

CHAPTER NO. 685.

HOUSE BILL NO. 190

INTRODUCED BY HARPER, PORTER

BY REQUEST OF THE DEPARTMENT OF LABOR AND INDUSTRY

IN THE HOUSE

January 16, 1979	Introduced and referred to Committee on Labor and Employment Relations.
February 8, 1979	Committee recommend bill do pass as amended. Report adopted.
February 10, 1979	Printed and placed on members' desks.
February 12, 1979	Second reading, do pass as amended.
	Segregated from Committee of the Whole report.
	On motion, passed until the 37th Legislative Day.
February 14, 1979	Second reading, do pass as amended.
	Segregated from Committee of the Whole report.
February 15, 1979	Second reading, do pass as amended.
February 17, 1979	Correctly engrossed.
February 19, 1979	Third reading, passed. Transmitted to second house.

IN THE SENATE

February 20, 1979	Introduced and referred to Committee on Labor and Employment Relations.
-------------------	---

March 21, 1979	Committee recommend bill be concurred in as amended. Report adopted.
March 23, 1979	Second reading, concurred in.
March 26, 1979	Third reading, concurred in as amended.

IN THE HOUSE

March 27, 1979	Returned from second house. Concurred in as amended.
March 28, 1979	Second reading, amendments rejected.
	On motion Joint Conference Committee requested and appointed.
April 11, 1979	Joint Conference Committee dissolved.
	On motion Free Joint Conference Committee requested and appointed.
April 20, 1979	Free Joint Conference Committee reported. Second reading, adopted. Third reading, adopted. Adopted by Senate. Sent to enrolling. Reported correctly enrolled.

House BILL NO. 190

1 INTRODUCED BY *Hayes*
2
3 BY REQUEST OF THE DEPARTMENT OF LABOR AND INDUSTRY

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE THE
6 UNEMPLOYMENT COMPENSATION LAWS RELATING TO EMPLOYER
7 CONTRIBUTIONS AND EMPLOYER CLASSIFICATION AND EXPERIENCE
8 RATING; AMENDING SECTIONS 39-51-401, 39-51-1103, AND
9 39-51-1301, MCA; AND REPEALING SECTIONS 39-51-1106,
10 39-51-1107, AND 39-51-1201 THROUGH 39-51-1205, MCA."

11
12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
13
14 NEW SECTION. Section 1. Definitions. As used in
15 [Title 39, chapter 51, part 11], the following definitions
apply:

16 (1) "Computation date" means June 30 preceding the
17 calendar year for which a covered employer's contribution
18 rate is effective.

19 (2) "Cutoff date" means September 30 immediately
20 following the computation date.

21 (3) "Deficit employer" means a covered employer who
22 has established a record of accumulated benefits charged to
23 his account in excess of his accumulated contributions paid
24 as of the cutoff date and has a minus experience factor.

25 (4) "Division" means the employment security division

1 of the department of labor and industry.
2 (5) "Eligible employer" means a covered employer who
3 has:
4 (a) paid contributions during each of the 3 fiscal
5 years immediately preceding the computation date;
6 (b) with respect to such 3 fiscal years, filed all
7 contribution reports prescribed by the division;
8 (c) paid all contributions due with respect to the 3
9 fiscal years before the cutoff date of the rate year;
10 (d) established a record of accumulated contributions
11 in excess of benefits charged to his account; and
12 (e) achieved a plus experience factor.
13 (6) "Fiscal year" means the four consecutive calendar
14 quarters ending on June 30.
15 (7) "Governmental entities" means the state or any
16 political subdivision of the state or an instrumentality of
17 the state or a political subdivision, including any
18 employing unit funded directly by tax levies.
19 (8) "Unrated employer" means a covered employer who
20 has not paid contributions in each of the 3 fiscal years
21 immediately preceding the computation date or an employer
22 who has established a record of accumulated contributions in
23 excess of benefits charged to his account but has not filed
24 all required payroll reports or paid contributions by the
25 cutoff date for any of the quarters in the 3 fiscal years

HB 190

1 immediately preceding the computation date.

2 NEW SECTION Section 2. Extension of cutoff date. The
3 division may extend the cutoff date in meritorious cases.

4 NEW SECTION Section 3. Treatment of minor
5 irregularities in determination of eligible employer status.
6 For the purpose of determining if a covered employer is an
7 eligible employer, delinquencies of a minor nature may be
8 disregarded if it is shown to the satisfaction of the
9 division that the covered employer acted in good faith and
10 that forfeiture of a reduced contribution rate because of
11 such minor delinquency would be inequitable.

12 NEW SECTION Section 4. Rates of contributions. All
13 covered employers, except governmental entities and those
14 qualified and electing to make payments in lieu of
15 contributions, shall pay contributions at rates assigned
annually by the division.

16 NEW SECTION Section 5. Procedure for election to
17 make payments in lieu of contributions. (1) Any nonprofit
18 organization defined in 39-51-1103 or governmental entity
19 electing to become liable for payments in lieu of
20 contributions must file a written notice of its election
21 with the division not later than 30 days immediately
22 following the date of the determination of subjectivity to
23 [Title 39, chapter 51]. This election shall be for a period
24 of not less than 2 years.

1 (2) Any nonprofit organization defined in 39-51-1103
2 or governmental entity which has been paying contributions
3 for at least 2 taxable years may change to payments in lieu
4 of contributions by filing a written notice to that effect
5 with the division within 30 days before the beginning of the
6 taxable year for which the change is effective.

7 NEW SECTION Section 6. Computation of payments in
8 lieu of contributions. (1) Qualified employers electing to
9 make payments in lieu of contributions shall pay into the
10 fund an amount equivalent to the full amount of regular
11 benefits plus one-half of the amount of extended benefits
12 paid to individuals based on wages paid by the employing
13 unit. After December 31, 1978, governmental entities shall
14 pay the full amount of extended benefits.

15 (2) If benefits paid an individual are based on wages
16 paid by both the employer and one or more other employers,
17 the amount payable by any one employer to the fund bears the
18 same ratio to total benefits paid to the individual as the
19 base period wages paid to the individual by such employer
20 bear to the total amount of base period wages paid to the
21 individual by all his base period employers.

22 (3) If the base period wages of an individual include
23 wages from more than one such employer, the amount to be
24 paid into the fund with respect to the benefits paid to the
25 individual shall be prorated among the liable employers in

1 proportion to the wages paid to the individual by each such
 2 employer during the base period.

3 (4) The amount of payment required from employers
 4 shall be ascertained by the division monthly and becomes due
 5 and payable by the employer quarterly as directed in [Title
 6 39, chapter 51]. Penalty and interest for delinquency shall
 7 be assessed such employers as specified in 39-51-1301.

8 (5) A nonprofit organization which elects to make
 9 payments in lieu of contributions into the unemployment
 10 compensation fund is not liable to make such payments with
 11 respect to the benefits paid to any individual whose base
 12 period wages include wages for previously uncovered
 13 services, as defined in 39-51-204(3)(c), to the extent that
 14 the unemployment compensation fund is reimbursed for such
 15 benefits pursuant to section 121 of Public Law 94-566.

16 NEW SECTION. Section 7. Termination of election to
 17 make payments in lieu of contributions. (1) Any nonprofit
 18 organization or governmental entity may terminate its
 19 election to make payments in lieu of contributions after 2
 20 years from the effective date of such election by filing a
 21 written notice with the division not later than 30 days
 22 prior to the beginning of the taxable year for which the
 23 termination is effective.

24 (2) If a nonprofit organization or governmental entity
 25 is delinquent in making payments in lieu of contributions,

1 the division may terminate the election to make payments in
 2 lieu of contributions as of the beginning of the next
 3 taxable year, and the termination is effective for that and
 4 the next taxable year.

5 NEW SECTION. Section 8. Experience rating for
 6 governmental entities. (1) Governmental entities newly
 7 covered under [Title 39, chapter 51] after December 31,
 8 1974, shall make payments for the period prior to July 1,
 9 1977, equal to 0.4% of total wages paid employees for
 10 services in employment during the calendar quarter and for
 11 the period after July 1, 1977, shall make payments at the
 12 median rate.

13 (2) The rates of governmental entities who have
 14 accumulated experience rating credits shall be adjusted
 15 annually as follows with each governmental entity assigned a
 16 rate based upon:

17 (a) its benefit cost experience, to be arrived at by
 18 dividing the total sum of benefits charged to the employer's
 19 account for all past periods which are completed
 20 transactions by December 31 by total wages from date of
 21 subjectivity of the employing unit through December 31; and

22 (b) the benefit cost for all past years of
 23 governmental entities electing to pay contributions compared
 24 with total payrolls reported for all past years by these
 25 governmental entities used as a median with the rates so

1 fixed using the median that the rates will, when applied to
 2 the total annual payroll for subject governmental entities,
 3 yield total paid contributions equaling approximately the
 4 total benefit costs.

5 (3) New governmental entities electing to pay
 6 contributions shall be assigned the median rate for the year
 7 in which they become subject.

8 (4) At no time may the minimum rate be less than 0.01%
 9 or the maximum rate be greater than 1.5%. The rates are to
 10 be graduated at one-tenth intervals.

11 (5) In the event benefit charges exceed contributions
 12 paid in the last 2 completed fiscal years, governmental
 13 entities' rates will be adjusted by increasing all rates to
 14 the next higher schedule.

15 (6) The computed rate is effective July 1 of each
 16 year.

17 NEW SECTION. Section 9. Classification of employers
 18 for experience rating purposes. (1) The division shall for
 19 each calendar year classify employers in accordance with
 20 their actual experience in the payment of contributions and
 21 with respect to benefits charged against their accounts,
 22 with contribution rates reflecting benefit experience. Each
 23 employer's rate for a calendar year shall be determined on
 24 the basis of his record as of July 1 of the preceding
 25 calendar year.

1 (2) In making the classification, each eligible and
 2 deficit employer's contribution rate is determined in the
 3 manner set forth below for the calendar year 1980 and for
 4 each calendar year thereafter:

5 (a) Each employer is given an "experience factor"
 6 which is contributions paid minus benefits charged on each
 7 employer's account since July 1, 1976, divided by his
 8 average annual taxable payroll rounded to the next lower
 9 dollar amount for the 3 fiscal years immediately preceding
 10 the computation date. The computation of the "experience
 11 factor" shall be to six decimal places.

12 (b) Schedules shall be prepared listing all eligible
 13 and deficit employers in inverse numerical order of their
 14 experience factors. There shall be listed on such schedules
 15 for each employer in addition to the experience factor:

16 (i) the amount of his taxable payroll for the fiscal
 17 year ending on the computation date; and

18 (ii) the cumulative total consisting of the sum of the
 19 employer's taxable payroll for the fiscal year ending on the
 20 computation date and the corresponding taxable payrolls for
 21 all other employers preceding him on the schedules.

22 (3) The cumulative taxable payroll amounts listed on
 23 the schedules provided for in [section 14] shall be
 24 segregated into groups that will yield approximately the
 25 average tax rate according to the tax schedule assigned for

1 that particular taxable year. Each group shall be identified
 2 by the rate class number listed in the table which
 3 represents the percentage limits of each group. Each
 4 employer on the schedules is assigned that contribution rate
 5 opposite his rate class for the tax schedule in effect for
 6 the taxable year.

7 (4) (a) If the grouping of rate classes requires the
 8 inclusion of exactly one-half of an employer's taxable
 9 payroll, the employer is assigned the lower of the two rates
 10 designated for the two classes in which the halves of his
 11 taxable payroll are so required.

12 (b) If the group of rate classes requires the
 13 inclusion of a portion other than exactly one-half of an
 14 employer's taxable payroll, the employer is assigned the
 15 rate designated for the class in which the greater part of
 16 his taxable payroll is so required.

17 (c) If one or more employers on the schedules have
 18 experience factors identical to that of the last employer
 19 included in a particular rate class, all such employers are
 20 included in and assigned the contribution rate specified for
 21 such class, notwithstanding the provisions of [section 10].

22 (5) If the taxable payroll amount or the experience
 23 factor or both such taxable payroll amount and experience
 24 factor of any eligible or deficit employer listed on the
 25 schedules is changed, the employer is placed in that

1 position on the schedules which he would have occupied had
 2 his taxable payroll amount or experience factor as changed
 3 been used in determining his position in the first instance,
 4 but such change does not affect the position or rate
 5 classification of any other employer listed on the schedules
 6 and does not affect the rate determination for previous
 7 years.

8 NEW SECTION Section 10. Benefit payments chargeable
 9 to employer experience rating accounts. Benefits paid prior
 10 to June 30, with respect to benefit years commencing with
 11 July 1, 1976, and thereafter shall, as of June 30 of each
 12 year preceding the calendar year for which a covered
 13 employer's contribution rate is effective, be charged to the
 14 account of the covered employer, except cost reimbursement
 15 and governmental employers, who paid the largest individual
 16 amount of base period wages as shown on the determination
 17 used as the basis for the payment of such benefits. After
 18 June 30, 1979, no charge shall be made to the account of
 19 such covered employer with respect to benefits paid under
 20 the following situations:

21 (1) if paid to a worker who terminated his services
 22 voluntarily without good cause attributable to such covered
 23 employer or who had been discharged for misconduct in
 24 connection with such services;

25 (2) if paid in accordance with the extended benefit

1 program triggered by either national or state indicators.

2 NEW SECTION. Section 11. Maintenance of experience

3 rating records. An experience rating record shall be

4 maintained for each covered employer. The record is credited

5 with all contributions which the covered employer has paid

6 for covered employment prior to the cutoff date. The record

7 is also charged with the amount of benefits paid which are

8 chargeable to the covered employer's account. Nothing in

9 this section grants any covered employer or individual in

10 his service a priority with respect to any claim or right

11 because of amounts paid by the covered employer into the

12 employment security fund.

13 NEW SECTION. Section 12. Experience rating record
14 voided when account inactive. Whenever an employer whose
15 coverage has been terminated because he has ceased to do
16 business or because he has not covered employment for a
17 period of 3 years, becomes a covered employer, he is
18 considered a new employer and he is not to be credited with
19 his previous experience for the purpose of computing any
20 future "experience factor".

21 NEW SECTION. Section 13. Schedule of rates assigned
22 based on trust fund reserve. (1) The rate schedule for each
23 calendar year is assigned based upon the percent of average
24 trust fund balance of the 12-month period prior to the
25 computation date to total wages in covered employment for

1 the same period.

2 (2) The ratio at the top of each tax schedule in the
3 tax table shown in [section 14] represents the minimum fund
4 level required for a specific tax schedule to be in effect.

5 (3) Employer rates are assigned in accord with the
6 rates provided in each schedule for eligible, unrated, and
7 deficit employers, based upon their experience as defined in
8 this section.

9 NEW SECTION. Section 14. Rate schedules.

10 SCHEDULE OF CONTRIBUTION RATES -- Part I

11	Sched.	Sched.	Sched.	Sched.
12	I	II	III	IV
13 Minimum Ratio of				
14 Fund to Total Wages	(.0475)	(.0425)	(.0375)	(.0325)
15 Average Tax Rate	1.3	1.5	1.7	1.9
<hr/>				
7 Rate Class Contribution Rates For Eligible Employers				
8 1	0.2%	0.3%	0.5%	0.7%
9 2	0.4	0.6	0.8	1.0
0 3	0.7	0.9	1.1	1.3
1 4	1.0	1.2	1.4	1.6
2 5	1.3	1.5	1.7	1.9
3 6	1.6	1.8	2.0	2.2
4 7	1.9	2.1	2.3	2.5
<hr/>				

1 Contribution Rates For
 2 Unrated Employers: 2.1% 2.3% 2.5% 2.7%

3
 4 Rate Class Contribution Rates For Deficit Employers
 5 1 2.2% 2.4% 2.6% 2.8%
 6 2 2.4 2.6 2.8 3.0
 7 3 2.6 2.8 3.0 3.2
 8 4 2.8 3.0 3.2 3.4
 9 5 3.0 3.2 3.4 3.6
 10 6 3.2 3.4 3.6 3.8

11 SCHEDULES OF CONTRIBUTION RATES -- Part II
 12 Sched. Sched. Sched. Sched. Sched. Sched.
 13 V VI VII VIII IX X
 14 (.0275) (.0225) (.0175) (.015) (.0125) (****)
 15 2.1 2.3 2.5 2.7 2.9 3.1
 16

17 Contribution Rates For Eligible Employers
 18 0.9% 1.1% 1.3% 1.5% 1.7% 1.9%
 19 1.2 1.4 1.6 1.8 2.0 2.2
 20 1.5 1.7 1.9 2.1 2.3 2.5
 21 1.8 2.0 2.2 2.4 2.6 2.8
 22 2.1 2.3 2.5 2.7 2.9 3.1
 23 2.4 2.6 2.8 3.0 3.2 3.4
 24 2.7 2.9 3.1 3.3 3.5 3.7
 25

1 Contribution Rates For Unrated Employers:
 2 2.9% 3.1% 3.3% 3.5% 3.7% 3.9%

3
 4 Contribution Rates For Deficit Employers
 5 3.0% 3.2% 3.4% 3.6% 3.8% 4.0%
 6 3.2 3.4 3.6 3.8 4.0 4.2
 7 3.4 3.6 3.8 4.0 4.2 4.4
 8 3.6 3.8 4.0 4.2 4.4 4.4
 9 3.8 4.0 4.2 4.4 4.4 4.4
 10 4.0 4.2 4.4 4.4 4.4 4.4

11 NEW SECTION Section 15. Procedures for the
 12 substitution, merger, or acquisition of an employer account
 13 by a successor employing unit. (1) Subject to the provisions
 14 of subsection (3), whenever any individual or organization
 15 (whether or not a covered employer) in any manner succeeds
 16 to or acquires all or substantially all of the business of
 17 an employer who at the time of acquisition was a covered
 18 employer and whenever in respect to whom the division finds
 19 that the business of the predecessor is continued solely by
 20 the successor:
 21 (a) the separate account and the actual contribution,
 22 benefit, and taxable payroll experience of the predecessor
 23 shall, upon the joint application of the predecessor and the
 24 successor within 90 days after such acquisition and approval
 25 by the division, be transferred to the successor employer

1 for the purpose of determining the successor's liability and
 2 rate of contribution; and

3 (b) any successor who was not an employer on the date
 4 of acquisition becomes a covered employer as of such date.

5 (2) Whenever any individual or organization (whether
 6 or not a covered employer) in any manner succeeds to or
 7 acquires part of the business of an employer who at the time
 8 of acquisition was a covered employer and whenever such
 9 portion of the business is continued by the successor:

10 (a) so much of the separate account and the actual
 11 contribution, benefits, and taxable payroll experience of the
 12 predecessor as is attributable to the portion of the
 13 business transferred, as determined on a pro rata basis in
 14 the same ratio that the wages of covered employees properly
 15 allocable to the transferred portion of the business bears
 16 to the payroll of the predecessor in the last four completed
 17 calendar quarters immediately preceding the date of
 18 transfer, shall, upon the joint application of the
 19 predecessor and the successor within 90 days after such
 20 acquisition and approval by the division, be transferred to
 21 the successor employer for the purpose of determining the
 22 successor's liability and rate of contribution; and

23 (b) any successor who was not an employer on the date
 24 of acquisition becomes a covered employer as of such date.

25 (3) (a) The 90-day period may be extended at the

1 discretion of the division.

2 (b) Whenever a predecessor covered employer has a
 3 deficit experience rating account as of the last computation
 4 date, the transfer provided for in subsections (1) and (2)
 5 is mandatory except when it is shown by substantial evidence
 6 that the management or ownership or both the management and
 7 ownership are not substantially the same for the successor
 8 as for the predecessor, in which case the successor shall
 9 begin with the rate of a new employer. Whenever such
 10 mandatory transfer involves only a portion of the experience
 11 rating record and the predecessor or successor employers
 12 fail to supply the required payroll information within 10
 13 days after notice, the transfer shall be based on estimates
 14 of the applicable payrolls.

15 (4) (a) If the successor was a covered employer prior
 16 to the date of the acquisition of all or a part of the
 17 predecessor's business, his rate of contribution, effective
 18 the first day of the calendar year immediately following the
 19 date of acquisition, is based on the combined experience of
 20 the predecessor and successor.

21 (b) If the successor was not a covered employer prior
 22 to the date of the acquisition of all or a part of the
 23 predecessor's business, his rate is the rate applicable to
 24 the predecessor with respect to the period immediately
 25 preceding the date of acquisition, but if there were more

1 than one predecessor, the successor's rate shall be a newly
 2 computed rate based on the combined experience of the
 3 predecessors, becoming effective immediately after the date
 4 of acquisition and remaining in effect for the balance of
 5 the rate year.

6 Section 16. Section 39-51-401, MCA, is amended to
 7 read:

8 "39-51-401. Unemployment compensation account --
 9 establishment and control. There is hereby established
 10 separate and apart from all public money or funds of this
 11 state an account in the agency fund known as the
 12 unemployment compensation account, which shall be
 13 administered by the division exclusively for the purposes of
 14 this chapter. Any reference to the unemployment compensation
 15 fund in this code shall be taken to mean the unemployment
 16 compensation account in the agency fund. All money in the
 17 account shall be mingled and undivided. This account shall
 18 consist of:

19 (1) all contributions collected under this chapter,
 20 inclusive of voluntary contributions as provided in
 21 [87-109(c)(4), R.C.M. 1947], and payments made in lieu of
 22 contributions as provided in 39-51-1106(2)-and-137 [sections
 23 5 through 7];

24 (2) interest earned upon any money in the account;
 25 (3) any property or securities acquired through the

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

6 Section 17. Section 39-51-1103, MCA, is amended to
 7 read:

8 "39-51-1103. Contributions by employers required --
 9 payments in lieu thereof authorized for certain employers.
 10 (1) Contributions shall accrue and become payable by each
 11 employer for each calendar year in which he is subject to
 12 this chapter with respect to wages, as defined in
 13 39-51-201(19), paid for employment, as defined in this
 14 chapter, occurring during such calendar year.

15 (2) Such contributions shall become due and be paid by
 16 each employer to the division for the fund in accordance
 17 with such regulations as the division may prescribe and
 18 shall not be deducted in whole or in part from the wages of
 19 individuals in his employ.

20 (3) In the payment of any contributions, a fractional
 21 part of a cent shall be disregarded unless it amounts to
 22 one-half cent or more, in which case it shall be increased
 23 to 1 cent.

24 (4) to Nonprofit organizations defined in section
 25 501(c)(3) of the federal Internal Revenue Code and which are

1 exempt from tax under section 501(a) of such code may elect
 2 to make payments in lieu of contributions.

3 ~~tbj--A-group-of-nonprofit-organizations-may-elect-with
 4 the--approval--of--the--division--to--not--make--group--in
 5 fulfilling-the-requirements--of--39-51-1107--or--of--the
 6 chapters.~~

7 (5) The state and its political subdivisions,
 8 effective January 1, 1977, for-the-rate-years-as-defined-in
 9 39-51-1106(3) may elect to make payments in lieu of
 10 contributions or pay under a special contributions plan
 11 established for governmental entities only."

12 Section 18. Section 39-51-1301, MCA, is amended to
 13 read:

14 "39-51-1301. Penalty and interest on past-due
 15 contributions. (1) Contribution reports not made and filed
 16 on the date on which they are due, as provided by
 17 subsections (1) and (2) of 39-51-1103 and subsection ~~t2j~~ of
 18 39-51-1106, shall be subject to a penalty assessment of \$10.
 19 Contributions unpaid on the date on which they are due and
 20 payable, as provided by subsections (1) and (2) of
 21 39-51-1103 and subsection ~~t2j~~ of 39-51-1106 [section 6],
 22 shall be subject to a penalty assessment of \$10 or 10% of
 23 the contribution due, whichever is greater, and shall bear
 24 interest at the rate of 1% per month or fraction thereof.

25 (2) Interest and penalty collected pursuant to this

1 section shall be paid into the unemployment compensation
 2 administration fund.

3 (3) When failure to pay contributions in time and
 4 before delinquency was not caused by willful intent of the
 5 employer and for good cause shown, the division may abate
 6 the penalty for late filing or late payment or both.
 7 Interest shall not be subject to abatement."

8 Section 19. Codification. It is intended that sections
 9 1 through 15 of this act be codified as an integral part of
 10 Title 39, chapter 51, part 21, and the provisions of Title
 11 39, chapter 51, apply to sections 1 through 15 of this act.

12 Section 20. Repealer. Sections 39-51-1106, 39-51-1107,
 13 and 39-51-1201 through 39-51-1205, MCA, are repealed.

-End-

Approved by Committee
on Labor & Employment
Relations

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

16 NEW SECTION. Section 1. Definitions. As used in

17 [Title 39, chapter 51, part 11], the following definitions

18 apply:

19 (1) "Computation date" means June 30 preceding the
20 calendar year for which a covered employer's contribution
21 rate is effective.

22 (2) "Cutoff date" means September 30 immediately
23 following the computation date.

24 (3) "Deficit employer" means a covered employer who
25 has established a record of accumulated benefits charged to

1 his account in excess of his accumulated contributions paid
2 as of the cutoff date and has a minus experience factor.
3
4 (4) "Division" means the employment security division
5 of the department of labor and industry.
6
7 (5) "Eligible employer" means a covered employer who
8 has:
9
10 (a) paid contributions during each of the 3 fiscal
11 years immediately preceding the computation date;
12
13 (b) with respect to such 3 fiscal years, filed all
14 contribution reports prescribed by the division;
15
16 (c) paid all contributions due with respect to the 3
17 fiscal years before the cutoff date of the rate year;
18
19 (d) established a record of accumulated contributions
20 in excess of benefits charged to his account; and
21
22 (e) achieved a plus experience factor.
23
24 (6) "Fiscal year" means the four consecutive calendar
25 quarters ending on June 30.
26
27 (7) "Governmental entities" means the state or any
28 political subdivision of the state or an instrumentality of
29 the state or a political subdivision, including any
30 employing unit funded directly by tax levies.
31
32 (8) "Unrated employer" means a covered employer who
33 has not paid contributions in each of the 3 fiscal years
34 immediately preceding the computation date or an employer
35 who has established a record of accumulated contributions in

1 excess of benefits charged to his account but has not filed
 2 all required payroll reports or paid contributions by the
 3 cutoff date for any of the quarters in the 3 fiscal years
 4 immediately preceding the computation date.

5 NEW SECTION Section 2. Extension of cutoff date. The
 6 division may extend the cutoff date in meritorious cases.

7 NEW SECTION Section 3. Treatment of minor
 8 irregularities in determination of eligible employer status.
 9 For the purpose of determining if a covered employer is an
 10 eligible employer, delinquencies of a minor nature may be
 11 disregarded if it is shown to the satisfaction of the
 12 division that the covered employer acted in good faith and
 13 that forfeiture of a reduced contribution rate because of
 14 such minor delinquency would be inequitable.

15 NEW SECTION Section 4. Rates of contributions. All
 16 covered employers, except governmental entities and those
 17 qualified and electing to make payments in lieu of
 18 contributions, shall pay contributions at rates assigned
 19 annually by the division.

20 NEW SECTION Section 5. Procedure for election to
 21 make payments in lieu of contributions. (1) Any nonprofit
 22 organization defined in 39-51-1103 or governmental entity
 23 electing to become liable for payments in lieu of
 24 contributions must file a written notice of its election
 25 with the division not later than 30 days immediately

1 following the date of the determination of subjectivity to
 2 [Title 39, chapter 51]. This election shall be for a period
 3 of not less than 2 years.

4 (2) Any nonprofit organization defined in 39-51-1103
 5 or governmental entity which has been paying contributions
 6 for at least 2 taxable years may change to payments in lieu
 7 of contributions by filing a written notice to that effect
 8 with the division within 30 days before the beginning of the
 9 taxable year for which the change is effective.

10 NEW SECTION Section 6. Computation of payments in
 11 lieu of contributions. (1) Qualified employers electing to
 12 make payments in lieu of contributions shall pay into the
 13 fund an amount equivalent to the full amount of regular
 14 benefits plus one-half of the amount of extended benefits
 15 paid to individuals based on wages paid by the employing
 16 unit. After December 31, 1978, governmental entities shall
 17 pay the full amount of extended benefits.

18 (2) If benefits paid an individual are based on wage
 19 paid by both the employer and one or more other employers,
 20 the amount payable by any one employer to the fund bears the
 21 same ratio to total benefits paid to the individual as the
 22 base period wages paid to the individual by such employer
 23 bear to the total amount of base period wages paid to the
 24 individual by all his base period employers.

25 (3) If the base period wages of an individual include

1 wages from more than one such employer, the amount to be
 2 paid into the fund with respect to the benefits paid to the
 3 individual shall be prorated among the liable employers in
 4 proportion to the wages paid to the individual by each such
 5 employer during the base period.

6 (4) The amount of payment required from employers
 7 shall be ascertained by the division monthly and becomes due
 8 and payable by the employer quarterly as directed in [Title
 9 39, chapter 51]. Penalty and interest for delinquency shall
 10 be assessed such employers as specified in 39-51-1301.

11 (5) A nonprofit organization which elects to make
 12 payments in lieu of contributions into the unemployment
 13 compensation fund is not liable to make such payments with
 14 respect to the benefits paid to any individual whose base
 15 period wages include wages for previously uncovered
 16 services, as defined in 39-51-204(3)(c), to the extent that
 17 the unemployment compensation fund is reimbursed for such
 18 benefits pursuant to section 121 of Public Law 94-566.

19 NEW SECTION Section 7. Termination of election to
 20 make payments in lieu of contributions. (1) Any nonprofit
 21 organization or governmental entity may terminate its
 22 election to make payments in lieu of contributions after 2
 23 years from the effective date of such election by filing a
 24 written notice with the division not later than 30 days
 25 prior to the beginning of the taxable year for which the

1 termination is effective.

2 (2) If a nonprofit organization or governmental entity
 3 is delinquent in making payments in lieu of contributions,
 4 the division may terminate the election to make payments in
 5 lieu of contributions as of the beginning of the next
 6 taxable year, and the termination is effective for that and
 7 the next taxable year.

8 SECTION 8. SECTION 39-51-1108, MCA, IS AMENDED TO
 9 READ:

10 "39-51-1108. Amount of wages per employee subject to
 11 contribution. (1) Payment of contributions shall apply only
 12 to wages paid up to and including \$4,200 by an employer to
 13 an employee with respect to employment during the calendar
 14 years 1972, 1973, 1974, and the first calendar quarter of
 15 year 1975.

16 (2) For the second calendar quarter of the calendar
 17 year 1975 and--thereafter through the fourth calendar quarter
 18 of 1977, the taxable wage base shall be established for each
 19 year based--upon--the-reserve-percent-of-total-wages-or-the
 20 amount--of--taxable--wage--base--specified--in--the--Federal
 21 Unemployment Tax Act--whichever is higher is \$4,800.

22 (3) Effective January 1, 1978, and--thereafter the
 23 Federal Unemployment Tax Act provides that contributions
 24 shall be paid on wages up to and including \$6,000 per
 25 employee.

1 Reserve-Percent-----	taxable-
2 of-Total-Wages-----	Wage-Base
3 2+50% and above-----	\$4,200
4 2+25 to 2+49-----	4,400
5 2+00 to 2+24-----	4,600
6 less than 2+00-----	4,800

7 141. For the first calendar quarter of 1979 and
8 thereafter, the taxable wage base for each year is the
9 greater of:

10 (a) the average annual wage as determined under
11 39-51-2201(2) (rounded to the nearest \$100) during the
12 calendar year immediately preceding the most recently
13 completed calendar year (i.e., the calendar year 1977 for
14 the payment year 1979); or

15 (b) the amount of taxable wage base specified in the
16 Federal Unemployment Tax Act."

17 NEW SECTION. Section 9. Experience rating for
18 governmental entities. (1) Governmental entities newly
19 covered under [Title 39, chapter 51] after December 31,
20 1974, shall make payments for the period prior to July 1,
21 1977, equal to 0.4% of total wages paid employees for
22 services in employment during the calendar quarter and for
23 the period after July 1, 1977, shall make payments at the
24 median rate.

25 (2) The rates of governmental entities who have

1 accumulated experience rating credits shall be adjusted
2 annually as follows with each governmental entity assigned a
3 rate based upon:

4 (a) its benefit cost experience, to be arrived at by
5 dividing the total sum of benefits charged to the employer's
6 account for all past periods which are completed
7 transactions by December 31 by total wages from date of

8 subjectivity of the employing unit through December 31; and
9 (b) the benefit cost for all past years of

10 governmental entities electing to pay contributions compared
11 with total payrolls reported for all past years by these
12 governmental entities used as a median, with the rates so
13 fixed using the median that the rates will, when applied to
14 the total annual payroll for subject governmental entities,
15 yield total paid contributions equaling approximately the
16 total benefit costs.

17 (3) New governmental entities electing to pay
18 contributions shall be assigned the median rate for the year
19 in which they become subject.

20 (4) At no time may the minimum rate be less than 0.1%
21 or the maximum rate be greater than 1.5%. The rates are to
22 be graduated at one-tenth intervals.

23 (5) In the event benefit charges exceed contributions
24 paid in the last 2 completed fiscal years, governmental
25 entities' rates will be adjusted by increasing all rates to

1 the next higher schedule.

2 (6) The computed rate is effective July 1 of each
3 year.

4 NEW SECTION Section 10. Classification of employers
5 for experience rating purposes. (1) The division shall for
6 each calendar year classify employers in accordance with
7 their actual experience in the payment of contributions and
8 with respect to benefits charged against their accounts,
9 with contribution rates reflecting benefit experience. Each
10 employer's rate for a calendar year shall be determined on
11 the basis of his record as of July 1 of the preceding
12 calendar year.

13 (2) In making the classification, each eligible and
14 deficit employer's contribution rate is determined in the
15 manner set forth below for the calendar year 1980 and for
16 each calendar year thereafter:

17 (a) Each employer is given an "experience factor"
18 which is contributions paid minus benefits charged on each
19 employer's account since July 1, 1976, divided by his
20 average annual taxable payroll rounded to the next lower
21 dollar amount for the 3 fiscal years immediately preceding
22 the computation date. The computation of the "experience
23 factor" shall be to six decimal places.

24 (b) Schedules shall be prepared listing all eligible
25 and deficit employers in inverse numerical order of their

1 experience factors. There shall be listed on such schedules
2 for each employer in addition to the experience factor:

3 (i) the amount of his taxable payroll for the fiscal
4 year ending on the computation date; and
5 (ii) the cumulative total consisting of the sum of the
6 employer's taxable payroll for the fiscal year ending on the
7 computation date and the corresponding taxable payrolls for
8 all other employers preceding him on the schedules.

9 (3) The cumulative taxable payroll amounts listed on
10 the schedules provided for in [section 14] shall be
11 segregated into groups that will yield approximately the
12 average tax rate according to the tax schedule assigned for
13 that particular taxable year. Each group shall be identified
14 by the rate class number listed in the table which
15 represents the percentage limits of each group. Each
16 employer on the schedules is assigned that contribution rate
17 opposite his rate class for the tax schedule in effect for
18 the taxable year.

19 (4) (a) If the grouping of rate classes requires the
20 inclusion of exactly one-half of an employer's taxable
21 payroll, the employer is assigned the lower of the two rates
22 designated for the two classes in which the halves of his
23 taxable payroll are so required.

24 (b) If the group of rate classes requires the
25 inclusion of a portion other than exactly one-half of an

1 employer's taxable payroll, the employer is assigned the
 2 rate designated for the class in which the greater part of
 3 his taxable payroll is so required.

4 (c) If one or more employers on the schedules have
 5 experience factors identical to that of the last employer
 6 included in a particular rate class, all such employers are
 7 included in and assigned the contribution rate specified for
 8 such class, notwithstanding the provisions of [section 10].

9 (5) If the taxable payroll amount or the experience
 10 factor or both such taxable payroll amount and experience
 11 factor of any eligible or deficit employer listed on the
 12 schedules is changed, the employer is placed in that
 13 position on the schedules which he would have occupied had
 14 his taxable payroll amount or experience factor as changed
 15 been used in determining his position in the first instance,
 16 but such change does not affect the position or rate
 17 classification of any other employer listed on the schedules
 18 and does not affect the rate determination for previous
 19 years.

20 NEW SECTION Section 11. Benefit payments chargeable
 21 to employer experience rating accounts. Benefits paid prior
 22 to June 30, with respect to benefit years commencing with
 23 July 1, 1976, and thereafter shall, as of June 30 of each
 24 year preceding the calendar year for which a covered
 25 employer's contribution rate is effective, be charged to the

1 account of the covered employer, except cost reimbursement
 2 and governmental employers, who paid the largest individual
 3 amount of base period wages as shown on the determination
 4 used as the basis for the payment of such benefits. After
 5 June 30, 1979, no charge shall be made to the account of
 6 such covered employer with respect to benefits paid under
 7 the following situations:

8 (1) if paid to a worker who terminated his services
 9 voluntarily without good cause attributable to such covered
 10 employer or who had been discharged for misconduct in
 11 connection with such services;

12 (2) if paid in accordance with the extended benefit
 13 program triggered by either national or state indicators.

14 NEW SECTION Section 12. Maintenance of experience
 15 rating records. An experience rating record shall be
 16 maintained for each covered employer. The record is credited
 17 with all contributions which the covered employer has paid
 18 for covered employment prior to the cutoff date. The record
 19 is also charged with the amount of benefits paid which are
 20 chargeable to the covered employer's account. Nothing in
 21 this section grants any covered employer or individual in
 22 his service a priority with respect to any claim or right
 23 because of amounts paid by the covered employer into the
 24 employment security fund.

25 NEW SECTION Section 13. Experience rating record

1 voided when account inactive. Whenever an employer whose
 2 coverage has been terminated because he has ceased to do
 3 business or because he has not covered employment for a
 4 period of 3 years, becomes a covered employer, he is
 5 considered a new employer and he is not to be credited with
 6 his previous experience for the purpose of computing any
 7 future "experience factor".

8 NEW SECTION. Section 14. Schedule of rates assigned
 9 based on trust fund reserve. (1) The rate schedule for each
 10 calendar year is assigned based upon the percent-of-average
 11 trust-fund-balance-of RATIO_OF THE TRUST FUND BALANCE AS OF
 12 DECEMBER 31 PRIOR TO THE RATE YEAR TO TOTAL WAGES IN COVERED
 13 EMPLOYMENT FOR the 12-month period prior to the computation
 14 date to-total-wages-in-covered-employment-for-the-same
 15 period.

16 (2) The ratio at the top of each tax schedule in the
 17 tax table shown in [section 14] represents the minimum fund
 18 level required for a specific tax schedule to be in effect.

19 (3) Employer rates are assigned in accord with the
 20 rates provided in each schedule for eligible, unrated, and
 21 deficit employers, based upon their experience as defined in
 22 this section, EXCEPT THAT FOR CALENDAR YEAR 1979, THE TAX
 23 RATE SCHEDULE X SHALL BE APPLIED AS PROVIDED FOR IN
 24 39-51-1202.

25 NEW SECTION. Section 15. Rate schedules.

SCHEDULE OF CONTRIBUTION RATES -- Part I					
	Sched. I	Sched. II	Sched. III	Sched. IV	
4 Minimum Ratio of					
5 Fund to Total Wages	(.0475)	(.0425)	(.0375)	(.0325)	
6 Average Tax Rate	1.3	1.5	1.7	1.9	
7 -----					
8 Rate Class Contribution Rates For Eligible Employers					
9 1	0.2%	0.3%	0.5%	0.7%	
10 2	0.4	0.6	0.8	1.0	
11 3	0.7	0.9	1.1	1.3	
12 4	1.0	1.2	1.4	1.6	
13 5	1.3	1.5	1.7	1.9	
14 6	1.6	1.8	2.0	2.2	
15 7	1.9	2.1	2.3	2.5	
16 -----					
17 Contribution Rates For					
18 Unrated Employers:	2.1%	2.3%	2.5%	2.7%	
19 -----					
20 Rate Class Contribution Rates For Deficit Employers					
21 1	2.2%	2.4%	2.6%	2.8%	
22 2	2.4	2.6	2.8	3.0	
23 3	2.6	2.8	3.0	3.2	
24 4	2.8	3.0	3.2	3.4	
25 5	3.0	3.2	3.4	3.6	

1	6	3.2	3.4	3.6	3.8
SCHEDULES OF CONTRIBUTION RATES -- Part II					
3	Sched.	Sched.	Sched.	Sched.	Sched.
4	V	VI	VII	VIII	IX
5	{.0275}	(-.0225)	(.0175)	(+.0125)	(+.0125)
6	2.1	2.3	2.5	2.7	2.9
7	-----				
8	Contribution Rates For Eligible Employers				
9	0.9%	1.1%	1.3%	1.5%	1.7%
10	1.2	1.4	1.6	1.8	2.0
11	1.5	1.7	1.9	2.1	2.3
12	1.8	2.0	2.2	2.4	2.6
13	2.1	2.3	2.5	2.7	2.9
14	2.4	2.6	2.8	3.0	3.2
15	2.7	2.9	3.1	3.3	3.5
16	-----				
17	Contribution Rates For Unrated Employers:				
18	2.9%	3.1%	3.3%	3.5%	3.7%
19	-----				
20	Contribution Rates For Deficit Employers				
21	3.0%	3.2%	3.4%	3.6%	3.8%
22	3.2	3.4	3.6	3.8	4.0
23	3.4	3.6	3.8	4.0	4.2
24	3.6	3.8	4.0	4.2	4.4
25	3.8	4.0	4.2	4.4	4.4

1 4-0 4-2 4-4 4-4 4-4

2 NEW SECTION Section 16. Procedures for the

3 substitution, merger, or acquisition of an employer account

4 by a successor employing unit. (1) Subject to the provisions

5 of subsection (3), whenever any individual or organization

6 (whether or not a covered employer) in any manner succeeds

7 to or acquires all or substantially all of the business of

8 an employer who at the time of acquisition was a covered

9 employer and whenever in respect to whom the division finds

10 that the business of the predecessor is continued solely by

11 the successor:

12 (a) the separate account and the actual contribution,

13 benefit, and taxable payroll experience of the predecessor

14 shall, upon the joint application of the predecessor and the

15 successor within 90 days after such acquisition and approval

16 by the division, be transferred to the successor employer

17 for the purpose of determining the successor's liability and

18 rate of contribution; and

19 (b) any successor who was not an employer on the date

20 of acquisition becomes a covered employer as of such date.

21 (2) Whenever any individual or organization (whether

22 or not a covered employer) in any manner succeeds to or

23 acquires part of the business of an employer who at the time

24 of acquisition was a covered employer and whenever such

25 portion of the business is continued by the successor:

1 (a) so much of the separate account and the actual
 2 contribution, benefit, and taxable payroll experience of the
 3 predecessor as is attributable to the portion of the
 4 business transferred, as determined on a pro rata basis in
 5 the same ratio that the wages of covered employees properly
 6 allocable to the transferred portion of the business bears
 7 to the payroll of the predecessor in the last four completed
 8 calendar quarters immediately preceding the date of
 9 transfer, shall, upon the joint application of the
 10 predecessor and the successor within 90 days after such
 11 acquisition and approval by the division, be transferred to
 12 the successor employer for the purpose of determining the
 13 successor's liability and rate of contribution; and

14 (b) any successor who was not an employer on the date
 15 of acquisition becomes a covered employer as of such date.

16 (3) (a) The 90-day period may be extended at the
 17 discretion of the division.

18 (b) Whenever a predecessor covered employer has a
 19 deficit experience rating account as of the last computation
 20 date, the transfer provided for in subsections (1) and (2)
 21 is mandatory except when it is shown by substantial evidence
 22 that the management or ownership or both the management and
 23 ownership are not substantially the same for the successor
 24 as for the predecessor, in which case the successor shall
 25 begin with the rate of a new employer. Whenever such

1 mandatory transfer involves only a portion of the experience
 2 rating record and the predecessor or successor employers
 3 fail to supply the required payroll information within 10
 4 days after notice, the transfer shall be based on estimates
 5 of the applicable payrolls.

6 (4) (a) If the successor was a covered employer prior
 7 to the date of the acquisition of all or a part of the
 8 predecessor's business, his rate of contribution, effective
 9 the first day of the calendar year immediately following the
 10 date of acquisition, is based on the combined experience of
 11 the predecessor and successor.

12 (b) If the successor was not a covered employer prior
 13 to the date of the acquisition of all or a part of the
 14 predecessor's business, his rate is the rate applicable to
 15 the predecessor with respect to the period immediately
 16 preceding the date of acquisition, but if there were more
 17 than one predecessor, the successor's rate shall be a newly
 18 computed rate based on the combined experience of the
 19 predecessors, becoming effective immediately after the date
 20 of acquisition and remaining in effect for the balance of
 21 the rate year.

22 Section 17. Section 39-51-401, MCA, is amended to
 23 read:

24 "39-51-401. Unemployment compensation account --
 25 establishment and control. There is hereby established

1 separate and apart from all public money or funds of this
 2 state an account in the agency fund known as the
 3 unemployment compensation account, which shall be
 4 administered by the division exclusively for the purposes of
 5 this chapter. Any reference to the unemployment compensation
 6 fund in this code shall be taken to mean the unemployment
 7 compensation account in the agency fund. All money in the
 8 account shall be mingled and undivided. This account shall
 9 consist of:

10 (1) all contributions collected under this chapter,
 11 inclusive of voluntary contributions as provided in
 12 [87-109(c)(4), R.C.M. 1947], and payments made in lieu of
 13 contributions as provided in 39-51-~~106~~¹²-and-~~13~~¹⁴ [sections
 14 5 through 7];

15 (2) interest earned upon any money in the account;
 16 (3) any property or securities acquired through the
 17 use of money belonging to the account;
 18 (4) all earnings of such property or securities; and
 19 (5) all money credited to this state's account in the
 20 unemployment trust fund pursuant to section 903 of the
 21 Social Security Act, as amended."

22 Section 18. Section 39-51-1103, MCA, is amended to
 23 read:

24 "39-51-1103. Contributions by employers required --
 25 payments in lieu thereof authorized for certain employers.

1 (1) Contributions shall accrue and become payable by each
 2 employer for each calendar year in which he is subject to
 3 this chapter with respect to wages, as defined in
 4 39-51-201(19), paid for employment, as defined in this
 5 chapter, occurring during such calendar year.

6 (2) Such contributions shall become due and be paid by
 7 each employer to the division for the fund in accordance
 8 with such regulations as the division may prescribe and
 9 shall not be deducted in whole or in part from the wages of
 10 individuals in his employ.

11 (3) In the payment of any contributions, a fractional
 12 part of a cent shall be disregarded unless it amounts to
 13 one-half cent or more, in which case it shall be increased
 14 to 1 cent.

15 (4) ~~for~~ Nonprofit organizations defined in section
 16 501(c)(3) of the Federal Internal Revenue Code and which are
 17 exempt from tax under section 501(a) of such code may elect
 18 to make payments in lieu of contributions.

19 ~~for~~--A group of nonprofit organizations may elect -- with
 20 the -- approval -- of -- the -- division -- to -- act -- as -- a -- group -- in
 21 fulfilling -- the -- requirements -- of -- 39-51-~~106~~¹² -- or -- of -- this
 22 chapter.

23 (5) The state and its political subdivisions,
 24 effective January 1, 1977, for the rate year as defined in
 25 39-51-~~106~~¹² may elect to make payments in lieu of

1 contributions or pay under a special contributions plan
 2 established for governmental entities only."

3 Section 19. Section 39-51-1301, MCA, is amended to
 4 read:

5 "39-51-1301. Penalty and interest on past-due
 6 contributions. (1) Contribution reports not made and filed
 7 on the date on which they are due, as provided by
 8 subsections (1) and (2) of 39-51-1103 and subsection--t2-- of
 9 39-51-1106, shall be subject to a penalty assessment of \$10.
 10 Contributions unpaid on the date on which they are due and
 11 payable, as provided by subsections (1) and (2) of
 12 39-51-1103 and subsection--t2-- of 39-51-1106 [section 6],
 13 shall be subject to a penalty assessment of \$10 or 10% of
 14 the contribution due, whichever is greater, and shall bear
 15 interest at the rate of 1% per month or fraction thereof.

16 (2) Interest and penalty collected pursuant to this
 17 section shall be paid into the unemployment compensation
 18 administration fund.

19 (3) When failure to pay contributions in time and
 20 before delinquency was not caused by willful intent of the
 21 employer and for good cause shown, the division may abate
 22 the penalty for late filing or late payment or both.
 23 Interest shall not be subject to abatement."

24 Section 20. Codification. It is intended that sections
 25 1 through 15 of this act be codified as an integral part of

1 Title 39, chapter 51, part 21, and the provisions of Title
 2 39, chapter 51, apply to sections 1 through 15 of this act.
 3 Section 21. Repeater. Sections 39-51-1106, 39-51-1107,
 4 and 39-51-1201 through 39-51-1203, AND 39-51-1205, MCA, are
 5 repealed. SECTION 39-51-1204, MCA, IS REPEALED RETROACTIVE
 6 TO JANUARY 1, 1979.

7 SECTION 22. EFFECTIVE DATE AND RETROACTIVE
 8 APPLICATION. SECTION 39-51-1108, MCA, IS EFFECTIVE UPON
 9 PASSAGE AND APPROVAL AND SHALL BE CONSIDERED TO APPLY AS OF
 10 JANUARY 1, 1979.

-End-

HOUSE BILL NO. 190

INTRODUCED BY HARPER, PORTER

BY REQUEST OF THE DEPARTMENT OF LABOR AND INDUSTRY

5 A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE THE
6 UNEMPLOYMENT COMPENSATION LAWS RELATING TO THE TAXABLE WAGE
7 BASE, EMPLOYER CONTRIBUTIONS, AND EMPLOYER CLASSIFICATION
8 AND EXPERIENCE RATING; AMENDING SECTIONS 39-51-401,
9 39-51-1103, 39-51-1108, AND 39-51-1301, MCA; AND REPEALING
10 SECTIONS 39-51-1106, 39-51-1107, AND 39-51-1201 THROUGH
11 39-51-1203, AND 39-51-1205, MCA; REPEALING SECTION
12 39-51-1204, MCA, RETROACTIVELY; AND PROVIDING A RETROACTIVE
13 EFFECTIVE DATE."

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

16 NEW SECTION. Section 1. Definitions. As used in
17 [Title 39, chapter 51, part 11], the following definitions
18 apply:

19 (1) "Computation date" means June 30 preceding the
20 calendar year for which a covered employer's contribution
21 rate is effective.

22 (2) "Cutoff date" means September 30 immediately
23 following the computation date.

24 (3) "Deficit employer" means a covered employer who
25 has established a record of accumulated benefits charged to

1 his account in excess of his accumulated contributions paid
2 as of the cutoff date and has a minus experience factor.

3 (4) "Division" means the employment security division
4 of the department of labor and industry.

5 (5) "Eligible employer" means a covered employer who
6 has:

7 (a) paid contributions during each of the 3 fiscal
8 years immediately preceding the computation date;

9 (b) with respect to such 3 fiscal years, filed all
10 contribution reports prescribed by the division;

11 (c) paid all contributions due with respect to the 3
12 fiscal years before the cutoff date of the rate year;

13 (d) established a record of accumulated contributions
14 in excess of benefits charged to his account; and

15 (e) achieved a plus experience factor.

16 (6) "Fiscal year" means the four consecutive calendar
17 quarters ending on June 30.

18 (7) "Governmental entities" means the state or any
19 political subdivision of the state or an instrumentality of
20 the state or a political subdivision, including any
21 employing unit funded directly by tax levies.

22 (8) "Unrated employer" means a covered employer who
23 has not paid contributions in each of the 3 fiscal years
24 immediately preceding the computation date or an employer
25 who has established a record of accumulated contributions in

1 excess of benefits charged to his account but has not filed
 2 all required payroll reports or paid contributions by the
 3 cutoff date for any of the quarters in the 3 fiscal years
 4 immediately preceding the computation date.

5 NEW SECTION Section 2. Extension of cutoff date. The
 6 division may extend the cutoff date in meritorious cases.

7 NEW SECTION Section 3. Treatment of minor
 8 irregularities in determination of eligible employer status.
 9 For the purpose of determining if a covered employer is an
 10 eligible employer, delinquencies of a minor nature may be
 11 disregarded if it is shown to the satisfaction of the
 12 division that the covered employer acted in good faith and
 13 that forfeiture of a reduced contribution rate because of
 14 such minor delinquency would be inequitable.

15 NEW SECTION Section 4. Rates of contributions. All
 16 covered employers, except governmental entities and those
 17 qualified and electing to make payments in lieu of
 18 contributions, shall pay contributions at rates assigned
 19 annually by the division.

20 NEW SECTION Section 5. Procedure for election to
 21 make payments in lieu of contributions. (1) Any nonprofit
 22 organization defined in 39-51-1103 or governmental entity
 23 electing to become liable for payments in lieu of
 24 contributions must file a written notice of its election
 25 with the division not later than 30 days immediately

1 following the date of the determination of subjectivity to
 2 [Title 39, chapter 51]. This election shall be for a period
 3 of not less than 2 years.

4 (2) Any nonprofit organization defined in 39-51-1103
 5 or governmental entity which has been paying contributions
 6 for at least 2 taxable years may change to payments in lieu
 7 of contributions by filing a written notice to that effect
 8 with the division within 30 days before the beginning of the
 9 taxable year for which the change is effective.

10 NEW SECTION Section 6. Computation of payments in
 11 lieu of contributions. (1) Qualified employers electing to
 12 make payments in lieu of contributions shall pay into the
 13 fund an amount equivalent to the full amount of regular
 14 benefits plus one-half of the amount of extended benefits
 15 paid to individuals based on wages paid by the employing
 16 unit. After December 31, 1978, governmental entities shall
 17 pay the full amount of extended benefits.

18 (2) If benefits paid an individual are based on wages
 19 paid by both the employer and one or more other employers,
 20 the amount payable by any one employer to the fund bears the
 21 same ratio to total benefits paid to the individual as the
 22 base period wages paid to the individual by such employer
 23 bear to the total amount of base period wages paid to the
 24 individual by all his base period employers.

25 (3) If the base period wages of an individual include

1 wages from more than one such employer, the amount to be
 2 paid into the fund with respect to the benefits paid to the
 3 individual shall be prorated among the liable employers in
 4 proportion to the wages paid to the individual by each such
 5 employer during the base period.

6 (4) The amount of payment required from employers
 7 shall be ascertained by the division monthly and becomes due
 8 and payable by the employer quarterly as directed in [Title
 9 39, chapter 51]. Penalty and interest for delinquency shall
 10 be assessed such employers as specified in 39-51-1301.

11 (5) A nonprofit organization which elects to make
 12 payments in lieu of contributions into the unemployment
 13 compensation fund is not liable to make such payments with
 14 respect to the benefits paid to any individual whose base
 15 period wages include wages for previously uncovered
 16 services, as defined in 39-51-204(3)(c), to the extent that
 17 the unemployment compensation fund is reimbursed for such
 18 benefits pursuant to section 121 of Public Law 94-566.

19 NEW SECTION Section 7. Termination of election to
 20 make payments in lieu of contributions. (1) Any nonprofit
 21 organization or governmental entity may terminate its
 22 election to make payments in lieu of contributions after 2
 23 years from the effective date of such election by filing a
 24 written notice with the division not later than 30 days
 25 prior to the beginning of the taxable year for which the

1 termination is effective.

2 (2) If a nonprofit organization or governmental entity
 3 is delinquent in making payments in lieu of contributions,
 4 the division may terminate the election to make payments in
 5 lieu of contributions as of the beginning of the next
 6 taxable year, and the termination is effective for that and
 7 the next taxable year.

8 SECTION 8. SECTION 39-51-1108, MCA, IS AMENDED TO
 9 READ:

10 "39-51-1108. Amount of wages per employee subject to
 11 contribution. (1) Payment of contributions shall apply only
 12 to wages paid up to and including \$4,200 by an employer to
 13 an employee with respect to employment during the calendar
 14 years 1972, 1973, 1974, and the first calendar quarter of
 15 year 1975.

16 (2) For the second calendar quarter of the calendar
 17 year 1975 and thereafter through the fourth calendar quarter
 18 of 1977, the taxable wage base shall be established for each
 19 year based--upon--the-reserve-percent-of-total-wages-or-the
 20 amount--of--taxable--wage--base--specified--in--the--federal
 21 Unemployment Tax Act--whichever-is-higher is \$4,800.

22 (3) Effective January 1, 1978, and thereafter the
 23 Federal Unemployment Tax Act--provides--that--contributions
 24 shall--be--paid--on--wages--up--to--and--including--\$6,000--per
 25 employee AND THEREAFTER THE TAXABLE WAGE BASE FOR EACH YEAR

1 IS \$6,000.
 2 Reserve-Percent-----Taxable-
 3 of-Total-Wages-----Wage-Rate
 4 2+50% and above-----\$4,200
 5 2+25 to 2+49-----4,400
 6 2+00 to 2+24-----4,600
 7 less than 2+00-----4,800
 8 for the first calendar quarter of 1979 and
 9 thereafter the taxable wage base for each year is the
 10 greater of
 11 the average annual wage as determined under
 12 39-51-2201121 rounded to the nearest \$100 during the
 13 calendar year immediately preceding the most recently
 14 completed calendar year fixed the calendar year 1977 for
 15 the payment year 1979; or
 16 the amount of taxable wage base specified in the
 17 Federal Unemployment Tax Act.
 18 FOR THE FIRST CALENDAR QUARTER OF 1979 AND
 19 HEREAFTER, THE TAXABLE WAGE BASE FOR EACH YEAR IS THE
 20 GREATER OF:
 21 1+100% OF THE AVERAGE ANNUAL WAGE AS DETERMINED UNDER
 22 39-51-2201121 ROUNDED TO THE NEAREST \$100 DURING THE
 23 CALENDAR YEAR IMMEDIATELY PRECEDING THE MOST RECENTLY
 24 COMPLETED CALENDAR YEAR (i.e., THE CALENDAR YEAR 1977 FOR
 25 THE PAYMENT YEAR 1979; OR

1 131. THE AMOUNT OF TAXABLE WAGE BASE SPECIFIED IN THE
 2 FEDERAL UNEMPLOYMENT TAX ACT."
 3 NEW SECTION: Section 9. Experience rating for
 4 governmental entities. (1) Governmental entities newly
 5 covered under [Title 39, chapter 51] after December 31,
 6 1974, shall make payments for the period prior to July 1,
 7 1977, equal to 0.4% of total wages paid employees for
 8 services in employment during the calendar quarter and for
 9 the period after July 1, 1977, shall make payments at the
 10 median rate.
 11 (2) The rates of governmental entities who have
 12 accumulated experience rating credits shall be adjusted
 13 annually as follows with each governmental entity assigned a
 14 rate based upon:
 15 (a) its benefit cost experience, to be arrived at by
 16 dividing the total sum of benefits charged to the employer's
 17 account for all past periods which are completed
 18 transactions by December 31 by total wages from date of
 19 subjectivity of the employing unit through December 31; and
 20 (b) the benefit cost for all past years of
 21 governmental entities electing to pay contributions compared
 22 with total payrolls reported for all past years by these
 23 governmental entities used as a median, with the rates so
 24 fixed using the median that the rates will, when applied to
 25 the total annual payroll for subject governmental entities,

1 yield total paid contributions equaling approximately the
 2 total benefit costs.

3 (3) New governmental entities electing to pay
 4 contributions shall be assigned the median rate for the year
 5 in which they become subject.

6 (4) At no time may the minimum rate be less than 0.1%
 7 or the maximum rate be greater than 1.5%. The rates are to
 8 be graduated at one-tenth intervals.

9 (5) In the event benefit charges exceed contributions
 10 paid in the last 2 completed fiscal years, governmental
 11 entities' rates will be adjusted by increasing all rates to
 12 the next higher schedule.

13 (6) The computed rate is effective July 1 of each
 14 year.

15 NEW SECTION Section 10. Classification of employers
 16 for experience rating purposes. (1) The division shall for
 17 each calendar year classify employers in accordance with
 18 their actual experience in the payment of contributions and
 19 with respect to benefits charged against their accounts,
 20 with contribution rates reflecting benefit experience. Each
 21 employer's rate for a calendar year shall be determined on
 22 the basis of his record as of July 1 of the preceding
 23 calendar year.

24 (2) In making the classification, each eligible and
 25 deficit employer's contribution rate is determined in the

1 manner set forth below for the calendar year 1980 and for
 2 each calendar year thereafter:

3 (a) Each employer is given an "experience factor"
 4 which is contributions paid minus benefits charged on each
 5 employer's account since July 1, 1976, divided by his
 6 average annual taxable payroll rounded to the next lower
 7 dollar amount for the 3 fiscal years immediately preceding
 8 the computation date. The computation of the "experience
 9 factor" shall be to six decimal places.

10 (b) Schedules shall be prepared listing all eligible
 11 and deficit employers in inverse numerical order of their
 12 experience factors. There shall be listed on such schedules
 13 for each employer in addition to the experience factor:

14 (i) the amount of his taxable payroll for the fiscal
 15 year ending on the computation date; and

16 (ii) the cumulative total consisting of the sum of the
 17 employer's taxable payroll for the fiscal year ending on the
 18 computation date and the corresponding taxable payrolls for
 19 all other employers preceding him on the schedules.

20 (3) The cumulative taxable payroll amounts listed on
 21 the schedules provided for in [section 14] shall be
 22 segregated into groups that will yield approximately the
 23 average tax rate according to the tax schedule assigned for
 24 that particular taxable year. Each group shall be identified
 25 by the rate class number listed in the table which

1 represents the percentage limits of each group. Each
 2 employer on the schedules is assigned that contribution rate
 3 opposite his rate class for the tax schedule in effect for
 4 the taxable year.

5 (4) (a) If the grouping of rate classes requires the
 6 inclusion of exactly one-half of an employer's taxable
 7 payroll, the employer is assigned the lower of the two rates
 8 designated for the two classes in which the halves of his
 9 taxable payroll are so required.

10 (b) If the group of rate classes requires the
 11 inclusion of a portion other than exactly one-half of an
 12 employer's taxable payroll, the employer is assigned the
 13 rate designated for the class in which the greater part of
 14 his taxable payroll is so required.

15 (c) If one or more employers on the schedules have
 16 experience factors identical to that of the last employer
 17 included in a particular rate class, all such employers are
 18 included in and assigned the contribution rate specified for
 19 such class, notwithstanding the provisions of [section 10].

20 (5) If the taxable payroll amount or the experience
 21 factor or both such taxable payroll amount and experience
 22 factor of any eligible or deficit employer listed on the
 23 schedules is changed, the employer is placed in that
 24 position on the schedules which he would have occupied had
 25 his taxable payroll amount or experience factor as changed

1 been used in determining his position in the first instance,
 2 but such change does not affect the position or rate
 3 classification of any other employer listed on the schedules
 4 and does not affect the rate determination for previous
 5 years.

6 NEW SECTION Section 11. Benefit payments chargeable
 7 to employer experience rating accounts. Benefits paid prior
 8 to June 30, with respect to benefit years commencing with
 9 July 1, 1976, and thereafter shall, as of June 30 of each
 10 year preceding the calendar year for which a covered
 11 employer's contribution rate is effective, be charged to the
 12 account of the covered employer, except cost reimbursement
 13 and governmental employers, who paid the largest individual
 14 amount of base period wages as shown on the determination
 15 used as the basis for the payment of such benefits. After
 16 June 30, 1979, no charge shall be made to the account of
 17 such covered employer with respect to benefits paid under
 18 the following situations:

19 (1) if paid to a worker who terminated his services
 20 voluntarily without good cause attributable to such covered
 21 employer or who had been discharged for misconduct in
 22 connection with such services;

23 (2) if paid in accordance with the extended benefit
 24 program triggered by either national or state indicators.

25 NEW SECTION Section 12. Maintenance of experience

1 rating records. An experience rating record shall be
 2 maintained for each covered employer. The record is credited
 3 with all contributions which the covered employer has paid
 4 for covered employment prior to the cutoff date. The record
 5 is also charged with the amount of benefits paid which are
 6 chargeable to the covered employer's account. Nothing in
 7 this section grants any covered employer or individual in
 8 his service a priority with respect to any claim or right
 9 because of amounts paid by the covered employer into the
 10 employment security fund.

11 NEW SECTION. Section 13. Experience rating record
 12 voided when account inactive. Whenever an employer whose
 13 coverage has been terminated because he has ceased to do
 14 business or because he has not covered employment for a
 15 period of 3 years, becomes a covered employer, he is
 16 considered a new employer and he is not to be credited with
 17 his previous experience for the purpose of computing any
 18 future "experience factor".

19 NEW SECTION. Section 14. Schedule of rates assigned
 20 based on trust fund reserve. (1) The rate schedule for each
 21 calendar year is assigned based upon the percent-of-average
 22 ~~trust-fund-balance-of RATIO_OF THE TRUST FUND BALANCE AS OF~~
 23 ~~DECEMBER 31 PRIOR TO THE RATE YEAR TO TOTAL WAGES IN COVERED~~
 24 ~~EMPLOYMENT FOR~~ the 12-month period prior to the computation
 25 ~~date to total wages in covered employment for the same~~

1 period.

2 (2) The ratio at the top of each tax schedule in the
 3 tax table shown in [section 14] represents the minimum fund
 4 level required for a specific tax schedule to be in effect.
 5 (3) Employer rates are assigned in accord with the
 6 rates provided in each schedule for eligible, unrated, and
 7 deficit employers, based upon their experience as defined in
 8 this section, EXCEPT THAT FOR CALENDAR YEAR 1979, THE TAX
 9 RATE SCHEDULE X SHALL BE APPLIED AS PROVIDED FOR IN
 10 22-51-1202.

11 NEW SECTION. Section 15. Rate schedules.

12 SCHEDULE OF CONTRIBUTION RATES -- Part I

	Sched. I	Sched. II	Sched. III	Sched. IV
15 Minimum Ratio of				
16 Fund to Total Wages	(.0475)	(.0425)	(.0375)	(.0325)
17 Average Tax Rate	1.3	1.5	1.7	1.9
19 -----				

19 Rate Class	Contribution Rates For Eligible Employers			
20 1	0.2%	0.3%	0.5%	0.7%
21 2	0.4	0.6	0.8	1.0
22 3	0.7	0.9	1.1	1.3
23 4	1.0	1.2	1.4	1.6
24 5	1.3	1.5	1.7	1.9
25 6	1.6	1.8	2.0	2.2

1	7	1.9	2.1	2.3	2.5
2	-----				

3 Contribution Rates For

4	Unrated Employers:	2.1%	2.3%	2.5%	2.7%
5	-----				

6	Rate Class	Contribution Rates For Deficit Employers			
7	1	2.2%	2.4%	2.6%	2.8%
8	2	2.4	2.6	2.8	3.0
9	3	2.6	2.8	3.0	3.2
10	4	2.8	3.0	3.2	3.4
11	5	3.0	3.2	3.4	3.6
12	6	3.2	3.4	3.6	3.8

13	SCHEDULES OF CONTRIBUTION RATES -- Part II					
14	Sched.	Sched.	Sched.	Sched.	Sched.	Sched.
15	V	VI	VII	VIII	IX	X
16	(.0275)	(.0225)	(.0175)	(.0125)	(.0075)	(....)
17	2.1	2.3	2.5	2.7	2.9	3.1
18	-----					

19	Contribution Rates For Eligible Employers					
20	0.9%	1.1%	1.3%	1.5%	1.7%	1.9%
21	1.2	1.4	1.6	1.8	2.0	2.2
22	1.5	1.7	1.9	2.1	2.3	2.5
23	1.8	2.0	2.2	2.4	2.6	2.8
24	2.1	2.3	2.5	2.7	2.9	3.1
25	2.4	2.6	2.8	3.0	3.2	3.4

1	2.7	2.9	3.1	3.3	3.5	3.7
2	-----					

3	Contribution Rates For Unrated Employers:					
4	2.9%	3.1%	3.3%	3.5%	3.7%	3.9%
5	-----					

6	Contribution Rates For Deficit Employers					
7	3.0%	3.2%	3.4%	3.6%	3.8%	4.0%
8	3.2	3.4	3.6	3.8	4.0	4.2
9	3.4	3.6	3.8	4.0	4.2	4.4
10	3.6	3.8	4.0	4.2	4.4	4.4
11	3.8	4.0	4.2	4.4	4.4	4.4
12	4.0	4.2	4.4	4.4	4.4	4.4

13 NEW SECTION Section 16. Procedures for the substitution, merger, or acquisition of an employer account by a successor employing unit. (1) Subject to the provisions of subsection (3), whenever any individual or organization (whether or not a covered employer) in any manner succeeds to or acquires all or substantially all of the business of an employer who at the time of acquisition was a covered employer and whenever in respect to whom the division finds that the business of the predecessor is continued solely by the successor:

23 (a) the separate account and the actual contribution, benefit, and taxable payroll experience of the predecessor shall, upon the joint application of the predecessor and the

1 successor within 90 days after such acquisition and approval
 2 by the division, be transferred to the successor employer
 3 for the purpose of determining the successor's liability and
 4 rate of contribution; and

5 (b) any successor who was not an employer on the date
 6 of acquisition becomes a covered employer as of such date.

7 (2) whenever any individual or organization (whether
 8 or not a covered employer) in any manner succeeds to or
 9 acquires part of the business of an employer who at the time
 10 of acquisition was a covered employer and whenever such
 11 portion of the business is continued by the successor:

12 (a) so much of the separate account and the actual
 13 contribution, benefit, and taxable payroll experience of the
 14 predecessor as is attributable to the portion of the
 15 business transferred, as determined on a pro rata basis in
 16 the same ratio that the wages of covered employees properly
 17 allocable to the transferred portion of the business bears
 18 to the payroll of the predecessor in the last four completed
 19 calendar quarters immediately preceding the date of
 20 transfer, shall, upon the joint application of the
 21 predecessor and the successor within 90 days after such
 22 acquisition and approval by the division, be transferred to
 23 the successor employer for the purpose of determining the
 24 successor's liability and rate of contribution; and

25 (b) any successor who was not an employer on the date

1 of acquisition becomes a covered employer as of such date.
 2 (3) (a) The 90-day period may be extended at the
 3 discretion of the division.

4 (b) Whenever a predecessor covered employer has a
 5 deficit experience rating account as of the last computation
 6 date, the transfer provided for in subsections (1) and (2)
 7 is mandatory except when it is shown by substantial evidence
 8 that the management or ownership or both the management and
 9 ownership are not substantially the same for the successor
 10 as for the predecessor, in which case the successor shall
 11 begin with the rate of a new employer. Whenever such
 12 mandatory transfer involves only a portion of the experience
 13 rating record and the predecessor or successor employers
 14 fail to supply the required payroll information within 10
 15 days after notice, the transfer shall be based on estimates
 16 of the applicable payrolls.

17 (4) (a) If the successor was a covered employer prior
 18 to the date of the acquisition of all or a part of the
 19 predecessor's business, his rate of contribution, effective
 20 the first day of the calendar year immediately following the
 21 date of acquisition, is based on the combined experience of
 22 the predecessor and successor.

23 (b) If the successor was not a covered employer prior
 24 to the date of the acquisition of all or a part of the
 25 predecessor's business, his rate is the rate applicable to

1 the predecessor with respect to the period immediately
 2 preceding the date of acquisition; but if there were more
 3 than one predecessor, the successor's rate shall be a newly
 4 computed rate based on the combined experience of the
 5 predecessors, becoming effective immediately after the date
 6 of acquisition and remaining in effect for the balance of
 7 the rate year.

8 Section 17. Section 39-51-401, MCA, is amended to
 9 read:

10 "39-51-401. Unemployment compensation account --
 11 establishment and control. There is hereby established
 12 separate and apart from all public money or funds of this
 13 state an account in the agency fund known as the
 14 unemployment compensation account, which shall be
 15 administered by the division exclusively for the purposes of
 16 this chapter. Any reference to the unemployment compensation
 17 fund in this code shall be taken to mean the unemployment
 18 compensation account in the agency fund. All money in the
 19 account shall be mingled and undivided. This account shall
 20 consist of:

21 (1) all contributions collected under this chapter,
 22 inclusive of voluntary contributions as provided in
 23 [87-109(c)(4), R.C.4, 1947], and payments made in lieu of
 24 contributions as provided in 39-51-1106(2)-and-(3) [sections
 25 5 through 7];

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

8 Section 18. Section 39-51-1103, MCA, is amended to
 9 read:

10 "39-51-1103. Contributions by employers required --
 11 payments in lieu thereof authorized for certain employers.
 12 (1) Contributions shall accrue and become payable by each
 13 employer for each calendar year in which he is subject to
 14 this chapter with respect to wages, as defined in
 15 39-51-201(19), paid for employment, as defined in this
 16 chapter, occurring during such calendar year.

17 (2) Such contributions shall become due and be paid by
 18 each employer to the division for the fund in accordance
 19 with such regulations as the division may prescribe and
 20 shall not be deducted in whole or in part from the wages of
 21 individuals in his employ.

22 (3) In the payment of any contributions, a fractional
 23 part of a cent shall be disregarded unless it amounts to
 24 one-half cent or more, in which case it shall be increased
 25 to 1 cent.

1 (4) for Nonprofit organizations defined in section
 2 501(c)(3) of the federal Internal Revenue Code and which are
 3 exempt from tax under section 501(a) of such code may elect
 4 to make payments in lieu of contributions.

5 ~~to--a-group-of-nonprofit-organizations-may-elect--with
 6 the--approval--of--the--division--to--act--as--a--group--in
 7 fulfilling--the--requirements--of--39-51-1106--or--of--this
 8 chapter.~~

9 (5) The state and its political subdivisions,
 10 effective January 1, 1977, ~~for-the-rate-year-as-defined-in
 11 39-51-1106(3)~~ may elect to make payments in lieu of
 12 contributions or pay under a special contributions plan
 13 established for governmental entities only."

14 Section 19. Section 39-51-1301, MCA, is amended to
 15 read:

16 ~~39-51-1301. Penalty and interest on past-due
 17 contributions. (1) Contribution reports not made and filed
 18 on the date on which they are due as provided by
 19 subsections (1) and (2) of 39-51-1103 and subsection (2) of
 20 39-51-1106, shall be subject to a penalty assessment of \$10.
 21 Contributions unpaid on the date on which they are due and
 22 payable as provided by subsections (1) and (2) of
 23 39-51-1103 and subsection (2) of 39-51-1106 [section 6],
 24 shall be subject to a penalty assessment of \$10 or 10% of
 25 the contribution due, whichever is greater, and shall bear~~

1 interest at the rate of 1% per month or fraction thereof.
 2 (2) Interest and penalty collected pursuant to this
 3 section shall be paid into the unemployment compensation
 4 administration fund.

5 (3) When failure to pay contributions in time and
 6 before delinquency was not caused by willful intent of the
 7 employer and for good cause shown, the division may abate
 8 the penalty for late filing or late payment or both.
 9 Interest shall not be subject to abatement."

10 Section 20. Codification. It is intended that sections
 11 1 through 15 of this act be codified as an integral part of
 12 Title 39, chapter 51, part 21, and the provisions of Title
 13 39, chapter 51, apply to sections 1 through 15 of this act.

14 Section 21. Repealer. Sections 39-51-1106, 39-51-1107,
 15 and 39-51-1201 through ~~39-51-1203, AND 39-51-1205~~, MCA, are
 16 repealed. ~~SECTION 39-51-1204, MCA, IS REPEALED RETROACTIVE
 17 TO JANUARY 1, 1979.~~

18 ~~SECTION 22. EFFECTIVE DATE AND RETROACTIVE
 19 APPLICATION. SECTION 39-51-1108, MCA, IS EFFECTIVE UPON
 20 PASSAGE AND APPROVAL AND SHALL BE CONSIDERED TO APPLY AS OF
 21 JANUARY 1, 1979.~~

-End-

March 21, 1979

SENATE STANDING COMMITTEE REPORT
(Labor & Employment Relations)

That House Bill No. 190, third reading bill, be amended as follows:

1. Page 7, line 18 through line 2 on page 8.

Following: line 18 on page 7

Strike: subsection 4 in its entirety

2. Page 14, line 9.

Following: "SCHEDULE"

Strike: "X"

Insert: "XI"

3. Page 15, line 14.

Following: sixth "Sched."

Insert: "Sched."

4. Page 15, line 15.

Following: "X"

Insert: "XI"

5. Page 15, line 16.

Following: "(-0125 .0075)"

Strike: "(....)"

Insert: "(.0025) (....)"

6. Page 15, line 17.

Following: "3.1"

Insert: "3.3"

7. Page 15, line 20.

Following: "1.9%"

Insert: "2.1%"

8. Page 15, line 21.

Following: "2.2"

Insert: "2.4"

9. Page 15, line 22.

Following: "2.5"

Insert: "2.7"

10. Page 15, line 23.

Following: "2.8"

Insert: "3.0"

11. Page 15, line 24.

Following: "3.1"

Insert: "3.3"

12. Page 15, line 25.

Following: "3.4"

Insert: "3.6"

13. Page 16, line 1.
Following: "3.7"
Insert: "3.9"

14. Page 16, line 4.
Following: "3.9%"
Insert: "4.1%"

15. Page 16, line 7.
Following: "4.0%"
Insert: "4.2%"

16. Page 16, line 8.
Following: "4.2"
Insert: "4.4"

17. Page 16, line 9.
Following: "4.4"
Insert: "4.6"

18. Page 16, line 10.
Following: "4.4"
Insert: "4.6"

19. Page 16, line 11.
Following: "4.4"
Insert: "4.6"

20. Page 16, line 12.
Following: "4.4"
Insert: "4.6"

HOUSE BILL NO. 190

INTRODUCED BY HARPER, PORTER

BY REQUEST OF THE DEPARTMENT OF LABOR AND INDUSTRY

5 A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE THE
6 UNEMPLOYMENT COMPENSATION LAWS RELATING TO THE TAXABLE WAGE
7 BASE, EMPLOYER CONTRIBUTIONS, AND EMPLOYER CLASSIFICATION
8 AND EXPERIENCE RATING; AMENDING SECTIONS 39-51-401,
9 39-51-1103, ~~39-51-1108~~, AND 39-51-1301, MCA; AND REPEALING
10 SECTIONS 39-51-1106, 39-51-1107, AND 39-51-1201 THROUGH
11 ~~39-51-1203~~, AND 39-51-1205, MCA; REPEALING SECTION
12 ~~39-51-1204~~, MCA, RETROACTIVELY; AND PROVIDING A RETROACTIVE
13 EFFECTIVE DATE."

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

16 NEW SECTION. Section 1. Definitions. As used in
17 {Title 39, chapter 51, part 11}, the following definitions
18 apply:

19 (1) "Computation date" means June 30 preceding the
20 calendar year for which a covered employer's contribution
21 rate is effective.

22 (2) "Cutoff date" means September 30 immediately
23 following the computation date.

24 (3) "Deficit employer" means a covered employer who
25 has established a record of accumulated benefits charged to

1 his account in excess of his accumulated contributions paid
2 as of the cutoff date and has a minus experience factor.

3 (4) "Division" means the employment security division
4 of the department of labor and industry.

5 (5) "Eligible employer" means a covered employer who
6 has:

7 (a) paid contributions during each of the 3 fiscal
8 years immediately preceding the computation date;

9 (b) with respect to such 3 fiscal years, filed all
10 contribution reports prescribed by the division;

11 (c) paid all contributions due with respect to the 3
12 fiscal years before the cutoff date of the rate year;

13 (b) established a record of accumulated com
14 in excess of benefits charged to his account; and

16 (6) "Fiscal year" means the four consecutive calendar
17

18 (7) "Governmental entities" means the state or any
19 political subdivision of the state or an instrumentality of
20 the state or a political subdivision, including any
21 employing unit funded directly by tax levies.

22 (8) "Unrated employer" means a covered employer who
23 has not paid contributions in each of the 3 fiscal years
24 immediately preceding the computation date or an employer
25 who has established a record of accumulated contributions in

1 excess of benefits charged to his account but has not filed
 2 all required payroll reports or paid contributions by the
 3 cutoff date for any of the quarters in the 3 fiscal years
 4 immediately preceding the computation date.

5 NEW SECTION Section 2. Extension of cutoff date. The
 6 division may extend the cutoff date in meritorious cases.

7 NEW SECTION Section 3. Treatment of minor
 8 irregularities in determination of eligible employer status.
 9 For the purpose of determining if a covered employer is an
 10 eligible employer, delinquencies of a minor nature may be
 11 disregarded if it is shown to the satisfaction of the
 12 division that the covered employer acted in good faith and
 13 that forfeiture of a reduced contribution rate because of
 14 such minor delinquency would be inequitable.

15 NEW SECTION Section 4. Rates of contributions. All
 16 covered employers, except governmental entities and those
 17 qualified and electing to make payments in lieu of
 18 contributions, shall pay contributions at rates assigned
 19 annually by the division.

20 NEW SECTION Section 5. Procedure for election to
 21 make payments in lieu of contributions. (1) Any nonprofit
 22 organization defined in 39-51-1103 or governmental entity
 23 electing to become liable for payments in lieu of
 24 contributions must file a written notice of its election
 25 with the division not later than 30 days immediately

1 following the date of the determination of subjectivity to
 2 [Title 39, chapter 51]. This election shall be for a period
 3 of not less than 2 years.

4 (2) Any nonprofit organization defined in 39-51-1103
 5 or governmental entity which has been paying contributions
 6 for at least 2 taxable years may change to payments in lieu
 7 of contributions by filing a written notice to that effect
 8 with the division within 30 days before the beginning of the
 9 taxable year for which the change is effective.

10 NEW SECTION Section 6. Computation of payments in
 11 lieu of contributions. (1) Qualified employers electing to
 12 make payments in lieu of contributions shall pay into the
 13 fund an amount equivalent to the full amount of regular
 14 benefits plus one-half of the amount of extended benefits
 15 paid to individuals based on wages paid by the employing
 16 unit. After December 31, 1978, governmental entities shall
 17 pay the full amount of extended benefits.

18 (2) If benefits paid an individual are based on wages
 19 paid by both the employer and one or more other employers,
 20 the amount payable by any one employer to the fund bears the
 21 same ratio to total benefits paid to the individual as the
 22 base period wages paid to the individual by such employer
 23 bear to the total amount of base period wages paid to the
 24 individual by all his base period employers.

25 (3) If the base period wages of an individual include

1 wages from more than one such employer, the amount to be
 2 paid into the fund with respect to the benefits paid to the
 3 individual shall be prorated among the liable employers in
 4 proportion to the wages paid to the individual by each such
 5 employer during the base period.

6 (4) The amount of payment required from employers
 7 shall be ascertained by the division monthly and becomes due
 8 and payable by the employer quarterly as directed in [Title
 9 39, chapter 51]. Penalty and interest for delinquency shall
 10 be assessed such employers as specified in 39-51-1301.

11 (5) A nonprofit organization which elects to make
 12 payments in lieu of contributions into the unemployment
 13 compensation fund is not liable to make such payments with
 14 respect to the benefits paid to any individual whose base
 15 period wages include wages for previously uncovered
 16 services, as defined in 39-51-204(3)(c), to the extent that
 17 the unemployment compensation fund is reimbursed for such
 18 benefits pursuant to section 121 of Public Law 94-566.

19 NEW SECTION. Section 7. Termination of election to
 20 make payments in lieu of contributions. (1) Any nonprofit
 21 organization or governmental entity may terminate its
 22 election to make payments in lieu of contributions after 2
 23 years from the effective date of such election by filing a
 24 written notice with the division not later than 30 days
 25 prior to the beginning of the taxable year for which the

1 termination is effective.

2 (2) If a nonprofit organization or governmental entity
 3 is delinquent in making payments in lieu of contributions,
 4 the division may terminate the election to make payments in
 5 lieu of contributions as of the beginning of the next
 6 taxable year, and the termination is effective for that and
 7 the next taxable year.

8 SECTION 8. SECTION 39-51-1108, MCA, IS AMENDED TO
 9 READ:

10 "39-51-1108. Amount of wages per employee subject to
 11 contribution. (1) Payment of contributions shall apply only
 12 to wages paid up to and including \$4,200 by an employer to
 13 an employee with respect to employment during the calendar
 14 years 1972, 1973, 1974, and the first calendar quarter of
 15 year 1975.

16 (2) For the second calendar quarter of the calendar
 17 year 1975 and thereafter through the fourth calendar quarter
of 1977, the taxable wage base shall be established for each
 19 year based--upon--the-reserve-percent-of-total-wages-or-the
 20 amount--of--taxable--wage--base--specified--in--the--Federal
 21 Unemployment Tax Act, whichever is higher is \$4,800.

22 (3) Effective January 1, 1978, and thereafter the
 23 Federal Unemployment Tax Act provides that contributions
 24 shall be paid on wages up to and including \$6,000 per
 25 employee and thereafter the taxable wage base each year

1 IS \$6,000.

2 Reserve-Percent-----Taxable-

3 of Total-Wages-----Wage-Base

4 2-50% and above-----\$4,200

5 2-25-to-2-49-----4,400

6 2-00-to-2-24-----4,600

7 less-than-2-00-----4,800

8 ~~for the first calendar quarter of 1979 and~~

9 ~~thereafter the taxable wage base for each year is the~~

10 ~~greater of~~

11 ~~the average annual wage as determined under~~

12 ~~19-51-2201-23-TROUNDED-TO-THE-NEAREST-\$1000--DURING-THE~~

13 ~~calendar year immediately preceding the most recently~~

14 ~~completed calendar year times the calendar year 1977 for~~

15 ~~the payment year 1979 or~~

16 ~~the amount of taxable wage base specified in the~~

17 ~~Federal-Unemployment-Fax-Act~~

18 ~~for the first calendar quarter of 1979 and~~

19 ~~thereafter the taxable wage base for each year is the~~

20 ~~GREATER-OF~~

21 ~~the average annual wage as determined under~~

22 ~~19-51-2201-23-TROUNDED-TO-THE-NEAREST-\$1000--DURING-THE~~

23 ~~calendar year immediately preceding the most recently~~

24 ~~completed calendar year times the calendar year 1977 for~~

25 ~~the payment year 1979 or~~

1 ~~the amount of taxable wage base specified in the~~

2 ~~Federal-Unemployment-Fax-Act~~

3 ~~new section. Section 9. Experience rating for~~

4 ~~governmental entities. (1) Governmental entities newly~~

5 ~~covered under [Title 39, chapter 51] after December 31,~~

6 ~~1974, shall make payments for the period prior to July 1,~~

7 ~~1977, equal to 0.4% of total wages paid employees for~~

8 ~~services in employment during the calendar quarter and for~~

9 ~~the period after July 1, 1977, shall make payments at the~~

10 ~~median rate.~~

11 (2) The rates of governmental entities who have

12 accumulated experience rating credits shall be adjusted

13 annually as follows with each governmental entity assigned a

14 rate based upon:

15 (a) its benefit cost experience, to be arrived at by

16 dividing the total sum of benefits charged to the employer's

17 account for all past periods which are completed

18 transactions by December 31 by total wages from date of

19 subjectivity of the employing unit through December 31; and

20 (b) the benefit cost for all past years of

21 governmental entities electing to pay contributions compared

22 with total payrolls reported for all past years by these

23 governmental entities used as a median, with the rates so

24 fixed using the median that the rates will, when applied to

25 the total annual payroll for subject governmental entities.

1 yield total paid contributions equaling approximately the
 2 total benefit costs.

3 (3) New governmental entities electing to pay
 4 contributions shall be assigned the median rate for the year
 5 in which they become subject.

6 (4) At no time may the minimum rate be less than 0.1%
 7 or the maximum rate be greater than 1.5%. The rates are to
 8 be graduated at one-tenth intervals.

9 (5) In the event benefit charges exceed contributions
 10 paid in the last 2 completed fiscal years, governmental
 11 entities' rates will be adjusted by increasing all rates to
 12 the next higher schedule.

13 (6) The computed rate is effective July 1 of each
 14 year.

15 NEW SECTION Section 10. Classification of employers
 16 for experience rating purposes. (1) The division shall for
 17 each calendar year classify employers in accordance with
 18 their actual experience in the payment of contributions and
 19 with respect to benefits charged against their accounts,
 20 with contribution rates reflecting benefit experience. Each
 21 employer's rate for a calendar year shall be determined on
 22 the basis of his record as of July 1 of the preceding
 23 calendar year.

24 (2) In making the classification, each eligible and
 25 deficit employer's contribution rate is determined in the

1 manner set forth below for the calendar year 1980 and for
 2 each calendar year thereafter:

3 (a) Each employer is given an "experience factor"
 4 which is contributions paid minus benefits charged on each
 5 employer's account since July 1, 1976, divided by his
 6 average annual taxable payroll rounded to the next lower
 7 dollar amount for the 3 fiscal years immediately preceding
 8 the computation date. The computation of the "experience
 9 factor" shall be to six decimal places.

10 (b) Schedules shall be prepared listing all eligible
 11 and deficit employers in inverse numerical order of their
 12 experience factors. There shall be listed on such schedules
 13 for each employer in addition to the experience factor:

14 (i) the amount of his taxable payroll for the fiscal
 15 year ending on the computation date; and

16 (ii) the cumulative total consisting of the sum of the
 17 employer's taxable payroll for the fiscal year ending on the
 18 computation date and the corresponding taxable payrolls for
 19 all other employers preceding him on the schedules.

20 (3) The cumulative taxable payroll amounts listed on
 21 the schedules provided for in [section 14] shall be
 22 segregated into groups that will yield approximately the
 23 average tax rate according to the tax schedule assigned for
 24 that particular taxable year. Each group shall be identified
 25 by the rate class number listed in the table which

1 represents the percentage limits of each group. Each
 2 employer on the schedules is assigned that contribution rate
 3 opposite his rate class for the tax schedule in effect for
 4 the taxable year.

5 (4) (a) If the grouping of rate classes requires the
 6 inclusion of exactly one-half of an employer's taxable
 7 payroll, the employer is assigned the lower of the two rates
 8 designated for the two classes in which the halves of his
 9 taxable payroll are so required.

10 (b) If the group of rate classes requires the
 11 inclusion of a portion other than exactly one-half of an
 12 employer's taxable payroll, the employer is assigned the
 13 rate designated for the class in which the greater part of
 14 his taxable payroll is so required.

15 (c) If one or more employers on the schedules have
 16 experience factors identical to that of the last employer
 17 included in a particular rate class, all such employers are
 18 included in and assigned the contribution rate specified for
 19 such class, notwithstanding the provisions of [section 10].

20 (5) If the taxable payroll amount or the experience
 21 factor or both such taxable payroll amount and experience
 22 factor of any eligible or deficit employer listed on the
 23 schedules is changed, the employer is placed in that
 24 position on the schedules which he would have occupied had
 25 his taxable payroll amount or experience factor as changed

1 been used in determining his position in the first instance,
 2 but such change does not affect the position or rate
 3 classification of any other employer listed on the schedules
 4 and does not affect the rate determination for previous
 5 years.

6 NEW SECTION Section 11. Benefit payments chargeable
 7 to employer experience rating accounts. Benefits paid prior
 8 to June 30, with respect to benefit years commencing with
 9 July 1, 1976, and thereafter shall, as of June 30 of each
 10 year preceding the calendar year for which a covered
 11 employer's contribution rate is effective, be charged to the
 12 account of the covered employer, except cost reimbursement
 13 and governmental employers, who paid the largest individual
 14 amount of base period wages as shown on the determination
 15 used as the basis for the payment of such benefits. After
 16 June 30, 1979, no charge shall be made to the account of
 17 such covered employer with respect to benefits paid under
 18 the following situations:

19 (1) if paid to a worker who terminated his services
 20 voluntarily without good cause attributable to such covered
 21 employer or who had been discharged for misconduct in
 22 connection with such services;

23 (2) if paid in accordance with the extended benefit
 24 program triggered by either national or state indicators.

25 NEW SECTION Section 12. Maintenance of experience

1 rating records. An experience rating record shall be
 2 maintained for each covered employer. The record is credited
 3 with all contributions which the covered employer has paid
 4 for covered employment prior to the cutoff date. The record
 5 is also charged with the amount of benefits paid which are
 6 chargeable to the covered employer's account. Nothing in
 7 this section grants any covered employer or individual in
 8 his service a priority with respect to any claim or right
 9 because of amounts paid by the covered employer into the
 10 employment security fund.

11 NEW SECTION. Section 13. Experience rating record
 12 voided when account inactive. Whenever an employer whose
 13 coverage has been terminated because he has ceased to do
 14 business or because he has not covered employment for a
 15 period of 3 years, becomes a covered employer, he is
 16 considered a new employer and he is not to be credited with
 17 his previous experience for the purpose of computing any
 18 future "experience factor".

19 NEW SECTION. Section 14. Schedule of rates assigned
 20 based on trust fund reserve. (1) The rate schedule for each
 21 calendar year is assigned based upon the percent-of-average
 22 trust-fund-balance-of BAILO_OF THE TRUST FUND BALANCE AS OF
 23 DECEMBER 31 PRIOR TO THE RATE YEAR TO TOTAL WAGES IN COVERED
 24 EMPLOYMENT FOR the 12-month period prior to the computation
 25 date to total wages in covered employment for the same

1 period.

2 (2) The ratio at the top of each tax schedule in the
 3 tax table shown in [section 14] represents the minimum fund
 4 level required for a specific tax schedule to be in effect.
 5 (3) Employer rates are assigned in accord with the
 6 rates provided in each schedule for eligible, unrated, and
 7 deficit employers, based upon their experience as defined in
 8 this section, EXCEPT THAT FOR CALENDAR YEAR 1979, THE TAX
 9 RATE SCHEDULES X XI SHALL BE APPLIED AS PROVIDED FOR IN
 10 39-51-1202.

11 NEW SECTION. Section 15. Rate schedules.

12 SCHEDULE OF CONTRIBUTION RATES -- Part I

	Sched. I	Sched. II	Sched. III	Sched. IV
15 Minimum Ratio of				
16 Fund to Total Wages	(.0475)	(.0425)	(.0375)	(.0325)
17 Average Tax Rate	1.3	1.5	1.7	1.9
18 -----				

19 Rate Class	Contribution Rates For Eligible Employers			
20 1	0.2%	0.3%	0.5%	0.7%
21 2	0.4	0.6	0.8	1.0
22 3	0.7	0.9	1.1	1.3
23 4	1.0	1.2	1.4	1.6
24 5	1.3	1.5	1.7	1.9
25 6	1.6	1.8	2.0	2.2

1	7	1.9	2.1	2.3	2.5		
2	-----						
3	Contribution Rates For						
4	Unrated Employers:	2.1%	2.3%	2.5%	2.7%		
5	-----						
6	Rate Class	Contribution Rates For Deficit Employers					
7	1	2.2%	2.4%	2.6%	2.8%		
8	2	2.4	2.6	2.8	3.0		
9	3	2.6	2.8	3.0	3.2		
10	4	2.8	3.0	3.2	3.4		
11	5	3.0	3.2	3.4	3.6		
12	6	3.2	3.4	3.6	3.8		
13	SCHEDULES OF CONTRIBUTION RATES -- Part II						
14	Sched.	Sched.	Sched.	Sched.	Sched.	Sched.	SCHED
15	V	VI	VII	VIII	IX	X	XI
16	(.0275)	(.0225)	(.0175)	{+015}	{+0125}	{+0075}	final
17				a01251	a00751	1a00251	
18	2.1	2.3	2.5	2.7	2.9	3.1	3a2
19	-----						
20	Contribution Rates For Eligible Employers						
21	0.9%	1.1%	1.3%	1.5%	1.7%	1.9%	2a13
22	1.2	1.4	1.6	1.8	2.0	2.2	2a5
23	1.5	1.7	1.9	2.1	2.3	2.5	2a7
24	1.8	2.0	2.2	2.4	2.6	2.8	3a9
25	2.1	2.3	2.5	2.7	2.9	3.1	3a3

1	2.4	2.6	2.8	3.0	3.2	3.4	3a6
2	2.7	2.9	3.1	3.3	3.5	3.7	3a2
3	-----						
4	Contribution Rates For Unrated Employers:						
5	2.9%	3.1%	3.3%	3.5%	3.7%	3.9%	4a1%
6	-----						
7	Contribution Rates For Deficit Employers						
8	3.0%	3.2%	3.4%	3.6%	3.8%	4.0%	4a2%
9	3.2	3.4	3.6	3.8	4.0	4.2	4a4
10	3.4	3.6	3.8	4.0	4.2	4.4	4a6
11	3.6	3.8	4.0	4.2	4.4	4.4	4a6
12	3.8	4.0	4.2	4.4	4.4	4.4	4a6
13	4.0	4.2	4.4	4.4	4.4	4.4	4a6
14	NEW SECTION						Section 16. Procedures for the
15							substitution, merger, or acquisition of an employer account
16							by a successor employing unit. (1) Subject to the provisions
17							of subsection (3), whenever any individual or organization
18							(whether or not a covered employer) in any manner succeeds
19							to or acquires all or substantially all of the business of
20							an employer who at the time of acquisition was a covered
21							employer and whenever in respect to whom the division finds
22							that the business of the predecessor is continued solely by
23							the successor:
24							(a) the separate account and the actual contribution,
25							benefit, and taxable payroll experience of the predecessor

1 shall, upon the joint application of the predecessor and the
 2 successor within 90 days after such acquisition and approval
 3 by the division, be transferred to the successor employer
 4 for the purpose of determining the successor's liability and
 5 rate of contribution; and

6 (b) any successor who was not an employer on the date
 7 of acquisition becomes a covered employer as of such date.

8 (2) Whenever any individual or organization (whether
 9 or not a covered employer) in any manner succeeds to or
 10 acquires part of the business of an employer who at the time
 11 of acquisition was a covered employer and whenever such
 12 portion of the business is continued by the successor:

13 (a) so much of the separate account and the actual
 14 contribution, benefit, and taxable payroll experience of the
 15 predecessor as is attributable to the portion of the
 16 business transferred, as determined on a pro rata basis in
 17 the same ratio that the wages of covered employees properly
 18 allocable to the transferred portion of the business bears
 19 to the payroll of the predecessor in the last four completed
 20 calendar quarters immediately preceding the date of
 21 transfer, shall, upon the joint application of the
 22 predecessor and the successor within 90 days after such
 23 acquisition and approval by the division, be transferred to
 24 the successor employer for the purpose of determining the
 25 successor's liability and rate of contribution; and

1 (b) any successor who was not an employer on the date
 2 of acquisition becomes a covered employer as of such date.
 3 (3) (a) The 90-day period may be extended at the
 4 discretion of the division.

5 (b) Whenever a predecessor covered employer has a
 6 deficit experience rating account as of the last computation
 7 date, the transfer provided for in subsections (1) and (2)
 8 is mandatory except when it is shown by substantial evidence
 9 that the management or ownership or both the management and
 10 ownership are not substantially the same for the successor
 11 as for the predecessor, in which case the successor shall
 12 begin with the rate of a new employer. Whenever such
 13 mandatory transfer involves only a portion of the experience
 14 rating record and the predecessor or successor employers
 15 fail to supply the required payroll information within 10
 16 days after notice, the transfer shall be based on estimates
 17 of the applicable payrolls.

18 (4) (a) If the successor was a covered employer prior
 19 to the date of the acquisition of all or a part of the
 20 predecessor's business, his rate of contribution, effective
 21 the first day of the calendar year immediately following the
 22 date of acquisition, is based on the combined experience of
 23 the predecessor and successor.

24 (b) If the successor was not a covered employer prior
 25 to the date of the acquisition of all or a part of the

1 predecessor's business, his rate is the rate applicable to
 2 the predecessor with respect to the period immediately
 3 preceding the date of acquisition, but if there were more
 4 than one predecessor, the successor's rate shall be a newly
 5 computed rate based on the combined experience of the
 6 predecessors, becoming effective immediately after the date
 7 of acquisition and remaining in effect for the balance of
 8 the rate year.

9 Section 17. Section 39-51-401, MCA, is amended to
 10 read:

11 "39-51-401. Unemployment compensation account --
 12 establishment and control. There is hereby established
 13 separate and apart from all public money or funds of this
 14 state an account in the agency fund known as the
 15 unemployment compensation account, which shall be
 16 administered by the division exclusively for the purposes of
 17 this chapter. Any reference to the unemployment compensation
 18 fund in this code shall be taken to mean the unemployment
 19 compensation account in the agency fund. All money in the
 20 account shall be mingled and undivided. This account shall
 21 consist of:

22 (1) all contributions collected under this chapter,
 23 inclusive of voluntary contributions as provided in
 24 [87-109(c)(4), R.C.M. 1947], and payments made in lieu of
 25 contributions as provided in 39-51-1106(2)-and-(3) [sections

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

9 Section 18. Section 39-51-1103, MCA, is amended to
 10 read:

11 "39-51-1103. Contributions by employers required --
 12 payments in lieu thereof authorized for certain employers.
 13 (1) Contributions shall accrue and become payable by each
 14 employer for each calendar year in which he is subject to
 15 this chapter with respect to wages, as defined in
 16 39-51-201(19), paid for employment, as defined in this
 17 chapter, occurring during such calendar year.

18 (2) Such contributions shall become due and be paid by
 19 each employer to the division for the fund in accordance
 20 with such regulations as the division may prescribe and
 21 shall not be deducted in whole or in part from the wages of
 22 individuals in his employ.

23 (3) In the payment of any contributions, a fractional
 24 part of a cent shall be disregarded unless it amounts to
 25 one-half cent or more, in which case it shall be increased

1 to 1 cent.

2 (4) ~~for~~ Nonprofit organizations defined in section
 3 501(c)(3) of the federal Internal Revenue Code and which are
 4 exempt from tax under section 501(a) of such code may elect
 5 to make payments in lieu of contributions.

6 ~~(b) A group of nonprofit organizations may elect to make payments in
 7 the event of the division to act as a group in
 8 fulfilling the requirements of 39-51-1106(2) or of this
 9 chapter.~~

10 (5) The state and its political subdivisions,
 11 effective January 1, 1977, ~~for the rate year as defined in~~
 12 ~~39-51-1106(3)~~ may elect to make payments in lieu of
 13 contributions or pay under a special contributions plan
 14 established for governmental entities only."

15 Section 19. Section 39-51-1301, MCA, is amended to
 16 read:

17 "39-51-1301. Penalty and interest on past-due
 18 contributions. (1) Contribution reports not made and filed
 19 on the date on which they are due, as provided by
 20 subsections (1) and (2) of 39-51-1103 and subsection (2) of
 21 39-51-1106, shall be subject to a penalty assessment of \$10.
 22 Contributions unpaid on the date on which they are due and
 23 payable, as provided by subsections (1) and (2) of
 24 39-51-1103 and subsection (2) of 39-51-1106 [section 6],
 25 shall be subject to a penalty assessment of \$10 or 10% of

1 the contribution due, whichever is greater, and shall bear
 2 interest at the rate of 1% per month or fraction thereof.

3 (2) Interest and penalty collected pursuant to this
 4 section shall be paid into the unemployment compensation
 5 administration fund.

6 (3) When failure to pay contributions in time and
 7 before delinquency was not caused by willful intent of the
 8 employer and for good cause shown, the division may abate
 9 the penalty for late filing or late payment or both.
 10 Interest shall not be subject to abatement."

11 Section 20. Codification. It is intended that sections
 12 1 through 15 of this act be codified as an integral part of
 13 Title 39, chapter 51, part 21, and the provisions of Title
 14 39, chapter 51, apply to sections 1 through 15 of this act.

15 Section 21. Repealer. Sections 39-51-1106, 39-51-1107,
 16 and 39-51-1201 through ~~39-51-1203~~ AND 39-51-1205, MCA, are
 17 repealed. ~~SECTION 39-51-1204, MCA, IS REPEALED REIOACIVE~~
 18 TO JANUARY 1, 1979.

19 ~~SECTION 22, EFFECTIVE DATE AND REIOACIVE~~
 20 ~~APPLICATION. SECTION 39-51-1108, MCA, IS EFFECTIVE UPON~~
 21 ~~PASSAGE AND APPROVAL AND SHALL BE CONSIDERED TO APPLY AS OF~~
 22 JANUARY 1, 1972.

-End-

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

16 NEW SECTION. Section 1. Definitions. As used in

17 [Title 39, chapter 51, part 11], the following definitions

18 apply:

19 (1) "Computation date" means June 30 preceding the
20 calendar year for which a covered employer's contribution
21 rate is effective.

22 (2) "Cutoff date" means September 30 immediately
23 following the computation date.

24 (3) "Deficit employer" means a covered employer who
25 has established a record of accumulated benefits charged to

1 his account in excess of his accumulated contributions paid
2 as of the cutoff date and has a minus experience factor.
3 (4) "Division" means the employment security division
4 of the department of labor and industry.

5 (5) "Eligible employer" means a covered employer who
6 has:

7 (a) paid contributions during each of the 3 fiscal
8 years immediately preceding the computation date;

9 (b) with respect to such 3 fiscal years, filed all
10 contribution reports prescribed by the division;

11 (c) paid all contributions due with respect to the 3
12 fiscal years before the cutoff date of the rate year;

13 (d) established a record of accumulated contributions
14 in excess of benefits charged to his account; and

15 (e) achieved a plus experience factor.
16 (6) "Fiscal year" means the four consecutive calendar
17 quarters ending on June 30.

(7) "Governmental entities" means the state or any political subdivision of the state or an instrumentality of the state or a political subdivision, including any employing unit funded directly by tax levies.

22 (8) "Unrated employer" means a covered employer who
23 has not paid contributions in each of the 3 fiscal years
24 immediately preceding the computation date or an employer
25 who has established a record of accumulated contributions in

1 excess of benefits charged to his account but has not filed
 2 all required payroll reports or paid contributions by the
 3 cutoff date for any of the quarters in the 3 fiscal years
 4 immediately preceding the computation date.

5 NEW SECTION Section 2. Extension of cutoff date. The
 6 division may extend the cutoff date in meritorious cases.

7 NEW SECTION Section 3. Treatment of minor
 8 irregularities in determination of eligible employer status.
 9 For the purpose of determining if a covered employer is an
 10 eligible employer, delinquencies of a minor nature may be
 11 disregarded if it is shown to the satisfaction of the
 12 division that the covered employer acted in good faith and
 13 that forfeiture of a reduced contribution rate because of
 14 such minor delinquency would be inequitable.

15 NEW SECTION Section 4. Rates of contributions. All
 16 covered employers, except governmental entities and those
 17 qualified and electing to make payments in lieu of
 18 contributions, shall pay contributions at rates assigned
 19 annually by the division.

20 NEW SECTION Section 5. Procedure for election to
 21 make payments in lieu of contributions. (1) Any nonprofit
 22 organization defined in 39-51-1103 or governmental entity
 23 electing to become liable for payments in lieu of
 24 contributions must file a written notice of its election
 25 with the division not later than 30 days immediately

1 following the date of the determination of subjectivity to
 2 [Title 39, chapter 51]. This election shall be for a period
 3 of not less than 2 years.

4 (2) Any nonprofit organization defined in 39-51-1103
 5 or governmental entity which has been paying contributions
 6 for at least 2 taxable years may change to payments in lieu
 7 of contributions by filing a written notice to that effect
 8 with the division within 30 days before the beginning of the
 9 taxable year for which the change is effective.

10 NEW SECTION Section 6. Computation of payments in
 11 lieu of contributions. (1) Qualified employers electing to
 12 make payments in lieu of contributions shall pay into the
 13 fund an amount equivalent to the full amount of regular
 14 benefits plus one-half of the amount of extended benefits
 15 paid to individuals based on wages paid by the employing
 16 unit. After December 31, 1978, governmental entities shall
 17 pay the full amount of extended benefits.

18 (2) If benefits paid an individual are based on wages
 19 paid by both the employer and one or more other employers,
 20 the amount payable by any one employer to the fund bears the
 21 same ratio to total benefits paid to the individual as the
 22 base period wages paid to the individual by such employer
 23 bear to the total amount of base period wages paid to the
 24 individual by all his base period employers.

25 (3) If the base period wages of an individual include

1 wages from more than one such employer, the amount to be
 2 paid into the fund with respect to the benefits paid to the
 3 individual shall be prorated among the liable employers in
 4 proportion to the wages paid to the individual by each such
 5 employer during the base period.

6 (4) The amount of payment required from employers
 7 shall be ascertained by the division monthly and becomes due
 8 and payable by the employer quarterly as directed in [Title
 9 39, chapter 51]. Penalty and interest for delinquency shall
 10 be assessed such employers as specified in 39-51-1301.

11 (5) A nonprofit organization which elects to make
 12 payments in lieu of contributions into the unemployment
 13 compensation fund is not liable to make such payments with
 14 respect to the benefits paid to any individual whose base
 15 period wages include wages for previously uncovered
 16 services, as defined in 39-51-204(3)(c), to the extent that
 17 the unemployment compensation fund is reimbursed for such
 18 benefits pursuant to section 121 of Public Law 94-566.

19 NEW SECTION. Section 7. Termination of election to
 20 make payments in lieu of contributions. (1) Any nonprofit
 21 organization or governmental entity may terminate its
 22 election to make payments in lieu of contributions after 2
 23 years from the effective date of such election by filing a
 24 written notice with the division not later than 30 days
 25 prior to the beginning of the taxable year for which the

1 termination is effective.

2 (2) If a nonprofit organization or governmental entity
 3 is delinquent in making payments in lieu of contributions,
 4 the division may terminate the election to make payments in
 5 lieu of contributions as of the beginning of the next
 6 taxable year, and the termination is effective for that and
 7 the next taxable year.

8 SECTION 8. SECTION 39-51-1108, MCA, IS AMENDED TO
 9 READ:

10 "39-51-1108. Amount of wages per employee subject to
 11 contribution. (1) Payment of contributions shall apply only
 12 to wages paid up to and including \$4,200 by an employer to
 13 an employee with respect to employment during the calendar
 14 years 1972, 1973, 1974, and the first calendar quarter of
 15 year 1975.

16 (2) For the second calendar quarter of the calendar
 17 year 1975 and thereafter through the fourth calendar quarter
 18 of 1977, the taxable wage base shall be established for each
 19 year based upon the reserve percent of total wages or the
 20 amount of taxable wage base specified in the Federal
 21 Unemployment Tax Act whichever is higher is \$4,800.

22 (3) Effective January 1, 1978, and thereafter the
 23 Federal Unemployment Tax Act provides that contributions
 24 shall be paid on wages up to and including \$6,000 per
 25 employee AND THEREAFTER THE TAXABLE WAGE BASE FOR EACH YEAR

1 IS \$6,000.

2 (4) FOR THE FIRST CALENDAR QUARTER OF 1979 AND
3 THEREAFTER, THE TAXABLE WAGE BASE FOR EACH YEAR IS THE
4 GREATER OF:

5 (A) 75% OF THE AVERAGE ANNUAL WAGE AS DETERMINED UNDER
6 39-51-2201(2) (ROUNDED TO THE NEAREST \$100 NOT TO EXCEED AN
7 INCREASE OF \$200 OVER THE TAXABLE WAGE BASE IN THE PRECEDING
8 YEAR) DURING THE CALENDAR YEAR IMMEDIATELY PRECEDING THE
9 MOST RECENTLY COMPLETED CALENDAR YEAR; OR

10 (B) THE AMOUNT OF TAXABLE WAGE BASE SPECIFIED IN THE
11 FEDERAL UNEMPLOYMENT TAX ACT.

12 (C) NOTWITHSTANDING (4) THE TAXABLE WAGE BASE FOR 1979
13 SHALL BE \$7,400.

14 Reserve Percent ----- Taxable
15 of Total Wages ----- Wage Base

16 2-50% and above ----- \$4,200

17 2-25 to 2-49% ----- 4,400

18 2-00 to 2-24% ----- 4,600

19 less than 2-00% ----- 4,800

20 (4) for the first calendar quarter of 1979 and
21 thereafter the taxable wage base for each year is the
22 greater of

23 for the average annual wage as determined under
24 39-51-2201(2) rounded to the nearest \$100 during the
25 calendar year immediately preceding the most recently

1 completed calendar year five, the calendar year 1977 for
2 the payment year 1979; or
3 the amount of taxable wage base specified in the
4 Federal Unemployment Tax Act.

5 (4) for the first calendar quarter of 1979 and
6 thereafter, the taxable wage base for each year is the
7 greater of:

8 (A) 60% of the average annual wage as determined under
9 39-51-2201(2) (rounded to the nearest \$100) during the
10 calendar year immediately preceding the most recently
11 completed calendar year five, the calendar year 1977 for
12 the payment year 1979; or

13 (B) the amount of taxable wage base specified in the
14 Federal Unemployment Tax Act.

15 NEW SECTION. Section 9. Experience rating for
16 governmental entities. (1) Governmental entities newly
17 covered under [Title 39, chapter 51] after December 31,
18 1974, shall make payments for the period prior to July 1,
19 1977, equal to 0.4% of total wages paid employees for
20 services in employment during the calendar quarter and for
21 the period after July 1, 1977, shall make payments at the
22 median rate.

23 (2) The rates of governmental entities who have
24 accumulated experience rating credits shall be adjusted
25 annually as follows with each governmental entity assigned a

1 rate based upon:

2 (a) its benefit cost experience, to be arrived at by
3 dividing the total sum of benefits charged to the employer's
4 account for all past periods which are completed
5 transactions by December 31 by total wages from date of
6 subjectivity of the employing unit through December 31; and

7 (b) the benefit cost for all past years of
8 governmental entities electing to pay contributions compared
9 with total payrolls reported for all past years by these
10 governmental entities used as a median, with the rates so
11 fixed using the median that the rates will, when applied to
12 the total annual payroll for subject governmental entities,
13 yield total paid contributions equaling approximately the
14 total benefit costs.

15 (3) New governmental entities electing to pay
16 contributions shall be assigned the median rate for the year
17 in which they become subject.

18 (4) At no time may the minimum rate be less than 0.1%
19 or the maximum rate be greater than 1.5%. The rates are to
20 be graduated at one-tenth intervals.

21 (5) In the event benefit charges exceed contributions
22 paid in the last 2 completed fiscal years, governmental
23 entities' rates will be adjusted by increasing all rates to
24 the next higher schedule.

25 (6) The computed rate is effective July 1 of each

1 year.

2 NEW SECTION. Section 10. Classification of employers
3 for experience rating purposes. (1) The division shall for
4 each calendar year classify employers in accordance with
5 their actual experience in the payment of contributions and
6 with respect to benefits charged against their accounts,
7 with contribution rates reflecting benefit experience. Each
8 employer's rate for a calendar year shall be determined on
9 the basis of his record as of July 1 of the preceding
10 calendar year.

11 (2) In making the classification, each eligible and
12 deficit employer's contribution rate is determined in the
13 manner set forth below for the calendar year 1980 and for
14 each calendar year thereafter:

15 (a) Each employer is given an "experience factor"
16 which is contributions paid minus benefits charged on each
17 employer's account since July 1, 1976, divided by his
18 average annual taxable payroll rounded to the next lower
19 dollar amount for the 3 fiscal years immediately preceding
20 the computation date. The computation of the "experience
21 factor" shall be to six decimal places.

22 (b) Schedules shall be prepared listing all eligible
23 and deficit employers in inverse numerical order of their
24 experience factors. There shall be listed on such schedules
25 for each employer in addition to the experience factor:

7 (3) The cumulative taxable payroll amounts listed on
8 the schedules provided for in [section 14] shall be
9 segregated into groups that will yield approximately the
10 average tax rate according to the tax schedule assigned for
11 that particular taxable year. Each group shall be identified
12 by the rate class number listed in the table which
13 represents the percentage limits of each group. Each
14 employer on the schedules is assigned that contribution rate
15 opposite his rate class for the tax schedule in effect for
16 the taxable year.

17 (4) (a) If the grouping of rate classes requires the
18 inclusion of exactly one-half of an employer's taxable
19 payroll, the employer is assigned the lower of the two rates
20 designated for the two classes in which the halves of his
21 taxable payroll are so required.

22 (b) If the group of rate classes requires the
23 inclusion of a portion other than exactly one-half of an
24 employer's taxable payroll, the employer is assigned the
25 rate designated for the class in which the greater part of

1 his taxable payroll is so required.

2 (c) If one or more employers on the schedules have
3 experience factors identical to that of the last employer
4 included in a particular rate class, all such employers are
5 included in and assigned the contribution rate specified for
6 such class, notwithstanding the provisions of [section 10].

7 (5) If the taxable payroll amount or the experience
8 factor or both such taxable payroll amount and experience
9 factor of any eligible or deficit employer listed on the
10 schedules is changed, the employer is placed in that
11 position on the schedules which he would have occupied had
12 his taxable payroll amount or experience factor as changed
13 been used in determining his position in the first instance,
14 but such change does not affect the position or rate
15 classification of any other employer listed on the schedules
16 and does not affect the rate determination for previous
17 years.

18 NEW SECTION. Section 11. Benefit payments chargeable
19 to employer experience rating accounts. Benefits paid prior
20 to June 30, with respect to benefit years commencing with
21 July 1, 1976, and thereafter shall, as of June 30 of each
22 year preceding the calendar year for which a covered
23 employer's contribution rate is effective, be charged to the
24 account of the covered employer, except cost reimbursement
25 and governmental employers, who paid the largest individual

1 amount of base period wages as shown on the determination
 2 used as the basis for the payment of such benefits. After
 3 June 30, 1979, no charge shall be made to the account of
 4 such covered employer with respect to benefits paid under
 5 the following situations:

6 (1) if paid to a worker who terminated his services
 7 voluntarily without good cause attributable to such covered
 8 employer or who had been discharged for misconduct in
 9 connection with such services;

10 (2) if paid in accordance with the extended benefit
 11 program triggered by either national or state indicators.

12 NEW SECTION. Section 12. Maintenance of experience
 13 rating records. An experience rating record shall be
 14 maintained for each covered employer. The record is credited
 15 with all contributions which the covered employer has paid
 16 for covered employment prior to the cutoff date. The record
 17 is also charged with the amount of benefits paid which are
 18 chargeable to the covered employer's account. Nothing in
 19 this section grants any covered employer or individual in
 20 his service a priority with respect to any claim or right
 21 because of amounts paid by the covered employer into the
 22 employment security fund.

23 NEW SECTION. Section 13. Experience rating record
 24 voided when account inactive. Whenever an employer whose
 25 coverage has been terminated because he has ceased to do

1 business or because he has not covered employment for a
 2 period of 3 years, becomes a covered employer, he is
 3 considered a new employer and he is not to be credited with
 4 his previous experience for the purpose of computing any
 5 future "experience factor".

6 NEW SECTION. Section 14. Schedule of rates assigned
 7 based on trust fund reserve. (1) The rate schedule for each
 8 calendar year is assigned based upon the percent-of-average
 9 trust-fund-balance-of RATIO OF THE TRUST FUND BALANCE AS OF
 10 DECEMBER 31 PRIOR TO THE RATE YEAR TO TOTAL WAGES IN COVERED
 11 EMPLOYMENT FOR the 12-month period prior to the computation
 12 date, EXCEPT THAT A RECOMPUTATION BASED ON THE APRIL 1 TRUST
 13 FUND BALANCE WILL BE MADE EACH YEAR AND, IF THE RECOMPUTED
 14 RATIO RESULTS IN AN INCREASE OF .4% OR MORE, ALL EMPLOYER
 15 RATES WILL INCREASE .2% BEGINNING JULY 1 FOR THE REMAINDER
 16 OF THE YEAR to total wages in covered employment for the
 17 same period.

18 (2) The ratio at the top of each tax schedule in the
 19 tax table shown in [section 14] represents the minimum fund
 20 level required for a specific tax schedule to be in effect.

21 (3) Employer rates are assigned in accord with the
 22 rates provided in each schedule for eligible, unrated, and
 23 deficit employers, based upon their experience as defined in
 24 this section, EXCEPT THAT FOR CALENDAR YEAR 1979, THE TAX
 25 RATE SCHEDULE # XI X SHALL BE APPLIED AS PROVIDED FOR IN

1 39-51-1202.2 NEW SECTION Section 15. Rate schedules.

3 SCHEDULE OF CONTRIBUTION RATES -- Part I

	Sched. I	Sched. II	Sched. III	Sched. IV
--	----------	-----------	------------	-----------

6 Minimum Ratio of

Fund to Total Wages	+.0475	+.0425	+.0375	+.0325
	<u>+.0150</u>	<u>+.0145</u>	<u>+.0140</u>	<u>+.0130</u>

Average Tax Rate	1.3	1.5	1.7	1.9
------------------	-----	-----	-----	-----

Rate Class	Contribution Rates For Eligible Employers			
------------	---	--	--	--

1	0.2%	0.3%	0.5%	0.7%
---	------	------	------	------

2	0.4	0.6	0.8	1.0
---	-----	-----	-----	-----

3	0.7	0.9	1.1	1.3
---	-----	-----	-----	-----

4	1.0	1.2	1.4	1.6
---	-----	-----	-----	-----

5	1.3	1.5	1.7	1.9
---	-----	-----	-----	-----

6	1.6	1.8	2.0	2.2
---	-----	-----	-----	-----

7	1.9	2.1	2.3	2.5
---	-----	-----	-----	-----

Contribution Rates For				
------------------------	--	--	--	--

Unrated Employers:	2.1%	2.3%	2.5%	2.7%
--------------------	------	------	------	------

Rate Class	Contribution Rates For Deficit Employers			
------------	--	--	--	--

1	2.2%	2.4%	2.6%	2.8%
---	------	------	------	------

2	2.4	2.6	2.8	3.0
---	-----	-----	-----	-----

1 3 2.6 2.8 3.0 3.2 3.4

2 4 2.8 3.0 3.2 3.4 3.6

3 5 3.0 3.2 3.4 3.6 3.8

4 6 3.2 3.4 3.6 3.8

5 SCHEDULES OF CONTRIBUTION RATES -- Part II

Sched. V	Sched. VI	Sched. VII	Sched. VIII	Sched. IX	Sched. X	Sched. XI
----------	-----------	------------	-------------	-----------	----------	-----------

+.0275	+.0225	+.0175	+.015	+.0125	+.0075	+.0025
-------------------	-------------------	-------------------	------------------	-------------------	-------------------	-------------------

<u>+.0120</u>	<u>+.0110</u>	<u>+.0095</u>	<u>+.0075</u>	<u>+.005</u>	<u>+.0025</u>	<u>+.0005</u>
---------------	---------------	---------------	---------------	--------------	---------------	---------------

11 2.1 2.3 2.5 2.7 2.9 3.1 3.3

12

13 Contribution Rates For Eligible Employers
--

14 0.9% 1.1% 1.3% 1.5% 1.7% 1.9% 2.1%

15 1.2 1.4 1.6 1.8 2.0 2.2 2.4

16 1.5 1.7 1.9 2.1 2.3 2.5 2.7

17 1.8 2.0 2.2 2.4 2.6 2.8 3.0

18 2.1 2.3 2.5 2.7 2.9 3.1 3.3

19 2.4 2.6 2.8 3.0 3.2 3.4 3.6

20 2.7 2.9 3.1 3.3 3.5 3.7 3.9

21

22 Contribution Rates For Unrated Employers:
--

23 2.9% 3.1% 3.3% 3.5% 3.7% 3.9% 4.1%

24

25 Contribution Rates For Deficit Employers

1	3.0%	3.2%	3.4%	3.6%	3.8%	4.0%	4.2%
2	3.2	3.4	3.6	3.8	4.0	4.2	4.4
3	3.4	3.6	3.8	4.0	4.2	4.4	4.6
4	3.6	3.8	4.0	4.2	4.4	4.4	4.6
5	3.8	4.0	4.2	4.4	4.4	4.4	4.6
6	4.0	4.2	4.4	4.4	4.4	4.4	4.6

NEW SECTION. Section 16. Procedures for the substitution, merger, or acquisition of an employer account by a successor employing unit. (1) Subject to the provisions of subsection (3), whenever any individual or organization (whether or not a covered employer) in any manner succeeds to or acquires all or substantially all of the business of an employer who at the time of acquisition was a covered employer and whenever in respect to whom the division finds that the business of the predecessor is continued solely by the successor:

(a) the separate account and the actual contribution, benefit, and taxable payroll experience of the predecessor shall, upon the joint application of the predecessor and the successor within 90 days after such acquisition and approval by the division, be transferred to the successor employer for the purpose of determining the successor's liability and rate of contribution; and

(b) any successor who was not an employer on the date of acquisition becomes a covered employer as of such date.

(2) Whenever any individual or organization (whether or not a covered employer) in any manner succeeds to or acquires part of the business of an employer who at the time of acquisition was a covered employer and whenever such portion of the business is continued by the successor:

(a) so much of the separate account and the actual contribution, benefit, and taxable payroll experience of the predecessor as is attributable to the portion of the business transferred, as determined on a pro rata basis in the same ratio that the wages of covered employees properly allocable to the transferred portion of the business bears to the payroll of the predecessor in the last four completed calendar quarters immediately preceding the date of transfer, shall, upon the joint application of the predecessor and the successor within 90 days after such acquisition and approval by the division, be transferred to the successor employer for the purpose of determining the successor's liability and rate of contribution; and

(b) any successor who was not an employer on the date of acquisition becomes a covered employer as of such date.

(3) (a) The 90-day period may be extended at the discretion of the division.

(b) Whenever a predecessor covered employer has a deficit experience rating account as of the last computation date, the transfer provided for in subsections (1) and (2)

1 is mandatory except when it is shown by substantial evidence
 2 that the management or ownership or both the management and
 3 ownership are not substantially the same for the successor
 4 as for the predecessor, in which case the successor shall
 5 begin with the rate of a new employer. Whenever such
 6 mandatory transfer involves only a portion of the experience
 7 rating record and the predecessor or successor employers
 8 fail to supply the required payroll information within 10
 9 days after notice, the transfer shall be based on estimates
 10 of the applicable payrolls.

11 (4) (a) If the successor was a covered employer prior
 12 to the date of the acquisition of all or a part of the
 13 predecessor's business, his rate of contribution, effective
 14 the first day of the calendar year immediately following the
 15 date of acquisition, is based on the combined experience of
 16 the predecessor and successor.

17 (b) If the successor was not a covered employer prior
 18 to the date of the acquisition of all or a part of the
 19 predecessor's business, his rate is the rate applicable to
 20 the predecessor with respect to the period immediately
 21 preceding the date of acquisition, but if there were more
 22 than one predecessor, the successor's rate shall be a newly
 23 computed rate based on the combined experience of the
 24 predecessors, becoming effective immediately after the date
 25 of acquisition and remaining in effect for the balance of

1 the rate year.

2 Section 17. Section 39-51-401, MCA, is amended to
 3 read:

4 "39-51-401. Unemployment compensation account --
 5 establishment and control. There is hereby established
 6 separate and apart from all public money or funds of this
 7 state an account in the agency fund known as the
 8 unemployment compensation account, which shall be
 9 administered by the division exclusively for the purposes of
 10 this chapter. Any reference to the unemployment compensation
 11 fund in this code shall be taken to mean the unemployment
 12 compensation account in the agency fund. All money in the
 13 account shall be mingled and undivided. This account shall
 14 consist of:

15 (1) all contributions collected under this chapter,
 16 inclusive of voluntary contributions as provided in
 17 [87-109(c)(4), R.C.M. 1947], and payments made in lieu of
 18 contributions as provided in 39-51-~~106~~¹⁰⁶-27-end-~~13~~¹³ [sections
 19 5 through 7];

20 (2) interest earned upon any money in the account;

21 (3) any property or securities acquired through the
 22 use of money belonging to the account;

23 (4) all earnings of such property or securities; and

24 (5) all money credited to this state's account in the
 25 unemployment trust fund pursuant to section 903 of the

1 Social Security Act, as amended."

2 Section 18. Section 39-51-1103, MCA, is amended to
3 read:

4 "39-51-1103. Contributions by employers required --
5 payments in lieu thereof authorized for certain employers.
6 (1) Contributions shall accrue and become payable by each
7 employer for each calendar year in which he is subject to
8 this chapter with respect to wages, as defined in
9 39-51-201(19), paid for employment, as defined in this
10 chapter, occurring during such calendar year.

11 (2) Such contributions shall become due and be paid by
12 each employer to the division for the fund in accordance
13 with such regulations as the division may prescribe and
14 shall not be deducted in whole or in part from the wages of
15 individuals in his employ.

16 (3) In the payment of any contributions, a fractional
17 part of a cent shall be disregarded unless it amounts to
18 one-half cent or more, in which case it shall be increased
19 to 1 cent.

20 (4) ~~(a)~~ Nonprofit organizations defined in section
21 501(c)(3) of the federal Internal Revenue Code and which are
22 exempt from tax under section 501(a) of such code may elect
23 to make payments in lieu of contributions.

24 ~~(b)~~--*group-of-nonprofit-organizations-may-elect--with
25 the--approval--of--the--division--to--act--as--a--group--in

1 fulfilling--the--requirements--of--39-51-1106~~(1)~~--or--of--this
2 chapter.

3 (5) The state and its political subdivisions,
4 effective January 1, 1977, for the rate year as defined in
5 39-51-1106~~(3)~~, may elect to make payments in lieu of
6 contributions or pay under a special contributions plan
7 established for governmental entities only."

8 Section 19. Section 39-51-1301, MCA, is amended to
9 read:

10 "39-51-1301. Penalty and interest on past-due
11 contributions. (1) Contribution reports not made and filed
12 on the date on which they are due, as provided by
13 subsections (1) and (2) of 39-51-1103 and subsection ~~(2)~~ of
14 39-51-1106, shall be subject to a penalty assessment of \$10.
15 Contributions unpaid on the date on which they are due and
16 payable, as provided by subsections (1) and (2) of
17 39-51-1103 and subsection ~~(2)~~ of 39-51-1106 [section 6],
18 shall be subject to a penalty assessment of \$10 or 10% of
19 the contribution due, whichever is greater, and shall bear
20 interest at the rate of 1% per month or fraction thereof.

21 (2) Interest and penalty collected pursuant to this
22 section shall be paid into the unemployment compensation
23 administration fund.

24 (3) When failure to pay contributions in time and
25 before delinquency was not caused by willful intent of the

1 employer and for good cause shown, the division may abate
2 the penalty for late filing or late payment or both.
3 Interest shall not be subject to abatement."

4 Section 20. Codification. It is intended that sections
5 1 through ~~45~~ 7 AND 9 THROUGH 16 of this act be codified as
6 an integral part of Title 39, chapter 51, part 21, and the
7 provisions of Title 39, chapter 51, apply to sections 1
8 through ~~45~~ 7 AND 9 THROUGH 16 of this act.

9 Section 21. Repealer. Sections 39-51-1106, 39-51-1107,
10 ~~and 39-51-1201 through 39-51-1203, AND 39-51-1205, MCA, are~~
11 ~~repealed. SECTION 39-51-1204, MCA, IS REPEALED RETROACTIVE~~
12 ~~TO JANUARY 1, 1979.~~

13 ~~SECTION 22. EFFECTIVE DATE AND RETROACTIVE~~
14 ~~APPLICATION, SECTION 39-51-1108, MCA, IS EFFECTIVE UPON~~
15 ~~PASSAGE AND APPROVAL AND SHALL BE CONSIDERED TO APPLY AS OF~~
16 ~~JANUARY 1, 1979.~~

-End-