

Opinion No. 3

**APPOINTMENTS; Unemployment Compensation Commission Chairman—LEGISLATURE; Powers; Salaries; Unemployment Compensation Commission Chairman—UNEMPLOYMENT COMPENSATION COMMISSION; Chairman; Salary may be set by legislature—Section 87-117, RCM, 1947**

**Held: Selection, tenure and compensation of the Chairman of the Unemployment Compensation Commission may be set by the Legislative Assembly.**

January 27, 1959

Honorable John J. MacDonald  
Speaker of the House  
Thirty-sixth Legislative Assembly  
Helena, Montana

Dear Speaker MacDonald:

You have asked whether the compensation for the chairman of the Unemployment Compensation Commission is set by the Federal or State government.

Section 502 of Title 42 of the United States Code Annotated provides in part:

"The Secretary of Labor shall from time to time certify to the Secretary of the Treasury for payment to each State which has an unemployment compensation law approved by the Secretary of Labor under the Federal Unemployment Tax Act, such amounts as the Secretary determines to be necessary for the proper and efficient administration of such law during the fiscal year for which such payment is to be made. . ."

Section 503 of Title 42 of the United States Code Annotated provides in part:

"(a) The Secretary of Labor shall make no certification for payment to any State unless he finds that the law of such State, approved by the Secretary of Labor under the Federal Unemployment Tax Act, includes provision for—

(1) Such methods of administration (including after January 1, 1940, methods relating to the establishment and maintenance of personnel standards on a merit basis, **except that the Secretary of Labor shall exercise no authority with respect to the selection, tenure of office, and compensation of any individual employed in accordance with such methods**) as are found by the Secretary of Labor to be reasonably calculated to insure full payment of unemployment compensation when due; . . ."

I construe the latter provision to mean that the selection, tenure of office and compensation of individuals in each state's unemployment compensation system will be set by the state legislature or an agency thereof.

In this state, the legislature has established the Governor as the authority for appointing the chairman of the Unemployment Compensation Commission and for setting that officer's salary (Section 87-117, RCM, 1947). The legislature may, of course, modify this at any time by proper enactment.

Very truly yours,  
FORREST H. ANDERSON  
Attorney General