

HOUSE BILL NO. 137

INTRODUCED BY DRISCOLL

BY REQUEST OF THE DEPARTMENT OF LABOR AND INDUSTRY

IN THE HOUSE

|                  |  |
|------------------|--|
| January 10, 1985 | Introduced and referred to<br>Committee on Business and Labor.   |
| January 11, 1985 | Fiscal Note requested.   |
| January 16, 1985 | Fiscal Note returned.  |
| January 19, 1985 | Committee recommend bill do pass<br>as amended. Report adopted.<br><br>Bill printed and placed on<br>members' desks. |
| January 23, 1985 | Second reading, do pass.   |
| January 24, 1985 | Considered correctly engrossed.  |
| January 25, 1985 | Third reading, passed.<br>Transmitted to Senate.   |

IN THE SENATE

|                  |   |
|------------------|---|
| January 26, 1985 | Introduced and referred to<br>Committee on Labor and Employment<br>Relations. |
| February 1, 1985 | Committee recommend bill be<br>concurrred in. Report adopted.                 |
| February 2, 1985 | Second reading, concurrred in.  |
| February 5, 1985 | Third reading, concurrred in.<br>Ayes, 46; Noes, 0.<br><br>Returned to House. |

IN THE HOUSE

February 6, 1985

Received from Senate.

Sent to enrolling.

Reported correctly enrolled.

1 House BILL NO. 137  
 2 INTRODUCED BY Drumell  
 3 BY REQUEST OF THE DEPARTMENT OF LABOR AND INDUSTRY

4  
 5 A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING A PERSON WHO  
 6 IS TEMPORARILY TOTALLY DISABLED UNDER THE WORKERS'  
 7 COMPENSATION LAW TO USE WAGE CREDITS FROM EMPLOYMENT PRIOR  
 8 TO THE DISABILITY FOR PURPOSES OF UNEMPLOYMENT INSURANCE;  
 9 AMENDING SECTION 39-51-201, MCA; AND PROVIDING AN EFFECTIVE  
 10 DATE."

11  
 12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13 Section 1. Section 39-51-201, MCA, is amended to read:  
 14 "39-51-201. General definitions. As used in this  
 15 chapter, unless the context clearly requires otherwise, the  
 16 following definitions apply:

17 (1) The word "administrator" refers to a person  
 18 appointed by the commissioner of labor and industry to  
 19 direct and administer the unemployment insurance laws and  
 20 federal laws falling within the administrator's  
 21 jurisdiction.

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

25 (3) "Annual total payroll" means the total of the four

1 quarters of total payrolls of an employer preceding the  
 2 computation date as fixed herein.

3 (4) "Base period" means the first four of the last  
 4 five completed calendar quarters immediately preceding the  
 5 first day of an individual's benefit year. However, in the  
 6 case of a combined-wage claim pursuant to the arrangement  
 7 approved by the secretary of labor of the United States, the  
 8 base period shall be that applicable under the unemployment  
 9 law of the paying state. For an individual who fails to  
 10 meet the qualifications of 39-51-2105 due to a temporary  
 11 total disability as defined in 39-71-116 or a similar  
 12 statute of another state or the United States, the base  
 13 period means the first four quarters of the last five  
 14 quarters preceding the disability if a claim for  
 15 unemployment benefits is filed within 18 months of the date  
 16 on which the individual's last--employment disability was  
 17 incurred.

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

21 (6) "Benefit year", with respect to any individual,  
 22 means the 52 consecutive-week period beginning with the  
 23 first day of the calendar week in which such individual  
 24 files a valid claim for benefits, except that the benefit  
 25 year shall be 53 weeks if filing a new valid claim would



1 result in overlapping any quarter of the base year of a  
 2 previously filed new claim. A subsequent benefit year may  
 3 not be established until the expiration of the current  
 4 benefit year. However, in the case of a combined-wage claim  
 5 pursuant to the arrangement approved by the secretary of  
 6 labor of the United States, the base period is the period  
 7 applicable under the unemployment law of the paying state.

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

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

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

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

17 (11) "Employing unit" means any individual or  
 18 organization, including the state government, any of its  
 19 political subdivisions or instrumentalities, any  
 20 partnership, association, trust, estate, joint-stock  
 21 company, insurance company, or corporation, whether domestic  
 22 or foreign, or the receiver, trustee in bankruptcy, trustee  
 23 or successor thereof, or the legal representative of a  
 24 deceased person which has or subsequent to January 1, 1936,  
 25 had in its employ one or more individuals performing

1 services for it within this state, except as provided under  
 2 subsections (8) and (9) of 39-51-203. All individuals  
 3 performing services within this state for any employing unit  
 4 which maintains two or more separate establishments within  
 5 this state are considered to be employed by a single  
 6 employing unit for all the purposes of this chapter. Each  
 7 individual employed to perform or assist in performing the  
 8 work of any agent or employee of an employing unit is deemed  
 9 to be employed by such employing unit for the purposes of  
 10 this chapter, whether such individual was hired or paid  
 11 directly by such employing unit or by such agent or  
 12 employee, provided the employing unit has actual or  
 13 constructive knowledge of the work.

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

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

1 (14) "Gross misconduct" means a criminal act, other  
 2 than a violation of a motor vehicle traffic law, for which  
 3 an individual has been convicted in a criminal court or has  
 4 admitted or conduct which demonstrates a flagrant and wanton  
 5 disregard of and for the rights or title or interest of a  
 6 fellow employee or his employer.

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

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

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

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

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

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

24 (b) Notwithstanding any of the foregoing provisions of  
 25 this subsection, all colleges and universities in this state

1 are institutions of higher education for purposes of this  
 2 part.

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

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

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

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

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

20 (A) retirement;

21 (B) sickness or accident disability;

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

24 (D) death;

25 (ii) remuneration paid by any county welfare office

1 from public assistance funds for services performed at the  
2 direction and request of such county welfare office.

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

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

8 NEW SECTION. Section 2. Extension of authority. Any  
9 existing authority of the department of labor and industry  
10 to make rules on the subject of the provisions of this act  
11 is extended to the provisions of this act.

12 NEW SECTION. Section 3. Effective date. This act is  
13 effective July 1, 1985.

-End-

STATE OF MONTANA  
FISCAL NOTE

REQUEST NO. FNN080-85

Form BD-15

In compliance with a written request received January 11 19 85, there is hereby submitted a Fiscal Note for H.B. 137 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA). Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

An Act Allowing A Person Who Is Temporarily Totally Disabled Under The Workers' Compensation Law To Use Wage Credits From Employment Prior To The Disability For Purposes Of Unemployment Insurance; Amending Section 39-51-201, MCA; And Providing An Effective Date.

ASSUMPTIONS:

1. Benefit payments as previously estimated by the Department are FY 1986 - \$67,000,000  
FY 1987 - \$73,000,000
2. The most recent 12 months (Current year 1984) experience indicated 7 claimants would not qualify under the proposed law.
3. The average duration is one-half the potential maximum duration.

FISCAL IMPACT ON STATE SPECIAL REVENUE:

BENEFITS & CLAIMS EXPENDITURES:

|                | <u>FY 1986</u>    | <u>FY 1987</u>    |
|----------------|-------------------|-------------------|
| Current Law    | \$67,000,000      | \$73,000,000      |
| Proposed Law   | <u>66,987,400</u> | <u>72,987,000</u> |
| Net Difference | \$ 12,600         | \$ 13,000         |

*David L Hunter*

BUDGET DIRECTOR  
Office of Budget and Program Planning

Date: Jan 16, 1985

APPROVED BY COMM. ON BUSINESS AND LABOR

HOUSE BILL NO. 137

INTRODUCED BY DRISCOLL

BY REQUEST OF THE DEPARTMENT OF LABOR AND INDUSTRY

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING A PERSON WHO IS TEMPORARILY TOTALLY DISABLED UNDER THE WORKERS' COMPENSATION LAW TO USE WAGE CREDITS FROM EMPLOYMENT PRIOR TO THE DISABILITY FOR PURPOSES OF UNEMPLOYMENT INSURANCE; AMENDING SECTION 39-51-201, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

Section 1. Section 39-51-201, MCA, is amended to read:

"39-51-201. General definitions. As used in this chapter, unless the context clearly requires otherwise, the following definitions apply:

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

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

(3) "Annual total payroll" means the total of the four

quarters of total payrolls of an employer preceding the computation date as fixed herein.

(4) "Base period" means the first four of the last five completed calendar quarters immediately preceding the 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. For an individual who fails to meet the qualifications of 39-51-2105 due to a temporary total disability as defined in 39-71-116 or a similar statute of another state or the United States, the base period means the first four quarters of the last five quarters preceding the disability if a claim for unemployment benefits is filed within ~~18~~ 24 months of the date on which the individual's last--employment disability was incurred.

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

(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 for benefits, except that the benefit year shall be 53 weeks if filing a new valid claim would





1 result in overlapping any quarter of the base year of a  
 2 previously filed new claim. A subsequent benefit year may  
 3 not be established until the expiration of the current  
 4 benefit year. However, in the case of a combined-wage claim  
 5 pursuant to the arrangement approved by the secretary of  
 6 labor of the United States, the base period is the period  
 7 applicable under the unemployment law of the paying state.

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

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

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

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

17 (11) "Employing unit" means any individual or  
 18 organization, including the state government, any of its  
 19 political subdivisions or instrumentalities, any  
 20 partnership, association, trust, estate, joint-stock  
 21 company, insurance company, or corporation, whether domestic  
 22 or foreign, or the receiver, trustee in bankruptcy, trustee  
 23 or successor thereof, or the legal representative of a  
 24 deceased person which has or subsequent to January 1, 1936,  
 25 had in its employ one or more individuals performing

1 services for it within this state, except as provided under  
 2 subsections (8) and (9) of 39-51-203. All individuals  
 3 performing services within this state for any employing unit  
 4 which maintains two or more separate establishments within  
 5 this state are considered to be employed by a single  
 6 employing unit for all the purposes of this chapter. Each  
 7 individual employed to perform or assist in performing the  
 8 work of any agent or employee of an employing unit is deemed  
 9 to be employed by such employing unit for the purposes of  
 10 this chapter, whether such individual was hired or paid  
 11 directly by such employing unit or by such agent or  
 12 employee, provided the employing unit has actual or  
 13 constructive knowledge of the work.

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

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

1 (14) "Gross misconduct" means a criminal act, other  
 2 than a violation of a motor vehicle traffic law, for which  
 3 an individual has been convicted in a criminal court or has  
 4 admitted or conduct which demonstrates a flagrant and wanton  
 5 disregard of and for the rights or title or interest of a  
 6 fellow employee or his employer.

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

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

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

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

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

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

24 (b) Notwithstanding any of the foregoing provisions of  
 25 this subsection, all colleges and universities in this state

1 are institutions of higher education for purposes of this  
 2 part.

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

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

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

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

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

20 (A) retirement;

21 (B) sickness or accident disability;

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

24 (D) death;

25 (ii) remuneration paid by any county welfare office

1 from public assistance funds for services performed at the  
2 direction and request of such county welfare office.

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

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

8 NEW SECTION. Section 2. Extension of authority. Any  
9 existing authority of the department of labor and industry  
10 to make rules on the subject of the provisions of this act  
11 is extended to the provisions of this act.

12 NEW SECTION. Section 3. Effective date. This act is  
13 effective July 1, 1985.

-End-

## 1 HOUSE BILL NO. 137

2 INTRODUCED BY DRISCOLL

3 BY REQUEST OF THE DEPARTMENT OF LABOR AND INDUSTRY

4  
5 A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING A PERSON WHO  
6 IS TEMPORARILY TOTALLY DISABLED UNDER THE WORKERS'  
7 COMPENSATION LAW TO USE WAGE CREDITS FROM EMPLOYMENT PRIOR  
8 TO THE DISABILITY FOR PURPOSES OF UNEMPLOYMENT INSURANCE;  
9 AMENDING SECTION 39-51-201, MCA; AND PROVIDING AN EFFECTIVE  
10 DATE."

11  
12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13 Section 1. Section 39-51-201, MCA, is amended to read:

14 "39-51-201. General definitions. As used in this  
15 chapter, unless the context clearly requires otherwise, the  
16 following definitions apply:

17 (1) The word "administrator" refers to a person  
18 appointed by the commissioner of labor and industry to  
19 direct and administer the unemployment insurance laws and  
20 federal laws falling within the administrator's  
21 jurisdiction.

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

25 (3) "Annual total payroll" means the total of the four

1 quarters of total payrolls of an employer preceding the  
2 computation date as fixed herein.

3 (4) "Base period" means the first four of the last  
4 five completed calendar quarters immediately preceding the  
5 first day of an individual's benefit year. However, in the  
6 case of a combined-wage claim pursuant to the arrangement  
7 approved by the secretary of labor of the United States, the  
8 base period shall be that applicable under the unemployment  
9 law of the paying state. For an individual who fails to  
10 meet the qualifications of 39-51-2105 due to a temporary  
11 total disability as defined in 39-71-116 or a similar  
12 statute of another state or the United States, the base  
13 period means the first four quarters of the last five  
14 quarters preceding the disability if a claim for  
15 unemployment benefits is filed within 18 24 months of the  
16 date on which the individual's last--employment disability  
17 was incurred.

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

21 (6) "Benefit year", with respect to any individual,  
22 means the 52 consecutive-week period beginning with the  
23 first day of the calendar week in which such individual  
24 files a valid claim for benefits, except that the benefit  
25 year shall be 53 weeks if filing a new valid claim would

1 result in overlapping any quarter of the base year of a  
 2 previously filed new claim. A subsequent benefit year may  
 3 not be established until the expiration of the current  
 4 benefit year. However, in the case of a combined-wage claim  
 5 pursuant to the arrangement approved by the secretary of  
 6 labor of the United States, the base period is the period  
 7 applicable under the unemployment law of the paying state.

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

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

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

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

17 (11) "Employing unit" means any individual or  
 18 organization, including the state government, any of its  
 19 political subdivisions or instrumentalities, any  
 20 partnership, association, trust, estate, joint-stock  
 21 company, insurance company, or corporation, whether domestic  
 22 or foreign, or the receiver, trustee in bankruptcy, trustee  
 23 or successor thereof, or the legal representative of a  
 24 deceased person which has or subsequent to January 1, 1936,  
 25 had in its employ one or more individuals performing

1 services for it within this state, except as provided under  
 2 subsections (8) and (9) of 39-51-203. All individuals  
 3 performing services within this state for any employing unit  
 4 which maintains two or more separate establishments within  
 5 this state are considered to be employed by a single  
 6 employing unit for all the purposes of this chapter. Each  
 7 individual employed to perform or assist in performing the  
 8 work of any agent or employee of an employing unit is deemed  
 9 to be employed by such employing unit for the purposes of  
 10 this chapter, whether such individual was hired or paid  
 11 directly by such employing unit or by such agent or  
 12 employee, provided the employing unit has actual or  
 13 constructive knowledge of the work.

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

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

1 (14) "Gross misconduct" means a criminal act, other  
 2 than a violation of a motor vehicle traffic law, for which  
 3 an individual has been convicted in a criminal court or has  
 4 admitted or conduct which demonstrates a flagrant and wanton  
 5 disregard of and for the rights or title or interest of a  
 6 fellow employee or his employer.

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

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

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

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

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

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

24 (b) Notwithstanding any of the foregoing provisions of  
 25 this subsection, all colleges and universities in this state

1 are institutions of higher education for purposes of this  
 2 part.

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

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

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

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

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

20 (A) retirement;

21 (B) sickness or accident disability;

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

24 (D) death;

25 (ii) remuneration paid by any county welfare office

1 from public assistance funds for services performed at the  
2 direction and request of such county welfare office.

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

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

8 NEW SECTION. Section 2. Extension of authority. Any  
9 existing authority of the department of labor and industry  
10 to make rules on the subject of the provisions of this act  
11 is extended to the provisions of this act.

12 NEW SECTION. Section 3. Effective date. This act is  
13 effective July 1, 1985.

-End-

HOUSE BILL NO. 137

INTRODUCED BY DRISCOLL

BY REQUEST OF THE DEPARTMENT OF LABOR AND INDUSTRY

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING A PERSON WHO IS TEMPORARILY TOTALLY DISABLED UNDER THE WORKERS' COMPENSATION LAW TO USE WAGE CREDITS FROM EMPLOYMENT PRIOR TO THE DISABILITY FOR PURPOSES OF UNEMPLOYMENT INSURANCE; AMENDING SECTION 39-51-201, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

Section 1. Section 39-51-201, MCA, is amended to read:

"39-51-201. General definitions. As used in this chapter, unless the context clearly requires otherwise, the following definitions apply:

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

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

(3) "Annual total payroll" means the total of the four

quarters of total payrolls of an employer preceding the computation date as fixed herein.

(4) "Base period" means the first four of the last five completed calendar quarters immediately preceding the 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. For an individual who fails to meet the qualifications of 39-51-2105 due to a temporary total disability as defined in 39-71-116 or a similar statute of another state or the United States, the base period means the first four quarters of the last five quarters preceding the disability if a claim for unemployment benefits is filed within ± 24 months of the date on which the individual's last--employment disability was incurred.

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

(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 for benefits, except that the benefit year shall be 53 weeks if filing a new valid claim would





1 result in overlapping any quarter of the base year of a  
2 previously filed new claim. A subsequent benefit year may  
3 not be established until the expiration of the current  
4 benefit year. However, in the case of a combined-wage claim  
5 pursuant to the arrangement approved by the secretary of  
6 labor of the United States, the base period is the period  
7 applicable under the unemployment law of the paying state.

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

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

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

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

17 (11) "Employing unit" means any individual or  
18 organization, including the state government, any of its  
19 political subdivisions or instrumentalities, any  
20 partnership, association, trust, estate, joint-stock  
21 company, insurance company, or corporation, whether domestic  
22 or foreign, or the receiver, trustee in bankruptcy, trustee  
23 or successor thereof, or the legal representative of a  
24 deceased person which has or subsequent to January 1, 1936,  
25 had in its employ one or more individuals performing

1 services for it within this state, except as provided under  
2 subsections (8) and (9) of 39-51-203. All individuals  
3 performing services within this state for any employing unit  
4 which maintains two or more separate establishments within  
5 this state are considered to be employed by a single  
6 employing unit for all the purposes of this chapter. Each  
7 individual employed to perform or assist in performing the  
8 work of any agent or employee of an employing unit is deemed  
9 to be employed by such employing unit for the purposes of  
10 this chapter, whether such individual was hired or paid  
11 directly by such employing unit or by such agent or  
12 employee, provided the employing unit has actual or  
13 constructive knowledge of the work.

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

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

1           (14) "Gross misconduct" means a criminal act, other  
 2 than a violation of a motor vehicle traffic law, for which  
 3 an individual has been convicted in a criminal court or has  
 4 admitted or conduct which demonstrates a flagrant and wanton  
 5 disregard of and for the rights or title or interest of a  
 6 fellow employee or his employer.

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

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

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

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

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

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

24           (b) Notwithstanding any of the foregoing provisions of  
 25 this subsection, all colleges and universities in this state

1 are institutions of higher education for purposes of this  
 2 part.

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

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

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

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

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

20           (A) retirement;

21           (B) sickness or accident disability;

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

24           (D) death;

25           (ii) remuneration paid by any county welfare office

1 from public assistance funds for services performed at the  
2 direction and request of such county welfare office.

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

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

8 NEW SECTION. Section 2. Extension of authority. Any  
9 existing authority of the department of labor and industry  
10 to make rules on the subject of the provisions of this act  
11 is extended to the provisions of this act.

12 NEW SECTION. Section 3. Effective date. This act is  
13 effective July 1, 1985.

-End-