

Opinion No. 10

**STATUTES; Construction; simultaneous amendment—Chapter 178,
Laws of 1959—Section 87-148, Revised Codes of Montana, 1947**

- Held:** 1. Where a statute is amended by two separate acts enacted by the same legislative assembly and neither act refers to the other, both amendments shall be given effect unless their provisions are irreconcilable.
2. House Bill 348 of the 1959 assembly is not incompatible with House Bill 480 of the same session. The new provisions of each of these acts shall be given effect as amendments to Section 87-148, RCM, 1947.

April 13, 1959

Mr. Chadwick H. Smith
Chairman - Executive Director
Unemployment Compensation Commission
Mitchell Building
Helena, Montana

Dear Mr. Smith:

You ask whether the amendment to Section 87-148, RCM, 1947, made by House Bill 348 (Ch. 177, L. 1959) is affected by the amendment to the same section made by House Bill 480 (Ch. 178, L. 1959).

Section 87-148, *supra*, amended by these bills, defines terms used in the unemployment compensation law. House Bill 348 amends subsection (j) (6) (E) of the section by substituting a broader definition of the charitable educational exemption. House Bill 480 amends by adding a subsection numbered (j) (6) (J) which exempts commissions paid real estate and insurance salesmen.

House Bills 480 and 348 were approved by the governor on the same day and, as required by Article V, Section 25 of the State Constitution, Section 87-148 with the changes is re-enacted and published at length in each bill. Neither bill shows the change made by the other. It has been suggested that the amendment of one may be cancelled by the re-enactment of its old form of the same provision in the other. This gives rise to your inquiry.

This question has been before the Montana Supreme Court in a number of cases. A good case illustrating the Court's holding on the question is *State ex rel. Hay v. Hindson* (40 Mont. 353, 106 Pac. 362). In that case, Section 3119 of the Revised Codes had been amended by House Bill 335 to allow a jailor the pay of a deputy sheriff. During the same session the same section was amended by Senate Bill 120 to allow certain district clerks four deputies instead of three. Both measures were passed and transmitted to the governor the same day. The court held that where two acts are passed by the legislature at the same session, both amending the same statute and neither referring to the other, both must be given effect unless their provisions are irreconcilable.

It is plain that application of this rule allows the amendments made by House Bill 480 and House Bill 348 to stand. They pertain to two entirely different exemptions and so are not irreconcilable.

It is therefore my opinion that House Bill 480 and House Bill 348 are valid and that the particular amendments intended by each are lawful and effective.

Very truly yours,
FORREST H. ANDERSON
Attorney General