CHAPTER NO. \_170\_\_\_\_

# HOUSE BILL NO. 548

### INTRODUCED BY HARPER

## IN THE HOUSE

February 3, 1979 Introduced and referred to Committee on Labor and Employment Relations. February 12, 1979 Committee recommend bill do pass. Report adopted. February 13, 1979 Second reading, do pass. February 14, 1979 Considered correctly engrossed. February 15, 1979 Third reading, passed. Transmitted to second house. IN THE SENATE February 16, 1979 Introduced and referred to Committee on Labor and Employment Relations. March 5, 1979 Committee recommend bill be concurred in and be placed on Consent Calendar. Report adopted. Consent Calendar discussion. March 7, 1979 March 8, 1979 Consent Calendar concurred in. IN THE HOUSE Returned from second house. March 9, 1979 Concurred in. Sent to enrolling.

Reported correctly enrolled.

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HOLLAE BILL NO. 548 1 2 3

A BILL FOR AN ACT ENTITLED: "AN ACT TO CHANGE THE 4 DEFINITION OF "BENEFIT YEAR" FOR UNEMPLOYMENT COMPENSATION; -5 AMENDING SECTION 39-51-201, MCA." 6

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

Section 1. Section 39-51-201, MCA, is amended to read: 9 #39-51-201. General definitions. As used in this 10 chapter, unless the context clearly requires otherwise, the 11 following definitions apply: 12

(1) The word "administrator" refers to a person 13 appointed by the commissioner of labor and industry to 14 direct and administer the unemployment compensation laws and 15 federal laws falling within the administrator\*s 16 jurisdiction. 17

(2) "Annual payroll" means the total amount of wages 13 paid by an employer: regardless of the time of payment. for 19 employment during a calendar year. 20

(3) "Annual total payroll" means the total of the 4 21 quarters of total payrolls of an employer preceding the 22 23 computation date as fixed herein.

(4) "Base period" means the first four of the last 24 five completed calendar quarters immediately preceding the 25

first day of an individual's benefit year. However, in the case of a combined-wage claim pursuant to the arrangement approved by the secretary of labor of the United States, the base period shall be that applicable under the unemployment law of the paying state. (5) "Benefits" means the money payments payable to an individual, as provided in this chapter, with respect to his (6) "Benefit year", with respect to any individual. means the 52 consecutive-week period beginning with the first day of the calendar week in which such individual files a valid claim and thereafter the -- 52 -- consecutive-week period--beginning-with-the-first-day-of-the-colondar-week-in

14 which-such-individual-files-his-next-valid-claim-after--the 15 termination--of--his--last--preceding-banefit-yeory--if-such 16 filing-shall-result-in-an-overlapping-of-benefit-yesrs--the 17 new-benefit-year-shall-begin-upon-the-first-Sunday-following the--expiration--of--his--last--precoding--benefit--year for 18 benefits, except that the benefit year shall be 53 weeks if 19 20 filing a new valid claim would result in overlapping any 21 quarter of the base year of a previously filed new claim. A subsequent benefit year may not be established until the 22 23 expiration of the current benefit year. However, in the case of a combined-wage claim pursuant to the arrangement 24

25 approved by the secretary of labor of the United States, the

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base period shall be that applicable under the unemployment
 law of the paying state.

3 (7) "Poard" means the board of labor appeals provided
4 for in Title 2, chapter 15, part 17.

5 (8) "Calendar quarter" means the period of 3
6 consecutive calendar months ending on March 31, June 30,
7 September 30, or December 31.

8 (9) "Contributions" means the money payments to the
 9 state unemployment compensation fund required by this
 10 chapter.

(10) "Division" means the employment security division
 of the department of labor and industry provided for in
 Title 2, chapter 15, part 17.

14 (11) "Employing unit" means any individual or type of organization, including the state government, any of its 15 political subdivisions instrumentalities. 16 or anv 17 partnership, association, trust, estate, joint-stock company, insurance company, or corporation, whether domestic 13 or foreign, or the receiver, trustee in bankruptcy, trustee 19 20 or successor thereof, or the legal representative of a 21 deceased person which has or subsequent to January 1+ 1936+ 22 had in its employ one or more individuals performing 23 services for it within this state, except as provided under subsections (8) and (9) of 39-51-203, and all individuals 24 performing services within this state for any employing unit 25

1 which maintains two or more separate establishments within this state shall be deemed to be employed by a single 2 3 employing unit for all the purposes of this chapter. -ach individual employed to perform or assist in performing the 4 work of any agent or employee of an employing unit shall be 5 deemed to be employed by such employing unit for the ь purposes of this chapter, whether such individual was hired 7 or paid directly by such employing unit or by such agent or 8 9 provided the employing unit has actual or employee, constructive knowledge of the work. 10

11 (12) "Employment office" means a free public employment 12 office or branch thereof operated by this state or 13 maintained as a part of a state-controlled system of public 14 employment offices or such other free public employment 15 offices operated and maintained by the United States 16 government or its instrumentalities as the division may 17 approve.

18 (13) "Fund" means the unemployment compensation fund 19 established by this chapter to which all contributions and 20 payments in lieu of contributions are required and from 21 which all benefits provided under this chapter shall be 22 paid.

23 (14) "Gross misconduct" means a criminal act, other
24 than a violation of a motor vehicle traffic law, for which
25 an individual has been convicted in a criminal court or has

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admitted or conduct which demonstrates a flagrant and wanton
 disragard of and for the rights or title or interest of a
 fellow employee or his employer.

4 (15) "Hospital" means an institution which has been
5 licensed, certified, or approved by the state as a hospital.
6 (16) (a) "Institution of higher education", for the
7 purposes of this part, means an education institution which:
8 (i) admits as regular students only individuals having
9 a certificate of graduation from a high school or the
10 recognized equivalent of such a certificate;

(ii) is legally authorized in this state to provide a
 program of education beyond high school;

13 (iii) provides an educational program for which it 14 awards a bachelor's or higher degree or provides a program 15 which is acceptable for full credit toward such a degree, a 16 program of post-graduate or post-doctoral studies, or a 17 program of training to prepare students for gainful 18 employment in a recognized occupation; and

19 (iv) is a public or other nonprofit institution.

(b) Notwithstanding any of the foregoing provisions of
this subsection, all colleges and universities in this state
are institutions of higher education for purposes of this
part.

24 (17) "State" includes, in addition to the states of the
25 United States of America, the District of Columbia, Puerto

Rico. the Virgin Islands. and the Dominion of Canada.
 (13) "Unemployment compensation administration fund"
 means the unemployment compensation administration fund
 established by this chapter from which administrative
 expenses under this chapter shall be paid.

6 (19) (a) "Wages" means all remuneration payable for 7 personal services. Including commissions and bonuses and the 8 cash value of all remuneration payable in any medium other 9 than cash. The reasonable cash value of remuneration 10 payable in any medium other than cash shall be estimated and 11 determined in accordance with rules prescribed by the 12 division.

13 (b) The term "wages" shall not include:

14 (i) the amount of any payment made to or on behalf of 15 an employee by an employer on account of:

16 (A) retirement;

17 (B) sickness or accident disability;

18 (C) medical and hospitalization expenses in connection

19 with sickness or accident disability; or

20 (D) death;

(ii) remuneration paid by any county welfare office
 from welfare assistance funds for services performed at the
 direction and request of such county welfare office.

24 (20) "Week" means a period of 7 consecutive calendar
 25 days ending at midnight on Saturday.

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

4 (22) The word "division" throughout the unemployment
5 statutes refers to a unit of the Montana state department of
6 labor and industry.

7 (23) The words "board of labor appeals" used in this 8 chapter mean three persons appointed by the governor who are 9 not public employees but who are attached to the Montana 10 state department of labor and industry. The function of 11 said board is to act in a quasi-judicial capacity for the 12 hearing of disputes concerning the administration of 13 Montana's unemployment insurance laws."

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HB 548, 2nd Reading was unobtainable.

House BILL NO. 548

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO CHANGE THE 5 DEFINITION OF "BENEFIT YEAR" FOR UNEMPLOYMENT COMPENSATION; 6 AMENDING SECTION 39-51-201, MCA."

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

9 Section 1. Section 39-51-201, MCA, is amended to read:
10 "39-51-201. General definitions. As used in this
11 chapter, unless the context clearly requires otherwise, the
12 following definitions apply:

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

13 (2) "Annual payroll" means the total amount of wages
19 paid by an employer, regardless of the time of payment, for
20 employment during a calendar year.

(3) "Annual total payroll" means the total of the 4
quarters of total payrolls of an employer preceding the
computation date as fixed herein.

24 (4) "Base period" means the first four of the last
25 five completed calendar quarters immediately preceding the

1 first day of an individual's benefit year. However, in the 2 case of a combined-wage claim pursuant to the arrangement 3 approved by the secretary of labor of the United States, the 4 base period shall be that applicable under the unemployment 5 law of the paying state.

6 (5) "Benefits" means the money payments payable to an
7 individual, as provided in this chapter, with respect to his
8 unemployment.

9 (6) "Benefit year", with respect to any individual, 10 means the 52 consecutive-week period beginning with the first day of the calendar week in which such individual 11 12 files a valid claim and-thereafter-the--52--consecutive-week 13 period-beainning-with-the-first-day-of-the-colender-week-in which-such-individual-files-his-next-valid-claim--ofter--the 14 15 terainstion--of--his--last--preceding-benefit-veory--lf-such fiting-shatt-result-in-on-overlapping-of-benefit-yearsy--the 16 17 new-benefit-year-shall-begin-upon-the-first-Sunday-following 34 the--expiration--of--his--last--preceding--benefit--year for 19 benefits, except that the benefit year shall be 53 weeks if 20 filing a new valid claim would result in overlapping any 21 quarter of the base year of a previously filed new claim. A 27 subsequent penefit year may not be established until the 23 expiration of the current benefit year. However, in the case 24 of a combined-wage claim pursuant to the arrangement 25 approved by the secretary of labor of the United States, the

-2- HB 548 THIRD READING base period shall be that applicable under the unemployment
 law of the paying state.

3. (7) "Board" means the board of Fabor appeals provided
4 for in Title 2, chapter 15, part 17.

5 (8) "Calendar quarter" means the period of 3
6 consecutive calendar months ending on March 31, June 30,
7 September 30, or December 31.

8. {9} "Contributions" means the money payments to the
 9. state unemployment compensation fund required by this
 10 chapter.

(10) "Division" means the employment security division
 of the department of labor and industry provided for in
 Title 2, chapter 15, part 17.

14 (11) "Employing unit" means any individual or type of organization, including the state government, any of its 15 16 political subdivisions or instrumentalities. anv 17 partnership, association, trust, estate, joint-stock 18 company, insurance company, or corporation, whether domestic 19 or foreign, or the receiver, trustee in bankruptcy, trustee 20 or successor thereof, or the legal representative of a 21 deceased person which has or subsequent to January 1, 1936, 22 had in its employ one or more individuals performing 23 services for it within this state, except as provided under subsections (8) and (9) of 39-51-203, and all individuals 24 25 performing services within this state for any employing unit

1 which maintains two or more separate establishments within 2 this state shall be deemed to be employed by a single employing unit for all the purposes of this chapter. Each 3 individual employed to perform or assist in performing the 4 5 work of any agent or employee of an employing unit shall be deemed to be employed by such employing unit for the 6 7 purposes of this chapter, whether such individual was hired or paid directly by such employing unit or by such agent or 8 9 employee, provided the employing unit has actual or 10 constructive knowledge of the work.

11 (12) "Employment office" means a free public employment 12 office or branch thereof operated by this state or 13 maintained as a part of a state-controlled system of public 14 employment offices or such other free public employment 15 offices operated and maintained by the United States 16 government or its instrumentalities as the division may 17 approve-

19 (13) "Fund" means the unemployment compensation full.
19 established by this chapter to which all contributions and
20 payments in lieu of contributions are required and from
21 which all benefits provided under this chapter shall be
22 paid.

23 (14) "Gross misconduct" means a criminal act, other
24 than a violation of a motor vehicle traffic law, for which
25 an individual has been convicted in a criminal court or has

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admitted or conduct which demonstrates a flagrant and wanton
 disregard of and for the rights or title or interest of a
 fellow employee or his employer.

4 (15) "Hospital" means an institution which has been
5 licensed, certified, or approved by the state as a hospital.
6 (16) (a) "Institution of higher education", for the
7 purposes of this part, means an education institution which:
8 (i) admits as regular students only individuals having
9 a certificate of graduation from a high school or the
10 recognized equivalent of such a certificate;

(ii) is legally authorized in this state to provide a
 program of education beyond high school;

13 (iii) provides an educational program for which it 14 awards a bachelor\*s or higher degree or provides a program 15 which is acceptable for full credit toward such a degree, a 16 program of post-graduate or post-doctoral studies, or a 17 program of training to prepare students for gainful 18 employment in a recognized occupation; and

19 (iv) is a public or other nonprofit institution.

(b) Notwithstanding any of the foregoing provisions of
this subsection, all colleges and universities in this state
are institutions of higher education for purposes of this
part.

24 (17) "State" includes, in addition to the states of the
 25 United States of America, the District of Columbia, Puerto

Rico, the Virgin Islands, and the Dominion of Canada. 1 2 (13) "Unemployment compensation administration fund" means the unemployment compensation administration fund 3 established by this chapter from which administrative 4 5 expenses under this chapter shall be paid. 6 (19) (a) "Wages" means all remuneration payable for personal services, including commissions and bonuses and the 7 а cash value of all remuneration payable in any medium other 9 than cash. The reasonable cash value of remuneration payable in any medium other than cash shall be estimated and 10 11 determined in accordance with rules prescribed by the 12 division. 13 (b) The term "wages" shall not include: 14 (i) the amount of any payment made to or on behalf of 15 an employee by an employer on account of:

- 16 (A) retirement;
- 17 (B) sickness or accident disability;
- 18 (C) medical and hospitalization expenses in connection
- 19 with sickness or accident disability; or
- 20 (D) death;

21 (ii) remuneration paid by any county welfare office

- 22 from welfare assistance funds for services performed at the
- 23 direction and request of such county welfare office.
- 24 (20) "Week" means a period of 7 consecutive calendar
   25 days ending at midnight on Saturday.

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

4 (22) The word "division" throughout the unemployment
5 statutes refers to a unit of the Montana state department of
6 labor and industry.

7 (23) The words "board of labor appeals" used in this 8 chapter mean three persons appointed by the governor who are 9 not public employees but who are attached to the Montana 10 state department of labor and industry. The function of 11 said board is to act in a quasi-judicial capacity for the 12 hearing of disputes concerning the administration of 13 Montana's unemployment insurance laws."

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HB 0548/02

HOUSE BILL NO. 548 1 2 INTRODUCED BY HARPER з A BILL FOR AN ACT ENTITLED: "AN ACT TO CHANGE THE 4 DEFINITION OF "BENEFIT YEAR" FOR UNENPLOYMENT COMPENSATION: 5 AMENDING SECTION 39-51-201, MCA.\* 6 7 Ą BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: Section 1. Section 39-51-201. MCA, is amended to read: 9 #39-51-201. General definitions. As used in this 10 11 chapter, unless the context clearly requires otherwise, the following definitions apply: 12 13 (1) The word "administrator" refers to a person appointed by the commissioner of labor and industry to 14 15 direct and administer the unemployment compensation laws and 16 federal laws falling within the administrator's 17 jurisdiction. 18 (2) "Annual payroll" means the total amount of wages paid by an employer, regardless of the time of payment, for 19 20 employment during a calendar year. 21 (3) "Annual total payroll" means the total of the 4 22 quarters of total payrolls of an employer preceding the 23 computation date as fixed herein. 24 (4) "Base period" means the first four of the last 25 five completed calendar quarters immediately preceding the

first day of an individual's benefit year. However, in the Ł 2 case of a combined-wage claim pursuant to the arrangement approved by the secretary of labor of the United States, the 3 base period shall be that applicable under the unemployment law of the paying state. 5 (5) "Benefits" means the money payments payable to an 6 7 individual, as provided in this chapter, with respect to his unemployment. я 9 (6) "Benefit year", with respect to any individual, means the 52 consecutive-week period beginning with the 10 first day of the calendar week in which such individual 11 12 files a valid claim end-thereafter-the--52--consecutive-week 13 period--boginning-with-the-first-day-of-the-colender-week-in which-such-individual-files-his-next-valid-claim--after--the 14 termination--of--his--last--preceding-benefit-years--If-such 15 filing-shall-result-in-an-overlopping-of-benefit-yearsy--the 16 new-benefit-year-shall-begin-upon-the-first-Sunday-following 17 18 the--expiration--of--his--tast--preceding--benefit--yeer for 19 benefits. except that the benefit year shall be 53 weeks if 20 filing a new valid clain would result in overlapping any 21 quarter of the base year of a previously filed new claim. A 22 subsequent benefit year may not be established until the 23 expiration of the current benefit year. However, in the case 24 of a combined-wage claim pursuant to the arrangement approved by the secretary of labor of the United States, the 25

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SENATE CONSENT CALENDAR

#### HB 0543702

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1 base period shall be that applicable under the unemployment

2 law of the paying state.

3 (7) "Board" means the board of labor appeals provided
4 for in Title 2. chapter 15. part 17.

5 (8) "Calendar quarter" means the period of 3
6 consecutive calendar months ending on March 31, June 30,
7 September 30, or December 31.

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(14) "Gross misconduct" means a criminal act, other
 than a violation of a motor vehicle traffic law, for which
 an individual has been convicted in a criminal court or has

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#### HB 0548/02

admitted or conduct which demonstrates a flagrant and wanton
 disregard of and for the rights or title or interest of a
 fallow employee or his employer.

4 (15) "Hospital" means an institution which has been
5 licensed, certified, or approved by the state as a hospital.
6 (16) (a) "Institution of higher education", for the
7 purposes of this part, means an education institution which:
3 (i) admits as regular students only individuals having
9 a certificate of graduation from a high school or the
10 recognized equivalent of such a certificate;

(ii) is legally authorized in this state to provide a
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(iii) provides an educational program for which it awards a bachelor's or higher degree or provides a program which is acceptable for full credit toward such a degree, a program of post-graduate or post-doctoral studies, or a program of training to prepare students for deinful employment in a recognized occupation; and

19 (iv) is a public or other nonprofit institution.

(b) Notwithstanding any of the foregoing provisions of
this subsection, all colleges and universities in this state
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25 United States of America, the District of Columbia, Puerto

1 Rico, the Virgin Islands, and the Dominion of Canada. 2 (18) "Unemployment compensation administration fund" 3 means the unemployment compensation administration fund established by this chapter from which administrative 4 expenses under this chapter shall be paid. 5 6 (19) (a) "Wages" means all remuneration payable for personal services, including commissions and bonuses and the 7 а cash value of all remuneration payable in any medium other 9 than cash. The reasonable cash value of remuneration 10 payable in any medium other than cash shall be estimated and determined in accordance with rules prescribed by the 11 12 division. 13 (b) The term "wages" shall not include: 14 (i) the amount of any payment made to or on behalf of 15 an employee by an employer on account of: 16 (A) retirement; 17 (3) sickness or accident disability; 18 (C) medical and hospitalization expenses in connection with sickness or accident disability; or 19 20 (0) death;

21 (ii) remuneration paid by any county welfare office

22 from welfare assistance funds for services performed at the

23 direction and request of such county welfare office.

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- 24 (20) "Weck" means a period of 7 consecutive calendar
- 25 days ending at midnight on Saturday.

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H3 548

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

4 (22) The word "division" throughout the unemployment 5 statutes refers to a unit of the Montana state department of 6 labor and industry.

7 (23) The words "board of labor appeals" used in this 8 chapter mean three persons appointed by the governor who are 9 not public employees but who are attached to the Montana 10 state department of labor and industry. The function of 11 said board is to act in a quasi-judicial capacity for the 12 hearing of disputes concerning the administration of 13 Montana's unemployment insurance laws."

-End-