

# HOUSE BILL No. 5163

October 10, 1989, Introduced by Reps. Bender, Weeks, Van Singel, Sparks, DeLange, Krause, Willis Bullard, Giese, Muxlow, Randall, Banks, Ouwinga, Hoekman and Jaye and referred to the Committee on Labor.

A bill to amend section 44 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. 223 of the Public Acts of 1985, being section 421.44 of the Michigan Compiled Laws.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 44 of Act No. 1 of the Public Acts of  
2 the Extra Session of 1936, as amended by Act No. 223 of the  
3 Public Acts of 1985, being section 421.44 of the Michigan  
4 Compiled Laws, is amended to read as follows:

5 Sec. 44. (1) "Remuneration" means all compensation paid for  
6 personal services, including commissions and bonuses, and except  
7 for agricultural and domestic services, the cash value of all  
8 compensation payable in a medium other than cash. Any  
9 remuneration payable to an individual which has not been actually

1 received by that individual within 21 days after the end of the  
2 pay period in which the remuneration was earned, shall, for the  
3 purposes of subsections (2) to (5), be considered to have been  
4 paid on the twenty-first day after the end of that pay period.  
5 The reasonable cash value of compensation payable in a medium  
6 other than cash, shall be estimated and determined in accordance  
7 with rules promulgated by the commission. Beginning January 1,  
8 1986, "Remuneration" shall include tips actually reported to an  
9 employer under section 6053(a) of the internal revenue code, 26  
10 U.S.C. 6053(a), by an employee who receives tip income.  
11 Remuneration shall not include money paid an individual by a unit  
12 of government for services rendered as a member of the national  
13 guard of this state, or for similar services to any state or the  
14 United States.

15 (2) "Wages", subject to subsections (3) to (5), means remuneration paid by employers for employment and, beginning January  
16 1, 1986, includes tips actually reported to an employer under  
17 section 6053(a) of the internal revenue code, 26 U.S.C. 6053(a),  
18 by an employee who receives tip income. Notwithstanding the pre-  
19 ceding sentence, for the period January 1, 1986 through December  
20 31, 1986 for purposes of sections 50 and 51, wages shall include  
21 tips only to the extent that they are taken in account by the  
22 employer in determining the employee's compensation under the  
23 state minimum wage law or, where the employer adds a certain per-  
24 cent to the customer's bill as a tip for disbursement to the  
25 employees, the dollar amount of the percentage so added.

27 BEGINNING JANUARY 1, 1982, IN ACCORDANCE WITH SECTION 3306(p) OF

1 THE INTERNAL REVENUE CODE, IF 2 OR MORE RELATED CORPORATIONS  
2 CONCURRENTLY EMPLOY THE SAME INDIVIDUAL AND PAY REMUNERATION TO  
3 THE INDIVIDUAL THROUGH A COMMON PAYMASTER THAT IS 1 OF THE  
4 EMPLOYING CORPORATIONS, ONLY THOSE AMOUNTS ACTUALLY DISBURSED BY  
5 EACH CORPORATION TO THAT INDIVIDUAL SHALL BE CONSIDERED WAGES  
6 PAID BY EACH OF THE CORPORATIONS FOR THE PURPOSES OF THIS ACT. If  
7 any provision of this subsection prevents the state from qualify-  
8 ing for any federal interest relief provisions provided under  
9 section 1202 of the social security act, 42 U.S.C. 1322, or pre-  
10 vents employers in this state from qualifying for the limitation  
11 on the reduction of federal unemployment tax act credits as pro-  
12 vided under section 3302(f) of the federal unemployment tax act,  
13 26 U.S.C. 3302(f), such provision shall be invalid to the extent  
14 necessary to maintain qualification for such interest relief pro-  
15 visions and federal unemployment tax credits.

16 (3) For the purpose of determining the amount of contribu-  
17 tions due from an employer under this act, wages shall be limited  
18 by the taxable wage limit applicable under subsection (4). For  
19 this purpose wages shall exclude all remuneration paid within a  
20 calendar year to an individual by an employing unit after the  
21 individual was paid within that year by that employing unit remu-  
22 nation equal to the taxable wage limit on which unemployment  
23 taxes were paid or were payable in this and any other states. If  
24 an employing unit, hereinafter referred to as successor, during  
25 any calendar year becomes a transferee in a transfer of business  
26 as defined in section 22 of another, hereinafter referred to as a  
27 predecessor, and immediately after the transfer employs in his or

1 her trade or business an individual who immediately before the  
2 transfer was employed in the trade or business of the predeces-  
3 sor, then for the purpose of determining whether the successor  
4 has paid remuneration with respect to employment equal to the  
5 taxable wage limit to that individual during the calendar year,  
6 any remuneration with respect to employment paid to that individ-  
7 ual by the predecessor during the calendar year and before the  
8 transfer shall be considered as having been paid by the  
9 successor.

10 (4) The taxable wage limit for each calendar year shall be  
11 \$8,000.00 in the 1983 calendar year, \$8,500.00 in the 1984 calen-  
12 dar year, \$9,000.00 in the 1985 calendar year, \$9,500.00 in the  
13 1986 calendar year, and \$9,500.00 for calendar years after 1986,  
14 or the maximum amount of remuneration paid within a calendar year  
15 by an employer subject to the federal unemployment tax act, 26  
16 U.S.C. 3301 to 3311, to an individual with respect to employment  
17 as defined in that act which is subject to tax under that act  
18 during that year for each calendar year, whichever is greater.

19 (5) For the purposes of this act, the term "wages" shall not  
20 include:

21 (a) The amount of a payment, including an amount paid by an  
22 employer for insurance or annuities or into a fund, to provide  
23 for such a payment, made to, or on behalf of, an employee or any  
24 of the employee's dependents under a plan or system established  
25 by an employer which makes provision for the employer's employees  
26 generally, or for the employer's employees generally and their  
27 dependents, or for a class or classes of the employer's

1 employees, or for a class or classes of the employer's employees  
2 and their dependents, on account of retirement, sickness or acci-  
3 dent disability, medical or hospitalization expenses in connec-  
4 tion with sickness or accident disability, or death.

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

8 (c) A payment on account of sickness or accident disability,  
9 or medical or hospitalization expenses in connection with sick-  
10 ness or accident disability, made by an employer to, or on behalf  
11 of, an employee after the expiration of 6 calendar months follow-  
12 ing the last calendar month in which the employee worked for the  
13 employer.

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

1 (e) The payment by an employer, without deduction from the  
2 remuneration of the employee, of the tax imposed upon an employee  
3 under section 3101 of the internal revenue code.

4 (f) Remuneration paid in any medium other than cash to an  
5 employee for service not in the course of the employer's trade or  
6 business.

7 (g) A payment, other than vacation or sick pay, made to an  
8 employee after the month in which the employee attains the age of  
9 65, if the employee did not work for the employer in the period  
10 for which the payment is made.

11 (h) Remuneration paid to or on behalf of an employee as  
12 moving expenses if, and to the extent that, at the time of pay-  
13 ment of the remuneration it is reasonable to believe that a cor-  
14 responding deduction is allowable under section 217 of the inter-  
15 nal revenue code.

16 (6) The amendments made to this section by Act No. 155 of  
17 the Public Acts of 1977 ~~shall~~ apply to ~~all~~ remuneration paid  
18 after December 31, 1977.

19 (7) The amendments made in subsection (1) by ~~the amendatory~~  
20 ~~act which added this subsection shall first~~ ACT NO. 277 OF THE  
21 PUBLIC ACTS OF 1977 apply to remuneration paid after December 31,  
22 1977.