

1 House BILL NO. 173  
2 INTRODUCED BY Federman

3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTIONS  
5 87-104 THROUGH 87-105, 87-107, 87-108, 87-111 THROUGH  
6 87-114, 87-116, 87-118, 87-120 THROUGH 87-136, 87-138  
7 THROUGH 87-140, 87-142, 87-145 THROUGH 87-147, 87-149,  
8 R.C.M. 1947; BY CHANGING THE WORD "COMMISSION" TO THE WORD  
9 "DIVISION"; BY ADDING DEFINITIONS; BY SUBSTITUTING THE WORDS  
10 "BOARD OF LABOR APPEALS" IN CONFORMITY WITH THE EXECUTIVE  
11 REORGANIZATION ACT OF 1971; AND REPEALING SECTIONS 87-115,  
12 87-117, 87-118, 87-119, 87-125, AND 87-126, R.C.M. 1947."

13  
14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

15 Section 1. Section 87-104, R.C.M. 1947, is amended to  
16 read as follows:

17 "87-104. Duration of benefits. The maximum total  
18 amount of benefits payable to any eligible individual during  
19 any benefit year shall be:

20 (a) (1) Thirteen (13) times his weekly benefit amount  
21 if he is qualified as an insured worker as defined in  
22 section 87-103 (c), and does not qualify under subsection  
23 (2) or (3) below.

24 (2) Twenty (20) times his weekly benefit amount if in  
25 addition to meeting the requirements of section 87-103 (c),

1 he has been paid wages of one hundred dollars (\$100) or more  
2 for insured work in each of two (2) quarters in his base  
3 period other than the quarter in which his wages were  
4 highest.

5 (3) Twenty-six (26) times his weekly benefit amount if  
6 in addition to meeting the requirement of section 87-103  
7 (c), he has been paid wages of one hundred dollars (\$100) or  
8 more for insured work in each of three (3) quarters in his  
9 base period other than the quarter in which his wages were  
10 highest.

11 (4) Extended benefits if he is qualified as provided  
12 under the provisions of this subsection.

13 (a) Definitions. -- As used in this section, unless  
14 the context clearly requires otherwise--

15 (1) "Extended benefit period" means a period which

16 (A) begins with the third week after whichever of the  
17 following weeks occurs first:

18 (i) a week for which there is a national "on"  
19 indicator, or

20 (ii) a week for which there is a state "on" indicator;  
21 and

22 (B) ends with either of the following weeks, whichever  
23 occurs later:

24 (i) the third week after the first week for which  
25 there is both a national "off" indicator and a state "off"

1 indicator, or

2 (ii) the thirteenth consecutive week of such period;

3 Provided, that no extended benefit period may begin by  
4 reason of a state "on" indicator before the fourteenth week  
5 following the end of a prior extended benefit period which  
6 was in effect with respect to this state.

7 (2) There is a "national 'on' indicator" for a week if  
8 the U. S. Secretary of Labor determines that for each of  
9 the three (3) most recent completed calendar months ending  
10 before such week, the rate of insured unemployment  
11 (seasonally adjusted) for all states equaled or exceeded  
12 four and one-half per cent (4 1/2%).

13 (3) There is a "national 'off' indicator" for a week  
14 if the U. S. Secretary of Labor determines that for each of  
15 the three (3) most recent completed calendar months ending  
16 before such week, the rate of insured unemployment  
17 (seasonally adjusted) for all states was less than four and  
18 one-half per cent (4 1/2%).

19 (4) There is a "state 'on' indicator" for this state  
20 for a week if the commission division determines, in  
21 accordance with the regulations of the U. S. Secretary of  
22 Labor, that for the period consisting of such week and the  
23 immediately preceding twelve (12) weeks, the rate of insured  
24 unemployment (not seasonally adjusted) under this act--

25 (A) equaled or exceeded one hundred and twenty per

1 cent (120%) of the average of such rates for the  
2 corresponding thirteen (13) week period ending in each of  
3 the preceding two (2) calendar years, and

4 (B) equaled or exceeded four per cent (4%).

5 (5) There is a "state 'off' indicator" for this state  
6 for a week if the commission division determines, in  
7 accordance with the regulations of the U. S. Secretary of  
8 Labor, that for the period consisting of such week and the  
9 immediately preceding twelve (12) weeks, the rate of insured  
10 unemployment (not seasonally adjusted) under this act--

11 (A) was less than one hundred and twenty per cent  
12 (120%) of the average of such rates for the corresponding  
13 thirteen (13) week period ending in each of the preceding  
14 two (2) calendar years, or

15 (B) was less than four per cent (4%).

16 (6) "Rate of insured unemployment," for purposes of  
17 paragraphs (4) and (5) of this subsection, means the  
18 percentage derived by dividing

19 (i) the average weekly number of individuals filing  
20 claims in this state for weeks of unemployment with respect  
21 to the most recent thirteen (13) consecutive-week period, as  
22 determined by the commission division on the basis of his  
23 reports to the U. S. Secretary of Labor, by

24 (ii) the average monthly employment covered under this  
25 act for the first four (4) of the most recent six (6)

1 completed calendar quarters ending before the end of such  
2 thirteen (13) week period.

3 (7) "Regular benefits" means benefits payable to an  
4 individual under this act or under any other state law  
5 (including benefits payable to federal civilian employees  
6 and to ex-servicemen pursuant to 5 U.S.C. chapter 85) other  
7 than extended benefits.

8 (8) "Extended benefits" means benefits (including  
9 benefits payable to federal civilian employees and to  
10 ex-servicemen pursuant to 5 U.S.C. chapter 85) payable to  
11 an individual under the provisions of this section for weeks  
12 of unemployment in his eligibility period.

13 (9) "Eligibility period" of an individual means the  
14 period consisting of the weeks in his benefit year which  
15 begin in an extended benefit period and, if his benefit year  
16 ends within such extended benefit period, any weeks  
17 thereafter which begin in such period.

18 (10) "Exhaustee" means an individual who, with respect  
19 to any week of unemployment in his eligibility period:

20 (A) has received, prior to such week, all of the  
21 regular benefits that were available to him under this act  
22 or any other state law (including dependents' allowances and  
23 benefits payable to federal civilian employees and  
24 ex-servicemen under 5 U.S.C. chapter 85) in his current  
25 benefit year that includes such week;

1 Provided, that, for the purposes of this subparagraph  
2 an individual shall be deemed to have received all of the  
3 regular benefits that were available to him although (i) as  
4 a result of a pending appeal with respect to wages that were  
5 not considered in the original monetary determination in his  
6 benefit year, he may subsequently be determined to be  
7 entitled to added regular benefits.

8 (B) his benefit year having expired prior to such  
9 week, has no, or insufficient, wages on the basis of which  
10 he could establish a new benefit year that would include  
11 such week; and

12 (C) (i) has no right to unemployment benefits or  
13 allowances, as the case may be, under the Railroad  
14 Unemployment Insurance Act, the Trade Expansion Act of 1962,  
15 the Automotive Products Trade Act of 1965 and such other  
16 federal laws as are specified in regulations issued by the  
17 U. S. Secretary of Labor; and (ii) has not received and is  
18 not seeking unemployment benefits under the unemployment  
19 compensation law of the Virgin Islands or of Canada; but if  
20 he is seeking such benefits and the appropriate agency  
21 finally determines that he is not entitled to benefits under  
22 such law he is considered an exhaustee.

23 (11) "State law" means the unemployment insurance law  
24 of any state, approved by the U. S. Secretary of Labor under  
25 section 3304 of the Internal Revenue Code of 1954.

1 (b) Effect of state law provisions relating to regular  
 2 benefits on claims for, and the payment of, extended  
 3 benefits. -- Except when the result would be inconsistent  
 4 with the other provisions of this section, as provided in  
 5 the regulations of the commission division, the provisions  
 6 of this act which apply to claims for, or the payment of,  
 7 regular benefits shall apply to claims for, and the payment  
 8 of, extended benefits.

9 (c) Eligibility requirements for extended benefits. --  
 10 An individual shall be eligible to receive extended benefits  
 11 with respect to any week of unemployment in this eligibility  
 12 period only if the commission division finds that with  
 13 respect to such week:

14 (1) he is an "exhaustee" as defined in subsection  
 15 (a)(10),

16 (2) he has satisfied the requirements of this act for  
 17 the receipt of regular benefits that are applicable to  
 18 individuals claiming extended benefits, including not being  
 19 subject to a disqualification for the receipt of benefits.

20 (d) Weekly extended benefit amount. -- The weekly  
 21 extended benefit amount payable to an individual for a week  
 22 of total unemployment in his eligibility period shall be an  
 23 amount equal to the weekly benefit amount payable to him  
 24 during his applicable benefit year.

25 (e) Total extended benefit amount. -- The total

1 extended benefit amount payable to any eligible individual  
 2 with respect to his applicable benefit year shall be the  
 3 least of the following amounts:

4 (1) fifty per cent (50%) of the total amount of  
 5 regular benefits which were payable to him under this act in  
 6 his applicable benefit year;

7 (2) thirteen (13) times his weekly benefit amount  
 8 which was payable to him under this act for a week of total  
 9 unemployment in the applicable benefit year.

10 (f) (1) Beginning and termination of extended benefit  
 11 period. -- Whenever an extended benefit period is to become  
 12 effective in this state (or in all states) as a result of a  
 13 state or a national "on" indicator, or an extended benefit  
 14 period is to be terminated in this state as a result of  
 15 state and national "off" indicators, the commission division  
 16 shall make an appropriate public announcement.

17 (2) Computations required by the provisions of  
 18 subsection (a)(6) shall be made by the commission division,  
 19 in accordance with regulations prescribed by the U. S.  
 20 Secretary of Labor.

21 (3) The effective date of subsection (a)(4) of this  
 22 section shall be January 1, 1972.

23 (b) An individual disqualified by and pursuant to  
 24 section 87-106, subsections (a), (b) and (c), shall have his  
 25 maximum weekly duration reduced by the number of weeks equal

1 to the number of weeks of disqualification."

2 Section 2. Section 87-105, R.C.M. 1947, is amended to  
3 read as follows:

4 "87-105. Benefit eligibility conditions. An unemployed  
5 individual shall be eligible to receive benefits for any  
6 week of total unemployment within his benefit year; only if  
7 the commission division finds that--

8 (a) He has registered for work at and thereafter has  
9 continued to report at an employment office in accordance  
10 with such regulation as the commission division may  
11 prescribe, except that the commission division may, by  
12 regulation, prescribe that such types of cases or situations  
13 with respect to which it finds that compliance with such  
14 requirements would be oppressive, or would be inconsistent  
15 with the purposes of this act, provide for registration and  
16 reporting for work by mail or through other governmental  
17 agencies.

18 (b) He has made a claim for benefits in accordance  
19 with the provisions of section 87-107 (a).

20 (c) He is able to work and is available for work and  
21 is seeking work, provided, however, that no claimant shall  
22 be considered ineligible in any week of unemployment for  
23 failure to comply with the provisions of this subsection if  
24 such failure is due to an illness or disability which occurs  
25 after he has registered for work and no suitable work has

1 been offered to such claimant after the beginning of such  
2 illness or disability.

3 (d) Prior to any week for which he claims benefits he  
4 has been totally unemployed for a waiting period of one (1)  
5 week. However, if claimant's benefit year expires during a  
6 period of compensable unemployment, claimant will continue  
7 to receive weekly benefits, in a new benefit year, if  
8 otherwise eligible, without interruption to serve the  
9 waiting week for the new benefit year, but will thereafter  
10 be required to serve the waiting week before receiving  
11 benefits during subsequent unemployment in the new benefit  
12 year. No week shall be counted as a week of total  
13 unemployment for the purposes of this subsection:

14 (1) If benefits have been paid with respect thereto;

15 (2) Unless the individual was eligible for benefits  
16 with respect thereto;

17 (3) Unless it occurs within the benefit year of the  
18 claimant;

19 (4) Unless it occurs after benefits first could become  
20 payable to any individual under this act.

21 (e) An individual who received benefits during a  
22 benefit year must perform services for remuneration after  
23 the beginning of that year as a condition for receiving  
24 benefits in a second benefit year. The service may be in  
25 either covered or noncovered employment, however, the

1 individual must have earned the lesser of three-thirteenths  
 2 (3/13) of his high quarter of his second benefit year or six  
 3 (6) times his weekly benefit amount of that same year.

4 (f) Benefits based on service in employment defined in  
 5 section 87-148 (j)(6) and (7) and section 87-110 (d) shall  
 6 be payable in the same amount, on the same terms and subject  
 7 to the same conditions as compensation payable on the basis  
 8 of other service subject to this act; except that benefits  
 9 based on service in an instructional, research, or principal  
 10 administrative capacity in an institution of higher  
 11 education (as defined in section 87-148 (n)) shall not be  
 12 paid to an individual for any week of unemployment which  
 13 begins during the period between two successive academic  
 14 years, or during a similar period between two regular terms,  
 15 whether or not successive, or during a period of paid  
 16 sabbatical leave provided for in the individual's contract,  
 17 if the individual has a contract or contracts to perform  
 18 services in any such capacity for any institution or  
 19 institutions of higher education for both such academic  
 20 years or both such terms."

21 Section 3. Section 87-107, R.C.M. 1947, is amended to  
 22 read as follows:

23 "87-107. Claims for benefits. (a) Filing. Claims for  
 24 benefits shall be made in accordance with such regulations  
 25 as the division may prescribe. Each employer shall post and

1 maintain printed statements of such regulations in places  
 2 readily accessible to individuals in his service and shall  
 3 make available to each such individual at the time he  
 4 becomes unemployed, a printed statement of such regulations.  
 5 Such printed statements shall be supplied by the division to  
 6 each employer without cost to him.

7 (b) Initial determination. A representative designated  
 8 by the division, and hereinafter referred to as a deputy,  
 9 shall promptly examine the claim and, on the basis of the  
 10 facts found by him, shall either determine whether or not  
 11 such claim is valid, and if valid, the week with respect to  
 12 which benefits shall commence, the weekly benefit amount  
 13 payable and the maximum duration thereof, or shall refer  
 14 such claim or any question involved therein to an appeals  
 15 referee ~~which~~ who shall make ~~its decisions~~ his decision with  
 16 respect thereto in accordance with the procedure prescribed  
 17 in subsection ~~(e)~~ (e) of this section. No determination or  
 18 redetermination of an initial or additional claim shall be  
 19 made under this section unless five (5) days notice of the  
 20 time and place of the claimant's interview for examination  
 21 of the claim is mailed to each interested party. The deputy  
 22 shall promptly notify the claimant and any other interested  
 23 party of the decision and the reasons therefor. The deputy  
 24 may for good cause reconsider his decision and shall  
 25 promptly notify the claimant and such other interested

1 parties of his amended decision and the reasons therefor.

2 (c) Finality of determination. A determination or  
3 redetermination shall be deemed final unless an interested  
4 party entitled to notice thereof applies for reconsideration  
5 of the determination or appeals therefrom within five (5)  
6 days after delivery of such notification or within seven (7)  
7 days after such notification was mailed to his last known  
8 address provided, that such period may be extended for good  
9 cause.

10 (d) Appeals referee. To hear and decide disputed  
11 claims, the division shall appoint such impartial appeals  
12 referee as are necessary for the proper administration of  
13 this act, consisting of salaried examiners selected in  
14 accordance with section 87-123. No person shall participate  
15 on behalf of the division in any case in which he is an  
16 interested party. The division may designate alternates to  
17 serve in the absence or disqualification of an appeals  
18 referee.

19 (e) Notice of decision of appeals referee and time for  
20 appeal. After a hearing an appeals referee shall make  
21 findings and conclusions promptly and on the basis thereof  
22 affirm, modify, or reverse the deputy's determination or  
23 redetermination. Each interested party shall be furnished  
24 promptly a copy of the decision and the supporting findings  
25 and conclusions; this decision shall be final unless further

1 review is initiated pursuant to subsection (g) of this  
2 section within five (5) days after delivery of such  
3 notification or within seven (7) days after such  
4 notification was mailed to his last known address, provided,  
5 that such period may be extended for good cause.

6 (f) Prompt payment of claims. Notwithstanding any  
7 provision in subsection (b), (c) or (g) of this section,  
8 benefits shall be paid promptly in accordance with a  
9 determination or redetermination under this section, or the  
10 decision of an appeals referee, the board of labor appeals  
11 or a reviewing court under subsection (g) of this section  
12 upon the issuance of such determination, redetermination or  
13 decision (regardless of the pendency of the period to apply  
14 for reconsideration, file an appeal, or petition for  
15 judicial review that is provided with respect thereto in  
16 subsection (g) of this section, as the case may be, or the  
17 pendency of any such application, filing, or petition),  
18 unless and until such determination, redetermination, or  
19 decision has been modified or reversed by a subsequent  
20 redetermination or decision, in which event benefits shall  
21 be paid or denied for weeks of unemployment thereafter in  
22 accordance with such modifying or reversing redetermination  
23 or decision.

24 If a deputy's determination or redetermination allowing  
25 benefits is affirmed in any amount by an appeals referee, or

1 by the board of labor appeals, or if a decision of an  
 2 appeals referee allowing benefits is affirmed in any amount  
 3 by the board of labor appeals, such benefits shall be paid  
 4 promptly regardless of any further appeal or the disposition  
 5 of such appeal and no injunction, supersedeas, stay or other  
 6 writ or process suspending the payment of such benefits  
 7 shall be issued by the board or any court; but if such  
 8 decision is finally modified or reversed to deny benefits,  
 9 no employer's account shall be charged with benefits so  
 10 paid. Benefits shall not be paid for any weeks of  
 11 unemployment involved in such modification or reversal that  
 12 begins after such final decision.

13 (g) Appeal to board of labor appeals and judicial  
 14 review. Any interested party dissatisfied with a decision of  
 15 an appeals referee is entitled to appeal to the board of  
 16 labor appeals. The division will promptly transmit all  
 17 records pertinent to the appeal to the board. When a  
 18 decision is rendered by the board with copies of such  
 19 decision to all interested parties, including the division,  
 20 that decision shall become final unless an interested party  
 21 requests a rehearing or initiates judicial review by filing  
 22 a petition in district court within thirty (30) days of the  
 23 date of mailing of the board's decision to his last known  
 24 address."

25 Section 4. Section 87-108, R.C.M. 1947, is amended to

1 read as follows:

2 "87-108. Procedure and appeals. (a) Procedure. The  
 3 manner in which disputed claims shall be presented, the  
 4 reports thereon required from the claimant and from  
 5 employers, and the conduct of hearings and appeals shall be  
 6 in accordance with regulations prescribed by the ~~commission~~  
 7 division for determining the rights of the parties, whether  
 8 or not such regulations conform to common law or statutory  
 9 rules of evidence and other technical rules or procedure. A  
 10 full and complete record shall be kept of all proceedings in  
 11 connection with a disputed claim. All testimony at any  
 12 hearing upon a disputed claim shall be recorded, but need  
 13 not be transcribed unless the disputed claim is further  
 14 appealed. The ~~commission~~ division shall have continuing  
 15 jurisdiction over all claims filed for benefits to revise,  
 16 modify, alter, cancel and amend all orders, findings and  
 17 determinations made therein at any time and shall not lose  
 18 such jurisdiction unless and until the jurisdiction of such  
 19 claim and subject matter thereof has been taken by a court  
 20 of competent jurisdiction in a proceedings filed therein as  
 21 provided for in subsection (d) of this section.

22 (b) Witness fees. Witnesses subpoenaed pursuant to  
 23 this section shall be allowed fees at a rate fixed by the  
 24 ~~commission~~ division. Such fees shall be deemed a part of the  
 25 expense of administering this act.



1 (c) Appeal to courts. Any decision of the ~~commission~~  
 2 board of labor appeals in the absence of an appeal therefrom  
 3 as herein provided shall become final ten days after the  
 4 date of notification or mailing thereof, and judicial review  
 5 thereof shall be permitted only after any party claiming to  
 6 be aggrieved thereby has exhausted his remedies before the  
 7 ~~commission~~ board of labor appeals as provided by this act.  
 8 The ~~commission~~ division or board of labor appeals shall be  
 9 deemed to be a party to any judicial action involving any  
 10 such decision, and may be represented in any such judicial  
 11 action by any qualified attorney employed by the ~~commission~~  
 12 division or board of labor appeals and has been designated  
 13 by it for that purpose, or at the ~~commission's~~ division's or  
 14 board of labor appeals' request, by the attorney general.

15 (d) Court review. Within ten days after the decision  
 16 of the ~~commission~~ board of labor appeals has become final,  
 17 any party aggrieved thereby may secure judicial review  
 18 thereof by commencing an action in the district court of the  
 19 county in which said party resides against the ~~commission~~  
 20 board of labor appeals for the review of its decision, in  
 21 which action any other party to the proceeding before the  
 22 ~~commission~~ board of labor appeals shall be made a defendant.  
 23 In such action, a petition which need not be verified, but  
 24 which shall state the grounds upon which a review is sought,  
 25 shall be served upon a member of the ~~commission-or-upon-such~~

1 ~~person--as--the--commission--may--designate~~ board of labor  
 2 appeals or its designate for service of process and such  
 3 service shall be deemed completed service on all parties,  
 4 but there shall be left with the party so served as many  
 5 copies of the petition as there are defendants and the  
 6 ~~commission~~ board of labor appeals shall forthwith mail one  
 7 such copy to each such defendant. With its answer, the  
 8 ~~commission~~ board of labor appeals shall certify and file  
 9 with said court all documents and papers and a transcript of  
 10 all testimony taken in the matter, together with its  
 11 findings of fact and decision therein. The ~~commission~~ board  
 12 of labor appeals may also in its discretion, certify to such  
 13 court questions of law involved in any decision by it. In  
 14 any judicial proceeding under this section, the findings of  
 15 the ~~commission~~ board of labor appeals as to the facts, if  
 16 supported by evidence and in the absence of fraud, shall be  
 17 conclusive, and the jurisdiction of said court shall be  
 18 confined to questions of law. Such action, and the questions  
 19 so certified, shall be heard in a summary manner and shall  
 20 be given precedence over all other civil cases except cases  
 21 arising under the workmen's compensation law of this state.  
 22 An appeal may be taken from the decision of the said  
 23 district court to the supreme court of Montana in the same  
 24 manner, but not inconsistent with the provisions of this  
 25 act, as is provided in civil cases. It shall not be

1 necessary, in any judicial proceeding under this section, to  
 2 enter exceptions to the rulings of the commission division  
 3 or board of labor appeals and no bond shall be required for  
 4 entering such appeal. Upon the final determination of such  
 5 judicial proceeding, the commission division shall enter an  
 6 order in accordance with such determination. A petition for  
 7 judicial review shall not act as a supersedeas or stay  
 8 unless the commission division or board of labor appeals  
 9 shall so order."

10 Section 5. Section 87-111, R.C.M. 1947, is amended to  
 11 read as follows:

12 "87-111. Unemployment compensation account --  
 13 establishment and control. There is hereby established  
 14 separate and apart from all public moneys or funds of this  
 15 state, an account in the agency fund known as the  
 16 unemployment compensation account, which shall be  
 17 administered by the commission division exclusively for the  
 18 purposes of this act. Any reference to the unemployment  
 19 compensation fund in this code shall be taken to mean the  
 20 unemployment compensation account in the agency fund. This  
 21 account shall consist of (1) all contributions collected  
 22 under this act, inclusive of voluntary contributions as  
 23 provided in section 87-109 (c) (4), and payments made in lieu  
 24 of contributions as provided in section 87-109 (b) (2) and  
 25 (4); (2) interest earned upon any moneys in the account; (3)

1 any property or securities acquired through the use of  
 2 moneys belonging to the account; (4) all earnings of such  
 3 property or securities; and (5) all money credited to this  
 4 state's account in the unemployment trust fund pursuant to  
 5 section 903 of the Social Security Act, as amended. All  
 6 moneys in the account shall be mingled and undivided."

7 Section 6. Section 87-112, R.C.M. 1947, is amended to  
 8 read as follows:

9 "87-112. Accounts and deposits. The state treasurer  
 10 shall be ex officio the treasurer and custodian of the  
 11 unemployment compensation account and shall administer such  
 12 account in accordance with the directions of the commission  
 13 division and shall issue his warrants upon it in accordance  
 14 with such regulations as the commission division shall  
 15 prescribe. He shall maintain within the account three (3)  
 16 separate accounts; (1) a clearing account, (2) an  
 17 unemployment trust fund account, and (3) a benefit account.  
 18 All moneys payable to the unemployment compensation account,  
 19 upon receipt thereof by the commission division, shall be  
 20 forwarded to the treasurer who shall immediately deposit  
 21 them in the clearing account. Refunds payable pursuant to  
 22 sections 87-135 to 87-139 may be paid from the clearing  
 23 account upon warrants issued by the treasurer under the  
 24 direction of the commission division. After clearance  
 25 thereof, all other money in the clearing account shall be

1 immediately deposited with the secretary of the treasury of  
 2 the United States of America to the credit of the account of  
 3 this state in the unemployment trust fund, established and  
 4 maintained pursuant to section 904 of the Social Security  
 5 Act, as amended, any provision of law in this state relating  
 6 to the deposit, administration, release, or disbursement of  
 7 moneys in the possession or custody of this state to the  
 8 contrary notwithstanding. The benefit account shall consist  
 9 of all moneys requisitioned for the payment of benefits from  
 10 this state's account in the unemployment trust fund. Except  
 11 as herein otherwise provided, moneys in the clearing and  
 12 benefit accounts may be deposited by the treasurer, under  
 13 the direction of the commission division, in any bank or  
 14 public depository in which general funds of the state may be  
 15 deposited but no public deposit insurance charge or premium  
 16 shall be paid out of the unemployment compensation account.  
 17 The treasurer shall give a separate bond conditioned upon  
 18 the faithful performance of his duties as custodian of the  
 19 unemployment compensation account in an amount fixed by the  
 20 commission division and in a form prescribed by law or  
 21 approved by the attorney general. Premiums for said bond  
 22 shall be paid from the unemployment compensation  
 23 administration account."

24 Section 7. Section 87-113, R.C.M. 1947, is amended to  
 25 read as follows:

1 "87-113. Withdrawals. (a) Moneys shall be  
 2 requisitioned from this state's account in the unemployment  
 3 trust fund solely for the payment of benefits and in  
 4 accordance with regulations prescribed by the commission  
 5 division, except that money credited to this state's account  
 6 pursuant to section 903 of the Social Security Act, as  
 7 amended, may also be withdrawn for the payment of expenses  
 8 for the administration of this act and of public employment  
 9 offices, as provided by this act. The commission division  
 10 shall from time to time requisition from the unemployment  
 11 trust fund such amounts, not exceeding the amounts standing  
 12 to this state account therein, as it deems necessary for the  
 13 payment of benefits for a reasonable future period. Upon  
 14 receipt thereof the treasurer shall deposit such moneys in  
 15 the benefit account and shall issue his warrants for the  
 16 payment of benefits solely from such benefit account.  
 17 Expenditures of such moneys in the benefit account and  
 18 refunds from the clearing account shall not be subject to  
 19 any provisions of law requiring specific appropriations or  
 20 other formal release by state officers of money in their  
 21 custody. Any balance of moneys requisitioned from the  
 22 unemployment trust fund which remains unclaimed or unpaid in  
 23 the benefit account after the expiration of the period for  
 24 which such sums were requisitioned shall either be deducted  
 25 from estimates for, and may be utilized for the payment of,

1 benefits during succeeding periods, or in the discretion of  
 2 the ~~commission~~ division, shall be redeposited with the  
 3 secretary of the treasury of the United States of America,  
 4 to the credit of this state's account in the unemployment  
 5 trust fund, as provided in section 87-112.

6 (b) Money credited to the account of this state in the  
 7 unemployment trust fund by the secretary of the treasury of  
 8 the United States of America pursuant to section 903 of the  
 9 Social Security Act, as amended, may be requisitioned and  
 10 used for the payment of expenses incurred for the  
 11 administration of this act pursuant to a specific  
 12 appropriation by the legislature, provided that the expenses  
 13 are incurred and the money is requisitioned after the  
 14 enactment of an appropriation law which: (A) specifies the  
 15 purposes for which such money is appropriated and the  
 16 amounts appropriated therefor, (B) limits the period within  
 17 which such money may be expended to a period ending not more  
 18 than two (2) years after the date of the enactment of the  
 19 appropriation law, and (C) limits the amount which may be  
 20 used during any twelve (12) month period beginning on July 1  
 21 and ending on the next June 30 to an amount which does not  
 22 exceed the amount by which (1) the aggregate of the amounts  
 23 credited to the account of this state pursuant to section  
 24 903 of the Social Security Act, as amended, during the same  
 25 twelve (12) month period and the four (4) preceding twelve

1 (12) month periods, exceeds (2) the aggregate of the amounts  
 2 used pursuant to this subsection and charged against the  
 3 amounts credited to the account of this state during any of  
 4 such five (5) twelve (12) month periods. For the purposes of  
 5 this subsection, amounts used during any such twelve (12)  
 6 month period shall be charged against equivalent amounts  
 7 which were first credited and which are not already so  
 8 charged; except that no amount used for administration  
 9 during any such twelve (12) month period may be charged  
 10 against any amount credited during such a twelve (12) month  
 11 period earlier than the fourth preceding such period. Money  
 12 requisitioned for the payment of expenses of administration  
 13 pursuant to this subsection shall be deposited in the  
 14 unemployment compensation administration fund, but until  
 15 expended, shall remain a part of the unemployment  
 16 compensation fund. The ~~commission~~ division shall maintain a  
 17 separate record of the deposit, obligation, expenditure, and  
 18 return of funds so deposited. If any money so deposited is,  
 19 for any reason, not to be expended for the purpose for which  
 20 it was appropriated, or, if it remains unexpended at the end  
 21 of the period specified by the law appropriating such money,  
 22 it shall be withdrawn and returned to the secretary of the  
 23 treasury of the United States for credit to this state's  
 24 account in the unemployment trust fund.

25 (c) All warrants issued by the treasurer for payment

1 pursuant to this section shall bear the signature of the  
2 treasurer and the countersignature of a member of the  
3 ~~commission~~ division or its duly authorized agent for that  
4 purpose."

5 Section 8. Section 87-114, R.C.M. 1947, is amended to  
6 read as follows:

7 "87-114. Disbursement of funds if federal act becomes  
8 inoperative. If title III or IX of the Federal Social  
9 Security Act is declared unconstitutional or in any way is  
10 inoperative, this act automatically becomes inoperative  
11 under the provisions of this act, and the funds which then  
12 remain in the unemployment trust fund shall immediately be  
13 paid to the state treasurer to be paid into the unemployment  
14 compensation fund and funds there held shall be immediately  
15 distributed, upon order of the ~~commission~~ division, to the  
16 employers who have contributed thereto on a proportionate  
17 basis. If any part thereof remains undistributed for a  
18 period of one (1) year it shall be paid to the general fund  
19 of the state of Montana."

20 Section 9. Section 87-116, R.C.M. 1947, is amended to  
21 read as follows:

22 "87-116. Agreements with railroad retirement board.  
23 The unemployment compensation ~~commission~~ division of Montana  
24 is hereby authorized to co-operate with and enter into  
25 agreements with the railroad retirement board with respect

1 to establishment, maintenance and use of Montana state  
2 employment service facilities, and to make available to the  
3 said railroad retirement board the records of the ~~commission~~  
4 division relating to employer's status and contributions  
5 received from employers covered by the Railroad Unemployment  
6 Insurance Act, together with employee wage records and such  
7 other data as the railroad retirement board may deem  
8 necessary or desirable for the administration of the  
9 Railroad Unemployment Insurance Act (52 Stat. 1094); that  
10 any moneys received by the unemployment compensation  
11 ~~commission~~ division of Montana from the railroad retirement  
12 board or any other governmental agency with respect to the  
13 establishment, maintenance and use of Montana state  
14 employment service facilities, shall be paid into and  
15 credited the proper division of the unemployment  
16 compensation administration fund set up and established  
17 under sections 87-133 and 87-134."

18 Section 10. Section 87-118, R.C.M. 1947, is amended to  
19 read as follows:

20 "87-118. Divisions. The ~~commission~~ division shall  
21 establish two co-ordinate ~~divisions~~ bureaus: The Montana  
22 state employment service ~~division~~ bureau created pursuant to  
23 section 87-132, and the unemployment insurance ~~division~~  
24 bureau. Each ~~division~~ bureau shall be responsible to the  
25 ~~executive--director~~ administrator for the discharge of its

1 distinctive function. Each division bureau shall be a  
 2 separate administrative unit with respect to personnel,  
 3 budget, and duties except in so far as the commission  
 4 division may find that such separation is impracticable."

5 Section 11. Section 87-120, R.C.M. 1947, is amended to  
 6 read as follows:

7 "87-120. Administration -- duties and powers of  
 8 commission division. It shall be the duty of the commission  
 9 division to administer this act; and it shall have power and  
 10 authority to adopt, amend, or rescind such rules and  
 11 regulations, to employ such persons, make such expenditures,  
 12 require such reports, make such investigations, and take  
 13 such other action as it deems necessary or suitable to that  
 14 end. Such rules and regulations shall be effective upon  
 15 publication in the manner, not inconsistent with the  
 16 provisions of this act, which the commission division shall  
 17 prescribe. The commission division shall determine its own  
 18 organization and methods of procedure in accordance with the  
 19 provisions of this act, and shall have an official seal  
 20 which shall be judicially noticed. The commission division  
 21 shall report as provided in section 2 [82-4002] of this act.  
 22 Such report shall include a balance sheet of the moneys in  
 23 the fund in which there shall be provided, if possible, a  
 24 reserve against the liability in future years to pay  
 25 benefits in excess of the then current contributions, which

1 reserve shall be set up by the commission division in  
 2 accordance with accepted actuarial principles on the basis  
 3 of statistics of employment, business activity, and other  
 4 relevant factors for the longest possible period. Whenever  
 5 the commission division believes that a change in  
 6 contribution or benefit rates will become necessary to  
 7 protect the solvency of the fund, it shall promptly so  
 8 inform the governor and the legislature, and make  
 9 recommendations with respect thereto."

10 Section 12. Section 87-121, R.C.M. 1947, is amended to  
 11 read as follows:

12 "87-121. Regulations and general and special rules.  
 13 General and special rules may be adopted, amended, or  
 14 rescinded by the commission division only after public  
 15 hearing or opportunity to be heard thereon, of which proper  
 16 notice has been given. General rules shall become effective  
 17 ten days after filing with the secretary of the state and  
 18 publication in one or more newspapers of general circulation  
 19 in this state. Special rules shall become effective ten days  
 20 after notification to or mailing to the last known address  
 21 of the individuals or concerns affected thereby.  
 22 Regulations may be adopted, amended, or rescinded by the  
 23 commission division and shall become effective in the manner  
 24 and at the time prescribed by ~~the-commission law.~~"

25 Section 13. Section 87-122, R.C.M. 1947, is amended to

1 read as follows:

2 "87-122. Publication. The commission division shall  
3 cause to be printed for distribution to the public the text  
4 of this act, the commission's division's regulations and  
5 general and special rules, ~~its~~ annual reports to the  
6 governor, and any other material the commission division  
7 deems relevant and suitable and shall furnish the same to  
8 any person upon application therefor."

9 Section 14. Section 87-123, R.C.M. 1947, is amended to  
10 read as follows:

11 "87-123. Personnel. Subject to other provisions of  
12 this act, the commission division is authorized to appoint,  
13 fix the compensation and prescribe the duties and powers of  
14 such officers, accountants, attorneys, experts, and other  
15 persons as may be necessary in the performance of its duties  
16 under this act. The commission division may delegate to any  
17 such persons such power and authority as it deems reasonable  
18 and proper for the effective administration of this act, and  
19 may in its discretion bond any person handling money or  
20 signing checks hereunder. The commission division shall  
21 classify positions under this act and shall establish salary  
22 schedules and minimum personnel standards for the positions  
23 so classified. The commission division shall provide for the  
24 holding of examinations to determine the qualifications of  
25 applicants for the positions so classified, and except for

1 temporary appointments of not to exceed six months in  
2 duration, such personnel shall be appointed on the basis of  
3 efficiency and fitness as determined in such examinations.  
4 No person who is an officer or committee member of any  
5 political party organization or who holds or is a candidate  
6 for any public office shall be appointed or employed under  
7 this act. The commission division shall establish and  
8 enforce fair and reasonable regulations for appointments,  
9 promotions, and demotions based upon ratings of efficiency  
10 and fitness and for terminations for cause."

11 Section 15. Section 87-124, R.C.M. 1947, is amended to  
12 read as follows:

13 "87-124. Records and reports. Each employing unit  
14 shall keep true and accurate work records, containing such  
15 information as the commission division may prescribe. Those  
16 records shall be open to inspection and shall be subject to  
17 being copied by the commission division or its authorized  
18 representative at any reasonable time and as often as may be  
19 necessary. The commission division and the chairman of any  
20 appeal tribunal may require from any employing unit any  
21 sworn or unsworn reports with respect to persons employed by  
22 it which the commission division considers necessary to the  
23 effective administration of this act. Information thus  
24 obtained or obtained from any individual under this act  
25 shall, except to the individual claimant to the extent

1 necessary for the proper presentation of a claim, be held  
 2 confidential and shall not be published or be open to public  
 3 inspection except to public employees in the performance of  
 4 their public duties in any manner revealing the individual's  
 5 or employing unit's identity, but any claimant or his legal  
 6 representative at a hearing before the commission board of  
 7 labor appeals or appeal tribunal shall be supplied with  
 8 information from the records to the extent necessary for the  
 9 proper presentation of his claim. Any employee or member of  
 10 the commission division who violates any provision of this  
 11 section shall be fined not less than twenty dollars (\$20)  
 12 nor more than two hundred dollars (\$200), or imprisoned for  
 13 not longer than ninety (90) days, or both."

14 Section 16. Section 87-127, R.C.M. 1947, is amended to  
 15 read as follows:

16 "87-127. Protection against self incrimination. No  
 17 person shall be excused from attending and testifying or  
 18 from producing books, papers, correspondence, memoranda, and  
 19 other records before the commission division or board of  
 20 labor appeals, the chairman of an appeal tribunal or any  
 21 duly authorized representative of any either of them or in  
 22 obedience to the subpoena of the commission division or  
 23 board of labor appeals or any member thereof or any duly  
 24 authorized representative of the commission division in any  
 25 cause or proceeding before the commission division or board

1 of labor appeals, on the ground that the testimony or  
 2 evidence, documentary or otherwise, required of him may tend  
 3 to incriminate him or subject him to a penalty or  
 4 forfeiture; but no individual shall be prosecuted or  
 5 subjected to any penalty or forfeiture for or on account of  
 6 any transaction, matter, or thing concerning which he is  
 7 compelled, after having claimed his privilege against self  
 8 incrimination, to testify or produce evidence, documentary  
 9 or otherwise, except that such individual so testifying  
 10 shall not be exempt from prosecution and punishment for  
 11 perjury committed in so testifying."

12 Section 17. Section 87-128, R.C.M. 1947, is amended to  
 13 read as follows:

14 "87-128. State-federal co-operation. In the  
 15 administration of this act, the commission division shall  
 16 co-operate to the fullest extent consistent with the  
 17 provisions of this act with the secretary of labor, pursuant  
 18 to the provisions of the Social Security Act, as amended;  
 19 shall make such reports, in such form and containing such  
 20 information as the secretary of labor may from time to time  
 21 require, and shall comply with such provisions as the  
 22 secretary of labor may from time to time find necessary to  
 23 assure the correctness and verification of such reports; and  
 24 shall comply with the regulations prescribed by the  
 25 secretary of labor governing the expenditures or [of] such



1 sums as may be allotted and paid to this state under title  
 2 III of the Social Security Act, as amended, for the purpose  
 3 of assisting in the administration of this act. The  
 4 commission division shall co-operate with the secretary of  
 5 labor in the administration of any act of Congress  
 6 establishing unemployment compensation benefits or similar  
 7 benefits for federal employees and veterans or ex-service  
 8 personnel of the armed forces of the United States, and  
 9 shall do so in such manner as may be deemed advisable and  
 10 expedient in order to carry out the purpose of this act. The  
 11 commission division is hereby authorized and empowered to  
 12 perform any and all acts, including the execution of  
 13 agreements and contracts which may be required under and  
 14 pursuant to any act passed by the Congress of the United  
 15 States, authorizing the extension of unemployment  
 16 compensation benefits by federal law if the commission  
 17 division in its discretion deems it advisable to perform  
 18 such acts.

19 Upon request therefor the commission division shall  
 20 furnish to any agency of the United States charged with the  
 21 administration of public works or assistance through public  
 22 employment, the name, address, ordinary occupation, and  
 23 employment status of each recipient of benefits and such  
 24 recipient's rights to further benefits under this act."

25 Section 18. Section 87-129, R.C.M. 1947, is amended to

1 read as follows:

2 "87-129. Reciprocal benefit arrangements. The  
 3 commission division is hereby authorized to enter into  
 4 arrangements with the appropriate agencies of other states  
 5 or the federal government, whereby individuals performing  
 6 services in this and other states for a single employing  
 7 unit under circumstances not specifically provided for in  
 8 this act, or under similar provisions of the unemployment  
 9 compensation laws of such other states, shall be deemed to  
 10 be engaged in employment performed entirely within this  
 11 state or within one of such other states and whereby  
 12 potential rights to benefits accumulated under the  
 13 unemployment compensation laws of several states or under  
 14 such a law of the federal government, or both, may  
 15 constitute the basis for the payment of benefits through a  
 16 single appropriate agency under terms which the commission  
 17 division finds will be fair and reasonable as to all  
 18 affected interests, and will not result in any substantial  
 19 loss to the fund.

20 The commission division shall participate in any  
 21 arrangements, approved by the U. S. secretary of labor,  
 22 with the appropriate agencies of the other states or of the  
 23 federal government whereby wages or services, upon the basis  
 24 of which an individual may become entitled to benefits under  
 25 the unemployment compensation law of another state or of the

1 federal government, shall be deemed to be wages for  
2 employment by employers for benefit purposes;

3 Provided that in any instance involving the combining  
4 of an individual's wages and employment covered under two or  
5 more state unemployment compensation laws that the base  
6 period of a single state law will be used; and

7 Provided that such combining of wages will not involve  
8 the duplicate use of such wage credits; and

9 Provided that such other state agency or agency of the  
10 federal government has agreed to reimburse the unemployment  
11 compensation fund for such portion of benefits paid under  
12 this act upon the basis of such wages or services as the  
13 commission division finds will be fair and reasonable as to  
14 all affected interests; and whereby the commission division  
15 will reimburse other state or federal agencies charged with  
16 the administration of unemployment compensation laws, with  
17 such reasonable portion of benefits, paid under the law of  
18 any such other states or of the federal government upon the  
19 basis of employment or wages for employment by employers, as  
20 the commission division finds will be fair and reasonable to  
21 all affected interests. Reimbursements so payable shall be  
22 deemed to be benefits for the purposes of this act. The  
23 commission division is hereby authorized to make to other  
24 state or federal agencies, reimbursements from or to the  
25 unemployment compensation fund, in accordance with

1 arrangements made pursuant to this section."

2 Section 19. Section 87-130, R.C.M. 1947, is amended to  
3 read as follows:

4 "87-130. Acquisition of property, etc. Subject to the  
5 approval of the state board of examiners, the commission  
6 division may purchase such equipment, supplies, and real  
7 property as it may deem necessary and proper. The title to  
8 any real property purchased shall be taken in the name of  
9 the state of Montana. Subject to the approval of the state  
10 board of examiners, the commission division may sell any  
11 equipment, supplies or real property previously acquired by  
12 it, and the proceeds of such sale shall be deposited into  
13 the unemployment compensation administration fund. In the  
14 event the duties, or any part thereof, of the commission  
15 division shall be at any time in the future surrendered to  
16 or taken over by the federal government or any agency  
17 thereof, the commission division, with the approval of the  
18 state board of examiners, may lease such equipment and real  
19 property to the federal government, or such agency, but the  
20 title thereto shall remain in the state of Montana."

21 Section 20. Section 87-131, R.C.M. 1947, is amended to  
22 read as follows:

23 "87-131. Commission Division to co-operate with other  
24 agencies. The commission division shall afford reasonable  
25 co-operation with any government agency charged with war

1 effort or postwar planning responsibilities or with the  
 2 administration of any system of unemployment allowances or  
 3 unemployment assistance or of any program designed to  
 4 prevent or relieve unemployment. The ~~commission~~ division  
 5 may make, and may co-operate with other appropriate state  
 6 agencies in making studies as to the practicability and  
 7 probable cost of possible new state-administered social  
 8 security programs; and the relative desirability of state  
 9 (rather than national) action in any such field. The  
 10 ~~commission~~ division shall fully co-operate with the agencies  
 11 of other states, and shall make every proper effort within  
 12 its means, to oppose and prevent any further action which  
 13 would in its judgment tend to effect complete or substantial  
 14 federalization of state unemployment compensation funds or  
 15 state unemployment compensation and employment security  
 16 programs, or any part of the social security program."

17 Section 21. Section 87-132, R.C.M. 1947, is amended to  
 18 read as follows:

19 "87-132. State employment service. The ~~commission~~  
 20 division shall create a ~~division~~ bureau to be known as the  
 21 Montana state employment service which ~~division~~ bureau shall  
 22 establish and maintain free public employment offices in  
 23 such number and in such places as may be necessary for the  
 24 proper administration of this act, and for the purpose of  
 25 performing such duties as are within the purview of the act

1 of Congress entitled; "An act to provide for the  
 2 establishment of a national employment system and for  
 3 co-operation with the states in the promotion of such  
 4 system, and for other purposes," approved June 6, 1933 (48  
 5 Stat. 113; U.S.C. Title 29, Sec. 49 (c)), as amended. The  
 6 said ~~division~~ bureau shall be administered by a full-time  
 7 salaried director. The ~~commission~~ division shall be charged  
 8 with the duty to co-operate with any official or agency of  
 9 the United States having power or duties under the  
 10 provisions of the said act of Congress, as amended, and to  
 11 do and perform all things necessary to secure to this state  
 12 the benefits of the said act of Congress, as amended, in the  
 13 promotion and maintenance of a system of public employment  
 14 offices. The provisions of the said act of Congress, as  
 15 amended, are hereby accepted by this state, in conformity  
 16 with section 4 of said act, and this state will observe and  
 17 comply with the requirements thereof. The ~~unemployment~~  
 18 ~~compensation--commission~~ employment security division is  
 19 hereby designated and constituted the agency of this state  
 20 for the purpose of said act. The ~~commission~~ division is  
 21 directed to appoint the personnel of the Montana state  
 22 employment service. For the purpose of establishing and  
 23 maintaining free public employment offices, the ~~commission~~  
 24 division is authorized to enter into agreements with any  
 25 political subdivisions of this state or with any private,

1 nonprofit organization, and as a part of any such agreement  
 2 the ~~commission~~ division may accept moneys, services, or  
 3 quarters as a contribution to the employment service  
 4 account."

5 Section 22. Section 87-133, R.C.M. 1947, is amended to  
 6 read as follows:

7 "87-133. Unemployment compensation administration  
 8 account. There is hereby created an account in the federal  
 9 and private revenue fund to be known as the unemployment  
 10 compensation administration account. All moneys which are  
 11 deposited, appropriated or paid into this account are hereby  
 12 appropriated and made available to the ~~commission~~ division.  
 13 All moneys in the account shall be expended solely for the  
 14 purpose of defraying the costs of administration of this act  
 15 and costs of administration of such other legislation as  
 16 shall be specifically delegated to the ~~commission~~ division  
 17 for administration by the legislature. All moneys received  
 18 and deposited in said account for administration expense  
 19 from the United States of America or any agency thereof,  
 20 pursuant to section 302, title III of the Social Security  
 21 Act shall be expended solely for the purpose and in the  
 22 amounts found necessary by the secretary of labor for the  
 23 proper and efficient administration of this act. The account  
 24 shall consist of (1) all moneys received from the United  
 25 States of America or any agency thereof, pursuant to section

1 302, title III of the Social Security Act, as amended, and  
 2 (2) all moneys appropriated by the state from the general  
 3 fund for the purpose of administering this act, all interest  
 4 and penalties collected on past due contributions as  
 5 provided by section 87-135; all moneys, trust funds,  
 6 supplies, facilities or services furnished, deposited, paid  
 7 and received from the United States of America, or any  
 8 agency thereof, from this state or any agency thereof, from  
 9 any other state or any of its agencies, from political  
 10 subdivisions of the state, or any other source for  
 11 administrative expense and purpose. Notwithstanding any  
 12 provisions of this section, all money requisitioned and  
 13 deposited in this account pursuant to section 87-113 shall  
 14 remain part of the unemployment compensation account and  
 15 shall be used only in accordance with the conditions  
 16 specified in section 87-113. All moneys in this account  
 17 shall be deposited, administered, and disbursed in the same  
 18 manner and under the same conditions and requirements as is  
 19 provided by law for other accounts. Any balance in this  
 20 account shall not lapse at any time, but shall be  
 21 continuously available to the ~~commission~~ division for the  
 22 expenditure consistent with this act. The state treasurer  
 23 shall give a separate and additional bond conditioned upon  
 24 the faithful performance of his duties in connection with  
 25 the unemployment compensation administration account in an

1 amount to be fixed by the commission division and in a form  
 2 prescribed by law or approved by the attorney general. The  
 3 premiums for such bond and the premiums for the bond given  
 4 by the treasurer for the unemployment compensation account  
 5 under section 87-112, shall be paid from the moneys in the  
 6 unemployment compensation administration account. Any  
 7 reference to the unemployment compensation administration  
 8 fund in this code shall be taken to mean the unemployment  
 9 compensation administration account in the federal and  
 10 private revenue fund."

11 Section 23. Section 87-134, R.C.M. 1947, is amended to  
 12 read as follows:

13 "87-134. Reimbursement of fund. This state recognizes  
 14 its obligation to replace, and hereby pledges the faith of  
 15 this state that funds will be provided in the future, and  
 16 applied to the replacement of any of the moneys received  
 17 after July 1, 1941, from the United States of America, or  
 18 any agency thereof, under title III of the Social Security  
 19 Act, any unencumbered balances in the unemployment  
 20 compensation administration fund as of that date, any moneys  
 21 thereafter granted to this state pursuant to the provisions  
 22 of the Wagner-Peyser Act, and any moneys made available by  
 23 the state or its political subdivisions and matched by such  
 24 moneys granted to this state pursuant to the provisions of  
 25 the Wagner-Peyser Act, which the secretary of labor finds

1 have, because of any action or contingency, been lost or  
 2 have been expended for purposes other than, or in amounts in  
 3 excess of, those found necessary by the secretary of labor  
 4 for the proper administration of this act. Such moneys shall  
 5 be promptly supplied by moneys furnished by the state of  
 6 Montana or any of its subdivisions for the use of the  
 7 unemployment compensation commission division and used only  
 8 for purposes approved by the secretary of labor. The  
 9 commission division shall, if necessary, promptly report to  
 10 the governor and the governor to the legislature, the amount  
 11 required for such replacement. This section shall not be  
 12 construed to relieve this state of its obligation with  
 13 respect to funds received prior to July 1, 1941, pursuant to  
 14 the provisions of title III of the Social Security Act."

15 Section 24. Section 87-135, R.C.M. 1947, is amended to  
 16 read as follows:

17 "87-135. Penalty and interest on past-due  
 18 contributions. Contributions unpaid on the date on which  
 19 they are due and payable, as prescribed by the commission  
 20 division, shall be subject to a penalty assessment of five  
 21 per centum (5%) or five (\$5.00) dollars, whichever is  
 22 greater, and shall bear interest at the rate of one-half of  
 23 one per centum (1/2 of 1%) per month from and after such  
 24 date until payment plus accrued interest and penalty is  
 25 received by the commission division. No interest shall be

1 charged for fractional part of a month. Interest and penalty  
 2 collected pursuant to this subsection shall be paid into the  
 3 unemployment compensation administration fund. When failure  
 4 to pay contributions in time and before delinquency was not  
 5 caused by willful intent of the employer, and for good cause  
 6 shown, the commission division may abate the penalty and  
 7 interest, as a compromise offer of settlement and payment of  
 8 the tax liability."

9 Section 25. Section 87-136, R.C.M. 1947, is amended to  
 10 read as follows:

11 "87-136. Collection -- reciprocity with other states  
 12 in effecting collection of unpaid unemployment compensation  
 13 taxes. (a) If, after due notice, any employer defaults in  
 14 any payment of contributions or interest thereon, the amount  
 15 due shall be collected by civil action in the name of the  
 16 commission division, Montana department of labor and  
 17 industry, and the employer adjudged in default shall pay the  
 18 costs of such action. Civil actions brought under this  
 19 section to collect contributions or interest thereon from an  
 20 employer shall be heard by the court at the earliest  
 21 possible date and shall be entitled to preference upon the  
 22 calendar of the court over all other civil actions except  
 23 petitions for judicial review under this act and cases  
 24 arising under the workmen's compensation law of this state.  
 25 Action for the collection of contributions due shall be

1 brought within five (5) years after the due date of such  
 2 contributions, otherwise to be barred as provided in section  
 3 93-2604.

4 (b) The courts of this state shall recognize and  
 5 enforce liabilities for unemployment contributions imposed  
 6 by other states which extend a like comity to this state.  
 7 The commission division, Montana department of labor and  
 8 industry, is hereby empowered to sue in the courts of any  
 9 other jurisdiction which extends such comity, to collect  
 10 unemployment contributions and interest due this state. The  
 11 officials of other states which by statute or otherwise  
 12 extend a like comity to this state may sue in the courts of  
 13 this state, to collect for such contributions and interest  
 14 and penalties if any, due such state; in any such case the  
 15 chairman administrator of the commission division of this  
 16 state may through his attorney or attorneys institute and  
 17 conduct such suit for such other state. Venue of such  
 18 proceedings shall be the same as for actions to collect  
 19 delinquent contributions, penalties and interest due under  
 20 this act. A certificate by the secretary of any such state  
 21 under the great seal of such state attesting the authority  
 22 of such official or officials to collect unemployment  
 23 compensation contributions, penalties and interest shall be  
 24 conclusive evidence of such authority."

25 Section 26. Section 87-138, R.C.M. 1947, is amended to

1 read as follows:

2 "87-138. Refunds. If not later than three (3) years  
3 after the date on which any contributions or interest  
4 thereon became due, or not later than one (1) year from the  
5 date on which payment was made, whichever is later, an  
6 employer who has paid such contributions or interest thereon  
7 shall make application for an adjustment thereof in  
8 connection with subsequent contribution payments, or for a  
9 refund thereof because such adjustment cannot be made and  
10 the ~~commission~~ division shall determine that such  
11 contributions or interest or any portion thereof was  
12 erroneously collected, the ~~commission~~ division shall allow  
13 such employer to make an adjustment thereof, without  
14 interest, in connection with subsequent contribution  
15 payments by him, or if such adjustment cannot be made, the  
16 ~~commission~~ division shall refund said amount, without  
17 interest, from the fund. For like cause and within the same  
18 period, adjustment or refund may be so made on the  
19 ~~commission's~~ division's own initiative. If the ~~commission~~  
20 division shall determine that an employer has paid  
21 contributions to this state under this act, when such  
22 contributions should have been paid to another state, under  
23 a similar act of such other state, transfer of such  
24 contributions to such other state shall be made upon  
25 discovery, or upon proof of payment that such other state

1 has been fully paid, then refund to such employer shall be  
2 made at any time upon application without limitation of  
3 time. In the event that this act is not certified by the  
4 secretary of labor under section 1603 of the Internal  
5 Revenue Code, as amended, 1939, for any year, then and in  
6 that event, refunds shall be made of all contributions  
7 required under this act from employers for that year."

8 Section 27. Section 87-139, R.C.M. 1947, is amended to  
9 read as follows:

10 "87-139. Lien for payment. If any contributions  
11 payable by an employer under this act, or any portion  
12 thereof, is not paid within twenty-five (25) days after the  
13 same becomes due, the ~~commission~~ division may issue a  
14 certificate under its official seal, setting forth the  
15 amount of contributions due and interest accrued, directed  
16 to the sheriff of any county of the state, commanding him to  
17 levy upon and sell the real and personal property of the  
18 employer owing the same, found within his county, for the  
19 payment of the amount thereof, with the added penalties,  
20 interest and costs of executing the same and to return such  
21 certificates to the ~~commission~~ division and pay to the  
22 ~~commission~~ division the money collected by virtue thereof by  
23 a time to be therein specified, not more than ninety (90)  
24 days from the date of the certificate. The said sheriff  
25 shall, within five (5) days after the receipt of the

1 certificate, file with the clerk of the district court of  
 2 his county a copy thereof and thereupon the said clerk of  
 3 the district court shall enter in the judgment docket, in  
 4 the column for judgment debtors, the name of the employer  
 5 mentioned in the certificate, and in the appropriate columns  
 6 the amount of contributions due and the penalties for which  
 7 the certificate is issued and the date when such copy is  
 8 filed and thereupon the amount of such certificate so  
 9 docketed shall become a lien upon the title to and interest  
 10 in real property or chattels real of the employer against  
 11 whom it is filed in the same manner as a judgment docketed  
 12 in the office of such clerk. The said sheriff shall  
 13 thereupon proceed upon the same in all respects, with like  
 14 effect, and in the same manner prescribed by law in respect  
 15 to executions issued against property upon judgment of a  
 16 court of record, and shall be entitled to the same fees for  
 17 his services in executing the certificate, to be collected  
 18 in the same manner."

19 Section 28. Section 87-140, R.C.M. 1947, is amended to  
 20 read as follows:

21 "87-140. Summary or jeopardy assessment. If any  
 22 employer fails to file a report or return as required under  
 23 this act, or the regulations of the commission division  
 24 adopted thereunder, within the time specified, the  
 25 commission division may make a summary or jeopardy

1 assessment, of the amount due by making up such report and  
 2 determining the amount of contributions due and owing to the  
 3 fund upon the basis of such information as the commission  
 4 division may be able to obtain, and thereupon the same shall  
 5 be collected the same as other reports and contributions  
 6 due, with penalty and interest as provided in this act. Upon  
 7 making such summary or jeopardy assessment, the commission  
 8 division shall immediately notify the employer in writing by  
 9 personal service or by registered mail in the usual course,  
 10 at the last known principal place of business operated by  
 11 the said employer. Such assessment shall be final unless the  
 12 employer shall protest such assessment in writing within  
 13 fifteen (15) days after service of the notice, or within the  
 14 same period of time the said employer shall file a correct,  
 15 signed and sworn report and statement as provided by the act  
 16 and the regulations of the commission division. Upon written  
 17 protest being filed as above set forth, a day certain for  
 18 the hearing thereof shall be fixed by the commission  
 19 division and notice thereof mailed to the employer. At such  
 20 hearing, the facts ascertained by the commission division  
 21 shall be conclusive and the commission division may upon the  
 22 basis of such facts ascertain assess the amount due,  
 23 modify, set aside or revise the prior assessment and require  
 24 the employer to pay the amount due with penalty and interest  
 25 as provided for in this act. A copy of the decision of the



1 commission division and the assessment of the amount due  
2 shall be mailed to the employer at his last known principal  
3 place of business and thereupon become final."

4 Section 29. Section 87-142, R.C.M. 1947, is amended to  
5 read as follows:

6 "87-142. Limitation of fees. No individual claiming  
7 benefits shall be charged fees of any kind in any proceeding  
8 under this act by the commission division or its  
9 representatives or by any court or any officer thereof. Any  
10 individual claiming benefits in any proceeding before the  
11 chairman of an appeal tribunal or the commission division or  
12 its representatives, the board of labor appeals, or a court  
13 may be represented by counsel or other duly authorized  
14 agent; but no such counsel or agents shall either charge or  
15 receive for such services more than an amount approved by  
16 the commission division or board of labor appeals. Any  
17 person who violates any provision of this section shall, for  
18 each such offense, be fined not more than five hundred  
19 (\$500.00) dollars, or imprisoned for not more than six (6)  
20 months, or both."

21 Section 30. Section 87-145, R.C.M. 1947, is amended to  
22 read as follows:

23 "87-145. Penalties -- falsity or willful nondisclosure  
24 -- violations by employer or agent -- violation of act or  
25 regulations -- wrongfully collecting benefits. (a) Whoever

1 makes a false statement or representation knowing it to be  
2 false or knowingly fails to disclose a material fact, to  
3 obtain or increase any benefit or other payment under this  
4 act, or under an employment security law of any other state,  
5 or territory or the federal government either for himself or  
6 for any other person, shall:

7 (1) Be punished by a fine of not less than fifty  
8 dollars (\$50.00) nor more than five hundred dollars  
9 (\$500.00) or by imprisonment for not less than three (3)  
10 days nor more than thirty (30) days in the county jail or by  
11 both such fine and imprisonment; and each such false  
12 statement or representation or failure to disclose a  
13 material fact shall constitute a separate offense, and

14 (2) Be disqualified for benefits thereafter until:

15 (A) He has repaid to the commission division a sum  
16 equal to the amount so received by him; provided, however,  
17 he will not be required to repay any amount so obtained more  
18 than five (5) years prior to the date of the commission's  
19 division's determination that the claimant made such false  
20 statements, willful nondisclosure or misrepresentation, as  
21 provided in this paragraph, and

22 (3) A period of not less than ten (10) nor more than  
23 fifty-two (52) weeks have elapsed since the date of such  
24 determination by the commission division, the length of time  
25 of the disqualification as herein described to be determined

1 by the ~~commission~~ division in accordance with the severity  
2 of each case.

3 (b) Any employing unit or any officer or agent of an  
4 employing unit or any other person who makes a false  
5 statement or representation knowing it to be false, or who  
6 knowingly fails to disclose a material fact, to prevent or  
7 reduce the payment of benefits to any individual entitled  
8 thereto, or to avoid becoming or remaining subject hereto or  
9 to avoid or reduce any contribution or other payment  
10 required from an employing unit under this act, or under the  
11 employment security law of any other state, or territory or  
12 the federal government or who willfully fails or refuses to  
13 make any such contributions or other payment or to furnish  
14 any reports required hereunder or to produce or permit the  
15 inspection or copying of records as required hereunder,  
16 shall be punished by a fine of not less than fifty dollars  
17 (\$50.00) nor more than five hundred dollars (\$500.00) or by  
18 imprisonment for not less than three (3) days nor more than  
19 thirty (30) days in the county jail or by both such fine and  
20 imprisonment; and each such false statement or  
21 representation or failure to disclose a material fact, and  
22 each day of such failure or refusal shall constitute a  
23 separate offense.

24 (c) Any person who shall willfully violate any  
25 provision of this act or any order, rule or regulation

1 thereunder, the violation of which is made unlawful or the  
2 observance of which is required under the terms of this act,  
3 and for which a penalty is neither prescribed herein nor  
4 provided by any other applicable statute, shall be punished  
5 by a fine of not less than fifty dollars (\$50.00) nor more  
6 than five hundred dollars (\$500.00) or by imprisonment for  
7 not less than three (3) days nor more than thirty (30) days  
8 in the county jail or by both such fine and imprisonment,  
9 and each day such violation continues shall be deemed to be  
10 a separate offense.

11 (d) Any person who, by reason of the nondisclosure or  
12 misrepresentation by him or by another, of a material fact  
13 (irrespective of whether such nondisclosure or  
14 misrepresentation was known or fraudulent) has received any  
15 sum as benefits under this act while any conditions for the  
16 receipt of benefits imposed by this act were not fulfilled  
17 in his case, or while he was disqualified from receiving  
18 benefits, shall, in the discretion of the ~~commission~~  
19 division, either be liable to have such sum deducted from  
20 any future benefits payable to him under this act or shall  
21 be liable to repay to the ~~commission~~ division for the  
22 unemployment compensation fund, a sum equal to the amount so  
23 received by him, and such sum shall be collectible in the  
24 manner provided in this act for the collection of past due  
25 contributions. Action for collection of overpaid benefits

1 shall be brought within fiye (5) years after the date of  
2 such overpayment, otherwise to be barred as provided in  
3 section 93-2604."

4 Section 31. Section 87-146, R.C.M. 1947, is amended to  
5 read as follows:

6 "87-146. Representation in court. (a) In any civil  
7 action to enforce the provisions of this act the ~~commission~~  
8 division and the state may be represented by any qualified  
9 attorney who is employed by the ~~commission~~ division and is  
10 designated by it for this purpose or at the ~~commission's~~  
11 division's or board of labor appeals' request, by the  
12 attorney general.

13 (b) All criminal actions for violation of any  
14 provision of this act, or of any rules or regulations issued  
15 pursuant thereto, shall be prosecuted by the attorney  
16 general of the state; or, at his request and under his  
17 direction, by the prosecuting attorney of the county wherein  
18 the crime was committed."

19 Section 32. Section 87-147, R.C.M. 1947, is amended to  
20 read as follows:

21 "87-147. Nonliability of state. Benefits shall be  
22 deemed to be due and payable under this act only to the  
23 extent provided in this act and to the extent that moneys  
24 are available therefor to the credit of the unemployment  
25 compensation fund, and neither the state nor the ~~commission~~

1 division shall be liable for any amount in excess of such  
2 sums."

3 Section 33. Section 87-149, R.C.M. 1947, is amended to  
4 read as follows:

5 "87-149. Definitions -- continued. (a) Total  
6 unemployment:

7 (1) An individual shall be deemed "totally unemployed"  
8 in any week during which he performed no services and with  
9 respect to which no wages are payable to him.

10 (2) An individual's week of unemployment shall be  
11 deemed to commence only after his registration at an  
12 unemployment office, except as the ~~commission~~ division may  
13 by regulation otherwise prescribe.

14 (3) As used in this subsection the term "wages" shall  
15 include only that part of remuneration for work which is in  
16 excess of twice the weekly benefit amount, and the term  
17 "service" shall include only that work in excess of twelve  
18 (12) hours in any one week.

19 (b) "Unemployment compensation administration fund,"  
20 means the unemployment compensation administration fund  
21 established by this act, from which administrative expenses  
22 under this act shall be paid.

23 (c) "Wages," means all remuneration payable for  
24 personal services, including ~~commission~~ divisions and  
25 bonuses and the cash value of all remuneration payable in

1 any medium other than cash. The reasonable cash value of  
 2 remuneration payable in any medium other than cash shall be  
 3 estimated and determined in accordance with rules prescribed  
 4 by the commission division. Wage records kept by the  
 5 commission division for the purposes of this act prior to  
 6 January 1, 1941, shall be kept on the basis of wages  
 7 payable, and wage records kept by the commission division  
 8 for the purposes of this act after January 1, 1941, shall be  
 9 kept on the basis of wages paid. Provided, however, that the  
 10 term "wages" shall not include--

11 (l) The amount of any payment made to, or on behalf  
 12 of, an employee by an employer on account of:

- 13 (A) Retirement, or  
 14 (B) Sickness or accident disability, or  
 15 (C) Medical and hospitalization expenses in connection  
 16 with sickness or accident disability, or  
 17 (D) Death.  
 18 (E) Services performed for a fraternal benefit  
 19 society, lodge, order, service club or association having a  
 20 total annual payroll of less than five hundred dollars  
 21 (\$500.00) in any calendar year.

22 (F) Remuneration paid by any county welfare office  
 23 from welfare assistance funds for services performed at the  
 24 direction and request of such county welfare office.

25 (d) "Week," means a period of seven (7) consecutive

1 calendar days ending at midnight on Saturday.

2 (e) "Weekly benefit amount." An individual's "weekly  
 3 benefit amount" means the amount of benefits he would be  
 4 entitled to receive for one (1) week of total unemployment.

5 (f) "Gross misconduct," means a criminal act, other  
 6 than a violation of a motor vehicle traffic law, for which  
 7 an individual has been convicted in a criminal court or has  
 8 admitted or conduct which demonstrates a flagrant and wanton  
 9 disregard of and for the rights or title or interest of a  
 10 fellow employee or his employer.

11 (g) The word "division" throughout the unemployment  
 12 statutes refers to a unit of the Montana state department of  
 13 labor and industry.

14 (h) The word "administrator" refers to a person  
 15 appointed by the commissioner of labor and industry to  
 16 direct and administer the unemployment compensation laws and  
 17 federal laws falling within the administrator's  
 18 jurisdiction.

19 (i) The words "board of labor appeals" used in this  
 20 act mean three (3) persons appointed by the governor, who  
 21 are not public employees but who are attached to the Montana  
 22 state department of labor and industry. The function of  
 23 said board is to act in a quasi-judicial capacity for the  
 24 hearing of disputes concerning the administration of  
 25 Montana's unemployment insurance laws."

LC 1033

1 Section 34. Sections 87-115, 87-117, 87-118, 87-119,  
2 87-125, and 87-126, R.C.M. 1947, are repealed.

-End-

Approved by Committee  
on Labor & Employment  
Relations

1 HOUSE BILL NO. 173  
2 INTRODUCED BY FEDERICO  
3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTIONS  
5 87-104, ~~1860CH~~ 87-105, 87-107, 87-108, 87-111 THROUGH  
6 87-114, 87-116, 87-118, 87-120 THROUGH 87-124, 87-127  
7 THROUGH 87-136, 87-138 THROUGH 87-140, 87-142, 87-145  
8 THROUGH 87-147, 87-149, R.C.M. 1947; BY CHANGING THE WORD  
9 "COMMISSION" TO THE WORD "DIVISION"; BY ADDING DEFINITIONS;  
10 BY SUBSTITUTING THE WORDS "BOARD OF LABOR APPEALS" IN  
11 CONFORMITY WITH THE EXECUTIVE REORGANIZATION ACT OF 1971;  
12 AND REPEALING SECTIONS 87-115, 87-117, ~~87-118~~, 87-119,  
13 87-125, AND 87-126, R.C.M. 1947."

14  
15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
16 Section 1. Section 87-104, R.C.M. 1947, is amended to  
17 read as follows:  
18 "87-104. Duration of benefits. The maximum total  
19 amount of benefits payable to any eligible individual during  
20 any benefit year shall be:  
21 (a) (1) Thirteen (13) times his weekly benefit amount  
22 if he is qualified as an insured worker as defined in  
23 section 87-103 (c), and does not qualify under subsection  
24 (2) or (3) below.  
25 (2) Twenty (20) times his weekly benefit amount if in

1 addition to meeting the requirements of section 87-103 (c),  
2 he has been paid wages of one hundred dollars (\$100) or more  
3 for insured work in each of two (2) quarters in his base  
4 period other than the quarter in which his wages were  
5 highest.

6 (3) Twenty-six (26) times his weekly benefit amount if  
7 in addition to meeting the requirement of section 87-103  
8 (c), he has been paid wages of one hundred dollars (\$100) or  
9 more for insured work in each of three (3) quarters in his  
10 base period other than the quarter in which his wages were  
11 highest.

12 (4) Extended benefits if he is qualified as provided  
13 under the provisions of this subsection.

14 (a) Definitions. — As used in this section, unless  
15 the context clearly requires otherwise—

16 (1) "Extended benefit period" means a period which  
17 (A) begins with the third week after whichever of the  
18 following weeks occurs first:

19 (i) a week for which there is a national "on"  
20 indicator, or

21 (ii) a week for which there is a state "on" indicator;  
22 and

23 (B) ends with either of the following weeks, whichever  
24 occurs later:

25 (i) the third week after the first week for which

SECOND READING

1 there is both a national "off" indicator and a state "off"  
2 indicator, or

3 (ii) the thirteenth consecutive week of such period;

4 Provided, that no extended benefit period may begin by  
5 reason of a state "on" indicator before the fourteenth week  
6 following the end of a prior extended benefit period which  
7 was in effect with respect to this state.

8 (2) There is a "national 'on' indicator" for a week if  
9 the U. S. Secretary of Labor determines that for each of  
10 the three (3) most recent completed calendar months ending  
11 before such week, the rate of insured unemployment  
12 (seasonally adjusted) for all states equaled or exceeded  
13 four and one-half per cent (4 1/2%).

14 (3) There is a "national 'off' indicator" for a week  
15 if the U. S. Secretary of Labor determines that for each of  
16 the three (3) most recent completed calendar months ending  
17 before such week, the rate of insured unemployment  
18 (seasonally adjusted) for all states was less than four and  
19 one-half per cent (4 1/2%).

20 (4) There is a "state 'on' indicator" for this state  
21 for a week if the ~~commission~~ division determines, in  
22 accordance with the regulations of the U. S. Secretary of  
23 Labor, that for the period consisting of such week and the  
24 immediately preceding twelve (12) weeks, the rate of insured  
25 unemployment (not seasonally adjusted) under this act—

1 (A) equaled or exceeded one hundred and twenty per  
2 cent (120%) of the average of such rates for the  
3 corresponding thirteen (13) week period ending in each of  
4 the preceding two (2) calendar years, and

5 (B) equaled or exceeded four per cent (4%).

6 (5) There is a "state 'off' indicator" for this state  
7 for a week if the ~~commission~~ division determines, in  
8 accordance with the regulations of the U. S. Secretary of  
9 Labor, that for the period consisting of such week and the  
10 immediately preceding twelve (12) weeks, the rate of insured  
11 unemployment (not seasonally adjusted) under this act—

12 (A) was less than one hundred and twenty per cent  
13 (120%) of the average of such rates for the corresponding  
14 thirteen (13) week period ending in each of the preceding  
15 two (2) calendar years, or

16 (B) was less than four per cent (4%).

17 (6) "Rate of insured unemployment," for purposes of  
18 paragraphs (4) and (5) of this subsection, means the  
19 percentage derived by dividing

20 (i) the average weekly number of individuals filing  
21 claims in this state for weeks of unemployment with respect  
22 to the most recent thirteen (13) consecutive-week period, as  
23 determined by the ~~commission~~ division on the basis of his  
24 reports to the U. S. Secretary of Labor, by

25 (ii) the average monthly employment covered under this

1 compensation fund, and neither the state nor the ~~commission~~  
 2 division shall be liable for any amount in excess of such  
 3 sums."

4 Section 33. Section 87-149, R.C.M. 1947, is amended to  
 5 read as follows:

6 "87-149. Definitions — continued. (a) Total  
 7 unemployment:

8 (1) An individual shall be deemed "totally unemployed"  
 9 in any week during which he performed no services and with  
 10 respect to which no wages are payable to him.

11 (2) An individual's week of unemployment shall be  
 12 deemed to commence only after his registration at an  
 13 unemployment office, except as the ~~commission~~ division may  
 14 by regulation otherwise prescribe.

15 (3) As used in this subsection the term "wages" shall  
 16 include only that part of remuneration for work which is in  
 17 excess of twice the weekly benefit amount, and the term  
 18 "service" shall include only that work in excess of twelve  
 19 (12) hours in any one week.

20 (b) "Unemployment compensation administration fund,"  
 21 means the unemployment compensation administration fund  
 22 established by this act, from which administrative expenses  
 23 under this act shall be paid.

24 (c) "Wages," means all remuneration payable for  
 25 personal services, including ~~commissions~~ divisions

1 COMMISSIONS and bonuses and the cash value of all  
 2 remuneration payable in any medium other than cash. The  
 3 reasonable cash value of remuneration payable in any medium  
 4 other than cash shall be estimated and determined in  
 5 accordance with rules prescribed by the ~~commission~~ division.  
 6 Wage records kept by the ~~commission~~ division for the  
 7 purposes of this act prior to January 1, 1941, shall be kept  
 8 on the basis of wages payable, and wage records kept by the  
 9 ~~commission~~ division for the purposes of this act after  
 10 January 1, 1941, shall be kept on the basis of wages paid.  
 11 Provided, however, that the term "wages" shall not include—

12 (1) The amount of any payment made to, or on behalf  
 13 of, an employee by an employer on account of:

- 14 (A) Retirement, or
- 15 (B) Sickness or accident disability, or
- 16 (C) Medical and hospitalization expenses in connection  
 17 with sickness or accident disability, or
- 18 (D) Death.

19 (E) Services performed for a fraternal benefit  
 20 society, lodge, order, service club or association having a  
 21 total annual payroll of less than five hundred dollars  
 22 (\$500.00) in any calendar year.

23 (F) Remuneration paid by any county welfare office  
 24 from welfare assistance funds for services performed at the  
 25 direction and request of such county welfare office.



1 (d) "week," means a period of seven (7) consecutive  
2 calendar days ending at midnight on Saturday.

3 (e) "weekly benefit amount." An individual's "weekly  
4 benefit amount" means the amount of benefits he would be  
5 entitled to receive for one (1) week of total unemployment.

6 (f) "Gross misconduct," means a criminal act, other  
7 than a violation of a motor vehicle traffic law, for which  
8 an individual has been convicted in a criminal court or has  
9 admitted or conduct which demonstrates a flagrant and wanton  
10 disregard of and for the rights or title or interest of a  
11 fellow employee or his employer.

12 (g) The word "division" throughout the unemployment  
13 statutes refers to a unit of the Montana state department of  
14 labor and industry.

15 (h) The word "administrator" refers to a person  
16 appointed by the commissioner of labor and industry to  
17 direct and administer the unemployment compensation laws and  
18 federal laws falling within the administrator's  
19 jurisdiction.

20 (i) The words "board of labor appeals" used in this  
21 act mean three (3) persons appointed by the governor, who  
22 are not public employees but who are attached to the Montana  
23 state department of labor and industry. The function of  
24 said board is to act in a quasi-judicial capacity for the  
25 hearing of disputes concerning the administration of

1 Montana's unemployment insurance laws."

2 Section 34. Sections 87-115, 87-117, ~~87-118~~, 87-119,  
3 87-125, and 87-126, R.C.M. 1947, are repealed.

-End-

HOUSE BILL NO. 173

INTRODUCED BY FEDERICO

A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTIONS 87-104, ~~THROUGH~~ 87-105, 87-107, 87-108, 87-111 THROUGH 87-114, 87-116, 87-118, 87-120 THROUGH 87-124, 87-127 ~~THROUGH~~ 87-136, 87-138 THROUGH 87-140, 87-142, 87-145 THROUGH 87-147, 87-149, R.C.M. 1947; BY CHANGING THE WORD "COMMISSION" TO THE WORD "DIVISION"; BY ADDING DEFINITIONS; BY SUBSTITUTING THE WORDS "BOARD OF LABOR APPEALS" IN CONFORMITY WITH THE EXECUTIVE REORGANIZATION ACT OF 1971; AND REPEALING SECTIONS 87-115, 87-117, ~~87-118,~~ 87-119, 87-125, AND 87-126, R.C.M. 1947."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 87-104, R.C.M. 1947, is amended to read as follows:

"87-104. Duration of benefits. The maximum total amount of benefits payable to any eligible individual during any benefit year shall be:

(a) (1) Thirteen (13) times his weekly benefit amount if he is qualified as an insured worker as defined in section 87-103 (c), and does not qualify under subsection (2) or (3) below.

(2) Twenty (20) times his weekly benefit amount if in

addition to meeting the requirements of section 87-103 (c), he has been paid wages of one hundred dollars (\$100) or more for insured work in each of two (2) quarters in his base period other than the quarter in which his wages were highest.

(3) Twenty-six (26) times his weekly benefit amount if in addition to meeting the requirement of section 87-103 (c), he has been paid wages of one hundred dollars (\$100) or more for insured work in each of three (3) quarters in his base period other than the quarter in which his wages were highest.

(4) Extended benefits if he is qualified as provided under the provisions of this subsection.

(a) Definitions. — As used in this section, unless the context clearly requires otherwise—

(1) "Extended benefit period" means a period which

(A) begins with the third week after whichever of the following weeks occurs first:

(i) a week for which there is a national "on" indicator, or

(ii) a week for which there is a state "on" indicator; and

(B) ends with either of the following weeks, whichever occurs later:

(i) the third week after the first week for which

1 there is both a national "off" indicator and a state "off"  
2 indicator, or

3 (ii) the thirteenth consecutive week of such period;

4 Provided, that no extended benefit period may begin by  
5 reason of a state "on" indicator before the fourteenth week  
6 following the end of a prior extended benefit period which  
7 was in effect with respect to this state.

8 (2) There is a "national 'on' indicator" for a week if  
9 the U. S. Secretary of Labor determines that for each of  
10 the three (3) most recent completed calendar months ending  
11 before such week, the rate of insured unemployment  
12 (seasonally adjusted) for all states equaled or exceeded  
13 four and one-half per cent (4 1/2%).

14 (3) There is a "national 'off' indicator" for a week  
15 if the U. S. Secretary of Labor determines that for each of  
16 the three (3) most recent completed calendar months ending  
17 before such week, the rate of insured unemployment  
18 (seasonally adjusted) for all states was less than four and  
19 one-half per cent (4 1/2%).

20 (4) There is a "state 'on' indicator" for this state  
21 for a week if the ~~commission~~ division determines, in  
22 accordance with the regulations of the U. S. Secretary of  
23 Labor, that for the period consisting of such week and the  
24 immediately preceding twelve (12) weeks, the rate of insured  
25 unemployment (not seasonally adjusted) under this act—

1 (A) equaled or exceeded one hundred and twenty per  
2 cent (120%) of the average of such rates for the  
3 corresponding thirteen (13) week period ending in each of  
4 the preceding two (2) calendar years, and

5 (B) equaled or exceeded four per cent (4%).

6 (5) There is a "state 'off' indicator" for this state  
7 for a week if the ~~commission~~ division determines, in  
8 accordance with the regulations of the U. S. Secretary of  
9 Labor, that for the period consisting of such week and the  
10 immediately preceding twelve (12) weeks, the rate of insured  
11 unemployment (not seasonally adjusted) under this act—

12 (A) was less than one hundred and twenty per cent  
13 (120%) of the average of such rates for the corresponding  
14 thirteen (13) week period ending in each of the preceding  
15 two (2) calendar years, or

16 (B) was less than four per cent (4%).

17 (6) "Rate of insured unemployment," for purposes of  
18 paragraphs (4) and (5) of this subsection, means the  
19 percentage derived by dividing

20 (i) the average weekly number of individuals filing  
21 claims in this state for weeks of unemployment with respect  
22 to the most recent thirteen (13) consecutive-week period, as  
23 determined by the ~~commission~~ division on the basis of his  
24 reports to the U. S. Secretary of Labor, by

25 (ii) the average monthly employment covered under this

1 act for the first four (4) of the most recent six (6)  
2 completed calendar quarters ending before the end of such  
3 thirteen (13) week period.

4 (7) "Regular benefits" means benefits payable to an  
5 individual under this act or under any other state law  
6 (including benefits payable to federal civilian employees  
7 and to ex-servicemen pursuant to 5 U.S.C. chapter 85) other  
8 than extended benefits.

9 (8) "Extended benefits" means benefits (including  
10 benefits payable to federal civilian employees and to  
11 ex-servicemen pursuant to 5 U.S.C. chapter 85) payable to  
12 an individual under the provisions of this section for weeks  
13 of unemployment in his eligibility period.

14 (9) "Eligibility period" of an individual means the  
15 period consisting of the weeks in his benefit year which  
16 begin in an extended benefit period and, if his benefit year  
17 ends within such extended benefit period, any weeks  
18 thereafter which begin in such period.

19 (10) "Exhaustee" means an individual who, with respect  
20 to any week of unemployment in his eligibility period:

21 (A) has received, prior to such week, all of the  
22 regular benefits that were available to him under this act  
23 or any other state law (including dependents' allowances and  
24 benefits payable to federal civilian employees and  
25 ex-servicemen under 5 U.S.C. chapter 85) in his current

1 benefit year that includes such week;

2 Provided, that, for the purposes of this subparagraph  
3 an individual shall be deemed to have received all of the  
4 regular benefits that were available to him although (i) as  
5 a result of a pending appeal with respect to wages that were  
6 not considered in the original monetary determination in his  
7 benefit year, he may subsequently be determined to be  
8 entitled to added regular benefits.

9 (B) his benefit year having expired prior to such  
10 week, has no, or insufficient, wages on the basis of which  
11 he could establish a new benefit year that would include  
12 such week; and

13 (C) (i) has no right to unemployment benefits or  
14 allowances, as the case may be, under the Railroad  
15 Unemployment Insurance Act, the Trade Expansion Act of 1962,  
16 the Automotive Products Trade Act of 1965 and such other  
17 federal laws as are specified in regulations issued by the  
18 U. S. Secretary of Labor; and (ii) has not received and is  
19 not seeking unemployment benefits under the unemployment  
20 compensation law of the Virgin Islands or of Canada; but if  
21 he is seeking such benefits and the appropriate agency  
22 finally determines that he is not entitled to benefits under  
23 such law he is considered an exhaustee.

24 (11) "State law" means the unemployment insurance law  
25 of any state, approved by the U. S. Secretary of Labor under

1 section 3304 of the Internal Revenue Code of 1954.

2 (b) Effect of state law provisions relating to regular  
3 benefits or claims for, and the payment of, extended  
4 benefits. — Except when the result would be inconsistent  
5 with the other provisions of this section, as provided in  
6 the regulations of the ~~commissioner~~ division, the provisions  
7 of this act which apply to claims for, or the payment of,  
8 regular benefits shall apply to claims for, and the payment  
9 of, extended benefits.

10 (c) Eligibility requirements for extended benefits. —  
11 An individual shall be eligible to receive extended benefits  
12 with respect to any week of unemployment in this eligibility  
13 period only if the ~~commissioner~~ division finds that with  
14 respect to such week:

15 (1) he is an "exhaustee" as defined in subsection  
16 (a) (10),

17 (2) he has satisfied the requirements of this act for  
18 the receipt of regular benefits that are applicable to  
19 individuals claiming extended benefits, including not being  
20 subject to a disqualification for the receipt of benefits.

21 (d) Weekly extended benefit amount. — The weekly  
22 extended benefit amount payable to an individual for a week  
23 of total unemployment in his eligibility period shall be an  
24 amount equal to the weekly benefit amount payable to him  
25 during his applicable benefit year.

1 (e) Total extended benefit amount. — The total  
2 extended benefit amount payable to any eligible individual  
3 with respect to his applicable benefit year shall be the  
4 least of the following amounts:

5 (1) fifty per cent (50%) of the total amount of  
6 regular benefits which were payable to him under this act in  
7 his applicable benefit year;

8 (2) thirteen (13) times his weekly benefit amount  
9 which was payable to him under this act for a week of total  
10 unemployment in the applicable benefit year.

11 (f) (1) Beginning and termination of extended benefit  
12 period. — Whenever an extended benefit period is to become  
13 effective in this state (or in all states) as a result of a  
14 state or a national "on" indicator, or an extended benefit  
15 period is to be terminated in this state as a result of  
16 state and national "off" indicators, the ~~commissioner~~ division  
17 shall make an appropriate public announcement.

18 (2) Computations required by the provisions of  
19 subsection (a) (6) shall be made by the ~~commissioner~~ division,  
20 in accordance with regulations prescribed by the U. S.  
21 Secretary of Labor.

22 (3) The effective date of subsection (a) (4) of this  
23 section shall be January 1, 1972.

24 (h) An individual disqualified by and pursuant to  
25 section 87-106, subsections (a), (b) and (c), shall have his

1 maximum weekly duration reduced by the number of weeks equal  
2 to the number of weeks of disqualification."

3 Section 2. Section 87-105, R.C.H. 1947, is amended to  
4 read as follows:

5 "87-105. Benefit eligibility conditions. An unemployed  
6 individual shall be eligible to receive benefits for any  
7 week of total unemployment within his benefit year; only if  
8 the ~~commission~~ division finds that—

9 (a) He has registered for work at and thereafter has  
10 continued to report at an employment office in accordance  
11 with such regulation as the ~~commission~~ division may  
12 prescribe, except that the ~~commission~~ division may, by  
13 regulation, prescribe that such types of cases or situations  
14 with respect to which it finds that compliance with such  
15 requirements would be oppressive, or would be inconsistent  
16 with the purposes of this act, provide for registration and  
17 reporting for work by mail or through other governmental  
18 agencies.

19 (b) He has made a claim for benefits in accordance  
20 with the provisions of section 87-107 (a).

21 (c) He is able to work and is available for work and  
22 is seeking work, provided, however, that no claimant shall  
23 be considered ineligible in any week of unemployment for  
24 failure to comply with the provisions of this subsection if  
25 such failure is due to an illness or disability which occurs

1 after he has registered for work and no suitable work has  
2 been offered to such claimant after the beginning of such  
3 illness or disability.

4 (d) Prior to any week for which he claims benefits he  
5 has been totally unemployed for a waiting period of one (1)  
6 week. However, if claimant's benefit year expires during a  
7 period of compensable unemployment, claimant will continue  
8 to receive weekly benefits, in a new benefit year, if  
9 otherwise eligible, without interruption to serve the  
10 waiting week for the new benefit year, but will thereafter  
11 be required to serve the waiting week before receiving  
12 benefits during subsequent unemployment in the new benefit  
13 year. No week shall be counted as a week of total  
14 unemployment for the purposes of this subsection:

15 (1) If benefits have been paid with respect thereto;

16 (2) Unless the individual was eligible for benefits  
17 with respect thereto;

18 (3) Unless it occurs within the benefit year of the  
19 claimant;

20 (4) Unless it occurs after benefits first could become  
21 payable to any individual under this act.

22 (e) An individual who received benefits during a  
23 benefit year must perform services for remuneration after  
24 the beginning of that year as a condition for receiving  
25 benefits in a second benefit year. The service may be in

1 either covered or noncovered employment, however, the  
 2 individual must have earned the lesser of three-thirteenths  
 3 (3/13) of his high quarter of his second benefit year or six  
 4 (6) times his weekly benefit amount of that same year.

5 (f) Benefits based on service in employment defined in  
 6 section 87-148 (j) (6) and (7) and section 87-110 (d) shall  
 7 be payable in the same amount, on the same terms and subject  
 8 to the same conditions as compensation payable on the basis  
 9 of other service subject to this act; except that benefits  
 10 based on service in an instructional, research, or principal  
 11 administrative capacity in an institution of higher  
 12 education (as defined in section 87-148 (n)) shall not be  
 13 paid to an individual for any week of unemployment which  
 14 begins during the period between two successive academic  
 15 years, or during a similar period between two regular terms,  
 16 whether or not successive, or during a period of paid  
 17 sabbatical leave provided for in the individual's contract,  
 18 if the individual has a contract or contracts to perform  
 19 services in any such capacity for any institution or  
 20 institutions of higher education for both such academic  
 21 years or both such terms.\*

22 Section J. Section 87-107, R.C.M. 1947, is amended to  
 23 read as follows:

24 "87-107. Claims for benefits. (a) Filing. Claims for  
 25 benefits shall be made in accordance with such regulations

1 as the division may prescribe. Each employer shall post and  
 2 maintain printed statements of such regulations in places  
 3 readily accessible to individuals in his service and shall  
 4 make available to each such individual at the time he  
 5 becomes unemployed, a printed statement of such regulations.  
 6 Such printed statements shall be supplied by the division to  
 7 each employer without cost to him.

8 (b) Initial determination. A representative designated  
 9 by the division, and hereinafter referred to as a deputy,  
 10 shall promptly examine the claim and, on the basis of the  
 11 facts found by him, shall either determine whether or not  
 12 such claim is valid, and if valid, the week with respect to  
 13 which benefits shall commence, the weekly benefit amount  
 14 payable and the maximum duration thereof, or shall refer  
 15 such claim or any question involved therein to an appeals  
 16 referee ~~which~~ who shall make ~~its decision~~ his decision with  
 17 respect thereto in accordance with the procedure prescribed  
 18 in subsection ~~(e)~~ (e) of this section. No determination or  
 19 redetermination of an initial or additional claim shall be  
 20 made under this section unless five (5) days notice of the  
 21 time and place of the claimant's interview for examination  
 22 of the claim is mailed to each interested party. The deputy  
 23 shall promptly notify the claimant and any other interested  
 24 party of the decision and the reasons therefor. The deputy  
 25 may for good cause reconsider his decision and shall

1 promptly notify the claimant and such other interested  
 2 parties of his amended decision and the reasons therefor.

3 (c) Finality of determination. A determination or  
 4 redetermination shall be deemed final unless an interested  
 5 party entitled to notice thereof applies for reconsideration  
 6 of the determination or appeals therefrom within five (5)  
 7 days after delivery of such notification or within seven (7)  
 8 days after such notification was mailed to his last known  
 9 address provided, that such period may be extended for good  
 10 cause.

11 (d) Appeals referee. To hear and decide disputed  
 12 claims, the division shall appoint such impartial appeals  
 13 referee as are necessary for the proper administration of  
 14 this act, consisting of salaried examiners selected in  
 15 accordance with section 67-123. No person shall participate  
 16 on behalf of the division in any case in which he is an  
 17 interested party. The division may designate alternates to  
 18 serve in the absence or disqualification of an appeals  
 19 referee.

20 (e) Notice of decision of appeals referee and time for  
 21 appeal. After a hearing an appeals referee shall make  
 22 findings and conclusions promptly and on the basis thereof  
 23 affirm, modify, or reverse the deputy's determination or  
 24 redetermination. Each interested party shall be furnished  
 25 promptly a copy of the decision and the supporting findings

1 and conclusions; this decision shall be final unless further  
 2 review is initiated pursuant to subsection (g) of this  
 3 section within five (5) days after delivery of such  
 4 notification or within seven (7) days after such  
 5 notification was mailed to his last known address, provided,  
 6 that such period may be extended for good cause.

7 (f) Prompt payment of claims. Notwithstanding any  
 8 provision in subsection (b), (c) or (g) of this section,  
 9 benefits shall be paid promptly in accordance with a  
 10 determination or redetermination under this section, or the  
 11 decision of an appeals referee, the board of labor appeals  
 12 or a reviewing court under subsection (g) of this section  
 13 upon the issuance of such determination, redetermination or  
 14 decision (regardless of the pendency of the period to apply  
 15 for reconsideration, file an appeal, or petition for  
 16 judicial review that is provided with respect thereto in  
 17 subsection (g) of this section, as the case may be, or the  
 18 pendency of any such application, filing, or petition),  
 19 unless and until such determination, redetermination, or  
 20 decision has been modified or reversed by a subsequent  
 21 redetermination or decision, in which event benefits shall  
 22 be paid or denied for weeks of unemployment thereafter in  
 23 accordance with such modifying or reversing redetermination  
 24 or decision.

25 If a deputy's determination or redetermination allowing



1 benefits is affirmed in any amount by an appeals referee, or  
 2 by the board of labor appeals, or if a decision of an  
 3 appeals referee allowing benefits is affirmed in any amount  
 4 by the board of labor appeals, such benefits shall be paid  
 5 promptly regardless of any further appeal or the disposition  
 6 of such appeal and no injunction, supersedeas, stay or other  
 7 writ or process suspending the payment of such benefits  
 8 shall be issued by the board or any court; but if such  
 9 decision is finally modified or reversed to deny benefits,  
 10 no employer's account shall be charged with benefits so  
 11 paid. Benefits shall not be paid for any weeks of  
 12 unemployment involved in such modification or reversal that  
 13 begins after such final decision.

14 (g) Appeal to board of labor appeals and judicial  
 15 review. Any interested party dissatisfied with a decision of  
 16 an appeals referee is entitled to appeal to the board of  
 17 labor appeals. The division will promptly transmit all  
 18 records pertinent to the appeal to the board. When a  
 19 decision is rendered by the board with copies of such  
 20 decision to all interested parties, including the division,  
 21 that decision shall become final unless an interested party  
 22 requests a rehearing or initiates judicial review by filing  
 23 a petition in district court within thirty (30) days of the  
 24 date of mailing of the board's decision to his last known  
 25 address."

1 Section 4. Section 87-106, R.C.S., 1947, is amended to  
 2 read as follows:

3 "87-106. Procedure and appeals. (a) Procedure. The  
 4 manner in which disputed claims shall be presented, the  
 5 reports thereon required from the claimant and from  
 6 employers, and the conduct of hearings and appeals shall be  
 7 in accordance with regulations prescribed by the ~~commission~~  
 8 division for determining the rights of the parties, whether  
 9 or not such regulations conform to common law or statutory  
 10 rules of evidence and other technical rules or procedure. A  
 11 full and complete record shall be kept of all proceedings in  
 12 connection with a disputed claim. All testimony at any  
 13 hearing upon a disputed claim shall be recorded, but need  
 14 not be transcribed unless the disputed claim is further  
 15 appealed. The ~~commission~~ division shall have continuing  
 16 jurisdiction over all claims filed for benefits to revise,  
 17 modify, alter, cancel and amend all orders, findings and  
 18 determinations made therein at any time and shall not lose  
 19 such jurisdiction unless and until the jurisdiction of such  
 20 claim and subject matter thereof has been taken by a court  
 21 of competent jurisdiction in a proceedings filed therein as  
 22 provided for in subsection (d) of this section.

23 (b) Witness fees. Witnesses subpoenaed pursuant to  
 24 this section shall be allowed fees at a rate fixed by the  
 25 ~~commission~~ division. Such fees shall be deemed a part of the

1 expense of administering this act.

2 (c) Appeal to courts. Any decision of the ~~commission~~  
 3 board of labor appeals in the absence of an appeal therefrom  
 4 as herein provided shall become final ten days after the  
 5 date of notification or mailing thereof, and judicial review  
 6 thereof shall be permitted only after any party claiming to  
 7 be aggrieved thereby has exhausted his remedies before the  
 8 ~~commission~~ board of labor appeals as provided by this act.  
 9 The ~~commission~~ division or board of labor appeals shall be  
 10 deemed to be a party to any judicial action involving any  
 11 such decision, and may be represented in any such judicial  
 12 action by any qualified attorney employed by the ~~commission~~  
 13 division or board of labor appeals and has been designated  
 14 by it for that purpose, or at the ~~commission's~~ division's or  
 15 board of labor appeals' request, by the attorney general.

16 (d) Court review. Within ten days after the decision  
 17 of the ~~commission~~ board of labor appeals has become final,  
 18 any party aggrieved thereby may secure judicial review  
 19 thereof by commencing an action in the district court of the  
 20 county in which said party resides against the ~~commission~~  
 21 board of labor appeals for the review of its decision, in  
 22 which action any other party to the proceeding before the  
 23 ~~commission~~ board of labor appeals shall be made a defendant.  
 24 In such action, a petition which need not be verified, but  
 25 which shall state the grounds upon which a review is sought,

1 shall be served upon a member of the ~~commission or upon such~~  
 2 ~~person as the commission may designate~~ board of labor  
 3 appeals or its designate for service of process and such  
 4 service shall be deemed completed service on all parties,  
 5 but there shall be left with the party so served as many  
 6 copies of the petition as there are defendants and the  
 7 ~~commission~~ board of labor appeals shall forthwith mail one  
 8 such copy to each such defendant. With its answer, the  
 9 ~~commission~~ board of labor appeals shall certify and file  
 10 with said court all documents and papers and a transcript of  
 11 all testimony taken in the matter, together with its  
 12 findings of fact and decision therein. The ~~commission~~ board  
 13 of labor appeals may also in its discretion, certify to such  
 14 court questions of law involved in any decision by it. In  
 15 any judicial proceeding under this section, the findings of  
 16 the ~~commission~~ board of labor appeals as to the facts, if  
 17 supported by evidence and in the absence of fraud, shall be  
 18 conclusive, and the jurisdiction of said court shall be  
 19 confined to questions of law. Such action, and the questions  
 20 so certified, shall be heard in a summary manner and shall  
 21 be given precedence over all other civil cases except cases  
 22 arising under the workmen's compensation law of this state.  
 23 An appeal may be taken from the decision of the said  
 24 district court to the supreme court of Montana in the same  
 25 manner, but not inconsistent with the provisions of this

1 act, as is provided in civil cases. It shall not be  
 2 necessary, in any judicial proceeding under this section, to  
 3 enter exceptions to the rulings of the ~~commissioner~~ division  
 4 of board of labor appeals and no bond shall be required for  
 5 entering such appeal. Upon the final determination of such  
 6 judicial proceeding, the ~~commissioner~~ division shall enter an  
 7 order in accordance with such determination. A petition for  
 8 judicial review shall not act as a supersedeas or stay  
 9 unless the ~~commissioner~~ division or board of labor appeals  
 10 shall so order."

11 Section 5. Section 87-111, R.C.M. 1947, is amended to  
 12 read as follows:

13 "87-111. Unemployment compensation account —  
 14 establishment and control. There is hereby established  
 15 separate and apart from all public moneys or funds of this  
 16 state, an account in the agency fund known as the  
 17 unemployment compensation account, which shall be  
 18 administered by the ~~commissioner~~ division exclusively for the  
 19 purposes of this act. Any reference to the unemployment  
 20 compensation fund in this code shall be taken to mean the  
 21 unemployment compensation account in the agency fund. This  
 22 account shall consist of (1) all contributions collected  
 23 under this act, inclusive of voluntary contributions as  
 24 provided in section 67-109 (c) (4), and payments made in lieu  
 25 of contributions as provided in section 67-109 (b) (2) and

1 (4); (2) interest earned upon any moneys in the account; (3)  
 2 any property or securities acquired through the use of  
 3 moneys belonging to the account; (4) all earnings of such  
 4 property or securities; and (5) all money credited to this  
 5 state's account in the unemployment trust fund pursuant to  
 6 section 903 of the Social Security Act, as amended. All  
 7 moneys in the account shall be mingled and undivided."

8 Section 6. Section 87-112, R.C.M. 1947, is amended to  
 9 read as follows:

10 "87-112. Accounts and deposits. The state treasurer  
 11 shall be ex officio the treasurer and custodian of the  
 12 unemployment compensation account and shall administer such  
 13 account in accordance with the directions of the ~~commissioner~~  
 14 division and shall issue his warrants upon it in accordance  
 15 with such regulations as the ~~commissioner~~ division shall  
 16 prescribe. He shall maintain within the account three (3)  
 17 separate accounts; (1) a clearing account, (2) an  
 18 unemployment trust fund account, and (3) a benefit account.  
 19 All moneys payable to the unemployment compensation account,  
 20 upon receipt thereof by the ~~commissioner~~ division, shall be  
 21 forwarded to the treasurer who shall immediately deposit  
 22 them in the clearing account. Refunds payable pursuant to  
 23 sections 87-135 to 87-139 may be paid from the clearing  
 24 account upon warrants issued by the treasurer under the  
 25 direction of the ~~commissioner~~ division. After clearance

1     thereof, all other money in the clearing account shall be  
 2     immediately deposited with the secretary of the treasury of  
 3     the United States of America to the credit of the account of  
 4     this state in the unemployment trust fund, established and  
 5     maintained pursuant to section 904 of the Social Security  
 6     Act, as amended, any provision of law in this state relating  
 7     to the deposit, administration, release, or disbursement of  
 8     moneys in the possession or custody of this state to the  
 9     contrary notwithstanding. The benefit account shall consist  
 10    of all moneys requisitioned for the payment of benefits from  
 11    this state's account in the unemployment trust fund. Except  
 12    as herein otherwise provided, moneys in the clearing and  
 13    benefit accounts may be deposited by the treasurer, under  
 14    the direction of the ~~commission~~ division, in any bank or  
 15    public depository in which general funds of the state may be  
 16    deposited but no public deposit insurance charge or premium  
 17    shall be paid out of the unemployment compensation account.  
 18    The treasurer shall give a separate bond conditioned upon  
 19    the faithful performance of his duties as custodian of the  
 20    unemployment compensation account in an amount fixed by the  
 21    ~~commission~~ division and in a form prescribed by law or  
 22    approved by the attorney general. Premiums for said bond  
 23    shall be paid from the unemployment compensation  
 24    administration account."

25     Section 7. Section 87-113, R.C.M. 1947, is amended to

1     read as follows:

2     "87-113. Withdrawals. (a) Moneys shall be  
 3     requisitioned from this state's account in the unemployment  
 4     trust fund solely for the payment of benefits and in  
 5     accordance with regulations prescribed by the ~~commission~~  
 6     division, except that money credited to this state's account  
 7     pursuant to section 903 of the Social Security Act, as  
 8     amended, may also be withdrawn for the payment of expenses  
 9     for the administration of this act and of public employment  
 10    offices, as provided by this act. The ~~commission~~ division  
 11    shall from time to time requisition from the unemployment  
 12    trust fund such amounts, not exceeding the amounts standing  
 13    to this state account therein, as it deems necessary for the  
 14    payment of benefits for a reasonable future period. Upon  
 15    receipt thereof the treasurer shall deposit such moneys in  
 16    the benefit account and shall issue his warrants for the  
 17    payment of benefits solely from such benefit account.  
 18    Expenditures of such moneys in the benefit account and  
 19    refunds from the clearing account shall not be subject to  
 20    any provisions of law requiring specific appropriations or  
 21    other formal release by state officers of money in their  
 22    custody. Any balance of moneys requisitioned from the  
 23    unemployment trust fund which remains unclaimed or unpaid in  
 24    the benefit account after the expiration of the period for  
 25    which such sums were requisitioned shall either be deducted

1 from estimates for, and may be utilized for the payment of,  
 2 benefits during succeeding periods, or in the discretion of  
 3 the ~~commission division~~, shall be redeposited with the  
 4 secretary of the treasury of the United States of America,  
 5 to the credit of this state's account in the unemployment  
 6 trust fund, as provided in section 87-112.

7 (b) Money credited to the account of this state in the  
 8 unemployment trust fund by the secretary of the treasury of  
 9 the United States of America pursuant to section 903 of the  
 10 Social Security Act, as amended, may be requisitioned and  
 11 used for the payment of expenses incurred for the  
 12 administration of this act pursuant to a specific  
 13 appropriation by the legislature, provided that the expenses  
 14 are incurred and the money is requisitioned after the  
 15 enactment of an appropriation law which: (A) specifies the  
 16 purposes for which such money is appropriated and the  
 17 amounts appropriated therefor, (B) limits the period within  
 18 which such money may be expended to a period ending not more  
 19 than two (2) years after the date of the enactment of the  
 20 appropriation law, and (C) limits the amount which may be  
 21 used during any twelve (12) month period beginning on July 1  
 22 and ending on the next June 30 to an amount which does not  
 23 exceed the amount by which (1) the aggregate of the amounts  
 24 credited to the account of this state pursuant to section  
 25 903 of the Social Security Act, as amended, during the same

1 twelve (12) month period and the four (4) preceding twelve  
 2 (12) month periods, exceeds (2) the aggregate of the amounts  
 3 used pursuant to this subsection and charged against the  
 4 amounts credited to the account of this state during any of  
 5 such five (5) twelve (12) month periods. For the purposes of  
 6 this subsection, amounts used during any such twelve (12)  
 7 month period shall be charged against equivalent amounts  
 8 which were first credited and which are not already so  
 9 charged; except that no amount used for administration  
 10 during any such twelve (12) month period may be charged  
 11 against any amount credited during such a twelve (12) month  
 12 period earlier than the fourth preceding such period. Money  
 13 requisitioned for the payment of expenses of administration  
 14 pursuant to this subsection shall be deposited in the  
 15 unemployment compensation administration fund, but until  
 16 expended, shall remain a part of the unemployment  
 17 compensation fund. The ~~commission division~~ shall maintain a  
 18 separate record of the deposit, obligation, expenditure, and  
 19 return of funds so deposited. If any money so deposited is,  
 20 for any reason, not to be expended for the purpose for which  
 21 it was appropriated, or, if it remains unexpended at the end  
 22 of the period specified by the law appropriating such money,  
 23 it shall be withdrawn and returned to the secretary of the  
 24 treasury of the United States for credit to this state's  
 25 account in the unemployment trust fund.

1 (c) All warrants issued by the treasurer for payment  
 2 pursuant to this section shall bear the signature of the  
 3 treasurer and the countersignature of a member of the  
 4 ~~commission~~ division or its duly authorized agent for that  
 5 purpose."

6 Section 8. Section 87-114, R.C.M. 1947, is amended to  
 7 read as follows:

8 "87-114. Disbursement of funds if federal act becomes  
 9 inoperative. If title III or IX of the Federal Social  
 10 Security Act is declared unconstitutional or in any way is  
 11 inoperative, this act automatically becomes inoperative  
 12 under the provisions of this act, and the funds which then  
 13 remain in the unemployment trust fund shall immediately be  
 14 paid to the state treasurer to be paid into the unemployment  
 15 compensation fund and funds there held shall be immediately  
 16 distributed, upon order of the ~~commission~~ division, to the  
 17 employers who have contributed thereto on a proportionate  
 18 basis. If any part thereof remains undistributed for a  
 19 period of one (1) year it shall be paid to the general fund  
 20 of the state of Montana."

21 Section 9. Section 87-116, R.C.M. 1947, is amended to  
 22 read as follows:

23 "87-116. Agreements with railroad retirement board.  
 24 The unemployment compensation ~~commission~~ division of Montana  
 25 is hereby authorized to co-operate with and enter into

1 agreements with the railroad retirement board with respect  
 2 to establishment, maintenance and use of Montana state  
 3 employment service facilities, and to make available to the  
 4 said railroad retirement board the records of the ~~commission~~  
 5 division relating to employer's status and contributions  
 6 received from employers covered by the Railroad Unemployment  
 7 Insurance Act, together with employee wage records and such  
 8 other data as the railroad retirement board may deem  
 9 necessary or desirable for the administration of the  
 10 Railroad Unemployment Insurance Act (52 Stat. 1094); that  
 11 any moneys received by the unemployment compensation  
 12 ~~commission~~ division of Montana from the railroad retirement  
 13 board or any other governmental agency with respect to the  
 14 establishment, maintenance and use of Montana state  
 15 employment service facilities, shall be paid into and  
 16 credited the proper division of the unemployment  
 17 compensation administration fund set up and established  
 18 under sections 87-133 and 87-134."

19 Section 10. Section 87-118, R.C.M. 1947, is amended to  
 20 read as follows:

21 "87-118. Divisions. The ~~commission~~ division shall  
 22 establish two co-ordinate ~~divisions~~ bureaus: The Montana  
 23 state employment service ~~division~~ bureau created pursuant to  
 24 section 87-132, and the unemployment insurance ~~division~~  
 25 bureau. Each ~~division~~ bureau shall be responsible to the

1 ~~executive director~~ administrator for the discharge of its  
 2 distinctive function. Each ~~division~~ bureau shall be a  
 3 separate administrative unit with respect to personnel,  
 4 budget, and duties except in so far as the ~~commission~~  
 5 division may find that such separation is impracticable."

6 Section 11. Section 87-120, R.C.M. 1947, is amended to  
 7 read as follows:

8 "87-120. Administration — duties and powers of  
 9 ~~commission division~~. It shall be the duty of the ~~commission~~  
 10 division to administer this act; and it shall have power and  
 11 authority to adopt, amend, or rescind such rules and  
 12 regulations, to employ such persons, make such expenditures,  
 13 require such reports, make such investigations, and take  
 14 such other action as it deems necessary or suitable to that  
 15 end. Such rules and regulations shall be effective upon  
 16 publication in the manner, not inconsistent with the  
 17 provisions of this act, which the ~~commission~~ division shall  
 18 prescribe. The ~~commission~~ division shall determine its own  
 19 organization and methods of procedure in accordance with the  
 20 provisions of this act, and shall have an official seal  
 21 which shall be judicially noticed. The ~~commission~~ division  
 22 shall report as provided in section 2 [82-4002] of this act.  
 23 Such report shall include a balance sheet of the moneys in  
 24 the fund in which there shall be provided, if possible, a  
 25 reserve against the liability in future years to pay

1 benefits in excess of the then current contributions, which  
 2 reserve shall be set up by the ~~commission~~ division in  
 3 accordance with accepted actuarial principles on the basis  
 4 of statistics of employment, business activity, and other  
 5 relevant factors for the longest possible period. Whenever  
 6 the ~~commission~~ division believes that a change in  
 7 contribution or benefit rates will become necessary to  
 8 protect the solvency of the fund, it shall promptly so  
 9 inform the governor and the legislature, and make  
 10 recommendations with respect thereto."

11 Section 12. Section 87-121, R.C.M. 1947, is amended to  
 12 read as follows:

13 "87-121. Regulations and general and special rules.  
 14 General and special rules may be adopted, amended, or  
 15 rescinded by the ~~commission~~ division only after public  
 16 hearing or opportunity to be heard thereon, of which proper  
 17 notice has been given. General rules shall become effective  
 18 ten days after filing with the secretary of the state and  
 19 publication in one or more newspapers of general circulation  
 20 in this state. Special rules shall become effective ten days  
 21 after notification to or mailing to the last known address  
 22 of the individuals or concerns affected thereby.  
 23 Regulations may be adopted, amended, or rescinded by the  
 24 ~~commission~~ division and shall become effective in the manner  
 25 and at the time prescribed by the ~~commission~~ law."

1 Section 13. Section 87-122, R.C.M. 1947, is amended to  
 2 read as follows:

3 "87-122. Publication. The ~~commission~~ division shall  
 4 cause to be printed for distribution to the public the text  
 5 of this act, the ~~commission's~~ division's regulations and  
 6 general and special rules, ~~its~~ annual reports to the  
 7 governor, and any other material the ~~commission~~ division  
 8 deems relevant and suitable and shall furnish the same to  
 9 any person upon application therefor."

10 Section 14. Section 87-123, R.C.M. 1947, is amended to  
 11 read as follows:

12 "87-123. Personnel. Subject to other provisions of  
 13 this act, the ~~commission~~ division is authorized to appoint,  
 14 fix the compensation and prescribe the duties and powers of  
 15 such officers, accountants, attorneys, experts, and other  
 16 persons as may be necessary in the performance of its duties  
 17 under this act. The ~~commission~~ division may delegate to any  
 18 such persons such power and authority as it deems reasonable  
 19 and proper for the effective administration of this act, and  
 20 may in its discretion bond any person handling money or  
 21 signing checks hereunder. The ~~commission~~ division shall  
 22 classify positions under this act and shall establish salary  
 23 schedules and minimum personnel standards for the positions  
 24 so classified. The ~~commission~~ division shall provide for the  
 25 holding of examinations to determine the qualifications of

1 applicants for the positions so classified, and except for  
 2 temporary appointments of not to exceed six months in  
 3 duration, such personnel shall be appointed on the basis of  
 4 efficiency and fitness as determined in such examinations.  
 5 No person who is an officer or committee member of any  
 6 political party organization or who holds or is a candidate  
 7 for any public office shall be appointed or employed under  
 8 this act. The ~~commission~~ division shall establish and  
 9 enforce fair and reasonable regulations for appointments,  
 10 promotions, and demotions based upon ratings of efficiency  
 11 and fitness and for terminations for cause."

12 Section 15. Section 87-124, R.C.M. 1947, is amended to  
 13 read as follows:

14 "87-124. Records and reports. Each employing unit  
 15 shall keep true and accurate work records, containing such  
 16 information as the ~~commission~~ division may prescribe. Those  
 17 records shall be open to inspection and shall be subject to  
 18 being copied by the ~~commission~~ division or its authorized  
 19 representative at any reasonable time and as often as may be  
 20 necessary. The ~~commission~~ division and the chairman of any  
 21 appeal tribunal may require from any employing unit any  
 22 sworn or unsworn reports with respect to persons employed by  
 23 it which the ~~commission~~ division considers necessary to the  
 24 effective administration of this act. Information thus  
 25 obtained or obtained from any individual under this act



1 shall, except to the individual claimant to the extent  
 2 necessary for the proper presentation of a claim, be held  
 3 confidential and shall not be published or be open to public  
 4 inspection except to public employees in the performance of  
 5 their public duties in any manner revealing the individual's  
 6 or employing unit's identity, but any claimant or his legal  
 7 representative at a hearing before the ~~commission~~ board of  
 8 labor appeals or appeal tribunal shall be supplied with  
 9 information from the records to the extent necessary for the  
 10 proper presentation of his claim. Any employee or member of  
 11 the ~~commission division~~ who violates any provision of this  
 12 section shall be fined not less than twenty dollars (\$20)  
 13 nor more than two hundred dollars (\$200), or imprisoned for  
 14 not longer than ninety (90) days, or both."

15 Section 16. Section 87-127, R.C.M. 1947, is amended to  
 16 read as follows:

17 "87-127. Protection against self incrimination. No  
 18 person shall be excused from attending and testifying or  
 19 from producing books, papers, correspondence, memoranda, and  
 20 other records before the ~~commission division or board of~~  
 21 labor appeals, the chairman of an appeal tribunal or any  
 22 duly authorized representative of any either of them or in  
 23 obedience to the subpoena of the ~~commission division or~~  
 24 board of labor appeals or any member thereof or any duly  
 25 authorized representative of the ~~commission division~~ in any

1 cause or proceeding before the ~~commission division or board~~  
 2 of labor appeals, on the ground that the testimony or  
 3 evidence, documentary or otherwise, required of him may tend  
 4 to incriminate him or subject him to a penalty or  
 5 forfeiture; but no individual shall be prosecuted or  
 6 subjected to any penalty or forfeiture for or on account of  
 7 any transaction, matter, or thing concerning which he is  
 8 compelled, after having claimed his privilege against self  
 9 incrimination, to testify or produce evidence, documentary  
 10 or otherwise, except that such individual so testifying  
 11 shall not be exempt from prosecution and punishment for  
 12 perjury committed in so testifying."

13 Section 17. Section 87-128, R.C.M. 1947, is amended to  
 14 read as follows:

15 "87-128. State-federal co-operation. In the  
 16 administration of this act, the ~~commission division~~ shall  
 17 co-operate to the fullest extent consistent with the  
 18 provisions of this act with the secretary of labor, pursuant  
 19 to the provisions of the Social Security Act, as amended;  
 20 shall make such reports, in such form and containing such  
 21 information as the secretary of labor may from time to time  
 22 require, and shall comply with such provisions as the  
 23 secretary of labor may from time to time find necessary to  
 24 assure the correctness and verification of such reports; and  
 25 shall comply with the regulations prescribed by the

1 secretary of labor governing the expenditures or [of] such  
 2 sums as may be allotted and paid to this state under title  
 3 III of the Social Security Act, as amended, for the purpose  
 4 of assisting in the administration of this act. The  
 5 ~~commission~~ division shall co-operate with the secretary of  
 6 labor in the administration of any act of Congress  
 7 establishing unemployment compensation benefits or similar  
 8 benefits for federal employees and veterans or ex-service  
 9 personnel of the armed forces of the United States, and  
 10 shall do so in such manner as may be deemed advisable and  
 11 expedient in order to carry out the purpose of this act. The  
 12 ~~commission~~ division is hereby authorized and empowered to  
 13 perform any and all acts, including the execution of  
 14 agreements and contracts which may be required under and  
 15 pursuant to any act passed by the Congress of the United  
 16 States, authorizing the extension of unemployment  
 17 compensation benefits by federal law if the ~~commission~~  
 18 division in its discretion deems it advisable to perform  
 19 such acts.

20 Upon request therefor the ~~commission~~ division shall  
 21 furnish to any agency of the United States charged with the  
 22 administration of public works or assistance through public  
 23 employment, the name, address, ordinary occupation, and  
 24 employment status of each recipient of benefits and such  
 25 recipient's rights to further benefits under this act."

1 Section 18. Section 87-129, R.C.M. 1947, is amended to  
 2 read as follows:

3 "87-129. Reciprocal benefit arrangements. The  
 4 ~~commission~~ division is hereby authorized to enter into  
 5 arrangements with the appropriate agencies of other states  
 6 or the federal government, whereby individuals performing  
 7 services in this and other states for a single employing  
 8 unit under circumstances not specifically provided for in  
 9 this act, or under similar provisions of the unemployment  
 10 compensation laws of such other states, shall be deemed to  
 11 be engaged in employment performed entirely within this  
 12 state or within one of such other states and whereby  
 13 potential rights to benefits accumulated under the  
 14 unemployment compensation laws of several states or under  
 15 such a law of the federal government, or both, may  
 16 constitute the basis for the payment of benefits through a  
 17 single appropriate agency under terms which the ~~commission~~  
 18 division finds will be fair and reasonable as to all  
 19 affected interests, and will not result in any substantial  
 20 loss to the fund.

21 The ~~commission~~ division shall participate in any  
 22 arrangements, approved by the U. S. secretary of labor,  
 23 with the appropriate agencies of the other states or of the  
 24 federal government whereby wages or services, upon the basis  
 25 of which an individual may become entitled to benefits under

1 the unemployment compensation law of another state or of the  
 2 federal government, shall be deemed to be wages for  
 3 employment by employers for benefit purposes;

4 Provided that in any instance involving the combining  
 5 of an individual's wages and employment covered under two or  
 6 more state unemployment compensation laws that the base  
 7 period of a single state law will be used; and

8 Provided that such combining of wages will not involve  
 9 the duplicate use of such wage credits; and

10 Provided that such other state agency or agency of the  
 11 federal government has agreed to reimburse the unemployment  
 12 compensation fund for such portion of benefits paid under  
 13 this act upon the basis of such wages or services as the  
 14 commission division finds will be fair and reasonable as to  
 15 all affected interests; and whereby the commission division  
 16 will reimburse other state or federal agencies charged with  
 17 the administration of unemployment compensation laws, with  
 18 such reasonable portion of benefits, paid under the law of  
 19 any such other states or of the federal government upon the  
 20 basis of employment or wages for employment by employers, as  
 21 the commission division finds will be fair and reasonable to  
 22 all affected interests. Reimbursements so payable shall be  
 23 deemed to be benefits for the purposes of this act. The  
 24 commission division is hereby authorized to make to other  
 25 state or federal agencies, reimbursements from or to the

1 unemployment compensation fund, in accordance with  
 2 arrangements made pursuant to this section."

3 Section 19. Section 87-130, R.C.M. 1947, is amended to  
 4 read as follows:

5 "87-130. Acquisition of property, etc. Subject to the  
 6 approval of the state board of examiners, the commission  
 7 division may purchase such equipment, supplies, and real  
 8 property as it may deem necessary and proper. The title to  
 9 any real property purchased shall be taken in the name of  
 10 the state of Montana. Subject to the approval of the state  
 11 board of examiners, the commission division may sell any  
 12 equipment, supplies or real property previously acquired by  
 13 it, and the proceeds of such sale shall be deposited into  
 14 the unemployment compensation administration fund. In the  
 15 event the duties, or any part thereof, of the commission  
 16 division shall be at any time in the future surrendered to  
 17 or taken over by the federal government or any agency  
 18 thereof, the commission division, with the approval of the  
 19 state board of examiners, may lease such equipment and real  
 20 property to the federal government, or such agency, but the  
 21 title thereto shall remain in the state of Montana."

22 Section 20. Section 87-131, R.C.M. 1947, is amended to  
 23 read as follows:

24 "87-131. Commission Division to co-operate with other  
 25 agencies. The commission division shall afford reasonable

1 co-operation with any government agency charged with war  
 2 effort or postwar planning responsibilities or with the  
 3 administration of any system of unemployment allowances or  
 4 unemployment assistance or of any program designed to  
 5 prevent or relieve unemployment. The ~~commission~~ division  
 6 may make, and may co-operate with other appropriate state  
 7 agencies in making studies as to the practicability and  
 8 probable cost of possible new state-administered social  
 9 security programs; and the relative desirability of state  
 10 (rather than national) action in any such field. The  
 11 ~~commission~~ division shall fully co-operate with the agencies  
 12 of other states, and shall make every proper effort within  
 13 its means, to oppose and prevent any further action which  
 14 would in its judgment tend to effect complete or substantial  
 15 federalization of state unemployment compensation funds or  
 16 state unemployment compensation and employment security  
 17 programs, or any part of the social security program."

18 Section 21. Section 87-132, R.C.M. 1947, is amended to  
 19 read as follows:

20 "87-132. State employment service. The ~~commission~~  
 21 division shall create a ~~division~~ bureau to be known as the  
 22 Montana state employment service which ~~division~~ bureau shall  
 23 establish and maintain free public employment offices in  
 24 such number and in such places as may be necessary for the  
 25 proper administration of this act, and for the purpose of

1 performing such duties as are within the purview of the act  
 2 of Congress entitled; "An act to provide for the  
 3 establishment of a national employment system and for  
 4 co-operation with the states in the promotion of such  
 5 system, and for other purposes," approved June 6, 1933 (48  
 6 Stat. 113; U.S.C. Title 29, Sec. 49 (c)), as amended. The  
 7 said ~~division~~ bureau shall be administered by a full-time  
 8 salaried director. The ~~commission~~ division shall be charged  
 9 with the duty to co-operate with any official or agency of  
 10 the United States having power or duties under the  
 11 provisions of the said act of Congress, as amended, and to  
 12 do and perform all things necessary to secure to this state  
 13 the benefits of the said act of Congress, as amended, in the  
 14 promotion and maintenance of a system of public employment  
 15 offices. The provisions of the said act of Congress, as  
 16 amended, are hereby accepted by this state, in conformity  
 17 with section 4 of said act, and this state will observe and  
 18 comply with the requirements thereof. The ~~unemployment~~  
 19 ~~compensation~~ ~~commission~~ employment security division is  
 20 hereby designated and constituted the agency of this state  
 21 for the purpose of said act. The ~~commission~~ division is  
 22 directed to appoint the personnel of the Montana state  
 23 employment service. For the purpose of establishing and  
 24 maintaining free public employment offices, the ~~commission~~  
 25 division is authorized to enter into agreements with any

1 political subdivisions of this state or with any private,  
 2 nonprofit organization, and as a part of any such agreement  
 3 the ~~commission~~ division may accept moneys, services, or  
 4 quarters as a contribution to the employment service  
 5 account."

6 Section 22. Section 87-133, R.C.M. 1947, is amended to  
 7 read as follows:

8 "87-133. Unemployment compensation administration  
 9 account. There is hereby created an account in the federal  
 10 and private revenue fund to be known as the unemployment  
 11 compensation administration account. All moneys which are  
 12 deposited, appropriated or paid into this account are hereby  
 13 appropriated and made available to the ~~commission~~ division.  
 14 All moneys in the account shall be expended solely for the  
 15 purpose of defraying the costs of administration of this act  
 16 and costs of administration of such other legislation as  
 17 shall be specifically delegated to the ~~commission~~ division  
 18 for administration by the legislature. All moneys received  
 19 and deposited in said account for administration expense  
 20 from the United States of America or any agency thereof,  
 21 pursuant to section 302, title III of the Social Security  
 22 act shall be expended solely for the purpose and in the  
 23 amounts found necessary by the secretary of labor for the  
 24 proper and efficient administration of this act. The account  
 25 shall consist of (1) all moneys received from the United

1 States of America or any agency thereof, pursuant to section  
 2 302, title III of the Social Security Act, as amended, and  
 3 (2) all moneys appropriated by the state from the general  
 4 fund for the purpose of administering this act, all interest  
 5 and penalties collected on past due contributions as  
 6 provided by section 87-135; all moneys, trust funds,  
 7 supplies, facilities or services furnished, deposited, paid  
 8 and received from the United States of America, or any  
 9 agency thereof, from this state or any agency thereof, from  
 10 any other state or any of its agencies, from political  
 11 subdivisions of the state, or any other source for  
 12 administrative expense and purpose. Notwithstanding any  
 13 provisions of this section, all money requisitioned and  
 14 deposited in this account pursuant to section 87-113 shall  
 15 remain part of the unemployment compensation account and  
 16 shall be used only in accordance with the conditions  
 17 specified in section 87-113. All moneys in this account  
 18 shall be deposited, administered, and disbursed in the same  
 19 manner and under the same conditions and requirements as is  
 20 provided by law for other accounts. Any balance in this  
 21 account shall not lapse at any time, but shall be  
 22 continuously available to the ~~commission~~ division for the  
 23 expenditure consistent with this act. The state treasurer  
 24 shall give a separate and additional bond conditioned upon  
 25 the faithful performance of his duties in connection with

1 the unemployment compensation administration account in an  
 2 amount to be fixed by the ~~commission~~ division and in a form  
 3 prescribed by law or approved by the attorney general. The  
 4 premiums for such bond and the premiums for the bond given  
 5 by the treasurer for the unemployment compensation account  
 6 under section 87-112, shall be paid from the moneys in the  
 7 unemployment compensation administration account. Any  
 8 reference to the unemployment compensation administration  
 9 fund in this code shall be taken to mean the unemployment  
 10 compensation administration account in the federal and  
 11 private revenue fund."

12 Section 23. Section 87-134, R.C.M. 1947, is amended to  
 13 read as follows:

14 "87-134. Reimbursement of fund. This state recognizes  
 15 its obligation to replace, and hereby pledges the faith of  
 16 this state that funds will be provided in the future, and  
 17 applied to the replacement of any of the moneys received  
 18 after July 1, 1941, from the United States of America, or  
 19 any agency thereof, under title III of the Social Security  
 20 Act, any unencumbered balances in the unemployment  
 21 compensation administration fund as of that date, any moneys  
 22 thereafter granted to this state pursuant to the provisions  
 23 of the Wagner-Peyser Act, and any moneys made available by  
 24 the state or its political subdivisions and matched by such  
 25 moneys granted to this state pursuant to the provisions of

1 the Wagner-Peyser Act, which the secretary of labor finds  
 2 have, because of any action or contingency, been lost or  
 3 have been expended for purposes other than, or in amounts in  
 4 excess of, those found necessary by the secretary of labor  
 5 for the proper administration of this act. Such moneys shall  
 6 be promptly supplied by moneys furnished by the state of  
 7 Montana or any of its subdivisions for the use of the  
 8 unemployment compensation ~~commission~~ division and used only  
 9 for purposes approved by the secretary of labor. The  
 10 ~~commission~~ division shall, if necessary, promptly report to  
 11 the governor and the governor to the legislature, the amount  
 12 required for such replacement. This section shall not be  
 13 construed to relieve this state of its obligation with  
 14 respect to funds received prior to July 1, 1941, pursuant to  
 15 the provisions of title III of the Social Security Act."

16 Section 24. Section 87-135, R.C.M. 1947, is amended to  
 17 read as follows:

18 "87-135. Penalty and interest on past-due  
 19 contributions. Contributions unpaid on the date on which  
 20 they are due and payable, as prescribed by the ~~commission~~  
 21 division, shall be subject to a penalty assessment of five  
 22 per centum (5%) or five (\$5.00) dollars, whichever is  
 23 greater, and shall bear interest at the rate of one-half of  
 24 one per centum (1/2 of 1%) per month from and after such  
 25 date until payment plus accrued interest and penalty is

1 received by the ~~commission~~ division. No interest shall be  
 2 charged for fractional part of a month. Interest and penalty  
 3 collected pursuant to this subsection shall be paid into the  
 4 unemployment compensation administration fund. When failure  
 5 to pay contributions in time and before delinquency was not  
 6 caused by willful intent of the employer, and for good cause  
 7 shown, the ~~commission~~ division may abate the penalty and  
 8 interest, as a compromise offer of settlement and payment of  
 9 the tax liability."

10 Section 25. Section 87-136, R.C.M. 1947, is amended to  
 11 read as follows:

12 "87-136. Collection — reciprocity with other states  
 13 in effecting collection of unpaid unemployment compensation  
 14 taxes. (a) If, after due notice, any employer defaults in  
 15 any payment of contributions or interest thereon, the amount  
 16 due shall be collected by civil action in the name of the  
 17 ~~commission~~ division, Montana department of labor and  
 18 industry, and the employer adjudged in default shall pay the  
 19 costs of such action. Civil actions brought under this  
 20 section to collect contributions or interest thereon from an  
 21 employer shall be heard by the court at the earliest  
 22 possible date and shall be entitled to preference upon the  
 23 calendar of the court over all other civil actions except  
 24 petitions for judicial review under this act and cases  
 25 arising under the workmen's compensation law of this state.

1 Action for the collection of contributions due shall be  
 2 brought within five (5) years after the due date of such  
 3 contributions, otherwise to be barred as provided in section  
 4 93-2604.

5 (b) The courts of this state shall recognize and  
 6 enforce liabilities for unemployment contributions imposed  
 7 by other states which extend a like comity to this state.  
 8 ~~The commission~~ division, Montana department of labor and  
 9 industry, is hereby empowered to sue in the courts of any  
 10 other jurisdiction which extends such comity, to collect  
 11 unemployment contributions and interest due this state. The  
 12 officials of other states which by statute or otherwise  
 13 extend a like comity to this state may sue in the courts of  
 14 this state, to collect for such contributions and interest  
 15 and penalties if any, due such state; in any such case the  
 16 ~~chairman~~ administrator of the ~~commission~~ division of this  
 17 state may through his attorney or attorneys institute and  
 18 conduct such suit for such other state. Venue of such  
 19 proceedings shall be the same as for actions to collect  
 20 delinquent contributions, penalties and interest due under  
 21 this act. A certificate by the secretary of any such state  
 22 under the great seal of such state attesting the authority  
 23 of such official or officials to collect unemployment  
 24 compensation contributions, penalties and interest shall be  
 25 conclusive evidence of such authority."

1 Section 26. Section 87-138, R.C.M. 1947, is amended to  
2 read as follows:

3 "87-138. Refunds. If not later than three (3) years  
4 after the date on which any contributions or interest  
5 thereon became due, or not later than one (1) year from the  
6 date on which payment was made, whichever is later, an  
7 employer who has paid such contributions or interest thereon  
8 shall make application for an adjustment thereof in  
9 connection with subsequent contribution payments, or for a  
10 refund thereof because such adjustment cannot be made and  
11 the ~~commission~~ division shall determine that such  
12 contributions or interest or any portion thereof was  
13 erroneously collected, the ~~commission~~ division shall allow  
14 such employer to make an adjustment thereof, without  
15 interest, in connection with subsequent contribution  
16 payments by him, or if such adjustment cannot be made, the  
17 ~~commission~~ division shall refund said amount, without  
18 interest, from the fund. For like cause and within the same  
19 period, adjustment or refund may be so made on the  
20 ~~commission's~~ division's own initiative. If the ~~commission~~  
21 division shall determine that an employer has paid  
22 contributions to this state under this act, when such  
23 contributions should have been paid to another state, under  
24 a similar act of such other state, transfer of such  
25 contributions to such other state shall be made upon

1 discovery, or upon proof of payment that such other state  
2 has been fully paid, then refund to such employer shall be  
3 made at any time upon application without limitation of  
4 time. In the event that this act is not certified by the  
5 secretary of labor under section 1603 of the Internal  
6 Revenue Code, as amended, 1939, for any year, then and in  
7 that event, refunds shall be made of all contributions  
8 required under this act from employers for that year."

9 Section 27. Section 87-139, R.C.M. 1947, is amended to  
10 read as follows:

11 "87-139. Lien for payment. If any contributions  
12 payable by an employer under this act, or any portion  
13 thereof, is not paid within twenty-five (25) days after the  
14 same becomes due, the ~~commission~~ division may issue a  
15 certificate under its official seal, setting forth the  
16 amount of contributions due and interest accrued, directed  
17 to the sheriff of any county of the state, commanding him to  
18 levy upon and sell the real and personal property of the  
19 employer owing the same, found within his county, for the  
20 payment of the amount thereof, with the added penalties,  
21 interest and costs of executing the same and to return such  
22 certificates to the ~~commission~~ division and pay to the  
23 ~~commission~~ division the money collected by virtue thereof by  
24 a time to be therein specified, not more than ninety (90)  
25 days from the date of the certificate. The said sheriff



1 shall, within five (5) days after the receipt of the  
 2 certificate, file with the clerk of the district court of  
 3 his county a copy thereof and thereupon the said clerk of  
 4 the district court shall enter in the judgment docket, in  
 5 the column for judgment debtors, the name of the employer  
 6 mentioned in the certificate, and in the appropriate columns  
 7 the amount of contributions due and the penalties for which  
 8 the certificate is issued and the date when such copy is  
 9 filed and thereupon the amount of such certificate so  
 10 docketed shall become a lien upon the title to and interest  
 11 in real property or chattels real of the employer against  
 12 whom it is filed in the same manner as a judgment docketed  
 13 in the office of such clerk. The said sheriff shall  
 14 thereupon proceed upon the same in all respects, with like  
 15 effect, and in the same manner prescribed by law in respect  
 16 to executions issued against property upon judgment of a  
 17 court of record, and shall be entitled to the same fees for  
 18 his services in executing the certificate, to be collected  
 19 in the same manner."

20 Section 28. Section 87-140, R.C.M. 1947, is amended to  
 21 read as follows:

22 "87-140. Summary or jeopardy assessment. If any  
 23 employer fails to file a report or return as required under  
 24 this act, or the regulations of the ~~commission~~ division  
 25 adopted thereunder, within the time specified, the

3 ~~commission~~ division may make a summary or jeopardy  
 4 assessment, of the amount due by making up such report and  
 5 determining the amount of contributions due and owing to the  
 6 fund upon the basis of such information as the ~~commission~~  
 7 division may be able to obtain, and thereupon the same shall  
 8 be collected the same as other reports and contributions  
 9 due, with penalty and interest as provided in this act. Upon  
 10 making such summary or jeopardy assessment, the ~~commission~~  
 11 division shall immediately notify the employer in writing by  
 12 personal service or by registered mail in the usual course,  
 13 at the last known principal place of business operated by  
 14 the said employer. Such assessment shall be final unless the  
 15 employer shall protest such assessment in writing within  
 16 fifteen (15) days after service of the notice, or within the  
 17 same period of time the said employer shall file a correct,  
 18 signed and sworn report and statement as provided by the act  
 19 and the regulations of the ~~commission~~ division. Upon written  
 20 protest being filed as above set forth, a day certain for  
 21 the hearing thereof shall be fixed by the ~~commission~~  
 22 division and notice thereof mailed to the employer. At such  
 23 hearing, the facts ascertained by the ~~commission~~ division  
 24 shall be conclusive and the ~~commission~~ division may upon the  
 25 basis of such facts ascertained assess the amount due,  
 modify, set aside or revise the prior assessment and require  
 the employer to pay the amount due with penalty and interest

1 as provided for in this act. A copy of the decision of the  
2 ~~commission~~ division and the assessment of the amount due  
3 shall be mailed to the employer at his last known principal  
4 place of business and thereupon become final."

5 Section 29. Section 87-142, R.C.M. 1947, is amended to  
6 read as follows:

7 "87-142. Limitation of fees. No individual claiming  
8 benefits shall be charged fees of any kind in any proceeding  
9 under this act by the ~~commission~~ division or its  
10 representatives or by any court or any officer thereof. Any  
11 individual claiming benefits in any proceeding before the  
12 chairman of an appeal tribunal or the ~~commission~~ division or  
13 its representatives, the board of labor appeals, or a court  
14 may be represented by counsel or other duly authorized  
15 agent; but no such counsel or agents shall either charge or  
16 receive for such services more than an amount approved by  
17 the ~~commission~~ division or board of labor appeals. Any  
18 person who violates any provision of this section shall, for  
19 each such offense, be fined not more than five hundred  
20 (\$500.00) dollars, or imprisoned for not more than six (6)  
21 months, or both."

22 Section 30. Section 87-145, R.C.M. 1947, is amended to  
23 read as follows:

24 "87-145. Penalties — falsity or willful nondisclosure  
25 — violations by employer or agent — violation of act or

1 regulations — wrongfully collecting benefits. (a) Whoever  
2 makes a false statement or representation knowing it to be  
3 false or knowingly fails to disclose a material fact, to  
4 obtain or increase any benefit or other payment under this  
5 act, or under an employment security law of any other state,  
6 or territory or the federal government either for himself or  
7 for any other person, shall:

8 (1) Be punished by a fine of not less than fifty  
9 dollars (\$50.00) nor more than five hundred dollars  
10 (\$500.00) or by imprisonment for not less than three (3)  
11 days nor more than thirty (30) days in the county jail or by  
12 both such fine and imprisonment; and each such false  
13 statement or representation or failure to disclose a  
14 material fact shall constitute a separate offense, and

15 (2) Be disqualified for benefits thereafter until:

16 (A) He has repaid to the ~~commission~~ division a sum  
17 equal to the amount so received by him; provided, however,  
18 he will not be required to repay any amount so obtained more  
19 than five (5) years prior to the date of the ~~commission's~~  
20 division's determination that the claimant made such false  
21 statements, willful nondisclosure or misrepresentation, as  
22 provided in this paragraph, and

23 (B) A period of not less than ten (10) nor more than  
24 fifty-two (52) weeks have elapsed since the date of such  
25 determination by the ~~commission~~ division, the length of time

1 of the disqualification as herein described to be determined  
2 by the ~~commissioner~~ division in accordance with the severity  
3 of each case.

4 (b) Any employing unit or any officer or agent of an  
5 employing unit or any other person who makes a false  
6 statement or representation knowing it to be false, or who  
7 knowingly fails to disclose a material fact, to prevent or  
8 reduce the payment of benefits to any individual entitled  
9 thereto, or to avoid becoming or remaining subject hereto or  
10 to avoid or reduce any contribution or other payment  
11 required from an employing unit under this act, or under the  
12 employment security law of any other state, or territory or  
13 the federal government or who willfully fails or refuses to  
14 make any such contributions or other payment or to furnish  
15 any reports required hereunder or to produce or permit the  
16 inspection or copying of records as required hereunder,  
17 shall be punished by a fine of not less than fifty dollars  
18 (\$50.00) nor more than five hundred dollars (\$500.00) or by  
19 imprisonment for not less than three (3) days nor more than  
20 thirty (30) days in the county jail or by both such fine and  
21 imprisonment; and each such false statement or  
22 representation or failure to disclose a material fact, and  
23 each day of such failure or refusal shall constitute a  
24 separate offense.

25 (c) Any person who shall willfully violate any

1 provision of this act or any order, rule or regulation  
2 thereunder, the violation of which is made unlawful or the  
3 observance of which is required under the terms of this act,  
4 and for which a penalty is neither prescribed herein nor  
5 provided by any other applicable statute, shall be punished  
6 by a fine of not less than fifty dollars (\$50.00) nor more  
7 than five hundred dollars (\$500.00) or by imprisonment for  
8 not less than three (3) days nor more than thirty (30) days  
9 in the county jail or by both such fine and imprisonment,  
10 and each day such violation continues shall be deemed to be  
11 a separate offense.

12 (d) Any person who, by reason of the nondisclosure or  
13 misrepresentation by him or by another, of a material fact  
14 (irrespective of whether such nondisclosure or  
15 misrepresentation was known or fraudulent) has received any  
16 sum as benefits under this act while any conditions for the  
17 receipt of benefits imposed by this act were not fulfilled  
18 in his case, or while he was disqualified from receiving  
19 benefits, shall, in the discretion of the ~~commissioner~~  
20 division, either be liable to have such sum deducted from  
21 any future benefits payable to him under this act or shall  
22 be liable to repay to the ~~commissioner~~ division for the  
23 unemployment compensation fund, a sum equal to the amount so  
24 received by him, and such sum shall be collectible in the  
25 manner provided in this act for the collection of past due

1 contributions. Action for collection of overpaid benefits  
 2 shall be brought within five (5) years after the date of  
 3 such overpayment, otherwise to be barred as provided in  
 4 section 93-2604."

5 Section 31. Section 87-146, R.C.M. 1947, is amended to  
 6 read as follows:

7 "87-146. Representation in court. (a) In any civil  
 8 action to enforce the provisions of this act the ~~commission~~  
 9 division and the state may be represented by any qualified  
 10 attorney who is employed by the ~~commission~~ division and is  
 11 designated by it for this purpose or at the ~~commission's~~  
 12 division's or board of labor appeals' request, by the  
 13 attorney general.

14 (b) All criminal actions for violation of any  
 15 provision of this act, or of any rules or regulations issued  
 16 pursuant thereto, shall be prosecuted by the attorney  
 17 general of the state; or, at his request and under his  
 18 direction, by the prosecuting attorney of the county wherein  
 19 the crime was committed."

20 Section 32. Section 87-147, R.C.M. 1947, is amended to  
 21 read as follows:

22 "87-147. Nonliability of state. Benefits shall be  
 23 deemed to be due and payable under this act only to the  
 24 extent provided in this act and to the extent that moneys  
 25 are available therefor to the credit of the unemployment

1 compensation fund, and neither the state nor the ~~commission~~  
 2 division shall be liable for any amount in excess of such  
 3 subs."

4 Section 33. Section 87-149, R.C.M. 1947, is amended to  
 5 read as follows:

6 "87-149. Definitions — continued. (a) Total  
 7 unemployment:

8 (1) An individual shall be deemed "totally unemployed"  
 9 in any week during which he performed no services and with  
 10 respect to which no wages are payable to him.

11 (2) An individual's week of unemployment shall be  
 12 deemed to commence only after his registration at an  
 13 unemployment office, except as the ~~commission~~ division may  
 14 by regulation otherwise prescribe.

15 (3) As used in this subsection the term "wages" shall  
 16 include only that part of remuneration for work which is in  
 17 excess of twice the weekly benefit amount, and the term  
 18 "service" shall include only that work in excess of twelve  
 19 (12) hours in any one week.

20 (b) "Unemployment compensation administration fund,"  
 21 means the unemployment compensation administration fund  
 22 established by this act, from which administrative expenses  
 23 under this act shall be paid.

24 (c) "Wages," means all remuneration payable for  
 25 personal services, including ~~commissions~~ divisions

1 COMMISSIONS and bonuses and the cash value of all  
 2 remuneration payable in any medium other than cash. The  
 3 reasonable cash value of remuneration payable in any medium  
 4 other than cash shall be estimated and determined in  
 5 accordance with rules prescribed by the ~~commission~~ division.  
 6 Wage records kept by the ~~commission~~ division for the  
 7 purposes of this act prior to January 1, 1941, shall be kept  
 8 on the basis of wages payable, and wage records kept by the  
 9 ~~commission~~ division for the purposes of this act after  
 10 January 1, 1941, shall be kept on the basis of wages paid.  
 11 Provided, however, that the term "wages" shall not include—  
 12 (1) The amount of any payment made to, or on behalf  
 13 of, an employee by an employer on account of:  
 14 (A) Retirement, or  
 15 (B) Sickness or accident disability, or  
 16 (C) Medical and hospitalization expenses in connection  
 17 with sickness or accident disability, or  
 18 (D) Death.  
 19 (E) Services performed for a fraternal benefit  
 20 society, lodge, order, service club or association having a  
 21 total annual payroll of less than five hundred dollars  
 22 (\$500.00) in any calendar year.  
 23 (F) Remuneration paid by any county welfare office  
 24 from welfare assistance funds for services performed at the  
 25 direction and request of such county welfare office.

1 (d) "week," means a period of seven (7) consecutive  
 2 calendar days ending at midnight on Saturday.  
 3 (e) "weekly benefit amount." An individual's "weekly  
 4 benefit amount" means the amount of benefits he would be  
 5 entitled to receive for one (1) week of total unemployment.  
 6 (f) "Gross misconduct," means a criminal act, other  
 7 than a violation of a motor vehicle traffic law, for which  
 8 an individual has been convicted in a criminal court or has  
 9 admitted or conduct which demonstrates a flagrant and wanton  
 10 disregard of and for the rights or title or interest of a  
 11 fellow employee or his employer.  
 12 (g) The word "division" throughout the unemployment  
 13 statutes refers to a unit of the Montana state department of  
 14 labor and industry.  
 15 (h) The word "administrator" refers to a person  
 16 appointed by the commissioner of labor and industry to  
 17 direct and administer the unemployment compensation laws and  
 18 federal laws falling within the administrator's  
 19 jurisdiction.  
 20 (i) The words "board of labor appeals" used in this  
 21 act mean three (3) persons appointed by the governor, who  
 22 are not public employees but who are attached to the Montana  
 23 state department of labor and industry. The function of  
 24 said board is to act in a quasi-judicial capacity for the  
 25 hearing of disputes concerning the administration of

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1 Montana's unemployment insurance laws."

2 Section 34. Sections 87-115, 87-117, ~~87-118~~, 87-119,

3 87-125, and 87-126, R.C.M. 1947, are repealed.

-End-

March 15, 1975

SENATE COMMITTEE OF THE WHOLE  
AMENDMENTS TO HOUSE BILL NO. 173

That House Bill No. 173, third reading, be amended as follows:

1. Amend page 44, section 25, lines 16 and 17.  
Strike: "of the division of this state"

1 HOUSE BILL NO. 173

2 INTRODUCED BY FEDERICO

3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTIONS  
5 87-104, ~~THROUGH~~ 87-105, 87-107, 87-108, 87-111 THROUGH  
6 87-114, 87-116, 87-118, 87-120 THROUGH 87-124, 87-127  
7 THROUGH 87-136, 87-138 THROUGH 87-140, 87-142, 87-145  
8 THROUGH 87-147, 87-149, R.C.M. 1947; BY CHANGING THE WORD  
9 "COMMISSION" TO THE WORD "DIVISION"; BY ADDING DEFINITIONS;  
10 BY SUBSTITUTING THE WORDS "BOARD OF LABOR APPEALS" IN  
11 CONFORMITY WITH THE EXECUTIVE REORGANIZATION ACT OF 1971;  
12 AND REPEALING SECTIONS 87-115, 87-117, ~~87-118,~~ 87-119,  
13 87-125, AND 87-126, R.C.M. 1947."

14  
15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

16 Section 1. Section 87-104, R.C.M. 1947, is amended to  
17 read as follows:

18 "87-104. Duration of benefits. The maximum total  
19 amount of benefits payable to any eligible individual during  
20 any benefit year shall be:

21 (a) (1) Thirteen (13) times his weekly benefit amount  
22 if he is qualified as an insured worker as defined in  
23 section 87-103 (c), and does not qualify under subsection  
24 (2) or (3) below.

25 (2) Twenty (20) times his weekly benefit amount if in

1 addition to meeting the requirements of section 87-103 (c),  
2 he has been paid wages of one hundred dollars (\$100) or more  
3 for insured work in each of two (2) quarters in his base  
4 period other than the quarter in which his wages were  
5 highest.

6 (3) Twenty-six (26) times his weekly benefit amount if  
7 in addition to meeting the requirement of section 87-103  
8 (c), he has been paid wages of one hundred dollars (\$100) or  
9 more for insured work in each of three (3) quarters in his  
10 base period other than the quarter in which his wages were  
11 highest.

12 (4) Extended benefits if he is qualified as provided  
13 under the provisions of this subsection.

14 (a) Definitions. — As used in this section, unless  
15 the context clearly requires otherwise—

16 (1) "Extended benefit period" means a period which

17 (A) begins with the third week after whichever of the  
18 following weeks occurs first:

19 (i) a week for which there is a national "on"  
20 indicator, or

21 (ii) a week for which there is a state "on" indicator;  
22 and .

23 (B) ends with either of the following weeks, whichever  
24 occurs later:

25 (i) the third week after the first week for which



1 there is both a national "off" indicator and a state "off"  
2 indicator, or

3 (ii) the thirteenth consecutive week of such period;

4 Provided, that no extended benefit period may begin by  
5 reason of a state "on" indicator before the fourteenth week  
6 following the end of a prior extended benefit period which  
7 was in effect with respect to this state.

8 (2) There is a "national 'on' indicator" for a week if  
9 the U. S. Secretary of Labor determines that for each of  
10 the three (3) most recent completed calendar months ending  
11 before such week, the rate of insured unemployment  
12 (seasonally adjusted) for all states equaled or exceeded  
13 four and one-half per cent (4 1/2%).

14 (3) There is a "national 'off' indicator" for a week  
15 if the U. S. Secretary of Labor determines that for each of  
16 the three (3) most recent completed calendar months ending  
17 before such week, the rate of insured unemployment  
18 (seasonally adjusted) for all states was less than four and  
19 one-half per cent (4 1/2%).

20 (4) There is a "state 'on' indicator" for this state  
21 for a week if the ~~commission~~ division determines, in  
22 accordance with the regulations of the U. S. Secretary of  
23 Labor, that for the period consisting of such week and the  
24 immediately preceding twelve (12) weeks, the rate of insured  
25 unemployment (not seasonally adjusted) under this act—

1 (A) equaled or exceeded one hundred and twenty per  
2 cent (120%) of the average of such rates for the  
3 corresponding thirteen (13) week period ending in each of  
4 the preceding two (2) calendar years, and

5 (B) equaled or exceeded four per cent (4%).

6 (5) There is a "state 'off' indicator" for this state  
7 for a week if the ~~commission~~ division determines, in  
8 accordance with the regulations of the U. S. Secretary of  
9 Labor, that for the period consisting of such week and the  
10 immediately preceding twelve (12) weeks, the rate of insured  
11 unemployment (not seasonally adjusted) under this act—

12 (A) was less than one hundred and twenty per cent  
13 (120%) of the average of such rates for the corresponding  
14 thirteen (13) week period ending in each of the preceding  
15 two (2) calendar years, or

16 (B) was less than four per cent (4%).

17 (6) "Rate of insured unemployment," for purposes of  
18 paragraphs (4) and (5) of this subsection, means the  
19 percentage derived by dividing

20 (i) the average weekly number of individuals filing  
21 claims in this state for weeks of unemployment with respect  
22 to the most recent thirteen (13) consecutive-week period, as  
23 determined by the ~~commission~~ division on the basis of his  
24 reports to the U. S. Secretary of Labor, by

25 (ii) the average monthly employment covered under this

1 act for the first four (4) of the most recent six (6)  
 2 completed calendar quarters ending before the end of such  
 3 thirteen (13) week period.

4 (7) "Regular benefits" means benefits payable to an  
 5 individual under this act or under any other state law  
 6 (including benefits payable to federal civilian employees  
 7 and to ex-servicemen pursuant to 5 U.S.C. chapter 85) other  
 8 than extended benefits.

9 (8) "Extended benefits" means benefits (including  
 10 benefits payable to federal civilian employees and to  
 11 ex-servicemen pursuant to 5 U.S.C. chapter 85) payable to  
 12 an individual under the provisions of this section for weeks  
 13 of unemployment in his eligibility period.

14 (9) "Eligibility period" of an individual means the  
 15 period consisting of the weeks in his benefit year which  
 16 begin in an extended benefit period and, if his benefit year  
 17 ends within such extended benefit period, any weeks  
 18 thereafter which begin in such period.

19 (10) "Exhaustee" means an individual who, with respect  
 20 to any week of unemployment in his eligibility period:

21 (A) has received, prior to such week, all of the  
 22 regular benefits that were available to him under this act  
 23 or any other state law (including dependents' allowances and  
 24 benefits payable to federal civilian employees and  
 25 ex-servicemen under 5 U.S.C. chapter 85) in his current

1 benefit year that includes such week;

2 Provided, that, for the purposes of this subparagraph  
 3 an individual shall be deemed to have received all of the  
 4 regular benefits that were available to him although (i) as  
 5 a result of a pending appeal with respect to wages that were  
 6 not considered in the original monetary determination in his  
 7 benefit year, he may subsequently be determined to be  
 8 entitled to added regular benefits.

9 (B) his benefit year having expired prior to such  
 10 week, has no, or insufficient, wages on the basis of which  
 11 he could establish a new benefit year that would include  
 12 such week; and

13 (C) (i) has no right to unemployment benefits or  
 14 allowances, as the case may be, under the Railroad  
 15 Unemployment Insurance Act, the Trade Expansion Act of 1962,  
 16 the Automotive Products Trade Act of 1965 and such other  
 17 federal laws as are specified in regulations issued by the  
 18 U. S. Secretary of Labor; and (ii) has not received and is  
 19 not seeking unemployment benefits under the unemployment  
 20 compensation law of the Virgin Islands or of Canada; but if  
 21 he is seeking such benefits and the appropriate agency  
 22 finally determines that he is not entitled to benefits under  
 23 such law he is considered an exhaustee.

24 (11) "State law" means the unemployment insurance law  
 25 of any state, approved by the U. S. Secretary of Labor under

1 section 3504 of the Internal Revenue Code of 1954.

2 (b) Effect of state law provisions relating to regular  
3 benefits on claims for, and the payment of, extended  
4 benefits. — Except when the result would be inconsistent  
5 with the other provisions of this section, as provided in  
6 the regulations of the ~~commission~~ division, the provisions  
7 of this act which apply to claims for, or the payment of,  
8 regular benefits shall apply to claims for, and the payment  
9 of, extended benefits.

10 (c) Eligibility requirements for extended benefits. —  
11 An individual shall be eligible to receive extended benefits  
12 with respect to any week of unemployment in this eligibility  
13 period only if the ~~commission~~ division finds that with  
14 respect to such week:

- 15 (1) he is an "exhaustee" as defined in subsection
- 16 (a) (10),
- 17 (2) he has satisfied the requirements of this act for
- 18 the receipt of regular benefits that are applicable to
- 19 individuals claiming extended benefits, including not being
- 20 subject to a disqualification for the receipt of benefits.

21 (d) Weekly extended benefit amount. — The weekly  
22 extended benefit amount payable to an individual for a week  
23 of total unemployment in his eligibility period shall be an  
24 amount equal to the weekly benefit amount payable to him  
25 during his applicable benefit year.

1 (e) Total extended benefit amount. — The total  
2 extended benefit amount payable to any eligible individual  
3 with respect to his applicable benefit year shall be the  
4 least of the following amounts:

- 5 (1) fifty per cent (50%) of the total amount of
- 6 regular benefits which were payable to him under this act in
- 7 his applicable benefit year;
- 8 (2) thirteen (13) times his weekly benefit amount
- 9 which was payable to him under this act for a week of total
- 10 unemployment in the applicable benefit year.

11 (f) (1) Beginning and termination of extended benefit  
12 period. — Whenever an extended benefit period is to become  
13 effective in this state (or in all states) as a result of a  
14 state or a national "on" indicator, or an extended benefit  
15 period is to be terminated in this state as a result of  
16 state and national "off" indicators, the ~~commission~~ division  
17 shall make an appropriate public announcement.

18 (2) Computations required by the provisions of  
19 subsection (a) (6) shall be made by the ~~commission~~ division,  
20 in accordance with regulations prescribed by the U. S.  
21 Secretary of Labor.

22 (3) The effective date of subsection (a) (4) of this  
23 section shall be January 1, 1972.

24 (b) An individual disqualified by and pursuant to  
25 section 87-106, subsections (a), (b) and (c), shall have his

1 maximum weekly duration reduced by the number of weeks equal  
 2 to the number of weeks of disqualification."

3 Section 2. Section 87-105, R.C.M. 1947, is amended to  
 4 read as follows:

5 "87-105. Benefit eligibility conditions. An unemployed  
 6 individual shall be eligible to receive benefits for any  
 7 week of total unemployment within his benefit year; only if  
 8 the ~~commission~~ division finds that—

9 (a) He has registered for work at and thereafter has  
 10 continued to report at an employment office in accordance  
 11 with such regulation as the ~~commission~~ division may  
 12 prescribe, except that the ~~commission~~ division may, by  
 13 regulation, prescribe that such types of cases or situations  
 14 with respect to which it finds that compliance with such  
 15 requirements would be oppressive, or would be inconsistent  
 16 with the purposes of this act, provide for registration and  
 17 reporting for work by mail or through other governmental  
 18 agencies.

19 (b) He has made a claim for benefits in accordance  
 20 with the provisions of section 87-107 (a).

21 (c) He is able to work and is available for work and  
 22 is seeking work, provided, however, that no claimant shall  
 23 be considered ineligible in any week of unemployment for  
 24 failure to comply with the provisions of this subsection if  
 25 such failure is due to an illness or disability which occurs

1 after he has registered for work and no suitable work has  
 2 been offered to such claimant after the beginning of such  
 3 illness or disability.

4 (d) Prior to any week for which he claims benefits he  
 5 has been totally unemployed for a waiting period of one (1)  
 6 week. However, if claimant's benefit year expires during a  
 7 period of compensable unemployment, claimant will continue  
 8 to receive weekly benefits, in a new benefit year, if  
 9 otherwise eligible, without interruption to serve the  
 10 waiting week for the new benefit year, but will thereafter  
 11 be required to serve the waiting week before receiving  
 12 benefits during subsequent unemployment in the new benefit  
 13 year. No week shall be counted as a week of total  
 14 unemployment for the purposes of this subsection:

- 15 (1) If benefits have been paid with respect thereto;
- 16 (2) Unless the individual was eligible for benefits  
 17 with respect thereto;
- 18 (3) Unless it occurs within the benefit year of the  
 19 claimant;
- 20 (4) Unless it occurs after benefits first could become  
 21 payable to any individual under this act.

22 (e) An individual who received benefits during a  
 23 benefit year must perform services for remuneration after  
 24 the beginning of that year as a condition for receiving  
 25 benefits in a second benefit year. The service may be in

1 either covered or noncovered employment, however, the  
 2 individual must have earned the lesser of three-thirteenths  
 3 (3/13) of his high quarter of his second benefit year or six  
 4 (6) times his weekly benefit amount of that same year.

5 (f) Benefits based on service in employment defined in  
 6 section 87-148 (j) (6) and (7) and section 87-110 (d) shall  
 7 be payable in the same amount, on the same terms and subject  
 8 to the same conditions as compensation payable on the basis  
 9 of other service subject to this act; except that benefits  
 10 based on service in an instructional, research, or principal  
 11 administrative capacity in an institution of higher  
 12 education (as defined in section 87-148 (n)) shall not be  
 13 paid to an individual for any week of unemployment which  
 14 begins during the period between two successive academic  
 15 years, or during a similar period between two regular terms,  
 16 whether or not successive, or during a period of paid  
 17 sabbatical leave provided for in the individual's contract,  
 18 if the individual has a contract or contracts to perform  
 19 services in any such capacity for any institution or  
 20 institutions of higher education for both such academic  
 21 years or both such terms."

22 Section 3. Section 87-107, H.C.H. 1947, is amended to  
 23 read as follows:

24 \*87-107. Claims for benefits. (a) Filing. Claims for  
 25 benefits shall be made in accordance with such regulations

1 as the division may prescribe. Each employer shall post and  
 2 maintain printed statements of such regulations in places  
 3 readily accessible to individuals in his service and shall  
 4 make available to each such individual at the time he  
 5 becomes unemployed, a printed statement of such regulations.  
 6 Such printed statements shall be supplied by the division to  
 7 each employer without cost to him.

8 (b) Initial determination. A representative designated  
 9 by the division, and hereinafter referred to as a deputy,  
 10 shall promptly examine the claim and, on the basis of the  
 11 facts found by him, shall either determine whether or not  
 12 such claim is valid, and if valid, the week with respect to  
 13 which benefits shall commence, the weekly benefit amount  
 14 payable and the maximum duration thereof, or shall refer  
 15 such claim or any question involved therein to an appeals  
 16 referee ~~which who~~ shall make ~~its decisions~~ his decision with  
 17 respect thereto in accordance with the procedure prescribed  
 18 in subsection ~~(e)~~ (e) of this section. No determination or  
 19 redetermination of an initial or additional claim shall be  
 20 made under this section unless five (5) days notice of the  
 21 time and place of the claimant's interview for examination  
 22 of the claim is mailed to each interested party. The deputy  
 23 shall promptly notify the claimant and any other interested  
 24 party of the decision and the reasons therefor. The deputy  
 25 may for good cause reconsider his decision and shall

1 promptly notify the claimant and such other interested  
 2 parties of his amended decision and the reasons therefor.

3 (c) Finality of determination. A determination or  
 4 redetermination shall be deemed final unless an interested  
 5 party entitled to notice thereof applies for reconsideration  
 6 of the determination or appeals therefrom within five (5)  
 7 days after delivery of such notification or within seven (7)  
 8 days after such notification was mailed to his last known  
 9 address provided, that such period may be extended for good  
 10 cause.

11 (d) Appeals referee. To hear and decide disputed  
 12 claims, the division shall appoint such impartial appeals  
 13 referee as are necessary for the proper administration of  
 14 this act, consisting of salaried examiners selected in  
 15 accordance with section 87-123. No person shall participate  
 16 on behalf of the division in any case in which he is an  
 17 interested party. The division may designate alternates to  
 18 serve in the absence or disqualification of an appeals  
 19 referee.

20 (e) Notice of decision of appeals referee and time for  
 21 appeal. After a hearing an appeals referee shall make  
 22 findings and conclusions promptly and on the basis thereof  
 23 affirm, modify, or reverse the deputy's determination or  
 24 redetermination. Each interested party shall be furnished  
 25 promptly a copy of the decision and the supporting findings

1 and conclusions; this decision shall be final unless further  
 2 review is initiated pursuant to subsection (g) of this  
 3 section within five (5) days after delivery of such  
 4 notification or within seven (7) days after such  
 5 notification was mailed to his last known address, provided,  
 6 that such period may be extended for good cause.

7 (f) Prompt payment of claims. Notwithstanding any  
 8 provision in subsection (b), (c) or (g) of this section,  
 9 benefits shall be paid promptly in accordance with a  
 10 determination or redetermination under this section, or the  
 11 decision of an appeals referee, the board of labor appeals  
 12 or a reviewing court under subsection (g) of this section  
 13 upon the issuance of such determination, redetermination or  
 14 decision (regardless of the pendency of the period to apply  
 15 for reconsideration, file an appeal, or petition for  
 16 judicial review that is provided with respect thereto in  
 17 subsection (g) of this section, as the case may be, or the  
 18 pendency of any such application, filing, or petition),  
 19 unless and until such determination, redetermination, or  
 20 decision has been modified or reversed by a subsequent  
 21 redetermination or decision, in which event benefits shall  
 22 be paid or denied for weeks of unemployment thereafter in  
 23 accordance with such modifying or reversing redetermination  
 24 or decision.

25 If a deputy's determination or redetermination allowing

1 benefits is affirmed in any amount by an appeals referee, or  
 2 by the board of labor appeals, or if a decision of an  
 3 appeals referee allowing benefits is affirmed in any amount  
 4 by the board of labor appeals, such benefits shall be paid  
 5 promptly regardless of any further appeal or the disposition  
 6 of such appeal and no injunction, supersedeas, stay or other  
 7 writ or process suspending the payment of such benefits  
 8 shall be issued by the board or any court; but if such  
 9 decision is finally modified or reversed to deny benefits,  
 10 no employer's account shall be charged with benefits so  
 11 paid. Benefits shall not be paid for any weeks of  
 12 unemployment involved in such modification or reversal that  
 13 begins after such final decision.

14 (g) Appeal to board of labor appeals and judicial  
 15 review. Any interested party dissatisfied with a decision of  
 16 an appeals referee is entitled to appeal to the board of  
 17 labor appeals. The division will promptly transmit all  
 18 records pertinent to the appeal to the board. When a  
 19 decision is rendered by the board with copies of such  
 20 decision to all interested parties, including the division,  
 21 that decision shall become final unless an interested party  
 22 requests a rehearing or initiates judicial review by filing  
 23 a petition in district court within thirty (30) days of the  
 24 date of mailing of the board's decision to his last known  
 25 address.\*

1 Section 4. Section 87-108, R.C.M. 1947, is amended to  
 2 read as follows:

3 \*87-108. Procedure and appeals. (a) Procedure. The  
 4 manner in which disputed claims shall be presented, the  
 5 reports thereon required from the claimant and from  
 6 employers, and the conduct of hearings and appeals shall be  
 7 in accordance with regulations prescribed by the ~~commission~~  
 8 division for determining the rights of the parties, whether  
 9 or not such regulations conform to common law or statutory  
 10 rules of evidence and other technical rules or procedure. A  
 11 full and complete record shall be kept of all proceedings in  
 12 connection with a disputed claim. All testimony at any  
 13 hearing upon a disputed claim shall be recorded, but need  
 14 not be transcribed unless the disputed claim is further  
 15 appealed. The ~~commission~~ division shall have continuing  
 16 jurisdiction over all claims filed for benefits to revise,  
 17 modify, alter, cancel and amend all orders, findings and  
 18 determinations made therein at any time and shall not lose  
 19 such jurisdiction unless and until the jurisdiction of such  
 20 claim and subject matter thereof has been taken by a court  
 21 of competent jurisdiction in a proceedings filed therein as  
 22 provided for in subsection (d) of this section.

23 (b) Witness fees. Witnesses subpoenaed pursuant to  
 24 this section shall be allowed fees at a rate fixed by the  
 25 ~~commission~~ division. Such fees shall be deemed a part of the

1 expense of administering this act.

2 (c) Appeal to courts. Any decision of the ~~commission~~  
3 board of labor appeals in the absence of an appeal therefrom  
4 as herein provided shall become final ten days after the  
5 date of notification or mailing thereof, and judicial review  
6 thereof shall be permitted only after any party claiming to  
7 be aggrieved thereby has exhausted his remedies before the  
8 ~~commission~~ board of labor appeals as provided by this act.  
9 The ~~commission~~ division or board of labor appeals shall be  
10 deemed to be a party to any judicial action involving any  
11 such decision, and may be represented in any such judicial  
12 action by any qualified attorney employed by the ~~commission~~  
13 division or board of labor appeals and has been designated  
14 by it for that purpose, or at the ~~commission's~~ division's or  
15 board of labor appeals' request, by the attorney general.

16 (d) Court review. Within ten days after the decision  
17 of the ~~commission~~ board of labor appeals has become final,  
18 any party aggrieved thereby may secure judicial review  
19 thereof by commencing an action in the district court of the  
20 county in which said party resides against the ~~commission~~  
21 board of labor appeals for the review of its decision, in  
22 which action any other party to the proceeding before the  
23 ~~commission~~ board of labor appeals shall be made a defendant.  
24 In such action, a petition which need not be verified, but  
25 which shall state the grounds upon which a review is sought,

1 shall be served upon a member of the ~~commission or upon such~~  
2 ~~person as the commission may designate~~ board of labor  
3 appeals or its designate for service of process and such  
4 service shall be deemed completed service on all parties,  
5 but there shall be left with the party so served as many  
6 copies of the petition as there are defendants and the  
7 ~~commission~~ board of labor appeals shall forthwith mail one  
8 such copy to each such defendant. With its answer, the  
9 ~~commission~~ board of labor appeals shall certify and file  
10 with said court all documents and papers and a transcript of  
11 all testimony taken in the matter, together with its  
12 findings of fact and decision therein. The ~~commission~~ board  
13 of labor appeals may also in its discretion, certify to such  
14 court questions of law involved in any decision by it. In  
15 any judicial proceeding under this section, the findings of  
16 the ~~commission~~ board of labor appeals as to the facts, if  
17 supported by evidence and in the absence of fraud, shall be  
18 conclusive, and the jurisdiction of said court shall be  
19 confined to questions of law. Such action, and the questions  
20 so certified, shall be heard in a summary manner and shall  
21 be given precedence over all other civil cases except cases  
22 arising under the workmen's compensation law of this state.  
23 An appeal may be taken from the decision of the said  
24 district court to the supreme court of Montana in the same  
25 manner, but not inconsistent with the provisions of this



1 act, as is provided in civil cases. It shall not be  
 2 necessary, in any judicial proceeding under this section, to  
 3 enter exceptions to the rulings of the ~~commission division~~  
 4 or board of labor appeals and no bond shall be required for  
 5 entering such appeal. Upon the final determination of such  
 6 judicial proceeding, the ~~commission division~~ shall enter an  
 7 order in accordance with such determination. A petition for  
 8 judicial review shall not act as a supersedeas or stay  
 9 unless the ~~commission division or board of labor appeals~~  
 10 shall so order."

11 Section 5. Section 87-111, R.C.M. 1947, is amended to  
 12 read as follows:

13 "87-111. Unemployment compensation account —  
 14 establishment and control. There is hereby established  
 15 separate and apart from all public moneys or funds of this  
 16 state, an account in the agency fund known as the  
 17 unemployment compensation account, which shall be  
 18 administered by the ~~commission division~~ exclusively for the  
 19 purposes of this act. Any reference to the unemployment  
 20 compensation fund in this code shall be taken to mean the  
 21 unemployment compensation account in the agency fund. This  
 22 account shall consist of (1) all contributions collected  
 23 under this act, inclusive of voluntary contributions as  
 24 provided in section 87-109 (c) (4), and payments made in lieu  
 25 of contributions as provided in section 87-109 (b) (2) and

1 (4); (2) interest earned upon any moneys in the account; (3)  
 2 any property or securities acquired through the use of  
 3 moneys belonging to the account; (4) all earnings of such  
 4 property or securities; and (5) all money credited to this  
 5 state's account in the unemployment trust fund pursuant to  
 6 section 903 of the Social Security Act, as amended. All  
 7 moneys in the account shall be mingled and undivided."

8 Section 6. Section 87-112, R.C.M. 1947, is amended to  
 9 read as follows:

10 "87-112. Accounts and deposits. The state treasurer  
 11 shall be ex officio the treasurer and custodian of the  
 12 unemployment compensation account and shall administer such  
 13 account in accordance with the directions of the ~~commission~~  
 14 division and shall issue his warrants upon it in accordance  
 15 with such regulations as the ~~commission division~~ shall  
 16 prescribe. He shall maintain within the account three (3)  
 17 separate accounts; (1) a clearing account, (2) an  
 18 unemployment trust fund account, and (3) a benefit account.  
 19 All moneys payable to the unemployment compensation account,  
 20 upon receipt thereof by the ~~commission division~~, shall be  
 21 forwarded to the treasurer who shall immediately deposit  
 22 them in the clearing account. Refunds payable pursuant to  
 23 sections 87-135 to 87-139 may be paid from the clearing  
 24 account upon warrants issued by the treasurer under the  
 25 direction of the ~~commission division~~. After clearance

1 thereof, all other money in the clearing account shall be  
 2 immediately deposited with the secretary of the treasury of  
 3 the United States of America to the credit of the account of  
 4 this state in the unemployment trust fund, established and  
 5 maintained pursuant to section 904 of the Social Security  
 6 Act, as amended, any provision of law in this state relating  
 7 to the deposit, administration, release, or disbursement of  
 8 moneys in the possession or custody of this state to the  
 9 contrary notwithstanding. The benefit account shall consist  
 10 of all moneys requisitioned for the payment of benefits from  
 11 this state's account in the unemployment trust fund. Except  
 12 as herein otherwise provided, moneys in the clearing and  
 13 benefit accounts may be deposited by the treasurer, under  
 14 the direction of the ~~commission~~ division, in any bank or  
 15 public depository in which general funds of the state may be  
 16 deposited but no public deposit insurance charge or premium  
 17 shall be paid out of the unemployment compensation account.  
 18 The treasurer shall give a separate bond conditioned upon  
 19 the faithful performance of his duties as custodian of the  
 20 unemployment compensation account in an amount fixed by the  
 21 ~~commission~~ division and in a form prescribed by law or  
 22 approved by the attorney general. Premiums for said bond  
 23 shall be paid from the unemployment compensation  
 24 administration account."

25 Section 7. Section 87-113, R.C.M. 1947, is amended to

1 read as follows:

2 "87-113. Withdrawals. (a) Moneys shall be  
 3 requisitioned from this state's account in the unemployment  
 4 trust fund solely for the payment of benefits and in  
 5 accordance with regulations prescribed by the ~~commission~~  
 6 division, except that money credited to this state's account  
 7 pursuant to section 903 of the Social Security Act, as  
 8 amended, may also be withdrawn for the payment of expenses  
 9 for the administration of this act and of public employment  
 10 offices, as provided by this act. The ~~commission~~ division  
 11 shall from time to time requisition from the unemployment  
 12 trust fund such amounts, not exceeding the amounts standing  
 13 to this state account therein, as it deems necessary for the  
 14 payment of benefits for a reasonable future period. Upon  
 15 receipt thereof the treasurer shall deposit such moneys in  
 16 the benefit account and shall issue his warrants for the  
 17 payment of benefits solely from such benefit account.  
 18 Expenditures of such moneys in the benefit account and  
 19 refunds from the clearing account shall not be subject to  
 20 any provisions of law requiring specific appropriations or  
 21 other formal release by state officers of money in their  
 22 custody. Any balance of moneys requisitioned from the  
 23 unemployment trust fund which remains unclaimed or unpaid in  
 24 the benefit account after the expiration of the period for  
 25 which such sums were requisitioned shall either be deducted

1 from past dates for, and may be utilized for the payment of,  
 2 benefits during succeeding periods, or in the discretion of  
 3 the ~~commission~~ division, shall be redeposited with the  
 4 secretary of the treasury of the United States of America,  
 5 to the credit of this state's account in the unemployment  
 6 trust fund, as provided in section 87-112.

7 (b) Money credited to the account of this state in the  
 8 unemployment trust fund by the secretary of the treasury of  
 9 the United States of America pursuant to section 903 of the  
 10 Social Security Act, as amended, may be requisitioned and  
 11 used for the payment of expenses incurred for the  
 12 administration of this act pursuant to a specific  
 13 appropriation by the legislature, provided that the expenses  
 14 are incurred and the money is requisitioned after the  
 15 enactment of an appropriation law which: (A) specifies the  
 16 purposes for which such money is appropriated and the  
 17 amounts appropriated therefor, (B) limits the period within  
 18 which such money may be expended to a period ending not more  
 19 than two (2) years after the date of the enactment of the  
 20 appropriation law, and (C) limits the amount which may be  
 21 used during any twelve (12) month period beginning on July 1  
 22 and ending on the next June 30 to an amount which does not  
 23 exceed the amount by which (1) the aggregate of the amounts  
 24 credited to the account of this state pursuant to section  
 25 903 of the Social Security Act, as amended, during the same

1 twelve (12) month period and the four (4) preceding twelve  
 2 (12) month periods, exceeds (2) the aggregate of the amounts  
 3 used pursuant to this subsection and charged against the  
 4 amounts credited to the account of this state during any of  
 5 such five (5) twelve (12) month periods. For the purposes of  
 6 this subsection, amounts used during any such twelve (12)  
 7 month period shall be charged against equivalent amounts  
 8 which were first credited and which are not already so  
 9 charged; except that no amount used for administration  
 10 during any such twelve (12) month period may be charged  
 11 against any amount credited during such a twelve (12) month  
 12 period earlier than the fourth preceding such period. Money  
 13 requisitioned for the payment of expenses of administration  
 14 pursuant to this subsection shall be deposited in the  
 15 unemployment compensation administration fund, but until  
 16 expended, shall remain a part of the unemployment  
 17 compensation fund. The ~~commission~~ division shall maintain a  
 18 separate record of the deposit, obligation, expenditure, and  
 19 return of funds so deposited. If any money so deposited is,  
 20 for any reason, not to be expended for the purpose for which  
 21 it was appropriated, or, if it remains unexpended at the end  
 22 of the period specified by the law appropriating such money,  
 23 it shall be withdrawn and returned to the secretary of the  
 24 treasury of the United States for credit to this state's  
 25 account in the unemployment trust fund.

1 (c) All warrants issued by the treasurer for payment  
 2 pursuant to this section shall bear the signature of the  
 3 treasurer and the countersignature of a member of the  
 4 ~~commission~~ division or its duly authorized agent for that  
 5 purpose."

6 Section 8. Section 87-114, R.C.M. 1947, is amended to  
 7 read as follows:

8 "87-114. Disbursement of funds if federal act becomes  
 9 inoperative. If title III or IX of the Federal Social  
 10 Security Act is declared unconstitutional or in any way is  
 11 inoperative, this act automatically becomes inoperative  
 12 under the provisions of this act, and the funds which then  
 13 remain in the unemployment trust fund shall immediately be  
 14 paid to the state treasurer to be paid into the unemployment  
 15 compensation fund and funds there held shall be immediately  
 16 distributed, upon order of the ~~commission~~ division, to the  
 17 employers who have contributed thereto on a proportionate  
 18 basis. If any part thereof remains undistributed for a  
 19 period of one (1) year it shall be paid to the general fund  
 20 of the state of Montana."

21 Section 9. Section 87-116, R.C.M. 1947, is amended to  
 22 read as follows:

23 "87-116. Agreements with railroad retirement board.  
 24 The unemployment compensation ~~commission~~ division of Montana  
 25 is hereby authorized to co-operate with and enter into

1 agreements with the railroad retirement board with respect  
 2 to establishment, maintenance and use of Montana state  
 3 employment service facilities, and to make available to the  
 4 said railroad retirement board the records of the ~~commission~~  
 5 division relating to employer's status and contributions  
 6 received from employers covered by the Railroad Unemployment  
 7 Insurance Act, together with employee wage records and such  
 8 other data as the railroad retirement board may deem  
 9 necessary or desirable for the administration of the  
 10 Railroad Unemployment Insurance Act (52 Stat. 1094); that  
 11 any moneys received by the unemployment compensation  
 12 ~~commission~~ division of Montana from the railroad retirement  
 13 board or any other governmental agency with respect to the  
 14 establishment, maintenance and use of Montana state  
 15 employment service facilities, shall be paid into and  
 16 credited the proper division of the unemployment  
 17 compensation administration fund set up and established  
 18 under sections 87-133 and 87-134."

19 Section 10. Section 87-118, R.C.M. 1947, is amended to  
 20 read as follows:

21 "87-118. Divisions. The ~~commission~~ division shall  
 22 establish two co-ordinate ~~divisions~~ bureaus: The Montana  
 23 state employment service ~~division~~ bureau created pursuant to  
 24 section 87-132, and the unemployment insurance ~~division~~  
 25 bureau. Each ~~division~~ bureau shall be responsible to the

1 ~~executive director~~ administrator for the discharge of its  
 2 distinctive function. Each ~~division~~ bureau shall be a  
 3 separate administrative unit with respect to personnel,  
 4 budget, and duties except in so far as the ~~commission~~  
 5 division may find that such separation is impracticable."

6 Section 11. Section 87-120, R.C.M. 1947, is amended to  
 7 read as follows:

8 "87-120. Administration — duties and powers of  
 9 ~~commission division~~. It shall be the duty of the ~~commission~~  
 10 division to administer this act; and it shall have power and  
 11 authority to adopt, amend, or rescind such rules and  
 12 regulations, to employ such persons, make such expenditures,  
 13 require such reports, make such investigations, and take  
 14 such other action as it deems necessary or suitable to that  
 15 end. Such rules and regulations shall be effective upon  
 16 publication in the manner, not inconsistent with the  
 17 provisions of this act, which the ~~commission~~ division shall  
 18 prescribe. The ~~commission~~ division shall determine its own  
 19 organization and methods of procedure in accordance with the  
 20 provisions of this act, and shall have an official seal  
 21 which shall be judicially noticed. The ~~commission~~ division  
 22 shall report as provided in section 2 [82-4002] of this act.  
 23 Such report shall include a balance sheet of the moneys in  
 24 the fund in which there shall be provided, if possible, a  
 25 reserve against the liability in future years to pay

1 benefits in excess of the then current contributions, which  
 2 reserve shall be set up by the ~~commission~~ division in  
 3 accordance with accepted actuarial principles on the basis  
 4 of statistics of employment, business activity, and other  
 5 relevant factors for the longest possible period. Whenever  
 6 the ~~commission~~ division believes that a change in  
 7 contribution or benefit rates will become necessary to  
 8 protect the solvency of the fund, it shall promptly so  
 9 inform the governor and the legislature, and make  
 10 recommendations with respect thereto."

11 Section 12. Section 87-121, R.C.M. 1947, is amended to  
 12 read as follows:

13 "87-121. Regulations and general and special rules.  
 14 General and special rules may be adopted, amended, or  
 15 rescinded by the ~~commission~~ division only after public  
 16 hearing or opportunity to be heard thereon, of which proper  
 17 notice has been given. General rules shall become effective  
 18 ten days after filing with the secretary of the state and  
 19 publication in one or more newspapers of general circulation  
 20 in this state. Special rules shall become effective ten days  
 21 after notification to or mailing to the last known address  
 22 of the individuals or concerns affected thereby.  
 23 Regulations may be adopted, amended, or rescinded by the  
 24 ~~commission~~ division and shall become effective in the manner  
 25 and at the time prescribed by ~~the commission~~ law."

1 Section 13. Section 87-122, R.C.M. 1947, is amended to  
2 read as follows:

3 "87-122. Publication. The ~~commission~~ division shall  
4 cause to be printed for distribution to the public the text  
5 of this act, the ~~commission's~~ division's regulations and  
6 general and special rules, ~~its~~ annual reports to the  
7 governor, and any other material the ~~commission~~ division  
8 deems relevant and suitable and shall furnish the same to  
9 any person upon application therefor."

10 Section 14. Section 87-123, R.C.M. 1947, is amended to  
11 read as follows:

12 "87-123. Personnel. Subject to other provisions of  
13 this act, the ~~commission~~ division is authorized to appoint,  
14 fix the compensation and prescribe the duties and powers of  
15 such officers, accountants, attorneys, experts, and other  
16 persons as may be necessary in the performance of its duties  
17 under this act. The ~~commission~~ division may delegate to any  
18 such persons such power and authority as it deems reasonable  
19 and proper for the effective administration of this act, and  
20 may in its discretion bond any person handling money or  
21 signing checks hereunder. The ~~commission~~ division shall  
22 classify positions under this act and shall establish salary  
23 schedules and minimum personnel standards for the positions  
24 so classified. The ~~commission~~ division shall provide for the  
25 holding of examinations to determine the qualifications of

1 applicants for the positions so classified, and except for  
2 temporary appointments of not to exceed six months in  
3 duration, such personnel shall be appointed on the basis of  
4 efficiency and fitness as determined in such examinations.  
5 No person who is an officer or committee member of any  
6 political party organization or who holds or is a candidate  
7 for any public office shall be appointed or employed under  
8 this act. The ~~commission~~ division shall establish and  
9 enforce fair and reasonable regulations for appointments,  
10 promotions, and demotions based upon ratings of efficiency  
11 and fitness and for terminations for cause."

12 Section 15. Section 87-124, R.C.M. 1947, is amended to  
13 read as follows:

14 "87-124. Records and reports. Each employing unit  
15 shall keep true and accurate work records, containing such  
16 information as the ~~commission~~ division may prescribe. Those  
17 records shall be open to inspection and shall be subject to  
18 being copied by the ~~commission~~ division or its authorized  
19 representative at any reasonable time and as often as may be  
20 necessary. The ~~commission~~ division and the chairman of any  
21 appeal tribunal may require from any employing unit any  
22 sworn or unsworn reports with respect to persons employed by  
23 it which the ~~commission~~ division considers necessary to the  
24 effective administration of this act. Information thus  
25 obtained or obtained from any individual under this act

1 shall, except to the individual claimant to the extent  
 2 necessary for the proper presentation of a claim, be held  
 3 confidential and shall not be published or be open to public  
 4 inspection except to public employees in the performance of  
 5 their public duties in any manner revealing the individual's  
 6 or employing unit's identity, but any claimant or his legal  
 7 representative at a hearing before the ~~commission~~ board of  
 8 labor appeals or appeal tribunal shall be supplied with  
 9 information from the records to the extent necessary for the  
 10 proper presentation of his claim. Any employee or member of  
 11 the ~~commission~~ division who violates any provision of this  
 12 section shall be fined not less than twenty dollars (\$20)  
 13 nor more than two hundred dollars (\$200), or imprisoned for  
 14 not longer than ninety (90) days, or both."

15 Section 16. Section 87-127, R.C.M. 1947, is amended to  
 16 read as follows:

17 "87-127. Protection against self incrimination. No  
 18 person shall be excused from attending and testifying or  
 19 from producing books, papers, correspondence, memoranda, and  
 20 other records before the ~~commission~~ division or board of  
 21 labor appeals, the chairman of an appeal tribunal or any  
 22 duly authorized representative of ~~any~~ either of them or in  
 23 obedience to the subpoena of the ~~commission~~ division or  
 24 board of labor appeals or any member thereof or any duly  
 25 authorized representative of the ~~commission~~ division in any

1 cause or proceeding before the ~~commission~~ division or board  
 2 of labor appeals, on the ground that the testimony or  
 3 evidence, documentary or otherwise, required of him may tend  
 4 to incriminate him or subject him to a penalty or  
 5 forfeiture; but no individual shall be prosecuted or  
 6 subjected to any penalty or forfeiture for or on account of  
 7 any transaction, matter, or thing concerning which he is  
 8 compelled, after having claimed his privilege against self  
 9 incrimination, to testify or produce evidence, documentary  
 10 or otherwise, except that such individual so testifying  
 11 shall not be exempt from prosecution and punishment for  
 12 perjury committed in so testifying."

13 Section 17. Section 87-128, R.C.M. 1947, is amended to  
 14 read as follows:

15 "87-128. State-federal co-operation. In the  
 16 administration of this act, the ~~commission~~ division shall  
 17 co-operate to the fullest extent consistent with the  
 18 provisions of this act with the secretary of labor, pursuant  
 19 to the provisions of the Social Security Act, as amended;  
 20 shall make such reports, in such form and containing such  
 21 information as the secretary of labor may from time to time  
 22 require, and shall comply with such provisions as the  
 23 secretary of labor may from time to time find necessary to  
 24 assure the correctness and verification of such reports; and  
 25 shall comply with the regulations prescribed by the

1 secretary of labor governing the expenditures or [of] such  
 2 sums as may be allotted and paid to this state under title  
 3 III of the Social Security Act, as amended, for the purpose  
 4 of assisting in the administration of this act. The  
 5 ~~commission~~ division shall co-operate with the secretary of  
 6 labor in the administration of any act of Congress  
 7 establishing unemployment compensation benefits or similar  
 8 benefits for federal employees and veterans or ex-service  
 9 personnel of the armed forces of the United States, and  
 10 shall do so in such manner as may be deemed advisable and  
 11 expedient in order to carry out the purpose of this act. The  
 12 ~~commission~~ division is hereby authorized and empowered to  
 13 perform any and all acts, including the execution of  
 14 agreements and contracts which may be required under and  
 15 pursuant to any act passed by the Congress of the United  
 16 States, authorizing the extension of unemployment  
 17 compensation benefits by federal law if the ~~commission~~  
 18 division in its discretion deems it advisable to perform  
 19 such acts.

20 Upon request therefor the ~~commission~~ division shall  
 21 furnish to any agency of the United States charged with the  
 22 administration of public works or assistance through public  
 23 employment, the name, address, ordinary occupation, and  
 24 employment status of each recipient of benefits and such  
 25 recipient's rights to further benefits under this act."

1 Section 18. Section 87-129, R.C.M. 1947, is amended to  
 2 read as follows:

3 "87-129. Reciprocal benefit arrangements. The  
 4 ~~commission~~ division is hereby authorized to enter into  
 5 arrangements with the appropriate agencies of other states  
 6 or the federal government, whereby individuals performing  
 7 services in this and other states for a single employing  
 8 unit under circumstances not specifically provided for in  
 9 this act, or under similar provisions of the unemployment  
 10 compensation laws of such other states, shall be deemed to  
 11 be engaged in employment performed entirely within this  
 12 state or within one of such other states and whereby  
 13 potential rights to benefits accumulated under the  
 14 unemployment compensation laws of several states or under  
 15 such a law of the federal government, or both, may  
 16 constitute the basis for the payment of benefits through a  
 17 single appropriate agency under terms which the ~~commission~~  
 18 division finds will be fair and reasonable as to all  
 19 affected interests, and will not result in any substantial  
 20 loss to the fund.

21 The ~~commission~~ division shall participate in any  
 22 arrangements, approved by the U. S. secretary of labor,  
 23 with the appropriate agencies of the other states or of the  
 24 federal government whereby wages or services, upon the basis  
 25 of which an individual may become entitled to benefits under



1 the unemployment compensation law of another state or of the  
 2 federal government, shall be deemed to be wages for  
 3 employment by employers for benefit purposes;

4 Provided that in any instance involving the combining  
 5 of an individual's wages and employment covered under two or  
 6 more state unemployment compensation laws that the base  
 7 period of a single state law will be used; and

8 Provided that such combining of wages will not involve  
 9 the duplicate use of such wage credits; and

10 Provided that such other state agency or agency of the  
 11 federal government has agreed to reimburse the unemployment  
 12 compensation fund for such portion of benefits paid under  
 13 this act upon the basis of such wages or services as the  
 14 ~~commission~~ division finds will be fair and reasonable as to  
 15 all affected interests; and whereby the ~~commission~~ division  
 16 will reimburse other state or federal agencies charged with  
 17 the administration of unemployment compensation laws, with  
 18 such reasonable portion of benefits, paid under the law of  
 19 any such other states or of the federal government upon the  
 20 basis of employment or wages for employment by employers, as  
 21 the ~~commission~~ division finds will be fair and reasonable to  
 22 all affected interests. Reimbursements so payable shall be  
 23 deemed to be benefits for the purposes of this act. The  
 24 ~~commission~~ division is hereby authorized to make to other  
 25 state or federal agencies, reimbursements from or to the

1 unemployment compensation fund, in accordance with  
 2 arrangements made pursuant to this section."

3 Section 19. Section 87-130, R.C.M. 1947, is amended to  
 4 read as follows:

5 "87-130. Acquisition of property, etc. Subject to the  
 6 approval of the state board of examiners, the ~~commission~~  
 7 division may purchase such equipment, supplies, and real  
 8 property as it may deem necessary and proper. The title to  
 9 any real property purchased shall be taken in the name of  
 10 the state of Montana. Subject to the approval of the state  
 11 board of examiners, the ~~commission~~ division may sell any  
 12 equipment, supplies or real property previously acquired by  
 13 it, and the proceeds of such sale shall be deposited into  
 14 the unemployment compensation administration fund. In the  
 15 event the duties, or any part thereof, of the ~~commission~~  
 16 division shall be at any time in the future surrendered to  
 17 or taken over by the federal government or any agency  
 18 thereof, the ~~commission~~ division, with the approval of the  
 19 state board of examiners, may lease such equipment and real  
 20 property to the federal government, or such agency, but the  
 21 title thereto shall remain in the state of Montana."

22 Section 20. Section 87-131, R.C.M. 1947, is amended to  
 23 read as follows:

24 "87-131. ~~Commission~~ Division to co-operate with other  
 25 agencies. The ~~commission~~ division shall afford reasonable

1 co-operation with any government agency charged with war  
 2 effort or postwar planning responsibilities or with the  
 3 administration of any system of unemployment allowances or  
 4 unemployment assistance or of any program designed to  
 5 prevent or relieve unemployment. The ~~commission~~ division  
 6 may make, and may co-operate with other appropriate state  
 7 agencies in making studies as to the practicability and  
 8 probable cost of possible new state-administered social  
 9 security programs; and the relative desirability of state  
 10 (rather than national) action in any such field. The  
 11 ~~commission~~ division shall fully co-operate with the agencies  
 12 of other states, and shall make every proper effort within  
 13 its means, to oppose and prevent any further action which  
 14 would in its judgment tend to effect complete or substantial  
 15 federalization of state unemployment compensation funds or  
 16 state unemployment compensation and employment security  
 17 programs, or any part of the social security program."

18 Section 21. Section 87-132, R.C.M. 1947, is amended to  
 19 read as follows:

20 "87-132. State employment service. The ~~commission~~  
 21 division shall create a ~~division~~ bureau to be known as the  
 22 Montana state employment service which ~~division~~ bureau shall  
 23 establish and maintain free public employment offices in  
 24 such number and in such places as may be necessary for the  
 25 proper administration of this act, and for the purpose of

1 performing such duties as are within the purview of the act  
 2 of Congress entitled; "An act to provide for the  
 3 establishment of a national employment system and for  
 4 co-operation with the states in the promotion of such  
 5 system, and for other purposes," approved June 6, 1933 (48  
 6 Stat. 113; U.S.C. Title 29, Sec. 49 (c)), as amended. The  
 7 said ~~division~~ bureau shall be administered by a full-time  
 8 salaried director. The ~~commission~~ division shall be charged  
 9 with the duty to co-operate with any official or agency of  
 10 the United States having power or duties under the  
 11 provisions of the said act of Congress, as amended, and to  
 12 do and perform all things necessary to secure to this state  
 13 the benefits of the said act of Congress, as amended, in the  
 14 promotion and maintenance of a system of public employment  
 15 offices. The provisions of the said act of Congress, as  
 16 amended, are hereby accepted by this state, in conformity  
 17 with section 4 of said act, and this state will observe and  
 18 comply with the requirements thereof. The ~~unemployment~~  
 19 ~~compensation-commission~~ employment security division is  
 20 hereby designated and constituted the agency of this state  
 21 for the purpose of said act. The ~~commission~~ division is  
 22 directed to appoint the personnel of the Montana state  
 23 employment service. For the purpose of establishing and  
 24 maintaining free public employment offices, the ~~commission~~  
 25 division is authorized to enter into agreements with any

1 political subdivisions of this state or with any private,  
 2 nonprofit organization, and as a part of any such agreement  
 3 the ~~commission~~ division may accept moneys, services, or  
 4 quarters as a contribution to the ~~employment~~ EMPLOYMENT  
 5 service account."

6 Section 22. Section 87-133, R.C.M. 1947, is amended to  
 7 read as follows:

8 "87-133. Unemployment compensation administration  
 9 account. There is hereby created an account in the federal  
 10 and private revenue fund to be known as the unemployment  
 11 compensation administration account. All moneys which are  
 12 deposited, appropriated or paid into this account are hereby  
 13 appropriated and made available to the ~~commission~~ division.  
 14 All moneys in the account shall be expended solely for the  
 15 purpose of defraying the costs of administration of this act  
 16 and costs of administration of such other legislation as  
 17 shall be specifically delegated to the ~~commission~~ division  
 18 for administration by the legislature. All moneys received  
 19 and deposited in said account for administration expense  
 20 from the United States of America or any agency thereof,  
 21 pursuant to section 302, title III of the Social Security  
 22 Act shall be expended solely for the purpose and in the  
 23 amounts found necessary by the secretary of labor for the  
 24 proper and efficient administration of this act. The account  
 25 shall consist of (1) all moneys received from the United

1 States of America or any agency thereof, pursuant to section  
 2 302, title III of the Social Security Act, as amended, and  
 3 (2) all moneys appropriated by the state from the general  
 4 fund for the purpose of administering this act, all interest  
 5 and penalties collected on past due contributions as  
 6 provided by section 87-135; all moneys, trust funds,  
 7 supplies, facilities or services furnished, deposited, paid  
 8 and received from the United States of America, or any  
 9 agency thereof, from this state or any agency thereof, from  
 10 any other state or any of its agencies, from political  
 11 subdivisions of the state, or any other source for  
 12 administrative expense and purpose. Notwithstanding any  
 13 provisions of this section, all money requisitioned and  
 14 deposited in this account pursuant to section 87-113 shall  
 15 remain part of the unemployment compensation account and  
 16 shall be used only in accordance with the conditions  
 17 specified in section 87-113. All moneys in this account  
 18 shall be deposited, administered, and disbursed in the same  
 19 manner and under the same conditions and requirements as is  
 20 provided by law for other accounts. Any balance in this  
 21 account shall not lapse at any time, but shall be  
 22 continuously available to the ~~commission~~ division for the  
 23 expenditure consistent with this act. The state treasurer  
 24 shall give a separate and additional bond conditioned upon  
 25 the faithful performance of his duties in connection with

1 the unemployment compensation administration account in an  
 2 amount to be fixed by the ~~commission~~ division and in a form  
 3 prescribed by law or approved by the attorney general. The  
 4 premiums for such bond and the premiums for the bond given  
 5 by the treasurer for the unemployment compensation account  
 6 under section 87-112, shall be paid from the moneys in the  
 7 unemployment compensation administration account. Any  
 8 reference to the unemployment compensation administration  
 9 fund in this code shall be taken to mean the unemployment  
 10 compensation administration account in the federal and  
 11 private revenue fund."

12 Section 23. Section 87-134, R.C.M. 1947, is amended to  
 13 read as follows:

14 "87-134. Reimbursement of fund. This state recognizes  
 15 its obligation to replace, and hereby pledges the faith of  
 16 this state that funds will be provided in the future, and  
 17 applied to the replacement of any of the moneys received  
 18 after July 1, 1941, from the United States of America, or  
 19 any agency thereof, under title III of the Social Security  
 20 Act, any unencumbered balances in the unemployment  
 21 compensation administration fund as of that date, any moneys  
 22 thereafter granted to this state pursuant to the provisions  
 23 of the Wagner-Peyser Act, and any moneys made available by  
 24 the state or its political subdivisions and matched by such  
 25 moneys granted to this state pursuant to the provisions of

1 the Wagner-Peyser Act, which the secretary of labor finds  
 2 have, because of any action or contingency, been lost or  
 3 have been expended for purposes other than, or in amounts in  
 4 excess of, those found necessary by the secretary of labor  
 5 for the proper administration of this act. Such moneys shall  
 6 be promptly supplied by moneys furnished by the state of  
 7 Montana or any of its subdivisions for the use of the  
 8 unemployment compensation ~~commission~~ division and used only  
 9 for purposes approved by the secretary of labor. The  
 10 ~~commission~~ division shall, if necessary, promptly report to  
 11 the governor and the governor to the legislature, the amount  
 12 required for such replacement. This section shall not be  
 13 construed to relieve this state of its obligation with  
 14 respect to funds received prior to July 1, 1941, pursuant to  
 15 the provisions of title III of the Social Security Act."

16 Section 24. Section 87-135, R.C.M. 1947, is amended to  
 17 read as follows:

18 "87-135. Penalty and interest on past-due  
 19 contributions. Contributions unpaid on the date on which  
 20 they are due and payable, as prescribed by the ~~commission~~  
 21 division, shall be subject to a penalty assessment of five  
 22 per centum (5%) or five (\$5.00) dollars, whichever is  
 23 greater, and shall bear interest at the rate of one-half of  
 24 one per centum (1/2 of 1%) per month from and after such  
 25 date until payment plus accrued interest and penalty is

1 received by the ~~commission~~ division. No interest shall be  
 2 charged for fractional part of a month. Interest and penalty  
 3 collected pursuant to this subsection shall be paid into the  
 4 unemployment compensation administration fund. When failure  
 5 to pay contributions in time and before delinquency was not  
 6 caused by willful intent of the employer, and for good cause  
 7 shown, the ~~commission~~ division may abate the penalty and  
 8 interest, as a compromise offer of settlement and payment of  
 9 the tax liability.\*

10 Section 25. Section 87-136, R.C.M. 1947, is amended to  
 11 read as follows:

12 \*87-136. Collection — reciprocity with other states  
 13 in effecting collection of unpaid unemployment compensation  
 14 taxes. (a) If, after due notice, any employer defaults in  
 15 any payment of contributions or interest thereon, the amount  
 16 due shall be collected by civil action in the name of the  
 17 ~~commission division, Montana department of labor and~~  
 18 industry, and the employer adjudged in default shall pay the  
 19 costs of such action. Civil actions brought under this  
 20 section to collect contributions or interest thereon from an  
 21 employer shall be heard by the court at the earliest  
 22 possible date and shall be entitled to preference upon the  
 23 calendar of the court over all other civil actions except  
 24 petitions for judicial review under this act and cases  
 25 arising under the workmen's compensation law of this state.

1 Action for the collection of contributions due shall be  
 2 brought within five (5) years after the due date of such  
 3 contributions, otherwise to be barred as provided in section  
 4 93-2604.

5 (b) The courts of this state shall recognize and  
 6 enforce liabilities for unemployment contributions imposed  
 7 by other states which extend a like comity to this state.  
 8 ~~The commission division, Montana department of labor and~~  
 9 industry, is hereby empowered to sue in the courts of any  
 10 other jurisdiction which extends such comity, to collect  
 11 unemployment contributions and interest due this state. The  
 12 officials of other states which by statute or otherwise  
 13 extend a like comity to this state may sue in the courts of  
 14 this state, to collect for such contributions and interest  
 15 and penalties if any, due such state; in any such case the  
 16 ~~chairman administrator of the commission division of this~~  
 17 state may through his attorney or attorneys institute and  
 18 conduct such suit for such other state. Venue of such  
 19 proceedings shall be the same as for actions to collect  
 20 delinquent contributions, penalties and interest due under  
 21 this act. A certificate by the secretary of any such state  
 22 under the great seal of such state attesting the authority  
 23 of such official or officials to collect unemployment  
 24 compensation contributions, penalties and interest shall be  
 25 conclusive evidence of such authority.\*

1 Section 26. Section 87-138, R.C.M. 1947, is amended to  
 2 read as follows:

3 "87-138. Refunds. If not later than three (3) years  
 4 after the date on which any contributions or interest  
 5 thereon became due, or not later than one (1) year from the  
 6 date on which payment was made, whichever is later, an  
 7 employer who has paid such contributions or interest thereon  
 8 shall make application for an adjustment thereof in  
 9 connection with subsequent contribution payments, or for a  
 10 refund thereof because such adjustment cannot be made and  
 11 the ~~commission~~ division shall determine that such  
 12 contributions or interest or any portion thereof was  
 13 erroneously collected, the ~~commission~~ division shall allow  
 14 such employer to make an adjustment thereof, without  
 15 interest, in connection with subsequent contribution  
 16 payments by him, or if such adjustment cannot be made, the  
 17 ~~commission~~ division shall refund said amount, without  
 18 interest, from the fund. For like cause and within the same  
 19 period, adjustment or refund may be so made on the  
 20 ~~commission's~~ division's own initiative. If the ~~commission~~  
 21 division shall determine that an employer has paid  
 22 contributions to this state under this act, when such  
 23 contributions should have been paid to another state, under  
 24 a similar act of such other state, transfer of such  
 25 contributions to such other state shall be made upon

1 discovery, or upon proof of payment that such other state  
 2 has been fully paid, then refund to such employer shall be  
 3 made at any time upon application without limitation of  
 4 time. In the event that this act is not certified by the  
 5 secretary of labor under section 1603 of the Internal  
 6 Revenue Code, as amended, 1939, for any year, then and in  
 7 that event, refunds shall be made of all contributions  
 8 required under this act from employers for that year."

9 Section 27. Section 87-139, R.C.M. 1947, is amended to  
 10 read as follows:

11 "87-139. Lien for payment. If any contributions  
 12 payable by an employer under this act, or any portion  
 13 thereof, is not paid within twenty-five (25) days after the  
 14 same becomes due, the ~~commission~~ division may issue a  
 15 certificate under its official seal, setting forth the  
 16 amount of contributions due and interest accrued, directed  
 17 to the sheriff of any county of the state, commanding him to  
 18 levy upon and sell the real and personal property of the  
 19 employer owing the same, found within his county, for the  
 20 payment of the amount thereof, with the added penalties,  
 21 interest and costs of executing the same and to return such  
 22 certificates to the ~~commission~~ division and pay to the  
 23 ~~commission~~ division the money collected by virtue thereof by  
 24 a time to be therein specified, not more than ninety (90)  
 25 days from the date of the certificate. The said sheriff

1 shall, within five (5) days after the receipt of the  
 2 certificate, file with the clerk of the district court of  
 3 his county a copy thereof and thereupon the said clerk of  
 4 the district court shall enter in the judgment docket, in  
 5 the column for judgment debtors, the name of the employer  
 6 mentioned in the certificate, and in the appropriate columns  
 7 the amount of contributions due and the penalties for which  
 8 the certificate is issued and the date when such copy is  
 9 filed and thereupon the amount of such certificate so  
 10 docketed shall become a lien upon the title to and interest  
 11 in real property or chattels real of the employer against  
 12 whom it is filed in the same manner as a judgment docketed  
 13 in the office of such clerk. The said sheriff shall  
 14 thereupon proceed upon the same in all respects, with like  
 15 effect, and in the same manner prescribed by law in respect  
 16 to executions issued against property upon judgment of a  
 17 court of record, and shall be entitled to the same fees for  
 18 his services in executing the certificate, to be collected  
 19 in the same manner."

20 Section 28. Section 87-140, R.C.M. 1947, is amended to  
 21 read as follows:

22 "87-140. Summary or jeopardy assessment. If any  
 23 employer fails to file a report or return as required under  
 24 this act, or the regulations of the ~~commission~~ division  
 25 adopted thereunder, within the time specified, the

1 ~~commission~~ division may make a summary or jeopardy  
 2 assessment, of the amount due by making up such report and  
 3 determining the amount of contributions due and owing to the  
 4 fund upon the basis of such information as the ~~commission~~  
 5 division may be able to obtain, and thereupon the same shall  
 6 be collected the same as other reports and contributions  
 7 due, with penalty and interest as provided in this act. Upon  
 8 making such summary or jeopardy assessment, the ~~commission~~  
 9 division shall immediately notify the employer in writing by  
 10 personal service or by registered mail in the usual course,  
 11 at the last known principal place of business operated by  
 12 the said employer. Such assessment shall be final unless the  
 13 employer shall protest such assessment in writing within  
 14 fifteen (15) days after service of the notice, or within the  
 15 same period of time the said employer shall file a correct,  
 16 signed and sworn report and statement as provided by the act  
 17 and the regulations of the ~~commission~~ division. Upon written  
 18 protest being filed as above set forth, a day certain for  
 19 the hearing thereof shall be fixed by the ~~commission~~  
 20 division and notice thereof mailed to the employer. At such  
 21 hearing, the facts ascertained by the ~~commission~~ division  
 22 shall be conclusive and the ~~commission~~ division may upon the  
 23 basis of such facts ascertained assess the amount due,  
 24 modify, set aside or revise the prior assessment and require  
 25 the employer to pay the amount due with penalty and interest

1 as provided for in this act. A copy of the decision of the  
 2 ~~commission~~ division and the assessment of the amount due  
 3 shall be mailed to the employer at his last known principal  
 4 place of business and thereupon become final."

5 Section 29. Section 87-142, R.C.M. 1947, is amended to  
 6 read as follows:

7 "87-142. Limitation of fees. No individual claiming  
 8 benefits shall be charged fees of any kind in any proceeding  
 9 under this act by the ~~commission~~ division or its  
 10 representatives or by any court or any officer thereof. Any  
 11 individual claiming benefits in any proceeding before the  
 12 chairman of an appeal tribunal or the ~~commission~~ division or  
 13 its representatives, the board of labor appeals, or a court  
 14 may be represented by counsel or other duly authorized  
 15 agent; but no such counsel or agents shall either charge or  
 16 receive for such services more than an amount approved by  
 17 the ~~commission~~ division or board of labor appeals. Any  
 18 person who violates any provision of this section shall, for  
 19 each such offense, be fined not more than five hundred  
 20 (\$500.00) dollars, or imprisoned for not more than six (6)  
 21 months, or both."

22 Section 30. Section 87-145, R.C.M. 1947, is amended to  
 23 read as follows:

24 "87-145. Penalties — falsity or willful nondisclosure  
 25 — violations by employer or agent — violation of act or

1 regulations — wrongfully collecting benefits. (a) Whoever  
 2 makes a false statement or representation knowing it to be  
 3 false or knowingly fails to disclose a material fact, to  
 4 obtain or increase any benefit or other payment under this  
 5 act, or under an employment security law of any other state,  
 6 or territory or the federal government either for himself or  
 7 for any other person, shall:

8 (1) Be punished by a fine of not less than fifty  
 9 dollars (\$50.00) nor more than five hundred dollars  
 10 (\$500.00) or by imprisonment for not less than three (3)  
 11 days nor more than thirty (30) days in the county jail or by  
 12 both such fine and imprisonment; and each such false  
 13 statement or representation or failure to disclose a  
 14 material fact shall constitute a separate offense, and

15 (2) Be disqualified for benefits thereafter until:

16 (A) He has repaid to the ~~commission~~ division a sum  
 17 equal to the amount so received by him; provided, however,  
 18 he will not be required to repay any amount so obtained more  
 19 than five (5) years prior to the date of the ~~commission's~~  
 20 division's determination that the claimant made such false  
 21 statements, willful nondisclosure or misrepresentation, as  
 22 provided in this paragraph, and

23 (B) A period of not less than ten (10) nor more than  
 24 fifty-two (52) weeks have elapsed since the date of such  
 25 determination by the ~~commission~~ division, the length of time



1 of the disqualification as herein described to be determined  
 2 by the ~~commission~~ division in accordance with the severity  
 3 of each case.

4 (b) Any employing unit or any officer or agent of an  
 5 employing unit or any other person who makes a false  
 6 statement or representation knowing it to be false, or who  
 7 knowingly fails to disclose a material fact, to prevent or  
 8 reduce the payment of benefits to any individual entitled  
 9 thereto, or to avoid becoming or remaining subject hereto or  
 10 to avoid or reduce any contribution or other payment  
 11 required from an employing unit under this act, or under the  
 12 employment security law of any other state, or territory or  
 13 the federal government or who willfully fails or refuses to  
 14 make any such contributions or other payment or to furnish  
 15 any reports required hereunder or to produce or permit the  
 16 inspection or copying of records as required hereunder,  
 17 shall be punished by a fine of not less than fifty dollars  
 18 (\$50.00) nor more than five hundred dollars (500.00) or by  
 19 imprisonment for not less than three (3) days nor more than  
 20 thirty (30) days in the county jail or by both such fine and  
 21 imprisonment; and each such false statement or  
 22 representation or failure to disclose a material fact, and  
 23 each day of such failure or refusal shall constitute a  
 24 separate offense.

25 (c) Any person who shall willfully violate any

1 provision of this act or any order, rule or regulation  
 2 thereunder, the violation of which is made unlawful or the  
 3 observance of which is required under the terms of this act,  
 4 and for which a penalty is neither prescribed herein nor  
 5 provided by any other applicable statute, shall be punished  
 6 by a fine of not less than fifty dollars (\$50.00) nor more  
 7 than five hundred dollars (\$500.00) or by imprisonment for  
 8 not less than three (3) days nor more than thirty (30) days  
 9 in the county jail or by both such fine and imprisonment,  
 10 and each day such violation continues shall be deemed to be  
 11 a separate offense.

12 (d) Any person who, by reason of the nondisclosure or  
 13 misrepresentation by him or by another, of a material fact  
 14 (irrespective of whether such nondisclosure or  
 15 misrepresentation was known or fraudulent) has received any  
 16 sum as benefits under this act while any conditions for the  
 17 receipt of benefits imposed by this act were not fulfilled  
 18 in his case, or while he was disqualified from receiving  
 19 benefits, shall, in the discretion of the ~~commission~~  
 20 division, either be liable to have such sum deducted from  
 21 any future benefits payable to him under this act or shall  
 22 be liable to repay to the ~~commission~~ division for the  
 23 unemployment compensation fund, a sum equal to the amount so  
 24 received by him, and such sum shall be collectible in the  
 25 manner provided in this act for the collection of past due

1 contributions. Action for collection of overpaid benefits  
 2 shall be brought within five (5) years after the date of  
 3 such overpayment, otherwise to be barred as provided in  
 4 section 93-2604."

5 Section 31. Section 87-146, R.C.M. 1947, is amended to  
 6 read as follows:

7 "87-146. Representation in court. (a) In any civil  
 8 action to enforce the provisions of this act the ~~commission~~  
 9 division and the state may be represented by any qualified  
 10 attorney who is employed by the ~~commission division~~ and is  
 11 designated by it for this purpose or at the ~~commission's~~  
 12 division's or board of labor appeals' request, by the  
 13 attorney general.

14 (b) All criminal actions for violation of any  
 15 provision of this act, or of any rules or regulations issued  
 16 pursuant thereto, shall be prosecuted by the attorney  
 17 general of the state; or, at his request and under his  
 18 direction, by the prosecuting attorney of the county wherein  
 19 the crime was committed."

20 Section 32. Section 87-147, R.C.M. 1947, is amended to  
 21 read as follows:

22 "87-147. Nonliability of state. Benefits shall be  
 23 deemed to be due and payable under this act only to the  
 24 extent provided in this act and to the extent that moneys  
 25 are available therefor to the credit of the unemployment

1 compensation fund, and neither the state nor the ~~commission~~  
 2 division shall be liable for any amount in excess of such  
 3 subs."

4 Section 33. Section 87-149, R.C.M. 1947, is amended to  
 5 read as follows:

6 "87-149. Definitions — continued. (a) Total  
 7 unemployment:

8 (1) An individual shall be deemed "totally unemployed"  
 9 in any week during which he performed no services and with  
 10 respect to which no wages are payable to him.

11 (2) An individual's week of unemployment shall be  
 12 deemed to commence only after his registration at an  
 13 unemployment office, except as the ~~commission division~~ may  
 14 by regulation otherwise prescribe.

15 (3) As used in this subsection the term "wages" shall  
 16 include only that part of remuneration for work which is in  
 17 excess of twice the weekly benefit amount, and the term  
 18 "service" shall include only that work in excess of twelve  
 19 (12) hours in any one week.

20 (b) "Unemployment compensation administration fund,"  
 21 means the unemployment compensation administration fund  
 22 established by this act, from which administrative expenses  
 23 under this act shall be paid.

24 (c) "Wages," means all remuneration payable for  
 25 personal services, including ~~commissions divisions~~

1 ~~COMMISSIONS~~ and bonuses and the cash value of all  
 2 remuneration payable in any medium other than cash. The  
 3 reasonable cash value of remuneration payable in any medium  
 4 other than cash shall be estimated and determined in  
 5 accordance with rules prescribed by the ~~commissioner~~ division.  
 6 Wage records kept by the ~~commissioner~~ division for the  
 7 purposes of this act prior to January 1, 1941, shall be kept  
 8 on the basis of wages payable, and wage records kept by the  
 9 ~~commissioner~~ division for the purposes of this act after  
 10 January 1, 1941, shall be kept on the basis of wages paid.  
 11 Provided, however, that the term "wages" shall not include—  
 12 (1) The amount of any payment made to, or on behalf  
 13 of, an employee by an employer on account of:  
 14 (A) Retirement, or  
 15 (B) Sickness or accident disability, or  
 16 (C) Medical and hospitalization expenses in connection  
 17 with sickness or accident disability, or  
 18 (D) Death.  
 19 (E) Services performed for a fraternal benefit  
 20 society, lodge, order, service club or association having a  
 21 total annual payroll of less than five hundred dollars  
 22 (\$500.00) in any calendar year.  
 23 (F) Remuneration paid by any county welfare office  
 24 from welfare assistance funds for services performed at the  
 25 direction and request of such county welfare office.

1 (d) "Week," means a period of seven (7) consecutive  
 2 calendar days ending at midnight on Saturday.  
 3 (e) "Weekly benefit amount." An individual's "weekly  
 4 benefit amount" means the amount of benefits he would be  
 5 entitled to receive for one (1) week of total unemployment.  
 6 (f) "Gross misconduct," means a criminal act, other  
 7 than a violation of a motor vehicle traffic law, for which  
 8 an individual has been convicted in a criminal court or has  
 9 admitted or conduct which demonstrates a flagrant and wanton  
 10 disregard of and for the rights or title or interest of a  
 11 fellow employee or his employer.  
 12 (g) The word "division" throughout the unemployment  
 13 statutes refers to a unit of the Montana state department of  
 14 labor and industry.  
 15 (h) The word "administrator" refers to a person  
 16 appointed by the commissioner of labor and industry to  
 17 direct and administer the unemployment compensation laws and  
 18 federal laws falling within the administrator's  
 19 jurisdiction.  
 20 (i) The words "board of labor appeals" used in this  
 21 act mean three (3) persons appointed by the governor, who  
 22 are not public employees but who are attached to the Montana  
 23 state department of labor and industry. The function of  
 24 said board is to act in a quasi-judicial capacity for the  
 25 hearing of disputes concerning the administration of

1 Montana's unemployment insurance laws."

2 Section 34. Sections 87-115, 87-117, ~~87-118~~, 87-119,

3 87-125, and 87-126, R.C.M. 1947, are repealed.

-End-