

SENATE BILL NO. 95

INTRODUCED BY LYNCH

BY REQUEST OF THE DEPARTMENT OF LABOR AND INDUSTRY

IN THE SENATE

January 11, 1985	Introduced and referred to Committee on Labor and Employment Relations.
January 18, 1985	Committee recommend bill do pass. Report adopted.
January 19, 1985	Bill printed and placed on members' desks.
January 21, 1985	Second reading, do pass.
January 22, 1985	Considered correctly engrossed.
January 23, 1985	Third reading, passed. Ayes, 48; Noes, 1. Transmitted to House.

IN THE HOUSE

January 24, 1985	Introduced and referred to Committee on Business and Labor.
March 26, 1985	Committee recommend bill be concurred in. Report adopted.
March 30, 1985	Second reading, concurred in.
April 1, 1985	Third reading, concurred in. Returned to Senate.

IN THE SENATE

April 1, 1985

Received from House.

Sent to enrolling.

Reported correctly enrolled.

1 *Senate* BILL NO. 95
 2 INTRODUCED BY *Jynch*
 3 BY REQUEST OF THE DEPARTMENT OF LABOR AND INDUSTRY
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5 A BILL FOR AN ACT ENTITLED: "AN ACT TO CONFORM TO FEDERAL
 6 LAW THE PROVISIONS OF THE UNEMPLOYMENT INSURANCE LAW
 7 RELATING TO THE SOURCE OF FUNDS FOR DEPARTMENT
 8 ADMINISTRATIVE EXPENSES; AMENDING SECTIONS 39-51-201 AND
 9 39-51-404, MCA; AND PROVIDING AN IMMEDIATE 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 four
 25 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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 SB 95

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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 but does not include assessments under 39-51-404(4).

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

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

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

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

20 (13) "Fund" means the unemployment insurance fund
 21 established by this chapter to which all contributions and
 22 payments in lieu of contributions are required and from
 23 which all benefits provided under this chapter shall be
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25 (14) "Gross misconduct" means a criminal act, other

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

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

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

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

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

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

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

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

1 part.

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

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

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

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

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

19 (A) retirement;

20 (B) sickness or accident disability;

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

23 (D) death;

24 (ii) remuneration paid by any county welfare office
 25 from public assistance funds for services performed at the

1 direction and request of such county welfare office.

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

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

7 Section 2. Section 39-51-404, MCA, is amended to read:

8 "39-51-404. Administrative expenses. (1) Money
9 credited to the account of this state in the unemployment
10 trust fund by the secretary of the treasury of the United
11 States pursuant to section 903 of the Social Security Act,
12 as amended, may be requisitioned and used for the payment of
13 expenses incurred for the administration of this chapter
14 pursuant to a specific appropriation by the legislature,
15 provided that the expenses are incurred and the money is
16 requisitioned after the enactment of an appropriation law
17 which:

18 (a) specifies the purposes for which such money is
19 appropriated and the amounts appropriated therefor;

20 (b) limits the period within which such money may be
21 expended to a period ending not more than 2 years after the
22 date of the enactment of the appropriation law; and

23 (c) limits the amount which may be used during any
24 12-month period beginning on July 1 and ending on the next
25 June 30 to an amount which does not exceed the amount by

1 which the aggregate of the amounts credited to the account
2 of this state pursuant to section 903 of the Social Security
3 Act, as amended, during the same 12-month period and the 34
4 preceding 12-month periods exceeds the aggregate of the
5 amounts used pursuant to this section and charged against
6 the amounts credited to the account of this state during any
7 of such 35 12-month periods.

8 (2) For the purposes of this section, amounts used
9 during any such 12-month period shall be charged against
10 equivalent amounts which were first credited and which are
11 not already so charged, except that no amount used for
12 administration during any such 12-month period may be
13 charged against any amount credited during such a 12-month
14 period earlier than the 34th preceding such period. Money
15 requisitioned for the payment of expenses of administration
16 pursuant to this section shall be deposited in the
17 unemployment insurance administration account but, until
18 expended, shall remain a part of the unemployment insurance
19 fund.

20 (3) The department shall maintain a separate record of
21 the deposit, obligation, expenditure, and return of funds so
22 deposited. If any money so deposited is for any reason not
23 to be expended for the purpose for which it was appropriated
24 or, if it remains unexpended at the end of the period
25 specified by the law appropriating such money, it shall be

1 withdrawn and returned to the secretary of the treasury of
2 the United States for credit to this state's account in the
3 unemployment trust fund.

4 (4) Beginning with the third quarter of 1983, an
5 assessment equal to .1% of employer-contributions-received
6 by--the--department all taxable wages provided for in
7 39-51-1108 and .05% of total wages paid by employers not
8 covered by an experience rating must be levied against and
9 paid by all employers and may be used by the department for
10 administrative purposes. All such contributions assessments
11 must be deposited in the unemployment insurance
12 administration account provided for in 39-51-406 and used as
13 appropriated by the legislature. Any contributions
14 assessments deposited to the unemployment insurance
15 administration account that are not appropriated by the
16 legislature must be transferred to the unemployment trust
17 fund account provided for in 39-51-402."

18 NEW SECTION. Section 3. Effective date. This act is
19 effective on passage and approval.

-End-

APPROVED BY COMMITTEE
ON LABOR & EMPLOYMENT
RELATIONS

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

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

7 Section 2. Section 39-51-404, MCA, is amended to read:

8 "39-51-404. Administrative expenses. (1) Money
9 credited to the account of this state in the unemployment
10 trust fund by the secretary of the treasury of the United
11 States pursuant to section 903 of the Social Security Act,
12 as amended, may be requisitioned and used for the payment of
13 expenses incurred for the administration of this chapter
14 pursuant to a specific appropriation by the legislature,
15 provided that the expenses are incurred and the money is
16 requisitioned after the enactment of an appropriation law
17 which:

18 (a) specifies the purposes for which such money is
19 appropriated and the amounts appropriated therefor;

20 (b) limits the period within which such money may be
21 expended to a period ending not more than 2 years after the
22 date of the enactment of the appropriation law; and

23 (c) limits the amount which may be used during any
24 12-month period beginning on July 1 and ending on the next
25 June 30 to an amount which does not exceed the amount by

1 which the aggregate of the amounts credited to the account
2 of this state pursuant to section 903 of the Social Security
3 Act, as amended, during the same 12-month period and the 34
4 preceding 12-month periods exceeds the aggregate of the
5 amounts used pursuant to this section and charged against
6 the amounts credited to the account of this state during any
7 of such 35 12-month periods.

8 (2) For the purposes of this section, amounts used
9 during any such 12-month period shall be charged against
10 equivalent amounts which were first credited and which are
11 not already so charged, except that no amount used for
12 administration during any such 12-month period may be
13 charged against any amount credited during such a 12-month
14 period earlier than the 34th preceding such period. Money
15 requisitioned for the payment of expenses of administration
16 pursuant to this section shall be deposited in the
17 unemployment insurance administration account but, until
18 expended, shall remain a part of the unemployment insurance
19 fund.

20 (3) The department shall maintain a separate record of
21 the deposit, obligation, expenditure, and return of funds so
22 deposited. If any money so deposited is for any reason not
23 to be expended for the purpose for which it was appropriated
24 or, if it remains unexpended at the end of the period
25 specified by the law appropriating such money, it shall be

1 withdrawn and returned to the secretary of the treasury of
2 the United States for credit to this state's account in the
3 unemployment trust fund.

4 (4) Beginning with the third quarter of 1983, an
5 assessment equal to .1% of employer-contributions-received
6 by--the--department all taxable wages provided for in
7 39-51-1108 and .05% of total wages paid by employers not
8 covered by an experience rating must be levied against and
9 paid by all employers and may be used by the department for
10 administrative purposes. All such contributions assessments
11 must be deposited in the unemployment insurance
12 administration account provided for in 39-51-406 and used as
13 appropriated by the legislature. Any contributions
14 assessments deposited to the unemployment insurance
15 administration account that are not appropriated by the
16 legislature must be transferred to the unemployment trust
17 fund account provided for in 39-51-402."

18 NEW SECTION. Section 3. Effective date. This act is
19 effective on passage and approval.

-End-

SENATE BILL NO. 95

INTRODUCED BY LYNCH

BY REQUEST OF THE DEPARTMENT OF LABOR AND INDUSTRY

A BILL FOR AN ACT ENTITLED: "AN ACT TO CONFORM TO FEDERAL LAW THE PROVISIONS OF THE UNEMPLOYMENT INSURANCE LAW RELATING TO THE SOURCE OF FUNDS FOR DEPARTMENT ADMINISTRATIVE EXPENSES; AMENDING SECTIONS 39-51-201 AND 39-51-404, MCA; AND PROVIDING AN IMMEDIATE 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 months of the individual's last employment.

(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 result in overlapping any quarter of the base year of a previously filed new claim. A subsequent benefit year may



1 not be established until the expiration of the current
 2 benefit year. However, in the case of a combined-wage claim
 3 pursuant to the arrangement approved by the secretary of
 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 but does not include assessments under 39-51-404(4).

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

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

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

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

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

25 (14) "Gross misconduct" means a criminal act, other

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

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

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

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

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

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

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

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

1 part.

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

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

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

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

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

19 (A) retirement;

20 (B) sickness or accident disability;

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

23 (D) death;

24 (ii) remuneration paid by any county welfare office
 25 from public assistance funds for services performed at the

1 direction and request of such county welfare office.

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

4 (21) An individual's "weekly benefit amount" means the
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15 administration account that are not appropriated by the
16 legislature must be transferred to the unemployment trust
17 fund account provided for in 39-51-402."

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19 effective on passage and approval.

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