

HOUSE BILL NO. 270

INTRODUCED BY DRISCOLL, DOZIER, SPAETH,
J. JENSEN, MOHAR, MENAHAN, HEMSTAD,
KEENAN, DARKO, HARRINGTON, MCBRIDE,
DAILY, QUILICI, MCCORMICK, D. BROWN

BY REQUEST OF THE DEPARTMENT OF LABOR AND INDUSTRY

IN THE HOUSE

January 17, 1983	Introduced and referred to Committee on Labor and Employment Relations.
January 25, 1983	Committee recommend bill do pass. Report adopted.
January 26, 1983	Bill printed and placed on members' desks.
January 27, 1983	Second reading, do pass.
January 28, 1983	Considered correctly engrossed.
January 29, 1983	Third reading, passed. Transmitted to Senate.

IN THE SENATE

January 31, 1983	Introduced and referred to Committee on Labor and Employment Relations.
March 14, 1983	Committee recommend bill be concurred in. Report adopted.
March 16, 1983	Second reading, concurred in.
March 18, 1983	Third reading, concurred in. Ayes, 50; Noes, 0.

IN THE HOUSE

March 18, 1983

Returned to House.

March 19, 1983

Sent to enrolling.

Reported correctly enrolled.

1 *House* BILL NO. *270*
 2 INTRODUCED BY *Donnelly, D. J. Jensen*
 3 BY REQUEST OF THE DEPARTMENT OF LABOR AND INDUSTRY *McDonald*
 4 *Menahan, Lemmon, Keenan, Daily, Zindner, Starko, Harrington, McBride, Carl Brown*
 5 A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING A PERSON WHO
 6 IS TEMPORARILY TOTALLY DISABLED UNDER WORKERS' COMPENSATION
 7 LAWS TO USE WAGE CREDITS FROM EMPLOYMENT PRIOR TO THE
 8 DISABILITY FOR PURPOSES OF UNEMPLOYMENT BENEFITS; AMENDING
 9 SECTION 39-51-201, MCA; AND PROVIDING AN EFFECTIVE DATE."
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 11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 12 Section 1. Section 39-51-201, MCA, is amended to read:
 13 "39-51-201. General definitions. As used in this
 14 chapter, unless the context clearly requires otherwise, the
 15 following definitions apply:
 16 (1) The word "administrator" refers to a person
 17 appointed by the commissioner of labor and industry to
 18 direct and administer the unemployment insurance laws and
 19 federal laws falling within the administrator's
 20 jurisdiction.
 21 (2) "Annual payroll" means the total amount of wages
 22 paid by an employer, regardless of the time of payment, for
 23 employment during a calendar year.
 24 (3) "Annual total payroll" means the total of the 4
 25 four quarters of total payrolls of an employer preceding the

1 computation date as fixed herein.
 2 (4) "Base period" means the first four of the last
 3 five completed calendar quarters immediately preceding the
 4 first day of an individual's benefit year. However, in the
 5 case of a combined-wage claim pursuant to the arrangement
 6 approved by the secretary of labor of the United States, the
 7 base period shall be that applicable under the unemployment
 8 law of the paying state. For an individual who fails to
 9 meet the qualifications of 39-51-2105 due to a temporary
 10 total disability as defined in 39-71-116 or a similar
 11 statute of another state or the United States, the base
 12 period means the first four quarters of the last five
 13 quarters preceding the disability if a claim for
 14 unemployment benefits is filed within 18 months of the
 15 individual's last employment.
 16 (5) "Benefits" means the money payments payable to an
 17 individual, as provided in this chapter, with respect to his
 18 unemployment.
 19 (6) "Benefit year", with respect to any individual,
 20 means the 52 consecutive-week period beginning with the
 21 first day of the calendar week in which such individual
 22 files a valid claim for benefits, except that the benefit
 23 year shall be 53 weeks if filing a new valid claim would
 24 result in overlapping any quarter of the base year of a
 25 previously filed new claim. A subsequent benefit year may

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4 labor of the United States, the base period is the period
5 applicable under the unemployment law of the paying state.

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

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

11 (9) "Contributions" means the money payments to the
12 state unemployment insurance fund required by this chapter.

13 (10) "Department" means the department of labor and
14 industry provided for in Title 2, chapter 15, part 17.

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

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

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

19 (13) "Fund" means the unemployment insurance fund
20 established by this chapter to which all contributions and
21 payments in lieu of contributions are required and from
22 which all benefits provided under this chapter shall be
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25 than a violation of a motor vehicle traffic law, for which

1 an individual has been convicted in a criminal court or has
2 admitted or conduct which demonstrates a flagrant and wanton
3 disregard of and for the rights or title or interest of a
4 fellow employee or his employer.

5 (15) "Hospital" means an institution which has been
6 licensed, certified, or approved by the state as a hospital.

7 (16) (a) "Institution of higher education", for the
8 purposes of this part, means an educational institution
9 which:

10 (i) admits as regular students only individuals having
11 a certificate of graduation from a high school or the
12 recognized equivalent of such a certificate;

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

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

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

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

1 (17) "State" includes, in addition to the states of the
2 United States of America, the District of Columbia, Puerto
3 Rico, the Virgin Islands, and the Dominion of Canada.

4 (18) "Unemployment insurance administration fund" means
5 the unemployment insurance administration fund established
6 by this chapter from which administrative expenses under
7 this chapter shall be paid.

8 (19) (a) "Wages" means all remuneration payable for
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10 cash value of all remuneration payable in any medium other
11 than cash. The reasonable cash value of remuneration
12 payable in any medium other than cash shall be estimated and
13 determined in accordance with rules prescribed by the
14 department.

15 (b) The term "wages" does not include:

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

18 (A) retirement;

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20 (C) medical and hospitalization expenses in connection
21 with sickness or accident disability; or

22 (D) death;

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

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

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

6 NEW SECTION. Section 2. Effective date. This act is
7 effective July 1, 1983.

-End-

Approved by Committee
on Labor & Employment
Relations

1 *House* BILL NO. *270*
2 INTRODUCED BY *Originally By Speech J. Jensen*
3 *McLean* BY REQUEST OF THE DEPARTMENT OF LABOR AND INDUSTRY
4 *McLean* *Democrat* *Kevin Daily* *Republican*
5 *Darke* *Harrington* *McBride* *Carl Brown*
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SECOND READING

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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 postgraduate or postdoctoral studies, or a program of training to prepare students for gainful employment in a recognized occupation; and

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DAILY, QUILICI, MCCORMICK, D. BROWN

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18 (iii) provides an educational program for which it
19 awards a bachelor's or higher degree or provides a program
20 which is acceptable for full credit toward such a degree, a
21 program of postgraduate or postdoctoral studies, or a
22 program of training to prepare students for gainful
23 employment in a recognized occupation; and

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

25 (b) Notwithstanding any of the foregoing provisions of

1 this subsection, all colleges and universities in this state
2 are institutions of higher education for purposes of this
3 part.

4 (17) "State" includes, in addition to the states of the
5 United States of America, the District of Columbia, Puerto
6 Rico, the Virgin Islands, and the Dominion of Canada.

7 (18) "Unemployment insurance administration fund" means
8 the unemployment insurance administration fund established
9 by this chapter from which administrative expenses under
10 this chapter shall be paid.

11 (19) (a) "Wages" means all remuneration payable for
12 personal services, including commissions and bonuses and the
13 cash value of all remuneration payable in any medium other
14 than cash. The reasonable cash value of remuneration
15 payable in any medium other than cash shall be estimated and
16 determined in accordance with rules prescribed by the
17 department.

18 (b) The term "wages" does not include:

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

21 (A) retirement;

22 (B) sickness or accident disability;

23 (C) medical and hospitalization expenses in connection
24 with sickness or accident disability; or

25 (D) death;

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

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

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

9 ~~NEW__SECTION.~~ Section 2. Effective date. This act is
10 effective July 1, 1983.

-End-