

1 H BILL NO. 331
 2 INTRODUCED BY BURNETT M. Law
 3 BY REQUEST OF THE DEPARTMENT OF LABOR

4
 5 A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION
 6 87-106, R.C.M. 1947, TO PROVIDE FOR A CHANGE IN
 7 DISQUALIFICATION FOR BENEFITS FOR VOLUNTARILY LEAVING WORK
 8 WITHOUT GOOD CAUSE OR DISCHARGE FOR MISCONDUCT; FOR THE
 9 REMOVAL TO AN APPROPRIATE SECTION OF THE PROVISIONS
 10 PERTAINING TO RETIREMENT COMPENSATION AND PREGNANCY
 11 DISQUALIFICATION; AND FOR DISQUALIFICATION OF THOSE
 12 RECEIVING SOCIAL SECURITY DISABILITY OR WHO ARE
 13 SELF-EMPLOYED."

14
 15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 16 Section 1. Section 87-106, R.C.M. 1947, is amended to
 17 read as follows:

18 "87-106. Disqualification for benefits. Effective
 19 April 1, 1977, an individual shall be disqualified for
 20 benefits--

21 (a) If he has left work without good cause
 22 attributable to the employment ~~for a period of not less than~~
 23 ~~two (2) nor more than five (5) weeks--(in addition to and~~
 24 ~~immediately following the waiting period), as determined by~~
 25 ~~the division according to the circumstances in each case;~~

1 buty--he--shall--not--be--disqualified--if--the--division--finds
 2 that:

3 (1) ~~He left his employment because of personal illness~~
 4 ~~or injury not associated with misconduct or left his~~
 5 ~~employment upon the advice of a licensed and practicing~~
 6 ~~physician and after recovering from his illness or injury~~
 7 ~~when recovery is certified by a licensed and practicing~~
 8 ~~physician he returned to his employer and offered his~~
 9 ~~service and his regular or comparable suitable work was not~~
 10 ~~available if so found by the division provided he is~~
 11 ~~otherwise eligible Until 8 weeks have elapsed from the~~
 12 ~~effective date of his claim with 8 weeks' reduction of his~~
 13 ~~benefit duration; or~~

14 (2) Until he has performed services from the effective
 15 date of his claim other than self-employment for which
 16 remuneration is received equal to or in excess of his weekly
 17 benefit amount in 4 separate weeks subsequent to the week in
 18 which the act causing the disqualification occurred, with 4
 19 weeks' reduction of benefit duration, as determined by the
 20 division, provided he has not left this work under
 21 disqualifying circumstances.

22 (3) Except that he may not be disqualified if the
 23 division finds that he left his employment because of
 24 personal illness or injury not associated with misconduct or
 25 left his employment upon the advice of a licensed and

1 practicing physician and, after recovering from his illness
 2 or injury when recovery is certified by a licensed and
 3 practicing physician, he returned to his employer and
 4 offered his service and his regular or comparable suitable
 5 work was not available, if so found by the division,
 6 provided he is otherwise eligible.

7 (b) If he has been discharged:

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

14 (A) Until 10 weeks have elapsed from the effective
 15 date of his claim, with 10 weeks' reduction of his benefit
 16 duration; or

17 (B) Until he has performed services from the effective
 18 date of his claim other than self-employment for which
 19 remuneration is received equal to or in excess of his weekly
 20 benefit amount in 6 separate weeks subsequent to the week in
 21 which the act causing the disqualification occurred, with 6
 22 weeks' reduction of benefit duration, as determined by the
 23 division, provided he has not left this work under
 24 disqualifying circumstances.

25 (2) For gross misconduct connected with his work or

1 committed on the employer's premises, as determined by the
 2 division, for a period of ~~twelve (12)~~ months.

3 (c) If he failed, without good cause, either to apply
 4 for available and suitable work when so directed by the
 5 employment office or the division or to accept suitable work
 6 offered to him which he is physically able and mentally
 7 qualified to perform, or to return to his customary
 8 self-employment (if any) when so directed by the division.
 9 Such disqualification shall continue for ~~the week in which~~
 10 ~~such failure occurred and for not less than two (2) nor more~~
 11 ~~than five (5) weeks in addition to the waiting week which~~
 12 ~~immediately follow such week as determined by the division~~
 13 ~~according to the circumstances in each case, 6 weeks~~
 14 beginning with the week of occurrence, with 6 weeks'
 15 reduction of benefit duration, as determined by the
 16 division.

17 (1) In determining whether or not any work is suitable
 18 for an individual, the division shall consider the degree of
 19 risk involved to his health, safety, and morals, his
 20 physical fitness and prior training, his experience and
 21 previous earnings, his length of unemployment and prospects
 22 for securing local work in his customary occupation, and the
 23 distance of the available work from his residence.

24 (2) Notwithstanding any other provisions of this act,
 25 no work shall be deemed suitable and benefits shall not be

1 denied under this act to any otherwise eligible individual
2 for refusing to accept new work under any of the following
3 conditions:

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

6 (B) If the wages, hours, or other conditions of the
7 work offered are substantially less favorable to the
8 individual than those prevailing for similar work in the
9 locality;

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

13 (d) For any week with respect to which the division
14 finds that his total unemployment is due to a stoppage of
15 work which exists because of a labor dispute at the factory,
16 establishment, or other premises at which he is or was last
17 employed, provided that this subsection shall not apply if
18 it is shown to the satisfaction of the division that--

19 (1) He is not participating in or financing; or
20 directly interested in the labor dispute which caused the
21 stoppage of work; and

22 (2) He does not belong to a grade or class of workers
23 of which immediately before the commencement of the
24 stoppage, there were members employed at the premises at
25 which the stoppage occurs, any of whom are participating in

1 or financing or directly interested in the dispute;

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

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

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

19 (2) Compensation for disability under the ~~Workers'~~
20 ~~Workers'~~ Compensation Law or the Occupational Disease Law of
21 this or any other state or under a similar law of the United
22 States, ~~or under the social security disability law,~~
23 provided, however, that when an injured claimant has ceased
24 to draw compensation benefits and shall have returned to the
25 labor market, he shall then be entitled to receive

1 unemployment compensation benefits under this title, if he
 2 shall be otherwise qualified. Provided further, that
 3 compensation which is received as a payment for a permanent
 4 partial disability shall not be computed to be spread over a
 5 period of weeks in advance so as to bar the recipient from
 6 receiving unemployment compensation benefits under this
 7 title, provided the recipient has returned to the labor
 8 market and is otherwise qualified;

9 (3) Benefits under the Railroad Unemployment Insurance
 10 Act or any state unemployment compensation act or similar
 11 laws of any state or of the United States. This
 12 disqualification does not apply to any week with respect to
 13 which an individual is receiving or has received benefits
 14 under an unemployment compensation law of another state or
 15 of the United States, if such benefits are paid pursuant to
 16 section 87-129.

17 Receipt of any wages, compensation or benefits as set
 18 forth in subsection (1), (2), or (3) above, after payment of
 19 unemployment benefits, and with respect to the same week for
 20 which unemployment benefits were received, will thereupon
 21 require such individual to repay such unemployment benefits
 22 and the division may collect such unemployment benefits in
 23 the same manner as provided for collection of benefits under
 24 section 87-145(d).

25 (f) During the school year (within the autumn, winter

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

13 ~~(g) Where retired and receiving retirement~~
 14 ~~compensation paid in whole or in part from funds furnished~~
 15 ~~by an employing unity which when prorated on a weekly basis~~
 16 ~~exceeds two (2) times the average weekly benefit amount paid~~
 17 ~~during the last fiscal year, such disqualification to be~~
 18 ~~applied as follows: All wages earned by such individual in~~
 19 ~~the employment from which he has been retired shall not be~~
 20 ~~considered or included in determining his wage credits or~~
 21 ~~weekly benefit amount under sections 87-103 and 87-105. This~~
 22 ~~disqualification does not apply to retired federal~~
 23 ~~personnel and does not extend to the receipt of benefits~~
 24 ~~under the Federal Social Security Act as amended. If his~~
 25 ~~principal occupation is self-employment.~~

1 (h) For any week wherein claimant leaves her most
2 recent employment during pregnancy and due to such
3 pregnancy and such disqualifications shall continue through
4 the period of pregnancy unless claimant presents evidence of
5 her physical ability to work at such employment. At any time
6 after the seventh month of pregnancy a claimant to
7 establish eligibility must present evidence of physical
8 ability to work at such employment. Further, at any time
9 during the first two (2) months following childbirth a
10 claimant to establish eligibility must present evidence of
11 her physical ability to work at such employment in any of
12 the cases set forth hereinbefore, such evidence of
13 eligibility must be in the form of certificate of a duly
14 licensed physician that such claimant is physically able to
15 work at her most recent employment, and such evidence must
16 be presented as often as requested by the division. A
17 disqualification pursuant to the provisions of this section
18 may not be confined to a single benefit year."

-End-

STATE OF MONTANA

REQUEST NO. 287-77

FISCAL NOTE

Form BD-15

In compliance with a written request received January 28, 1977, there is hereby submitted a Fiscal Note for House Bill 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 provide for a change in disqualification for benefits for voluntarily leaving work without good cause or discharge for misconduct; for the removal to an appropriate section of the provisions pertaining to retirement compensation and pregnancy disqualification; and for disqualification of those receiving social security disability or who are self-employed.

ASSUMPTIONS:

1. Administrative costs of this bill will be borne by the federal government.
2. Calculation of the maximum weekly benefit amount will be derived as stated currently in the unemployment insurance law, Section 87-103(b).
3. Criteria for determining potential weeks compensable will conform with the current law, Section 87-104(a).
4. The extended benefit program will be in effect for 50% of all weeks in FY 78 and 50% of all weeks in FY 79.
5. According to this bill, eligibility requirements for benefits payable to retirees have been referred to Section 87-149. Thus, costs of such benefits will not be considered within this document.

FISCAL IMPACT:

The amount of benefits paid from the Unemployment Insurance Trust Fund will decrease \$3.7 million in FY 78 and \$4.45 million in FY 79 for a total decrease in benefits paid of \$8.15 million for the biennium.

Richard L. Gray for
BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 2-2-77

Committee on Labor & Employment Relations

Objection Raised to Adverse Committee Report

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22 immediately following the waiting period)--as determined by
23 the division according to the circumstances--in each case

1 buty--he--shall--not--be--disqualified--if--the--division--finds
2 that:

3 (1) He left his employment because of personal illness
4 or injury not associated with misconduct, or left his
5 employment upon the advice of a licensed and practicing
6 physician and after recovering from his illness or injury
7 when recovery is certified by a licensed and practicing
8 physician he returned to his employer and offered his
9 service and his regular or comparable suitable work was not
10 available if so found by the division provided he is
11 otherwise eligible. Until 8 weeks have elapsed from the
12 effective date of his claim, with 8 weeks' reduction of his
13 benefit duration; or

14 (2) Until he has performed services from the effective
15 date of his claim other than self-employment for which
16 remuneration is received equal to or in excess of his weekly
17 benefit amount in 4 separate weeks subsequent to the week in
18 which the act causing the disqualification occurred, with 4
19 weeks' reduction of benefit duration, as determined by the
20 division, provided he has not left this work under
21 disqualifying circumstances.

22 (3) Except that he may not be disqualified if the
23 division finds that he left his employment because of
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HB 331

1 practicing physician and, after recovering from his illness
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 15 date of his claim, with 10 weeks' reduction of his benefit
 16 duration; or

17 (B) Until he has performed services from the effective
 18 date of his claim other than self-employment for which
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3 (c) If he failed, without good cause, either to apply
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 18 for an individual, the division shall consider the degree of
 19 risk involved to his health, safety, and morals, his
 20 physical fitness and prior training, his experience and
 21 previous earnings, his length of unemployment and prospects
 22 for securing local work in his customary occupation, and the
 23 distance of the available work from his residence.

24 (2) Notwithstanding any other provisions of this act,
 25 no work shall be deemed suitable and benefits shall not be

1 denied under this act to any otherwise eligible individual
2 for refusing to accept new work under any of the following
3 conditions:

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

6 (B) If the wages, hours, or other conditions of the
7 work offered are substantially less favorable to the
8 individual than those prevailing for similar work in the
9 locality;

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

13 (d) For any week with respect to which the division
14 finds that his total unemployment is due to a stoppage of
15 work which exists because of a labor dispute at the factory,
16 establishment, or other premises at which he is or was last
17 employed, provided that this subsection shall not apply if
18 it is shown to the satisfaction of the division that--

19 (1) He is not participating in or financing or
20 directly interested in the labor dispute which caused the
21 stoppage of work; and

22 (2) He does not belong to a grade or class of workers
23 of which immediately before the commencement of the
24 stoppage, there were members employed at the premises at
25 which the stoppage occurs, any of whom are participating in

1 or financing or directly interested in the dispute;

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

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

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

19 (2) Compensation for disability under the ~~Workmen's~~
20 Workers' Compensation Law or the Occupational Disease Law of
21 this or any other state or under a similar law of the United
22 States, or under the social security disability laws
23 provided, however, that when an injured claimant has ceased
24 to draw compensation benefits and shall have returned to the
25 labor market, he shall then be entitled to receive

1 unemployment compensation benefits under this title, if he
 2 shall be otherwise qualified. Provided further, that
 3 compensation which is received as a payment for a permanent
 4 partial disability shall not be computed to be spread over a
 5 period of weeks in advance so as to bar the recipient from
 6 receiving unemployment compensation benefits under this
 7 title, provided the recipient has returned to the labor
 8 market and is otherwise qualified;

9 (3) Benefits under the Railroad Unemployment Insurance
 10 Act or any state unemployment compensation act or similar
 11 laws of any state or of the United States. This
 12 disqualification does not apply to any week with respect to
 13 which an individual is receiving or has received benefits
 14 under an unemployment compensation law of another state or
 15 of the United States, if such benefits are paid pursuant to
 16 section 87-129.

17 Receipt of any wages, compensation or benefits as set
 18 forth in subsection (1), (2), or (3) above, after payment of
 19 unemployment benefits, and with respect to the same week for
 20 which unemployment benefits were received, will thereupon
 21 require such individual to repay such unemployment benefits
 22 and the division may collect such unemployment benefits in
 23 the same manner as provided for collection of benefits under
 24 section 87-145(d).

25 (f) During the school year (within the autumn, winter

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

13 (g) ~~Where---retired---and---receiving---retirement~~
 14 ~~compensation-paid-in-whole-or-in-part-from--funds--furnished~~
 15 ~~by-an-employing-unity-which-when-prorated-on-a-weekly-basis,~~
 16 ~~exceeds-two-(2)-times-the-average-weekly-benefit-amount-paid~~
 17 ~~during--the--test--fiscal--year--such-disqualification-to-be~~
 18 ~~applied-as-follows: All wages earned by such--individual--in~~
 19 ~~the--employment--from-which-he-has-been-retired-shall-not-be~~
 20 ~~considered-or-included-in-determining-his--wage--credits--or~~
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 22 ~~disqualification---does---not---apply---to--retired--federal~~
 23 ~~personnel--and-does-not-extend-to-the--receipt-of--benefits~~
 24 ~~under--the--Federal--Social-Security-Act--as-amended. If his~~
 25 principal occupation is self-employment.

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2 ~~recent employment during pregnancy and due to such~~
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-End-

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INTRODUCED BY BUKNETT, McLANE

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~~but he shall not be disqualified if the division finds that:~~

(1) ~~He left his employment because of personal illness or injury not associated with misconduct or left his employment upon the advice of a licensed and practicing physician and after recovering from his illness or injury when recovery is certified by a licensed and practicing physician, he returned to his employer and offered his service and his regular or comparable suitable work was not available if so found by the division, provided he is otherwise eligible. Until 6 weeks have elapsed from the effective date of his claim, with 6 weeks' reduction of his benefit duration; or~~

(2) ~~Until he has performed services from the effective date of his claim other than self-employment for which remuneration is received equal to or in excess of his weekly benefit amount in 4 separate weeks subsequent to the week in which the act causing the disqualification occurred, with 4 weeks' reduction of benefit duration, as determined by the division, provided he has not left this work under disqualifying circumstances.~~

(3) ~~Except that he may not be disqualified if the division finds that he left his employment because of personal illness or injury not associated with misconduct or left his employment upon the advice of a licensed and~~

THIRD READING

1 practicing physician and, after recovering from his illness
 2 or injury when recovery is certified by a licensed and
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 15 date of his claim, with 10 8 weeks' reduction of his benefit
 16 duration; or

17 (B) Until he has performed services from the effective
 18 date of his claim other than self-employment for which
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 21 which the act causing the disqualification occurred, with 6
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1 committed on the employer's premises, as determined by the
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 17 ~~PERFORMED SERVICES, OTHER THAN SELF-EMPLOYMENT, FOR WHICH~~
 18 ~~REMUNERATION IS RECEIVED EQUAL TO OR IN EXCESS OF HIS WEEKLY~~
 19 ~~BENEFIT AMOUNT IN 6 SEPARATE WEEKS SUBSEQUENT TO THE DATE~~
 20 ~~THE ACT CAUSING THE DISQUALIFICATION OCCURRED, WITH 6 WEEKS'~~
 21 ~~REDUCTION IN BENEFIT DURATION, AS DETERMINED BY THE~~
 22 ~~DIVISION, PROVIDED HE HAS NOT LEFT THIS WORK UNDER~~
 23 ~~DISQUALIFYING CIRCUMSTANCES.~~

24 (1) In determining whether or not any work is suitable
 25 for an individual, the division shall consider the degree of

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

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

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

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

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

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

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

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

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

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

1 (2) Compensation for disability under the Workmen's
 2 ~~Workers' Compensation Law~~ or the Occupational Disease Law of
 3 this or any other state or under a similar law of the United
 4 States, or under the social security disability law,
 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
 19 87-105(c).

20 (g) ~~where retired and receiving retirement~~
 21 ~~compensation paid in whole or in part from funds furnished~~
 22 ~~by an 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~~

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 apply to retired federal~~
 5 ~~personnel and does not extend to the receipt of benefits~~
 6 ~~under the Federal Social Security Act, as amended. If his~~
 7 ~~principal occupation is self-employment.~~

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. A~~
 24 ~~disqualification pursuant to the provisions of this section~~
 25 ~~may not be confined to a single benefit year.~~

HOUSE BILL NO. 331

INTRODUCED BY BURNETT, McLANE

BY REQUEST OF THE DEPARTMENT OF LABOR

A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION 87-106, R.C.M. 1947, TO PROVIDE FOR A CHANGE IN DISQUALIFICATION FOR BENEFITS FOR VOLUNTARILY LEAVING WORK WITHOUT GOOD CAUSE OR DISCHARGE FOR MISCONDUCT OR FOR REFUSING SUITABLE WORK; FOR THE REMOVAL TO AN APPROPRIATE SECTION OF THE PROVISIONS PERTAINING TO RETIREMENT COMPENSATION AND PREGNANCY DISQUALIFICATION; AND FOR DISQUALIFICATION OF THOSE RECEIVING SOCIAL SECURITY DISABILITY OR WHO ARE SELF-EMPLOYED."

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

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

"87-106. Disqualification for benefits. Effective April 1, 1977, ~~an~~ individual shall be disqualified for benefits--

(a) If he has left work without good cause attributable to the employment ~~for a period of not less than two (2) nor more than five (5) weeks (in addition to and immediately following the waiting period), as determined by the division according to the circumstances in each case;~~

~~but, he shall not be disqualified if the division finds that:~~

(1) ~~He left his employment because of personal illness or injury not associated with misconduct, or left his employment upon the advice of a licensed and practicing physician, and after recovering from his illness or injury when recovery is certified by a licensed and practicing physician, he returned to his employer and offered his service and his regular or comparable suitable work was not available, if so found by the division, provided he is otherwise eligible. Until 8 6 weeks have elapsed from the effective date of his claim, with 8 6 weeks' reduction of his benefit duration; or~~

(2) Until he has performed services from the effective date of his claim other than self-employment for which remuneration is received equal to or in excess of his weekly benefit amount in 4 separate weeks subsequent to the week in which the act causing the disqualification occurred, with 4 weeks' reduction of benefit duration, as determined by the division, provided he has not left this work under disqualifying circumstances.

(3) Except that he may not be disqualified if the division finds that he left his employment because of personal illness or injury not associated with misconduct or left his employment upon the advice of a licensed and

1 practicing physician and, after recovering from his illness
 2 or injury when recovery is certified by a licensed and
 3 practicing physician, he returned to his employer and
 4 offered his service and his regular or comparable suitable
 5 work was not available, if so found by the division,
 6 provided he is otherwise eligible.

7 (b) If he has been discharged:

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

14 (A) Until 40 8 weeks have elapsed from the effective
 15 date of his claim, with 40 8 weeks' reduction of his benefit
 16 duration; or

17 (B) Until he has performed services from the effective
 18 date of his claim other than self-employment for which
 19 remuneration is received equal to or in excess of his weekly
 20 benefit amount in 6 separate weeks subsequent to the week in
 21 which the act causing the disqualification occurred, with 6
 22 weeks' reduction of benefit duration, as determined by the
 23 division, provided he has not left this work under
 24 disqualifying circumstances.

25 (2) For gross misconduct connected with his work or

1 committed on the employer's premises, as determined by the
 2 division, for a period of ~~twelve (12) months.~~

3 (c) If he failed, without good cause, either to apply
 4 for available and suitable work when so directed by the
 5 employment office or the division or to accept suitable work
 6 offered to him which he is physically able and mentally
 7 qualified to perform, or to return to his customary
 8 self-employment (if any) when so directed by the division.
 9 Such disqualification shall continue ~~for the week in which~~
 10 ~~such failure occurred and for not less than two (2) nor more~~
 11 ~~than five (5) weeks in addition to the waiting week which~~
 12 ~~immediately follow such week as determined by the division~~
 13 ~~according to the circumstances in each case. THE WEEK IN~~
 14 ~~WHICH SUCH FAILURE OCCURRED AND 6 weeks beginning with the~~
 15 ~~week of occurrence, with 6 weeks' reduction of benefit~~
 16 ~~duration, as determined by the division UNTIL HE HAS~~
 17 ~~PERFORMED SERVICES, OTHER THAN SELF EMPLOYMENT, FOR WHICH~~
 18 ~~REMUNERATION IS RECEIVED EQUAL TO OR IN EXCESS OF HIS WEEKLY~~
 19 ~~BENEFIT AMOUNT IN 6 SEPARATE WEEKS SUBSEQUENT TO THE DATE~~
 20 ~~THE ACT CAUSING THE DISQUALIFICATION OCCURRED, WITH 6 WEEKS'~~
 21 ~~REDUCTION IN BENEFIT DURATION, AS DETERMINED BY THE~~
 22 ~~DIVISION, PROVIDED HE HAS NOT LEFT THIS WORK UNDER~~
 23 ~~DISQUALIFYING CIRCUMSTANCES.~~

24 (1) In determining whether or not any work is suitable
 25 for an individual, the division shall consider the degree of

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

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

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

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

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

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

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

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

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

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

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

1 (2) Compensation for disability under the ~~Workers'~~
 2 ~~Workers'~~ Compensation Law or the Occupational Disease Law of
 3 this or any other state or under a similar law of the United
 4 States, or under the social security disability law,
 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
 19 87-105(c).

20 ~~(g) Where retired and receiving retirement~~
 21 ~~compensation paid in whole or in part from funds furnished~~
 22 ~~by an 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 is~~

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 apply to retired federal~~
 5 ~~personnel, and does not extend to the receipt of benefits~~
 6 ~~under the Federal Social Security Act, as amended. If his~~
 7 principal occupation is self-employment.

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. A~~
 24 disqualification pursuant to the provisions of this section
 25 may not be confined to a single benefit year."