

1 *Hayes* BILL NO. *331*
2 INTRODUCED BY *Johnson*
3
4 A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING SECTION
5 87-109, R.C.M. 1947, TO INCREASE RATES CHARGED EMPLOYERS
6 FROM ONE AND FIVE-TENTHS PERCENT (1.5%) OF TOTAL PAYROLL TO
7 TWO PERCENT (2%) OF TOTAL PAYROLL AND PROVIDING AN EFFECTIVE
8 DATE."
9
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
11 Section 1. Section 87-109, R.C.M. 1947, is amended to
12 read as follows:
13 "87-109. Contributions. (a) Payment. (1) Contributions
14 shall accrue and become payable by each employer for each
15 calendar year in which he is subject to this act, with
16 respect to wages, as defined in section 87-149 (c), paid for
17 employment (as defined in this act) occurring during such
18 calendar year. Such contributions shall become due and be
19 paid by each employer to the division for the fund in
20 accordance with such regulations as the division may
21 prescribe and shall not be deducted, in whole or in part,
22 from the wages of individuals in his employ.
23 (2) In the payment of any contributions, a fractional
24 part of a cent shall be disregarded unless it amounts to
25 one-half (1/2) cent or more, in which case it shall be

1 (b) Rate of contribution.
2 (1) Each employer shall pay contributions at the rate
3 of three and one-tenth per centum (3.1%) of wages, as
4 defined in section 87-149 (c) paid by him with respect to
5 such employment, except as provided in subsection (c) of
6 this section.
7 Nonprofit organizations defined in section 501 (c) (3)
8 of the federal internal revenue code and which are exempt
9 from tax under section 501 (a) of such code may elect to
10 make payments in lieu of contributions; the state and its
11 political subdivisions specifically covered by this act and
12 those electing coverage shall make payments in lieu of
13 contributions.
14 A group of nonprofit organizations may elect with the
15 approval of the division to act as a group in fulfilling the
16 requirements of this subsection or of this act.
17 (2) Employers required or eligible to elect to make
18 payments in lieu of contributions shall pay into the fund an
19 amount equivalent to the full amount of regular benefits
20 plus one-half (1/2) of the amount of extended benefits paid
21 to individuals based on wages paid by such employing unit.
22 If benefits paid an individual are based on wages paid by
23 both such employer and one (1) or more other employers, the
24 amount payable by such employer to the fund shall bear the
25 same ratio to total benefits paid to the individual as the

1 base period wages paid to the individual by such employer
 2 bear to the total amount of base period wages paid to the
 3 individual by all his base period employers. If the base
 4 period wages of an individual include wages from more than
 5 one (1) such employer, the amount to be paid into the fund
 6 with respect to the benefits paid to such individual shall
 7 be prorated among the liable employers in proportion to the
 8 wages paid to such individual by each such employer during
 9 the base period. The amount of payment required from such
 10 employers shall be ascertained by the division quarterly and
 11 shall become due and payable by such employer quarterly as
 12 directed in this act. Penalty and interest for delinquency
 13 shall be assessed such employers as specified in section
 14 87-135.

15 (3) Any nonprofit organizations as defined in
 16 subsection (b) (1) of this section electing to become liable
 17 for payments in lieu of contributions must file with the
 18 division a written notice of its election not later than
 19 thirty (30) days immediately following the date of the
 20 determination of subjectivity to this act. This election
 21 shall be for a period of not less than two (2) years.

22 (A) Any nonprofit organization may terminate its
 23 election to make payments in lieu of contributions after two
 24 (2) calendar years from the effective date of such election
 25 by filing a written notice with the division not later than

1 thirty (30) days prior to the beginning of the taxable year
 2 for which such termination is effective.

3 (B) Any nonprofit organization defined in subsection
 4 (b) (1) of this section which has been paying contributions
 5 for at least two (2) taxable years may change to payments in
 6 lieu of contributions by filing with the division a written
 7 notice to that effect within thirty (30) days before the
 8 beginning of the taxable year for which the change is
 9 effective.

10 (C) If the nonprofit organization is delinquent in
 11 making payments in lieu of contributions, the division may
 12 terminate the election to make payments in lieu of
 13 contributions as of the beginning of the next taxable year,
 14 and such termination shall be effective for that and the
 15 next taxable year.

16 (4) Payments in lieu of contributions by the state and
 17 its political subdivisions shall be an amount equivalent to
 18 the amount of benefits paid to individuals based on wages
 19 paid by the state and its political subdivisions. The method
 20 of determining benefits attributable shall be the same as
 21 that set forth in subsection (b) (2) of this section. The
 22 amount of payments shall be paid in such manner as the
 23 division may prescribe.

24 (c) Experience rating.

25 The division shall for each calendar year, classify

employers in accordance with their actual contributions and unemployment experience and shall determine for each employer the rate of contributions which shall apply to him throughout the calendar year in order to reflect said experience and classification. The division shall apply such form of classification or experience rating system which is best calculated to rate individually and most equitably the employment for each employer and to encourage the stabilization of employment.

In making such classification, the division shall take account, each to an equal extent, of the following factors relating to the unemployment hazard shown by each employer on the basis of (1) average annual net percentage declines in total payrolls for the last three (3) years prior to computation date; (2) number of years the employer has paid contributions; and (3) chargebacks to the individual employer account upon the last employer basis. The computation date is hereby fixed as of the close of business on June 30 of the preceding calendar year.

The rates ~~for--the-first-calendar-quarter-of-calendar year-1972-and-thereafter,~~ beginning April 1, 1975, except as hereinafter provided, shall be so fixed that they would, if applied to all employers (except those employers making payments in lieu of contributions) and their total taxable annual payrolls for the preceding calendar year, have

yielded total paid contributions equaling approximately ~~one and--five-tenths--per--centum--(1.5%)~~ two percent (2%) of the total of all such payrolls.

The division shall determine the contribution rate applicable to each employer for any calendar year subject to the following limitations:

(1) Each employer's rate shall be three and one-tenth per centum (3.1%) unless and until there have been three (3) years prior to the computation date throughout which the employer has paid contributions at the maximum tax rate set by law for each of such years and has reported and paid contributions during each of the three (3) calendar years immediately preceding the computation date and with respect to such three (3) calendar years has filed all contribution reports prescribed by the division and paid all contributions due with respect to the three (3) calendar years before March 31 of the rate year. Upon payment of past-due contributions the division shall, for the current year, compute a rate for the next succeeding quarter following the payment.

(2) The classified contribution rates for the calendar year 1969, and thereafter, except as hereinafter provided, shall be: five-tenths of one per centum (.5%), seven-tenths of one per centum (.7%), nine-tenths of one per centum (.9%), one and one-tenth per centum (1.1%), one and

three-tenths per centum (1.3%), one and five-tenths per centum (1.5%), one and seven-tenths per centum (1.7%), one and nine-tenths per centum (1.9%), two and one-tenth per centum (2.1%), two and three-tenths per centum (2.3%), two and five-tenths per centum (2.5%), two and seven-tenths per centum (2.7%), two and nine-tenths per centum (2.9%), and three and one-tenth per centum (3.1%).

(3) No employer shall be assigned a classified contribution rate higher than the second classified rate above the rate which was assigned to him for the last preceding calendar year except for the year 1961 and further as hereinafter provided. This subsection shall not apply when the employer's chargeback ratio exceeds one hundred per cent (100%).

(4) An employer whose benefit payments (charged as most recent employer) in the last three (3) years preceding the computation date exceeded the amount of his contributions for those years, may have the option of making a voluntary contribution to the unemployment compensation fund to cancel the amount by which the benefit payments charged to him under section 87-109 (c) during the last three (3) completed fiscal years exceed his contributions for the same three (3) years. Such voluntary contribution shall be applied first to cancel the amount by which benefits exceed contributions in the earliest of the three (3) years preceding the

computation date, any remaining to cancel the excess in the second earliest year preceding the computation date, and any further remaining to cancel the excess in the most recent year preceding the computation date. Whenever the benefit payments charged to an eligible employer in the last three (3) fiscal years exceed his contributions for the same period, the division shall notify him of the amount of such excess and the rate which would be applicable to him for the ensuing calendar year, if he exercises the option. Such employer must exercise the option of making the voluntary contribution allowed by this section within thirty (30) days after receipt of such notice.

(5) Rates as fixed by the division shall stand and be in effect unless and until the cash reserves in the unemployment compensation trust fund at any time in the future fall below, and remain below, eighteen million dollars (\$18,000,000) continuously for a period of one (1) year, then employer rates effective at the beginning of the next succeeding calendar quarter shall be so fixed that they would, if applied to all employers and their total taxable annual payrolls for the preceding calendar year, have yielded total paid contributions equaling approximately two per centum (2%) of the total of all such payrolls, and shall continue at the two per centum (2%) average rate until cash reserves in the unemployment compensation trust fund exceed

1 twenty-six million dollars (\$26,000,000) at which time all
 2 employer rates shall again be so fixed to bring an average
 3 return of ~~one-and-five-tenths-per-centum-(1.5%)~~ two percent
 4 (2%) as in this section hereinabove provided; if reserves
 5 remain below eighteen million dollars (\$18,000,000)
 6 continuously for a period of two (2) years, then the
 7 contribution rate of all employers subject to this act shall
 8 return to a uniform rate of three and one-tenth per centum
 9 (3.1%) effective at the beginning of the next succeeding
 10 calendar quarter, and shall continue at the three and
 11 one-tenth per centum (3.1%) rate until cash reserves in the
 12 unemployment compensation trust fund exceed twenty-six
 13 million dollars (\$26,000,000) at which time all employer
 14 rates shall again be so fixed to bring an average return of
 15 ~~one-and-five-tenths-per-centum-(1.5%)~~ two percent (2%) as in
 16 this section hereinabove provided.

17 (6) The division shall by regulation adopt such
 18 procedures as may be necessary for the substitution, merging
 19 or acquisition of an employer account by an employing unit,
 20 and the transfer of such employer account, rights,
 21 contributions, benefit experience and rating to the
 22 successor employing unit or units.

23 (7) The division shall by regulation provide for the
 24 proper notification of employers of the classification and
 25 rate of contribution applicable to their accounts. Such

1 notification shall be final for all purposes unless and
 2 until such employer files a written request with the
 3 division for a redetermination or hearing thereon within
 4 thirty (30) days after receipt of such notice.

5 (8) "Annual total payroll" means the total of the four
 6 (4) quarters of total payrolls of an employer preceding the
 7 computation date as fixed herein.

8 (9) No employer's account shall be charged with
 9 benefits paid to any claimant in determining the
 10 contribution rate of such employer;

11 (a) If the claimant has been disqualified under section
 12 87-106 (a), (b), (g), or (h), as a result of separation from
 13 such employer;

14 (b) If the claimant left work for nondisqualifying
 15 reasons as provided in section 87-106 (a);

16 (c) Unless the employer has had notice of the claim for
 17 the benefits and has been given opportunity for hearing as
 18 an interested party in the manner provided in sections
 19 87-107 and 87-108. Written notice of any hearing shall be
 20 mailed to employer not less than ten (10) days prior to the
 21 date set.

22 (d) The provisions of this act requiring the payment of
 23 contributions by employers subject to this act shall apply
 24 only to wages paid up to and including three thousand
 25 dollars (\$3,000) by an employer to an employee with respect

1 to employment during any calendar year preceding the year
2 1972.

3 Payment of contributions shall apply only to wages paid
4 up to and including four thousand two hundred dollars
5 (\$4,200) by an employer to an employee with respect to
6 employment during the calendar year 1972 and thereafter.

7 (e) Contribution appeals.

8 Any person aggrieved by any decision, determination, or
9 redetermination of the division involving contribution
10 liability, contribution rate, application for refund or the
11 charging of benefit payments to employers making payment in
12 lieu of contributions is entitled to a review by the
13 division or its authorized representative, hereinafter
14 referred to as a deputy. The decision of the deputy shall be
15 deemed to be the decision of the division. The division or
16 the deputy conducting the review may refer the matter to an
17 appeal referee, may decide the application for review on the
18 basis of such facts and information as may be obtained or
19 may hear argument to secure further facts. After such
20 review, notice of the decision shall be given to the
21 employing unit. Such decision made pursuant to such review
22 shall be deemed to be the final decision of the division
23 unless the employing unit or any other such interested
24 party, within five (5) calendar days after delivery of such
25 notification or within seven (7) calendar days after such

1 notification was mailed to his last known address, files an
2 appeal from this decision. Such appeal will be referred to
3 an appeal referee who shall make his decisions with respect
4 thereto in accordance with the procedure prescribed in
5 section 87-107 (c)."

6 Section 2. This act is retroactive to December 22,
7 1974.

-End-

STATE OF MONTANA

REQUEST NO. 106-75

FISCAL NOTE

Form BD-15

In compliance with a written request received January 28, 19 75, there is hereby submitted a Fiscal Note for HB 331 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly. Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

An act to increase rates charged employers for unemployment compensation purposes from 1.5% of taxable payroll to 2% of taxable payroll, beginning April 1, 1975.

ASSUMPTIONS:

1. Total insured wages will be \$1.3 billion in CY 75, \$1.4 billion in CY 76, and \$1.5 billion in CY 77; ratio of taxable to total wages will be 52.5%, 50.0%, and 47.5% respectively.
2. Average annual rate of collections under current law would be 1.64% in CY 75, 1.62% in CY 76, and 1.60% in CY 77. Under proposed law, rates would be 2.19%, 2.16%, and 2.13% respectively.
3. Administrative expenditures will be borne by the federal government.
4. Estimates are computed on the basis of changes in the bill as listed in the technical notes.

FISCAL IMPACT:

	FY 76	FY 77
Revenue to Unemployment Compensation Trust Fund under current law	\$11.24 million	\$11.36 million
Revenue under proposed law	<u>15.00 million</u>	<u>15.14 million</u>
Increase in Revenue	<u>\$ 3.76 million</u>	<u>\$ 3.78 million</u>

TECHNICAL NOTES:

1. The title should read, "An Act Amending Section 87-109, R.C.M. 1947, to increase rates charged employers from one and five-tenths percent (1.5%) of total taxable payroll to two percent (2%) of total taxable payroll and providing an effective date.
2. Lines 8 through 14 on page 7 must be deleted to make this bill workable. With this portion remaining, it would not be possible to reach an average of 2%.
3. Lines 13 through 25 on page 8 and lines 1 through 4 to the semicolon on line 4 must be deleted. The purpose of HB 331 is to set the rate at 2% of total taxable payroll. The above mentioned lines provide a 2% rate for only specific circumstances.
4. The effective date is set forth in line 21 of page 5; section 2, which sets a different effective date, should be deleted.


BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 2/1/75

Approved by Committee
on Labor & Employment
Relations

HOUSE BILL NO. 331

INTRODUCED BY JOHNSON

A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING SECTION 87-109, R.C.M. 1947, TO INCREASE RATES CHARGED EMPLOYERS FROM ONE AND FIVE-TENTHS PERCENT (1.5%) OF TOTAL TAXABLE PAYROLL TO TWO PERCENT (2%) OF TOTAL TAXABLE PAYROLL AND PROVIDING AN EFFECTIVE DATE."

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

Section 1. Section 87-109, R.C.M. 1947, is amended to read as follows:

"87-109. Contributions. (a) Payment. (1) Contributions shall accrue and become payable by each employer for each calendar year in which he is subject to this act, with respect to wages, as defined in section 87-149 (c), paid for employment (as defined in this act) occurring during such calendar year. Such contributions shall become due and be paid by each employer to the division for the fund in accordance with such regulations as the division may prescribe and shall not be deducted, in whole or in part, from the wages of individuals in his employ.

(2) In the payment of any contributions, a fractional part of a cent shall be disregarded unless it amounts to one-half (1/2) cent or more, in which case it shall be

increased to one (1) cent.

(b) Rate of contribution.

(1) Each employer shall pay contributions at the rate of three and one-tenth per centum (3.1%) of wages, as defined in section 87-149 (c) paid by him with respect to such employment, except as provided in subsection (c) of this section.

Nonprofit organizations defined in section 501 (c) (3) of the federal internal revenue code and which are exempt from tax under section 501 (a) of such code may elect to make payments in lieu of contributions; the state and its political subdivisions specifically covered by this act and those electing coverage shall make payments in lieu of contributions.

A group of nonprofit organizations may elect with the approval of the division to act as a group in fulfilling the requirements of this subsection or of this act.

(2) Employers required or eligible to elect to make payments in lieu of contributions shall pay into the fund an amount equivalent to the full amount of regular benefits plus one-half (1/2) of the amount of extended benefits paid to individuals based on wages paid by such employing unit. If benefits paid an individual are based on wages paid by both such employer and one (1) or more other employers, the amount payable by such employer to the fund shall bear the

SECOND READING

1 same ratio to total benefits paid to the individual as the
 2 base period wages paid to the individual by such employer
 3 bear to the total amount of base period wages paid to the
 4 individual by all his base period employers. If the base
 5 period wages of an individual include wages from more than
 6 one (1) such employer, the amount to be paid into the fund
 7 with respect to the benefits paid to such individual shall
 8 be prorated among the liable employers in proportion to the
 9 wages paid to such individual by each such employer during
 10 the base period. The amount of payment required from such
 11 employers shall be ascertained by the division quarterly and
 12 shall become due and payable by such employer quarterly as
 13 directed in this act. Penalty and interest for delinquency
 14 shall be assessed such employers as specified in section
 15 87-135.

16 (3) Any nonprofit organizations as defined in
 17 subsection (b) (1) of this section electing to become liable
 18 for payments in lieu of contributions must file with the
 19 division a written notice of its election not later than
 20 thirty (30) days immediately following the date of the
 21 determination of subjectivity to this act. This election
 22 shall be for a period of not less than two (2) years.

23 (A) Any nonprofit organization may terminate its
 24 election to make payments in lieu of contributions after two
 25 (2) calendar years from the effective date of such election

1 by filing a written notice with the division not later than
 2 thirty (30) days prior to the beginning of the taxable year
 3 for which such termination is effective.

4 (B) Any nonprofit organization defined in subsection
 5 (b) (1) of this section which has been paying contributions
 6 for at least two (2) taxable years may change to payments in
 7 lieu of contributions by filing with the division a written
 8 notice to that effect within thirty (30) days before the
 9 beginning of the taxable year for which the change is
 10 effective.

11 (C) If the nonprofit organization is delinquent in
 12 making payments in lieu of contributions, the division may
 13 terminate the election to make payments in lieu of
 14 contributions as of the beginning of the next taxable year,
 15 and such termination shall be effective for that and the
 16 next taxable year.

17 (4) Payments in lieu of contributions by the state and
 18 its political subdivisions shall be an amount equivalent to
 19 the amount of benefits paid to individuals based on wages
 20 paid by the state and its political subdivisions. The method
 21 of determining benefits attributable shall be the same as
 22 that set forth in subsection (b) (2) of this section. The
 23 amount of payments shall be paid in such manner as the
 24 division may prescribe.

25 (c) Experience rating.

1 The division shall for each calendar year, classify
 2 employers in accordance with their actual contributions and
 3 unemployment experience and shall determine for each
 4 employer the rate of contributions which shall apply to him
 5 throughout the calendar year in order to reflect said
 6 experience and classification. The division shall apply such
 7 form of classification or experience rating system which is
 8 best calculated to rate individually and most equitably the
 9 employment for each employer and to encourage the
 10 stabilization of employment.

11 In making such classification, the division shall take
 12 account, each to an equal extent, of the following factors
 13 relating to the unemployment hazard shown by each employer
 14 on the basis of (1) average annual net percentage declines
 15 in total payrolls for the last three (3) years prior to
 16 computation date; (2) number of years the employer has paid
 17 contributions; and (3) chargebacks to the individual
 18 employer account upon the last employer basis. The
 19 computation date is hereby fixed as of the close of business
 20 on June 30 of the preceding calendar year.

21 The rates ~~for--the--first--calendar--quarter--of--calendar~~
 22 ~~year--1972--and--thereafter, beginning April--1--1975,~~ except as
 23 hereinafter provided, shall be so fixed that they would, if
 24 applied to all employers (except those employers making
 25 payments in lieu of contributions) and their total taxable

1 annual payrolls for the preceding calendar year, have
 2 yielded total paid contributions equaling approximately ~~one~~
 3 ~~and--five--tenths--per--centum--(1.5%)~~ two percent (2%) of the
 4 total of all such payrolls.

5 The division shall determine the contribution rate
 6 applicable to each employer for any calendar year subject to
 7 the following limitations:

8 (1) Each employer's rate shall be three and one-tenth
 9 per centum (3.1%) unless and until there have been three (3)
 10 years prior to the computation date throughout which the
 11 employer has paid contributions at the maximum tax rate set
 12 by law for each of such years and has reported and paid
 13 contributions during each of the three (3) calendar years
 14 immediately preceding the computation date and with respect
 15 to such three (3) calendar years has filed all contribution
 16 reports prescribed by the division and paid all
 17 contributions due with respect to the three (3) calendar
 18 years before March 31 of the rate year. Upon payment of
 19 past-due contributions the division shall, for the current
 20 year, compute a rate for the next succeeding quarter
 21 following the payment.

22 (2) The classified contribution rates for the calendar
 23 year 1969, and thereafter, except as hereinafter provided,
 24 shall be: five-tenths of one per centum (.5%), seven-tenths
 25 of one per centum (.7%), nine-tenths of one per centum

(.9%), one and one-tenth per centum (1.1%), one and three-tenths per centum (1.3%), one and five-tenths per centum (1.5%), one and seven-tenths per centum (1.7%), one and nine-tenths per centum (1.9%), two and one-tenth per centum (2.1%), two and three-tenths per centum (2.3%), two and five-tenths per centum (2.5%), two and seven-tenths per centum (2.7%), two and nine-tenths per centum (2.9%), and three and one-tenth per centum (3.1%).

~~{3}--No--employer--shall--be--assigned---a---classified contribution--rate--higher--than--the--second--classified--rate above--the--rate--which--was--assigned--to--him--for--the--last preceding--calendar--year--except--for--the--year--1961--and--further as--hereinafter--provided;--This--subsection--shall--not--apply when--the--employer's--chargeback--ratio--exceeds--one--hundred--per cent--(100%);~~

~~{4}~~ (3) An employer whose benefit payments (charged as most recent employer) in the last three (3) years preceding the computation date exceeded the amount of his contributions for those years, may have the option of making a voluntary contribution to the unemployment compensation fund to cancel the amount by which the benefit payments charged to him under section 87-109 (c) during the last three (3) completed fiscal years exceed his contributions for the same three (3) years. Such voluntary contribution shall be applied first to cancel the amount by which

benefits exceed contributions in the earliest of the three (3) years preceding the computation date, any remaining to cancel the excess in the second earliest year preceding the computation date, and any further remaining to cancel the excess in the most recent year preceding the computation date. Whenever the benefit payments charged to an eligible employer in the last three (3) fiscal years exceed his contributions for the same period, the division shall notify him of the amount of such excess and the rate which would be applicable to him for the ensuing calendar year, if he exercises the option. Such employer must exercise the option of making the voluntary contribution allowed by this section within thirty (30) days after receipt of such notice.

~~{5}~~ (4) Rates as fixed by the division shall stand and be in effect unless and until the cash reserves in the unemployment compensation trust fund at any time in the future fall below and remain below eighteen million dollars (\$18,000,000) continuously for a period of one (1) year; then employer rates effective at the beginning of the next succeeding calendar quarter shall be so fixed that they would, if applied to all employers and their total taxable annual payrolls for the preceding calendar year, have yielded total paid contributions equaling approximately two per centum (2%) of the total of all such payrolls, and shall continue at the two per centum (2%) average rate until cash

1 ~~reserves-in-the-unemployment-compensation-trust-fund--exceed~~
 2 ~~twenty-six--million--dollars--(\$26,000,000)--at-which-time-all~~
 3 ~~employer-rates-shall-again-be-so-fixed-to-bring--an--average~~
 4 ~~return--of-one-and-five-tenths-per-centum--(1.5%)~~ two-percent
 5 ~~(2%) as-in-this-section-hereinabove-provided--if~~ IF reserves
 6 remain below eighteen million dollars (\$18,000,000)
 7 continuously for a period of two (2) years, then the
 8 contribution rate of all employers subject to this act shall
 9 return to a uniform rate of three and one-tenth per centum
 10 (3.1%) effective at the beginning of the next succeeding
 11 calendar quarter, and shall continue at the three and
 12 one-tenth per centum (3.1%) rate until cash reserves in the
 13 unemployment compensation trust fund exceed twenty-six
 14 million dollars (\$26,000,000) at which time all employer
 15 rates shall again be so fixed to bring an average return of
 16 ~~one-and-five-tenths-per-centum--(1.5%)~~ two percent (2%) as in
 17 this section hereinabove provided.

18 ~~(6)~~ (5) The division shall by regulation adopt such
 19 procedures as may be necessary for the substitution, merging
 20 or acquisition of an employer account by an employing unit,
 21 and the transfer of such employer account, rights,
 22 contributions, benefit experience and rating to the
 23 successor employing unit or units.

24 ~~(7)~~ (6) The division shall by regulation provide for
 25 the proper notification of employers of the classification

1 and rate of contribution applicable to their accounts. Such
 2 notification shall be final for all purposes unless and
 3 until such employer files a written request with the
 4 division for a redetermination or hearing thereon within
 5 thirty (30) days after receipt of such notice.

6 ~~(8)~~ (7) "Annual total payroll" means the total of the
 7 four (4) quarters of total payrolls of an employer preceding
 8 the computation date as fixed herein.

9 ~~(9)~~ (8) No employer's account shall be charged with
 10 benefits paid to any claimant in determining the
 11 contribution rate of such employer;

12 (a) If the claimant has been disqualified under section
 13 87-106 (a), (b), (g), or (h), as a result of separation from
 14 such employer;

15 (b) If the claimant left work for nondisqualifying
 16 reasons as provided in section 87-106 (a);

17 (c) Unless the employer has had notice of the claim for
 18 the benefits and has been given opportunity for hearing as
 19 an interested party in the manner provided in sections
 20 87-107 and 87-108. Written notice of any hearing shall be
 21 mailed to employer not less than ten (10) days prior to the
 22 date set.

23 (d) The provisions of this act requiring the payment of
 24 contributions by employers subject to this act shall apply
 25 only to wages paid up to and including three thousand

1 dollars (\$3,000) by an employer to an employee with respect
2 to employment during any calendar year preceding the year
3 1972.

4 Payment of contributions shall apply only to wages paid
5 up to and including four thousand two hundred dollars
6 (\$4,200) by an employer to an employee with respect to
7 employment during the calendar year 1972 and thereafter.

8 (e) Contribution appeals.

9 Any person aggrieved by any decision, determination, or
10 redetermination of the division involving contribution
11 liability, contribution rate, application for refund or the
12 charging of benefit payments to employers making payment in
13 lieu of contributions is entitled to a review by the
14 division or its authorized representative, hereinafter
15 referred to as a deputy. The decision of the deputy shall be
16 deemed to be the decision of the division. The division or
17 the deputy conducting the review may refer the matter to an
18 appeal referee, may decide the application for review on the
19 basis of such facts and information as may be obtained or
20 may hear argument to secure further facts. After such
21 review, notice of the decision shall be given to the
22 employing unit. Such decision made pursuant to such review
23 shall be deemed to be the final decision of the division
24 unless the employing unit or any other such interested
25 party, within five (5) calendar days after delivery of such

1 notification or within seven (7) calendar days after such
2 notification was mailed to his last known address, files an
3 appeal from this decision. Such appeal will be referred to
4 an appeal referee who shall make his decisions with respect
5 thereto in accordance with the procedure prescribed in
6 section 87-107 (c)."

7 Section 2. This act is retroactive to December 22,
8 1974.

-End-

HOUSE BILL NO. 331
INTRODUCED BY JOHNSON

A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING SECTION 87-109, R.C.M. 1947, TO INCREASE RATES CHARGED EMPLOYERS FROM ONE AND FIVE-TENTHS PERCENT (1.5%) OF TOTAL TAXABLE PAYROLL TO TWO PERCENT (2%) OF TOTAL TAXABLE PAYROLL AND PROVIDING AN EFFECTIVE DATE."

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

Section 1. Section 87-109, R.C.M. 1947, is amended to read as follows:

"87-109. Contributions. (a) Payment. (1) Contributions shall accrue and become payable by each employer for each calendar year in which he is subject to this act, with respect to wages, as defined in section 87-149 (c), paid for employment (as defined in this act) occurring during such calendar year. Such contributions shall become due and be paid by each employer to the division for the fund in accordance with such regulations as the division may prescribe and shall not be deducted, in whole or in part, from the wages of individuals in his employ.

(2) In the payment of any contributions, a fractional part of a cent shall be disregarded unless it amounts to one-half (1/2) cent or more, in which case it shall be

increased to one (1) cent.

(b) Rate of contribution.

(1) Each employer shall pay contributions at the rate of three and one-tenth per centum (3.1%) of wages, as defined in section 87-149 (c) paid by him with respect to such employment, except as provided in subsection (c) of this section.

Nonprofit organizations defined in section 501 (c) (3) of the federal internal revenue code and which are exempt from tax under section 501 (a) of such code may elect to make payments in lieu of contributions; the state and its political subdivisions specifically covered by this act and those electing coverage shall make payments in lieu of contributions.

A group of nonprofit organizations may elect with the approval of the division to act as a group in fulfilling the requirements of this subsection or of this act.

(2) Employers required or eligible to elect to make payments in lieu of contributions shall pay into the fund an amount equivalent to the full amount of regular benefits plus one-half (1/2) of the amount of extended benefits paid to individuals based on wages paid by such employing unit. If benefits paid an individual are based on wages paid by both such employer and one (1) or more other employers, the amount payable by such employer to the fund shall bear the

1 same ratio to total benefits paid to the individual as the
 2 base period wages paid to the individual by such employer
 3 bear to the total amount of base period wages paid to the
 4 individual by all his base period employers. If the base
 5 period wages of an individual include wages from more than
 6 one (1) such employer, the amount to be paid into the fund
 7 with respect to the benefits paid to such individual shall
 8 be prorated among the liable employers in proportion to the
 9 wages paid to such individual by each such employer during
 10 the base period. The amount of payment required from such
 11 employers shall be ascertained by the division quarterly and
 12 shall become due and payable by such employer quarterly as
 13 directed in this act. Penalty and interest for delinquency
 14 shall be assessed such employers as specified in section
 15 87-135.

16 (3) Any nonprofit organizations as defined in
 17 subsection (b) (1) of this section electing to become liable
 18 for payments in lieu of contributions must file with the
 19 division a written notice of its election not later than
 20 thirty (30) days immediately following the date of the
 21 determination of subjectivity to this act. This election
 22 shall be for a period of not less than two (2) years.

23 (A) Any nonprofit organization may terminate its
 24 election to make payments in lieu of contributions after two
 25 (2) calendar years from the effective date of such election

1 by filing a written notice with the division not later than
 2 thirty (30) days prior to the beginning of the taxable year
 3 for which such termination is effective.

4 (B) Any nonprofit organization defined in subsection
 5 (b) (1) of this section which has been paying contributions
 6 for at least two (2) taxable years may change to payments in
 7 lieu of contributions by filing with the division a written
 8 notice to that effect within thirty (30) days before the
 9 beginning of the taxable year for which the change is
 10 effective.

11 (C) If the nonprofit organization is delinquent in
 12 making payments in lieu of contributions, the division may
 13 terminate the election to make payments in lieu of
 14 contributions as of the beginning of the next taxable year,
 15 and such termination shall be effective for that and the
 16 next taxable year.

17 (4) Payments in lieu of contributions by the state and
 18 its political subdivisions shall be an amount equivalent to
 19 the amount of benefits paid to individuals based on wages
 20 paid by the state and its political subdivisions. The method
 21 of determining benefits attributable shall be the same as
 22 that set forth in subsection (b) (2) of this section. The
 23 amount of payments shall be paid in such manner as the
 24 division may prescribe.

25 (c) Experience rating.

The division shall for each calendar year, classify employers in accordance with their actual contributions and unemployment experience and shall determine for each employer the rate of contributions which shall apply to him throughout the calendar year in order to reflect said experience and classification. The division shall apply such form of classification or experience rating system which is best calculated to rate individually and most equitably the employment for each employer and to encourage the stabilization of employment.

In making such classification, the division shall take account, each to an equal extent, of the following factors relating to the unemployment hazard shown by each employer on the basis of (1) average annual net percentage declines in total payrolls for the last three (3) years prior to computation date; (2) number of years the employer has paid contributions; and (3) chargebacks to the individual employer account upon the last employer basis. The computation date is hereby fixed as of the close of business on June 30 of the preceding calendar year.

The rates ~~for the first calendar quarter of calendar year 1972 and thereafter, beginning April 17, 1975~~ except as hereinafter provided, shall be so fixed that they would, if applied to all employers (except those employers making payments in lieu of contributions) and their total taxable

annual payrolls for the preceding calendar year, have yielded total paid contributions equaling approximately ~~one and five-tenths per centum (1.5%)~~ two percent (2%) of the total of all such payrolls.

The division shall determine the contribution rate applicable to each employer for any calendar year subject to the following limitations:

(1) Each employer's rate shall be three and one-tenth per centum (3.1%) unless and until there have been three (3) years prior to the computation date throughout which the employer has paid contributions at the maximum tax rate set by law for each of such years and has reported and paid contributions during each of the three (3) calendar years immediately preceding the computation date and with respect to such three (3) calendar years has filed all contribution reports prescribed by the division and paid all contributions due with respect to the three (3) calendar years before March 31 of the rate year. Upon payment of past-due contributions the division shall, for the current year, compute a rate for the next succeeding quarter following the payment.

(2) The classified contribution rates for the calendar year 1969, and thereafter, except as hereinafter provided, shall be: five-tenths of one per centum (.5%), seven-tenths of one per centum (.7%), nine-tenths of one per centum

(.9%), one and one-tenth per centum (1.1%), one and three-tenths per centum (1.3%), one and five-tenths per centum (1.5%), one and seven-tenths per centum (1.7%), one and nine-tenths per centum (1.9%), two and one-tenth per centum (2.1%), two and three-tenths per centum (2.3%), two and five-tenths per centum (2.5%), two and seven-tenths per centum (2.7%), two and nine-tenths per centum (2.9%), and three and one-tenth per centum (3.1%).

~~{3}--No employer shall be assigned a classified contribution rate higher than the second classified rate above the rate which was assigned to him for the last preceding calendar year except for the year 1961 and further as hereinafter provided. This subsection shall not apply when the employer's chargeback ratio exceeds one hundred per cent-{100%}.~~

~~{4}~~ (3) An employer whose benefit payments (charged as most recent employer) in the last three (3) years preceding the computation date exceeded the amount of his contributions for those years, may have the option of making a voluntary contribution to the unemployment compensation fund to cancel the amount by which the benefit payments charged to him under section 87-109 (c) during the last three (3) completed fiscal years exceed his contributions for the same three (3) years. Such voluntary contribution shall be applied first to cancel the amount by which

benefits exceed contributions in the earliest of the three (3) years preceding the computation date, any remaining to cancel the excess in the second earliest year preceding the computation date, and any further remaining to cancel the excess in the most recent year preceding the computation date. Whenever the benefit payments charged to an eligible employer in the last three (3) fiscal years exceed his contributions for the same period, the division shall notify him of the amount of such excess and the rate which would be applicable to him for the ensuing calendar year, if he exercises the option. Such employer must exercise the option of making the voluntary contribution allowed by this section within thirty (30) days after receipt of such notice.

~~{5}~~ (4) Rates as fixed by the division shall stand and be in effect unless and until the cash reserves in the unemployment compensation trust fund at any time in the future fail below, and remain below, eighteen million dollars--{\$18,000,000}--continuously for a period of one-{1} year, then employer rates effective at the beginning of the next succeeding calendar quarter shall be so fixed that they would, if applied to all employers and their total taxable annual payrolls for the preceding calendar year, have yielded total paid contributions equaling approximately two per centum-{2%} of the total of all such payrolls, and shall continue at the two per centum-{2%} average rate until cash

1 reserves--in-the-unemployment-compensation-trust-fund-exceed
 2 twenty-six-million-dollars-(\$26,000,000)-at-which--time--all
 3 employer--rates--shall-again-be-so-fixed-to-bring-an-average
 4 return-of-one-and-five-tenths-per-centum-(1.5%) two-percent
 5 (2%) as-in-this-section-hereinabove-provided, if IF reserves
 6 remain below eighteen million dollars (\$18,000,000)
 7 continuously for a period of two (2) years, then the
 8 contribution rate of all employers subject to this act shall
 9 return to a uniform rate of three and one-tenth per centum
 10 (3.1%) effective at the beginning of the next succeeding
 11 calendar quarter, and shall continue at the three and
 12 one-tenth per centum (3.1%) rate until cash reserves in the
 13 unemployment compensation trust fund exceed twenty-six
 14 million dollars (\$26,000,000) at which time all employer
 15 rates shall again be so fixed to bring an average return of
 16 one-and-five-tenths-per-centum-(1.5%) two percent (2%) as in
 17 this section hereinabove provided.

18 ~~(4)~~ (5) The division shall by regulation adopt such
 19 procedures as may be necessary for the substitution, merging
 20 or acquisition of an employer account by an employing unit,
 21 and the transfer of such employer account, rights,
 22 contributions, benefit experience and rating to the
 23 successor employing unit or units.

24 ~~(7)~~ (6) The division shall by regulation provide for
 25 the proper notification of employers of the classification

1 and rate of contribution applicable to their accounts. Such
 2 notification shall be final for all purposes unless and
 3 until such employer files a written request with the
 4 division for a redetermination or hearing thereon within
 5 thirty (30) days after receipt of such notice.

6 ~~(8)~~ (7) "Annual total payroll" means the total of the
 7 four (4) quarters of total payrolls of an employer preceding
 8 the computation date as fixed herein.

9 ~~(9)~~ (8) No employer's account shall be charged with
 10 benefits paid to any claimant in determining the
 11 contribution rate of such employer;

12 (a) If the claimant has been disqualified under
 13 section 87-106 (a), (b), (g), or (h), as a result of
 14 separation from such employer;

15 (b) If the claimant left work for nondisqualifying
 16 reasons as provided in section 87-106 (a);

17 (c) Unless the employer has had notice of the claim
 18 for the benefits and has been given opportunity for hearing
 19 as an interested party in the manner provided in sections
 20 87-107 and 87-108. Written notice of any hearing shall be
 21 mailed to employer not less than ten (10) days prior to the
 22 date set.

23 (d) The provisions of this act requiring the payment
 24 of contributions by employers subject to this act shall
 25 apply only to wages paid up to and including three thousand

1 dollars (\$3,000) by an employer to an employee with respect
2 to employment during any calendar year preceding the year
3 1972.

4 Payment of contributions shall apply only to wages paid
5 up to and including four thousand two hundred dollars
6 (\$4,200) by an employer to an employee with respect to
7 employment during the calendar year 1972 and thereafter.

8 (e) Contribution appeals.

9 Any person aggrieved by any decision, determination, or
10 redetermination of the division involving contribution
11 liability, contribution rate, application for refund or the
12 charging of benefit payments to employers making payment in
13 lieu of contributions is entitled to a review by the
14 division or its authorized representative, hereinafter
15 referred to as a deputy. The decision of the deputy shall be
16 deemed to be the decision of the division. The division or
17 the deputy conducting the review may refer the matter to an
18 appeal referee, may decide the application for review on the
19 basis of such facts and information as may be obtained or
20 may hear argument to secure further facts. After such
21 review, notice of the decision shall be given to the
22 employing unit. Such decision made pursuant to such review
23 shall be deemed to be the final decision of the division
24 unless the employing unit or any other such interested
25 party, within five (5) calendar days after delivery of such

1 notification or within seven (7) calendar days after such
2 notification was mailed to his last known address, files an
3 appeal from this decision. Such appeal will be referred to
4 an appeal referee who shall make his decisions with respect
5 thereto in accordance with the procedure prescribed in
6 section 87-107 (c)."

7 Section 2. ~~This act is retroactive to December 22,~~
8 ~~1974.~~ THIS ACT TO BE EFFECTIVE MARCH 1, 1975.

-End-