

HOUSE BILL NO. 49

INTRODUCED BY GOULD

BY REQUEST OF THE DEPARTMENT OF LABOR AND INDUSTRY

IN THE HOUSE

January 6, 1981	Introduced and referred to Committee on Labor and Industry.
January 14, 1981	Committee recommend bill do pass, as amended. Report adopted.
January 15, 1981	Bill printed and placed on members' desks.
January 16, 1981	Second reading, do pass.
January 17, 1981	Correctly engrossed. Third reading, passed. Transmitted to Senate.

IN THE SENATE

January 19, 1981	Introduced and referred to Committee on Labor and Employment Relations.
January 29, 1981	Committee recommend bill be concurred in. Report adopted.
January 31, 1981	Second reading, concurred in.
February 3, 1981	Third reading, concurred in.

IN THE HOUSE

February 4, 1981	Returned from Senate. Concurred in. Sent to enrolling. Reported correctly enrolled.
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1 HOUSE BILL NO. 49
 2 INTRODUCED BY GOULD
 3 BY REQUEST OF THE DEPARTMENT OF LABOR AND INDUSTRY

4
 5 A BILL FOR AN ACT ENTITLED: "AN ACT TO LIMIT THE EXPERIENCE
 6 RATING COMPUTATION OF EMPLOYERS TO THE MOST RECENT 3 FISCAL
 7 YEARS ENDING SEPTEMBER 30 OF EACH YEAR AND TO ADJUST
 8 ACCORDINGLY TIME REQUIREMENTS INVOLVING EXPERIENCE RATING
 9 REQUIREMENTS; AMENDING SECTIONS 39-51-1121, 39-51-1213,
 10 39-51-1214, 39-51-1215, AND 39-51-1217, MCA."

11
 12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 13 Section 1. Section 39-51-1121, MCA, is amended to read:
 14 "39-51-1121. Definitions. As used in this part and part
 15 12, the following definitions apply:

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

19 (2) "Cutoff date" means ~~September--30~~ December 31
 20 immediately following the computation date. The division may
 21 extend the cutoff date in meritorious cases.

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

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

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

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

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

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

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

13 (e) achieved a plus experience factor.

14 (6) "Fiscal year" means the four consecutive calendar
 15 quarters ending on ~~June--30~~ September 30.

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

20 (8) "Unrated employer" means a covered employer who has
 21 not paid contributions in each of the 3 fiscal years
 22 immediately preceding the computation date or an employer
 23 who has established a record of accumulated contributions in
 24 excess of benefits charged to his account but has not filed
 25 all required payroll reports or paid contributions by the

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1 cutoff date for any of the quarters in the 3 fiscal years
2 immediately preceding the computation date."

3 Section 2. Section 39-51-1213, MCA, is amended to read:

4 "39-51-1213. Classification of employers for experience
5 rating purposes. (1) The division shall for each calendar
6 year classify employers in accordance with their actual
7 experience in the payment of contributions and with respect
8 to benefits charged against their accounts, with
9 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~~ October 1 of the
12 preceding 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" which
18 is contributions paid minus benefits charged on each
19 employer's account ~~since July 1, 1976, for the most recent 3~~
20 fiscal years immediately preceding the computation date,
21 divided by his average annual taxable payroll rounded to the
22 next lower dollar amount for the ~~same~~ same 3 fiscal years
23 ~~immediately preceding the computation date.~~ The computation
24 of the "experience factor" shall be to six decimal places.

25 (b) Schedules shall be prepared listing all eligible

1 and deficit employers in inverse numerical order of their
2 experience factors. There shall be listed on such schedules
3 for each employer in addition to the experience factor:

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

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

10 (3) The cumulative taxable payroll amounts listed on
11 the schedules provided for in 39-51-1218 shall be segregated
12 into groups that will yield approximately the average tax
13 rate according to the tax schedule assigned for that
14 particular taxable year. Each group shall be identified by
15 the rate class number listed in the table which represents
16 the percentage limits of each group. Each employer on the
17 schedules is assigned that contribution rate opposite his
18 rate class for the tax schedule in effect for the taxable
19 year.

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

25 (b) If the group of rate classes requires the inclusion

1 of a portion other than exactly one-half of an employer's
2 taxable payroll, the employer is assigned the rate
3 designated for the class in which the greater part of his
4 taxable payroll is so required.

5 (c) If one or more employers on the schedules have
6 experience factors identical to that of the last employer
7 included in a particular rate class, all such employers are
8 included in and assigned the contribution rate specified for
9 such class, notwithstanding the provisions of 39-51-1213.

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

21 Section 3. Section 39-51-1214, MCA, is amended to read:
22 "39-51-1214. Benefit payments chargeable to employer
23 experience rating accounts. Benefits paid ~~prior to June 30,~~
24 ~~with respect to benefit years commencing with July 1, 1976~~
25 ~~and thereafter~~ shall ~~as of June 30 of each year preceding~~

1 ~~the calendar year for which a covered employer's~~
2 ~~contribution rate is effective~~ be charged to the account of
3 the covered employer, except cost reimbursement and
4 governmental employers, who paid the largest individual
5 amount of base period wages as shown on the determination
6 used as the basis for the payment of such benefits. ~~After~~
7 ~~June 30, 1979, no~~ charge shall be made to the account of
8 such covered employer with respect to benefits paid under
9 the following situations:

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

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

16 Section 4. Section 39-51-1215, MCA, is amended to read:
17 "39-51-1215. Maintenance of experience rating records.
18 An experience rating record shall be maintained for each
19 covered employer. The record is credited with all
20 contributions which the covered employer has paid for
21 ~~covered employment for the most recent 3 fiscal years~~
22 ~~immediately preceding the computation date,~~ prior to the
23 cutoff date. The record is also charged with the amount of
24 benefits paid which are chargeable to the covered employer's
25 account ~~for the most recent 3 fiscal years ending September~~

1 30. Nothing in this section grants any covered employer or
2 individual in his service a priority with respect to any
3 claim or right because of amounts paid by the covered
4 employer into the employment security fund."

5 Section 5. Section 39-51-1217, MCA, is amended to read:

6 "39-51-1217. Schedule of rates assigned based on trust
7 fund reserve. (1) The rate schedule for each calendar year
8 is assigned based upon the ratio of the trust fund balance
9 as of December 31 prior to the rate year to total wages in
10 covered employment for the 12-month period prior to the
11 computation date, except that a recomputation based on the
12 April 1 trust fund balance will be made each year and, if
13 the recomputed ratio results in an a_rate increase of 0.4%
14 or more, all employer rates will increase 0.2% beginning
15 July 1 for the remainder of the year.

16 (2) The ratio at the top of each tax schedule in the
17 tax table shown in 39-51-1218 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]."

-End-

Approved by Committee
on Labor & Employment
Relations

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18 period ending September 30 preceding the calendar year for
19 which a covered employer's contribution rate is effective.

20 (2) "Cutoff date" means ~~September--30~~ December 31
21 immediately following the computation date. The division may
22 extend the cutoff date in meritorious cases.

23 (3) "Deficit employer" means a covered employer who
24 has established a record of accumulated benefits charged to
25 his account in excess of his accumulated contributions paid

1 as of the cutoff date and has a minus experience factor.

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

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

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7 years immediately preceding the computation date;

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

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

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13 in excess of benefits charged to his account; and

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16 quarters ending on ~~June-30~~ September 30.

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18 political subdivision of the state or an instrumentality of
19 the state or a political subdivision, including any
20 employing unit funded directly by tax levies.

21 (8) "Unrated employer" means a covered employer who
22 has not paid contributions in each of the 3 fiscal years
23 immediately preceding the computation date or an employer
24 who has established a record of accumulated contributions in
25 excess of benefits charged to his account but has not filed

1 all required payroll reports or paid contributions by the
2 cutoff date for any of the quarters in the 3 fiscal years
3 immediately preceding the computation date."

4 Section 2. Section 39-51-1213, MCA, is amended to
5 read:

6 "39-51-1213. Classification of employers for
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12 employer's rate for a calendar year shall be determined on
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14 preceding calendar year.

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16 deficit employer's contribution rate is determined in the
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18 each calendar year thereafter:

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20 which is contributions paid minus benefits charged on each
21 employer's account ~~since July 1, 1976~~ for the most recent 3
22 fiscal years immediately preceding the computation date,
23 divided by his average annual taxable payroll rounded to the
24 next lower dollar amount for the ~~same~~ same 3 fiscal years
25 ~~immediately preceding the computation date.~~ The computation

1 of the "experience factor" shall be to six decimal places.

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3 and deficit employers in inverse numerical order of their
4 experience factors. There shall be listed on such schedules
5 for each employer in addition to the experience factor:

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

8 (ii) the cumulative total consisting of the sum of the
9 employer's taxable payroll for the fiscal year ending on the
10 computation date and the corresponding taxable payrolls for
11 all other employers preceding him on the schedules.

12 (3) The cumulative taxable payroll amounts listed on
13 the schedules provided for in 39-51-1218 shall be segregated
14 into groups that will yield approximately the average tax
15 rate according to the tax schedule assigned for that
16 particular taxable year. Each group shall be identified by
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18 the percentage limits of each group. Each employer on the
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21 year.

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23 inclusion of exactly one-half of an employer's taxable
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25 designated for the two classes in which the halves of his

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4 employer's taxable payroll, the employer is assigned the
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6 his taxable payroll is so required.

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8 experience factors identical to that of the last employer
9 included in a particular rate class, all such employers are
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11 such class, notwithstanding the provisions of 39-51-1213.

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13 factor or both such taxable payroll amount and experience
14 factor of any eligible or deficit employer listed on the
15 schedules is changed, the employer is placed in that
16 position on the schedules which he would have occupied had
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20 classification of any other employer listed on the schedules
21 and does not affect the rate determination for previous
22 years."

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24 read:

25 "39-51-1214. Benefit payments chargeable to employer

1 experience rating accounts. Benefits paid ~~prior to June 30,~~
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3 ~~and thereafter~~ shall ~~as of June 30 of each year preceding~~
4 ~~the calendar year for which a covered employer's~~
5 ~~contribution rate is effective~~ be charged to the account of
6 the covered employer, except cost reimbursement and
7 governmental employers, who paid the largest individual
8 amount of base period wages as shown on the determination
9 used as the basis for the payment of such benefits. ~~After~~
10 ~~June 30, 1979, no~~ ~~no~~ charge shall be made to the account of
11 such covered employer with respect to benefits paid under
12 the following situations:

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14 voluntarily without good cause attributable to such covered
15 employer or who had been discharged for misconduct in
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18 program triggered by either national or state indicators."

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23 covered employer. The record is credited with all
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1 ~~immediately preceding the computation date~~, prior to the
 2 cutoff date. The record is also charged with the amount of
 3 benefits paid which are chargeable to the covered employer's
 4 account ~~for the most recent 3 fiscal years ending September~~
 5 ~~30~~. Nothing in this section grants any covered employer or
 6 individual in his service a priority with respect to any
 7 claim or right because of amounts paid by the covered
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9 Section 5. Section 39-51-1217, MCA, is amended to
 10 read:

11 "39-51-1217. Schedule of rates assigned based on trust
 12 fund reserve. (1) The rate schedule for each calendar year
 13 is assigned based upon the ratio of the trust fund balance
 14 as of December 31 prior to the rate year to total wages in
 15 covered employment for the 12-month period prior to the
 16 computation date ~~except that a recomputation based on the~~
 17 ~~April 1 trust fund balance will be made each year and if~~
 18 ~~the recomputed ratio results in an a rate increase of 0.4%~~
 19 ~~or more all employer rates will increase 0.2% beginning~~
 20 ~~July 1 for the remainder of the year.~~

21 (2) The ratio at the top of each tax schedule in the
 22 tax table shown in 39-51-1218 represents the minimum fund
 23 level required for a specific tax schedule to be in effect.

24 (3) Employer rates are assigned in accord with the
 25 rates provided in each schedule for eligible, unrated, and

1 deficit employers, based upon their experience as defined in
 2 this section, except that for calendar year 1979, the tax
 3 rate Schedule X shall be applied as provided for in
 4 [39-51-1202]."

-End-

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BY REQUEST OF THE DEPARTMENT OF LABOR AND INDUSTRY

A BILL FOR AN ACT ENTITLED: "AN ACT TO LIMIT THE EXPERIENCE RATING COMPUTATION OF EMPLOYERS TO THE MOST RECENT 3 FISCAL YEARS ENDING SEPTEMBER 30 OF EACH YEAR AND TO ADJUST ACCORDINGLY TIME REQUIREMENTS INVOLVING EXPERIENCE RATING REQUIREMENTS; AMENDING SECTIONS 39-51-1121, 39-51-1213, 39-51-1214, 39-51-1215, AND 39-51-1217, MCA."

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

Section 1. Section 39-51-1121, MCA, is amended to read:

"39-51-1121. Definitions. As used in this part and part 12, the following definitions apply:

(1) "Computation date" means ~~June--30~~ the reporting period ending September 30 preceding the calendar year for which a covered employer's contribution rate is effective.

(2) "Cutoff date" means ~~September--30~~ December 31 immediately following the computation date. The division may extend the cutoff date in meritorious cases.

(3) "Deficit employer" means a covered employer who has established a record of accumulated benefits charged to his account in excess of his accumulated contributions paid

as of the cutoff date and has a minus experience factor.

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

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

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

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

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

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

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1 all required payroll reports or paid contributions by the
2 cutoff date for any of the quarters in the 3 fiscal years
3 immediately preceding the computation date."

4 Section 2. Section 39-51-1213, MCA, is amended to
5 read:

6 "39-51-1213. Classification of employers for
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12 employer's rate for a calendar year shall be determined on
13 the basis of his record as of ~~July 1~~ October 1 of the
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15 (2) In making the classification, each eligible and
16 deficit employer's contribution rate is determined in the
17 manner set forth below for the calendar year 1980 and for
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20 which is contributions paid minus benefits charged on each
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22 fiscal years immediately preceding the computation date,
23 divided by his average annual taxable payroll rounded to the
24 next lower dollar amount for the ~~same~~ 3 fiscal years
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3 and deficit employers in inverse numerical order of their
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7 year ending on the computation date; and

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9 employer's taxable payroll for the fiscal year ending on the
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19 schedules is assigned that contribution rate opposite his
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 3 rate Schedule X shall be applied as provided for in
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14 (e) achieved a plus experience factor.

15 (6) "Fiscal year" means the four consecutive calendar
16 quarters ending on ~~June-30~~ September 30.17 (7) "Governmental entities" means the state or any
18 political subdivision of the state or an instrumentality of
19 the state or a political subdivision, including any
20 employing unit funded directly by tax levies.21 (8) "Unrated employer" means a covered employer who
22 has not paid contributions in each of the 3 fiscal years
23 immediately preceding the computation date or an employer
24 who has established a record of accumulated contributions in
25 excess of benefits charged to his account but has not filed

1 all required payroll reports or paid contributions by the
2 cutoff date for any of the quarters in the 3 fiscal years
3 immediately preceding the computation date."

4 Section 2. Section 39-51-1213, MCA, is amended to
5 read:

6 "39-51-1213. Classification of employers for
7 experience rating purposes. (1) The division shall for each
8 calendar year classify employers in accordance with their
9 actual experience in the payment of contributions and with
10 respect to benefits charged against their accounts, with
11 contribution rates reflecting benefit experience. Each
12 employer's rate for a calendar year shall be determined on
13 the basis of his record as of ~~July 1~~ October 1 of the
14 preceding calendar year.

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

19 (a) Each employer is given an "experience factor"
20 which is contributions paid minus benefits charged on each
21 employer's account ~~since July 1, 1976~~ for the most recent 3
22 fiscal years immediately preceding the computation date,
23 divided by his average annual taxable payroll rounded to the
24 next lower dollar amount for the same 3 fiscal years
25 ~~immediately--preceding--the--computation--date.~~ The computation

1 of the "experience factor" shall be to six decimal places.

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

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

8 (ii) the cumulative total consisting of the sum of the
9 employer's taxable payroll for the fiscal year ending on the
10 computation date and the corresponding taxable payrolls for
11 all other employers preceding him on the schedules.

12 (3) The cumulative taxable payroll amounts listed on
13 the schedules provided for in 39-51-1218 shall be segregated
14 into groups that will yield approximately the average tax
15 rate according to the tax schedule assigned for that
16 particular taxable year. Each group shall be identified by
17 the rate class number listed in the table which represents
18 the percentage limits of each group. Each employer on the
19 schedules is assigned that contribution rate opposite his
20 rate class for the tax schedule in effect for the taxable
21 year.

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

1 taxable payroll are so required.

2 (b) If the group of rate classes requires the
3 inclusion of a portion other than exactly one-half of an
4 employer's taxable payroll, the employer is assigned the
5 rate designated for the class in which the greater part of
6 his taxable payroll is so required.

7 (c) If one or more employers on the schedules have
8 experience factors identical to that of the last employer
9 included in a particular rate class, all such employers are
10 included in and assigned the contribution rate specified for
11 such class, notwithstanding the provisions of 39-51-1213.

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

23 Section 3. Section 39-51-1214, MCA, is amended to
24 read:

25 "39-51-1214. Benefit payments chargeable to employer

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

13 (1) if paid to a worker who terminated his services
14 voluntarily without good cause attributable to such covered
15 employer or who had been discharged for misconduct in
16 connection with such services;

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

19 Section 4. Section 39-51-1215, MCA, is amended to
20 read:

21 "39-51-1215. Maintenance of experience rating records.
22 An experience rating record shall be maintained for each
23 covered employer. The record is credited with all
24 contributions which the covered employer has paid for
25 covered-employment for the most recent 3 fiscal years

1 immediately preceding the computation date, prior to the
 2 cutoff date. The record is also charged with the amount of
 3 benefits paid which are chargeable to the covered employer's
 4 account for the most recent 3 fiscal years ending September
 5 30. Nothing in this section grants any covered employer or
 6 individual in his service a priority with respect to any
 7 claim or right because of amounts paid by the covered
 8 employer into the employment security fund."

9 Section 5. Section 39-51-1217, MCA, is amended to
 10 read:

11 "39-51-1217. Schedule of rates assigned based on trust
 12 fund reserve. (1) The rate schedule for each calendar year
 13 is assigned based upon the ratio of the trust fund balance
 14 as of December 31 prior to the rate year to total wages in
 15 covered employment for the 12-month period prior to the
 16 computation date ~~except that a recomputation based on the~~
 17 ~~April 1 trust fund balance will be made each year and, if~~
 18 ~~the recomputed ratio results in an 0-rate increase of 0.4%~~
 19 ~~or more, all employer rates will increase 0.2% beginning~~
 20 ~~July 1 for the remainder of the year.~~

21 (2) The ratio at the top of each tax schedule in the
 22 tax table shown in 39-51-1218 represents the minimum fund
 23 level required for a specific tax schedule to be in effect.

24 (3) Employer rates are assigned in accord with the
 25 rates provided in each schedule for eligible, unrated, and

1 deficit employers, based upon their experience as defined in
 2 this section, except that for calendar year 1979, the tax
 3 rate Schedule X shall be applied as provided for in
 4 [39-51-1202]."

-End-