

1 House BILL NO. 598  
2 INTRODUCED BY Travis  
3

4 A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING SECTION  
5 87-106, R.C.M. 1947, TO INCREASE THE ALLOWABLE LEVEL OF  
6 PAYMENTS THAT MAY BE RECEIVED IN RETIREMENT BENEFITS BEFORE  
7 DISQUALIFICATION FOR UNEMPLOYMENT BENEFITS."  
8

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

10 Section 1. Section 87-106, R.C.M. 1947, is amended to  
11 read as follows:

12 "87-106. Disqualification for benefits. An individual  
13 shall be disqualified for benefits--

14 (a) If he has left work without good cause attributable  
15 to the employment for a period of not less than two (2) nor  
16 more than five (5) weeks (in addition to and immediately  
17 following the waiting period), as determined by the division  
18 according to the circumstances in each case; but, he shall  
19 not be disqualified if the division finds that:

20 (1) He left his employment because of personal illness  
21 or injury not associated with misconduct, or left his  
22 employment upon the advice of a licensed and practicing  
23 physician, and after recovering from his illness or injury  
24 when recovery is certified by a licensed and practicing  
25 physician, he returned to his employer and offered his

1 service and his regular or comparable suitable work was not  
2 available, if so found by the division, provided he is  
3 otherwise eligible.

4 (b) If he has been discharged:

5 (1) For misconduct connected with his work, or  
6 affecting his employment, for a period of not less than two  
7 (2) nor more than nine (9) weeks (in addition to and  
8 immediately following the waiting period), as determined by  
9 the division in each case according to the seriousness of  
10 the misconduct.

11 (2) For gross misconduct connected with his work or  
12 committed on the employer's premises, as determined by the  
13 division, for a period of twelve (12) months.

14 (c) If he failed, without good cause, either to apply  
15 for available and suitable work when so directed by the  
16 employment office or the division or to accept suitable work  
17 offered to him which he is physically able and mentally  
18 qualified to perform, or to return to his customary  
19 self-employment (if any) when so directed by the division.  
20 Such disqualification shall continue for the week in which  
21 such failure occurred and for not less than two (2) nor more  
22 than five (5) weeks in addition to the waiting week which  
23 immediately follow such week as determined by the division  
24 according to the circumstances in each case.

25 (1) In determining whether or not any work is suitable

1 for an individual, the division shall consider the degree of  
 2 risk involved to his health, safety, and morals, his  
 3 physical fitness and prior training, his experience and  
 4 previous earnings, his length of unemployment and prospects  
 5 for securing local work in his customary occupation, and the  
 6 distance of the available work from his residence.

7 (2) Notwithstanding any other provisions of this act,  
 8 no work shall be deemed suitable and benefits shall not be  
 9 denied under this act to any otherwise eligible individual  
 10 for refusing to accept new work under any of the following  
 11 conditions:

12 (A) If position offered is vacant due directly to a  
 13 strike, lockout, or other labor dispute;

14 (B) If the wages, hours, or other conditions of the  
 15 work offered are substantially less favorable to the  
 16 individual than those prevailing for similar work in the  
 17 locality;

18 (C) If as a condition of being employed the individual  
 19 would be required to join a company union or to resign from  
 20 or refrain from joining any bona fide labor organization.

21 (d) For any week with respect to which the division  
 22 finds that his total unemployment is due to a stoppage of  
 23 work which exists because of a labor dispute at the factory,  
 24 establishment, or other premises at which he is or was last  
 25 employed, provided that this subsection shall not apply if

1 it is shown to the satisfaction of the division that--

2 (1) He is not participating in or financing or directly  
 3 interested in the labor dispute which caused the stoppage of  
 4 work; and

5 (2) He does not belong to a grade or class of workers  
 6 of which immediately before the commencement of the  
 7 stoppage, there were members employed at the premises at  
 8 which the stoppage occurs, any of whom are participating in  
 9 or financing or directly interested in the dispute;

10 Provided, that if in any case separate branches of work  
 11 which are commonly conducted as separate businesses in  
 12 separate premises are conducted in separate departments of  
 13 the same premises, each such department shall, for the  
 14 purpose of this subsection, be deemed to be a separate  
 15 factory, establishment, or other premises; provided,  
 16 further, that if the division, upon investigation, shall  
 17 find that such labor dispute is caused by the failure or  
 18 refusal of any employer to conform to the provisions of any  
 19 law of the state wherein the labor dispute occurs or of the  
 20 United States pertaining to collective bargaining, hours,  
 21 wages or other conditions of work, such labor dispute shall  
 22 not render the workers ineligible for benefits.

23 (e) For any week with respect to which he is receiving  
 24 or has received payment in the form of--

25 (1) Wages in lieu of notice or separation or

1 termination allowance;

2 (2) Compensation for disability under the Workmen's  
3 Compensation Law or the Occupational Disease Law of this or  
4 any other state or under a similar law of the United States,  
5 provided, however, that when an injured claimant has ceased  
6 to draw compensation benefits and shall have returned to the  
7 labor market, he shall then be entitled to receive  
8 unemployment compensation benefits under this title, if he  
9 shall be otherwise qualified. Provided further, that  
10 compensation which is received as a payment for a permanent  
11 partial disability shall not be computed to be spread over a  
12 period of weeks in advance so as to bar the recipient from  
13 receiving unemployment compensation benefits under this  
14 title, provided the recipient has returned to the labor  
15 market and is otherwise qualified;

16 (3) Benefits under the Railroad Unemployment Insurance  
17 Act or any state unemployment compensation act or similar  
18 laws of any state or of the United States. This  
19 disqualification does not apply to any week with respect to  
20 which an individual is receiving or has received benefits  
21 under an unemployment compensation law of another state or  
22 of the United States, if such benefits are paid pursuant to  
23 section 87-129.

24 Receipt of any wages, compensation or benefits as set  
25 forth in subsection (1), (2), or (3) above, after payment of

1 unemployment benefits, and with respect to the same week for  
2 which unemployment benefits were received, will thereupon  
3 require such individual to repay such unemployment benefits  
4 and the division may collect such unemployment benefits in  
5 the same manner as provided for collection of benefits under  
6 section 87-145 (d).

7 (f) During the school year (within the autumn, winter  
8 and spring seasons of the year) or the vacation periods  
9 within such school year or during any prescribed school term  
10 if claimant is a student regularly attending an established  
11 educational institution. Notwithstanding any other  
12 provisions in this subsection, no otherwise eligible  
13 individuals shall be denied benefits for any week because he  
14 is in training approved by the division, nor shall such  
15 individual be denied benefits with respect to any week in  
16 which he is in training approved by the division by reason  
17 of the application of provisions in subsection (c) of this  
18 section or the application of provisions in section 87-105  
19 (c).

20 (g) Where retired and receiving retirement compensation  
21 paid in whole or in part from funds furnished by an  
22 employing unit, which when prorated on a weekly basis,  
23 exceeds two (2) times the average weekly benefit amount paid  
24 during the last fiscal year, such disqualification to be  
25 applied as follows: All wages earned by such individual in

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1 the employment from which he has been retired shall not be  
2 considered or included in determining his wage credits or  
3 weekly benefit amount under sections 87-103 and 87-105. This  
4 disqualification does not extend to the receipt of benefits  
5 under the Federal Social Security Act, as amended.

6 (h) For any week wherein claimant leaves her most  
7 recent employment during pregnancy, and due to such  
8 pregnancy, and such disqualifications shall continue through  
9 the period of pregnancy unless claimant presents evidence of  
10 her physical ability to work at such employment. At any time  
11 after the seventh month of pregnancy a claimant, to  
12 establish eligibility, must present evidence of physical  
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Approved by Committee  
on State Administration

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15 (c) If he failed, without good cause, either to apply  
16 for available and suitable work when so directed by the  
17 employment office or the division or to accept suitable work  
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 4 physical fitness and prior training, his experience and  
 5 previous earnings, his length of unemployment and prospects  
 6 for securing local work in his customary occupation, and the  
 7 distance of the available work from his residence.

8 (2) Notwithstanding any other provisions of this act,  
 9 no work shall be deemed suitable and benefits shall not be  
 10 denied under this act to any otherwise eligible individual  
 11 for refusing to accept new work under any of the following  
 12 conditions:

13 (A) If position offered is vacant due directly to a  
 14 strike, lockout, or other labor dispute;

15 (B) If the wages, hours, or other conditions of the  
 16 work offered are substantially less favorable to the  
 17 individual than those prevailing for similar work in the  
 18 locality;

19 (C) If as a condition of being employed the individual  
 20 would be required to join a company union or to resign from  
 21 or refrain from joining any bona fide labor organization.

22 (d) For any week with respect to which the division  
 23 finds that his total unemployment is due to a stoppage of  
 24 work which exists because of a labor dispute at the factory,  
 25 establishment, or other premises at which he is or was last

1 employed, provided that this subsection shall not apply if  
 2 it is shown to the satisfaction of the division that--

3 (1) He is not participating in or financing or directly  
 4 interested in the labor dispute which caused the stoppage of  
 5 work; and

6 (2) He does not belong to a grade or class of workers  
 7 of which immediately before the commencement of the  
 8 stoppage, there were members employed at the premises at  
 9 which the stoppage occurs, any of whom are participating in  
 10 or financing or directly interested in the dispute;

11 Provided, that if in any case separate branches of work  
 12 which are commonly conducted as separate businesses in  
 13 separate premises are conducted in separate departments of  
 14 the same premises, each such department shall, for the  
 15 purpose of this subsection, be deemed to be a separate  
 16 factory, establishment, or other premises; provided,  
 17 further, that if the division, upon investigation, shall  
 18 find that such labor dispute is caused by the failure or  
 19 refusal of any employer to conform to the provisions of any  
 20 law of the state wherein the labor dispute occurs or of the  
 21 United States pertaining to collective bargaining, hours,  
 22 wages or other conditions of work, such labor dispute shall  
 23 not render the workers ineligible for benefits.

24 (e) For any week with respect to which he is receiving  
 25 or has received payment in the form of--

1 (1) Wages in lieu of notice or separation or  
2 termination allowance;

3 (2) Compensation for disability under the Workmen's  
4 Compensation Law or the Occupational Disease Law of this or  
5 any other state or under a similar law of the United States,  
6 provided, however, that when an injured claimant has ceased  
7 to draw compensation benefits and shall have returned to the  
8 labor market, he shall then be entitled to receive  
9 unemployment compensation benefits under this title, if he  
10 shall be otherwise qualified. Provided further, that  
11 compensation which is received as a payment for a permanent  
12 partial disability shall not be computed to be spread over a  
13 period of weeks in advance so as to bar the recipient from  
14 receiving unemployment compensation benefits under this  
15 title, provided the recipient has returned to the labor  
16 market and is otherwise qualified;

17 (3) Benefits under the Railroad Unemployment Insurance  
18 Act or any state unemployment compensation act or similar  
19 laws of any state or of the United States. This  
20 disqualification does not apply to any week with respect to  
21 which an individual is receiving or has received benefits  
22 under an unemployment compensation law of another state or  
23 of the United States, if such benefits are paid pursuant to  
24 section 87-129.

25 Receipt of any wages, compensation or benefits as set

1 forth in subsection (1), (2), or (3) above, after payment of  
2 unemployment benefits, and with respect to the same week for  
3 which unemployment benefits were received, will thereupon  
4 require such individual to repay such unemployment benefits  
5 and the division may collect such unemployment benefits in  
6 the same manner as provided for collection of benefits under  
7 section 87-145 (d).

8 (f) During the school year (within the autumn, winter  
9 and spring seasons of the year) or the vacation periods  
10 within such school year or during any prescribed school term  
11 if claimant is a student regularly attending an established  
12 educational institution. Notwithstanding any other  
13 provisions in this subsection, no otherwise eligible  
14 individuals shall be denied benefits for any week because he  
15 is in training approved by the division, nor shall such  
16 individual be denied benefits with respect to any week in  
17 which he is in training approved by the division by reason  
18 of the application of provisions in subsection (c) of this  
19 section or the application of provisions in section 87-105  
20 (c).

21 (g) Where retired and receiving retirement compensation  
22 paid in whole or in part from funds furnished by an  
23 employing unit, which when prorated on a weekly basis,  
24 exceeds two (2) times the average weekly benefit amount paid  
25 during the last fiscal year, such disqualification to be

1 applied as follows: All wages earned by such individual in  
2 the employment from which he has been retired shall not be  
3 considered or included in determining his wage credits or  
4 weekly benefit amount under sections 87-103 and 87-105. This  
5 disqualification DOES NOT APPLY TO RETIRED FEDERAL  
6 PERSONNEL, AND does not extend to the receipt of benefits  
7 under the Federal Social Security Act, as amended.

8 (h) For any week wherein claimant leaves her most  
9 recent employment during pregnancy, and due to such  
10 pregnancy, and such disqualifications shall continue through  
11 the period of pregnancy unless claimant presents evidence of  
12 her physical ability to work at such employment. At any time  
13 after the seventh month of pregnancy a claimant, to  
14 establish eligibility, must present evidence of physical  
15 ability to work at such employment. Further, at any time  
16 during the first two (2) months following childbirth, a  
17 claimant, to establish eligibility, must present evidence of  
18 her physical ability to work at such employment. In any of  
19 the cases set forth hereinbefore, such evidence of  
20 eligibility must be in the form of certificate of a duly  
21 licensed physician that such claimant is physically able to  
22 work at her most recent employment, and such evidence must  
23 be presented as often as requested by the division."

-End-