVERANCE PAY ACT.**

25 (2) "Wages", subject to subsections (3) to (5), means  
26 remuneration paid by employers for employment and includes tips  
27 actually reported to an employer under section 6053(a) of the

1 internal revenue code, 26 USC 6053(a), by an employee who receives  
2 tip income. If any provision of this subsection prevents this state  
3 from qualifying for any federal interest relief provisions provided  
4 under section 1202 of title XII of the social security act, 42 USC  
5 1322, or prevents employers in this state from qualifying for the  
6 limitation on the reduction of federal unemployment tax act credits  
7 as provided under section 3302(f) of the federal unemployment tax  
8 act, 26 USC 3302, that provision is invalid to the extent necessary  
9 to maintain qualification for the interest relief provisions and  
10 federal unemployment tax credits.

11 (3) For the purpose of determining the amount of contributions  
12 due from an employer under this act, wages are limited by the  
13 taxable wage limit applicable under subsection (4). For this  
14 purpose, wages exclude all remuneration an employing unit pays to  
15 an individual that exceeds the taxable wage limit on which  
16 unemployment taxes were paid or were payable in this state and in  
17 any other states for that employee by the employing unit within  
18 that year. If a successor employing unit becomes a transferee  
19 during a calendar year in a transfer of business, as defined in  
20 section 22, of a predecessor employing unit and immediately after  
21 the transfer employs in his or her trade or business an individual  
22 who immediately before the transfer was employed in the trade or  
23 business of the predecessor, then for the purpose of determining  
24 whether the successor has paid remuneration with respect to  
25 employment equal to the taxable wage limit to that individual  
26 during the calendar year, any remuneration with respect to  
27 employment paid to that individual by the predecessor during the

1 calendar year and before the transfer shall be considered as having  
2 been paid by the successor.

3 (4) The taxable wage limit for each calendar year is \$9,500.00  
4 in the calendar years 1986 through 2002, and \$9,000.00 for calendar  
5 years after 2002 and before 2012, or the maximum amount of  
6 remuneration paid within a calendar year by an employer subject to  
7 the federal unemployment tax act, 26 USC 3301 to 3311, to an  
8 individual with respect to employment as defined in that act that  
9 is subject to tax under that act during that year for each calendar  
10 year, whichever is greater. For calendar years beginning 2012, the  
11 taxable wage limit is \$9,500.00, but if at the beginning of a  
12 calendar quarter the balance in the unemployment compensation fund  
13 equals or exceeds \$2,500,000,000.00 and the agency projects that  
14 the balance will remain at or above \$2,500,000,000.00 for the  
15 remainder of the calendar quarter and for the entire succeeding  
16 calendar quarter, the taxable wage limit for that calendar quarter  
17 and the succeeding calendar quarter is \$9,000.00 for an employer  
18 that is not delinquent in the payment of unemployment  
19 contributions, penalties, or interest. For calendar years beginning  
20 2016, if on June 30 of the preceding year the balance in the  
21 unemployment compensation fund equals or exceeds \$2,500,000,000.00  
22 and the agency projects that the balance will remain at or above  
23 \$2,500,000,000.00 for the succeeding calendar quarter, the taxable  
24 wage limit for the calendar year is reduced to \$9,000.00 for an  
25 employer that is not delinquent in the payment of unemployment  
26 contributions, penalties, or interest. If the unemployment  
27 compensation fund balance on June 30 or the agency projection does

1 not meet these conditions, the \$9,500.00 taxable wage limit applies  
2 to all employers in the next calendar year. For purposes of this  
3 subsection, an employer is delinquent in the payment of  
4 unemployment contribution, penalties, or interest if the employer  
5 has a quarterly unpaid balance of \$25.00 or more, unless 1 or more  
6 of the following apply:

7 (a) The employer has filed a timely protest or appeal of the  
8 notice of assessment and the assessment has not become final.

9 (b) Within 45 days after the beginning of the first calendar  
10 quarter in which the reduced taxable wage base limit takes effect  
11 for nondelinquent employers, all outstanding balances owed to the  
12 unemployment agency are paid in full.

13 (c) If the employer is a domestic employer, all applicable  
14 contributions, interest, and penalties are paid on or before the  
15 date specified by the agency under section 13(1).

16 (5) For the purposes of this act, the term "wages" does not  
17 include any of the following:

18 (a) The amount of a payment, including an amount paid by an  
19 employer for insurance or annuities or into a fund, to provide for  
20 such a payment, made to, or on behalf of, an employee or any of the  
21 employee's dependents under a plan or system established by an  
22 employer that makes provision for the employer's employees  
23 generally, or for the employer's employees generally and their  
24 dependents, or for a class or classes of the employer's employees,  
25 or for a class or classes of the employer's employees and their  
26 dependents, on account of retirement, sickness or accident  
27 disability, medical or hospitalization expenses in connection with

1 sickness or accident disability, or death.

2 (b) A payment made to an employee, including an amount paid by  
3 an employer for insurance or annuities, or into a fund, to provide  
4 for such a payment, on account of retirement.

5 (c) A payment on account of sickness or accident disability,  
6 or medical or hospitalization expenses in connection with sickness  
7 or accident disability, made by an employer to, or on behalf of, an  
8 employee after the expiration of 6 calendar months following the  
9 last calendar month in which the employee worked for the employer.

10 (d) A payment made to, or on behalf of, an employee or the  
11 employee's beneficiary from or to a trust described in section  
12 401(a) of the internal revenue code of 1986, 26 USC 401(a), that is  
13 exempt from tax under section 501(a) of the internal revenue code  
14 of 1986, 26 USC 501(a), at the time of the payment, unless the  
15 payment is made to an employee of the trust as remuneration for  
16 services rendered as an employee and not as a beneficiary of the  
17 trust, or under or to an annuity plan which, at the time of the  
18 payment, is a plan described in section 403(a) of the internal  
19 revenue code of 1986, 26 USC 403(a), or under or to a bond purchase  
20 plan that at the time of the payment, is a qualified bond purchase  
21 plan described in former section 405(a) of the internal revenue  
22 code.

23 (e) The payment by an employer, without deduction from the  
24 remuneration of the employee, of the tax imposed upon an employee  
25 under section 3101 of the federal insurance contributions act, 26  
26 USC 3101.

27 (f) Remuneration paid in any medium other than cash to an

1 employee for service not in the course of the employer's trade or  
2 business.

3 (g) A payment, other than vacation or sick pay, made to an  
4 employee after the month in which the employee attains the age of  
5 65, if the employee did not work for the employer in the period for  
6 which the payment is made.

7 (h) Remuneration paid to or on behalf of an employee as moving  
8 expenses if, and to the extent that, at the time of payment of the  
9 remuneration it is reasonable to believe that a corresponding  
10 deduction is allowable under section 217 of the internal revenue  
11 code of 1986, 26 USC 217.

12 Enacting section 1. This amendatory act does not take effect  
13 unless Senate Bill No.\_\_\_\_ or House Bill No. 6588 (request no.  
14 06828'18) of the 99th Legislature is enacted into law.