

SENATE BILL NO. 215

INTRODUCED BY HARP, MAZUREK

BY REQUEST OF THE MONTANA HEALTH FACILITY AUTHORITY

IN THE SENATE

JANUARY 28, 1991 INTRODUCED AND REFERRED TO COMMITTEE
ON FINANCE & CLAIMS.

 FIRST READING.

FEBRUARY 7, 1991 COMMITTEE RECOMMEND BILL
DO PASS. REPORT ADOPTED.

FEBRUARY 8, 1991 PRINTING REPORT.

FEBRUARY 9, 1991 SECOND READING, DO PASS.

FEBRUARY 11, 1991 ENGROSSING REPORT.

 THIRD READING, PASSED.
AYES, 48; NOES, 0.

 TRANSMITTED TO HOUSE.

IN THE HOUSE

FEBRUARY 11, 1991 INTRODUCED AND REFERRED TO COMMITTEE
ON APPROPRIATIONS.

FEBRUARY 12, 1991 FIRST READING.

APRIL 4, 1991 COMMITTEE RECOMMEND BILL BE
CONCURRED IN AS AMENDED. REPORT
ADOPTED.

APRIL 6, 1991 SECOND READING, CONCURRED IN.

 ON MOTION, RULES SUSPENDED. BILL
PLACED ON THIRD READING THIS DAY.

 THIRD READING, CONCURRED IN.
AYES, 94; NOES, 3.

 RETURNED TO SENATE WITH AMENDMENTS.

IN THE SENATE

APRIL 17, 1991 RECEIVED FROM HOUSE.

SECOND READING, AMENDMENTS
CONCURRED IN.

APRIL 18, 1991

THIRD READING, AMENDMENTS
CONCURRED IN.

APRIL 19, 1991

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 *Senate* BILL NO. *215*
 2 INTRODUCED BY *HARP* *Thompson*
 3 BY REQUEST OF THE MONTANA HEALTH FACILITY AUTHORITY

4
 5 A BILL FOR AN ACT ENTITLED: "AN ACT CREATING A CAPITAL
 6 RESERVE ACCOUNT TO PROVIDE ADDITIONAL FINANCING FOR THE
 7 MONTANA HEALTH FACILITY AUTHORITY; ESTABLISHING REQUIREMENTS
 8 FOR ADMINISTRATION OF THE ACCOUNT; AUTHORIZING THE BOARD OF
 9 INVESTMENTS TO PROVIDE LOANS TO THE AUTHORITY AND TO
 10 PURCHASE BONDS AND NOTES ISSUED BY THE AUTHORITY; AMENDING
 11 SECTION 90-7-102, MCA; AND PROVIDING AN EFFECTIVE DATE."

12
 13 WHEREAS, it is necessary to establish effective,
 14 low-cost financing options for the construction and
 15 development of health facilities in Montana; and

16 WHEREAS, health facility financing will promote
 17 affordable access and quality of health care services for
 18 the people of the state.

19
 20 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

21 **Section 1.** Section 90-7-102, MCA, is amended to read:
 22 "90-7-102. Definitions. As used in this chapter, unless
 23 the context requires otherwise, the following definitions
 24 apply:

25 (1) "Authority" means the Montana health facility

1 authority created in 2-15-1815.

2 (2) "Capital reserve account" means the account
 3 established in [section 2].

4 (3) "Costs" means costs allowed under 90-7-103.

5 (4) "Health facility" means any facility provided
 6 for in 90-7-104.

7 (5) "Health institution" means any public or private
 8 nonprofit hospital, corporation, or other organization
 9 authorized to provide or operate a health facility in this
 10 state.

11 (6) "Participating health institution" means a
 12 health institution that undertakes the financing, refunding,
 13 or refinancing of obligations on the construction or
 14 acquisition of a health facility pursuant to the provisions
 15 of this chapter.

16 (7) "Revenues" means, with respect to facilities,
 17 the rents, fees, charges, interest, principal repayments,
 18 and other income received or to be received by the authority
 19 from any source on account of such facilities."

20 **NEW SECTION. Section 2. Capital reserve account. (1)**

21 There is a capital reserve account in the enterprise fund
 22 provided for in 90-7-202(17).

23 (2) The authority shall deposit into the capital
 24 reserve account:

25 (a) funds from state appropriations received for



1 deposit into the account, as provided in [section 4];

2 (b) proceeds from the sale of bonds or notes to the
3 extent provided in the resolutions or indentures of the
4 authority authorizing their issuance;

5 (c) revenues from fees and charges imposed by the
6 authority;

7 (d) income from the investment of funds belonging to
8 the authority; and

9 (e) any other funds that may be available to the
10 authority for the purpose of the account from any other
11 source, including loans authorized under [section 5].

12 NEW SECTION. Section 3. Administration of capital
13 reserve account. (1) The authority may pledge funds from the
14 capital reserve account or a subaccount created in the
15 capital reserve account as security for the payment of bonds
16 and notes issued by the authority, as it may determine in
17 the resolutions or indentures providing for their issuance.

18 (2) All funds held in the capital reserve account must
19 be used solely for the payment of the principal and interest
20 on bonds secured in whole or in part by the account or the
21 debt service payments with respect to the bonds, the
22 purchase or redemption of the bonds, the payment of interest
23 on the bonds, or the payment of any redemption premium
24 required to be paid when the bonds are redeemed prior to
25 maturity.

1 (3) Funds in the capital reserve account may not, at
2 any time, be withdrawn in an amount that reduces the account
3 to an amount less than the sum of minimum capital reserve
4 requirements established for the account except, with
5 respect to bonds secured in whole or in part by the account,
6 for the purpose of making payments, when due, of principal,
7 interest, redemption premiums, and debt service fund
8 payments for the payment of which other funds pledged are
9 not available.

10 (4) Income or interest earned by or incremental to the
11 capital reserve account due to its investment may be
12 transferred to other accounts of the authority to the extent
13 it does not reduce the amount of the capital reserve account
14 below the sum of minimum capital reserve requirements for
15 the account.

16 NEW SECTION. Section 4. Maintenance of capital reserve
17 account. (1) In order to assure the maintenance of the
18 capital reserve account, the chairman of the authority
19 shall, on or before September 1 in each year preceding the
20 convening of the legislature, deliver to the governor a
21 certificate stating the sum, if any, required to restore the
22 capital reserve account to the sum of minimum capital
23 reserve requirements. The governor shall include in the
24 executive budget submitted to the legislature the sum
25 required to restore the capital reserve account to the

1 minimum capital reserve requirements. All funds appropriated
2 by the legislature for maintenance of the capital reserve
3 account must be deposited in the account, as required in
4 [section 2].

5 (2) All amounts appropriated to the authority under
6 this section constitute advances to the authority and,
7 subject to the rights of the holders of bonds or notes of
8 the authority, must be repaid to the state general fund
9 without interest from available operating revenues of the
10 authority in excess of amounts required for the payment of
11 bonds, notes, or other obligations of the authority, for
12 maintenance of the capital reserve account, and for
13 operating expenses.

14 NEW SECTION. Section 5. Loans -- purchase of bonds and
15 notes. Subject to the provisions of Title 17, chapter 6, the
16 board of investments may, upon terms and conditions as the
17 board considers reasonable:

18 (1) loan money to the authority for deposit in the
19 capital reserve account; and

20 (2) purchase bonds and notes issued by the authority.

21 NEW SECTION. Section 6. Codification instruction.
22 [Sections 2 through 5] are intended to be codified as an
23 integral part of Title 90, chapter 7, part 3, and the
24 provisions of Title 90, chapter 7, part 3, apply to
25 [sections 2 through 5].

1 NEW SECTION. Section 7. Effective date. [This act] is
2 effective July 1, 1991.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB0215, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act creating a capital reserve account to provide additional financing for the Montana Health Facility Authority; establishing requirements for administration of the account; authorizing the Board of Investments to provide loans to the authority and to purchase bonds and notes issued by the authority; amending section 90-7-102, MCA; and providing an effective date.

ASSUMPTIONS:


1. The proposed act creates a capital reserve account to enable low-cost financing for the construction and development of health facilities.
2. The Board of Investments may loan funds to the Montana Health Facility Authority or purchase bonds for the construction and development of health facilities.
3. Loans and/or bond purchases will be at the fair market value.
4. The proposed act will not affect the loans and/or bond purchases currently made by the Board of Investments.
5. Costs will be absorbed in the current executive budget recommended for the Board of Investments and the Montana Health Facility Authority.

FISCAL IMPACT:

None

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

Those investments which the Board of Investments chooses to make in Health Facility paper will lower the cost to the borrowing health facility by over/50 basis points. This will lower the cost of health care in Montana.



ROD SUNDSTED, BUDGET DIRECTOR 2-2-91
Office of Budget and Program Planning DATE



JOHN G. HARP, PRIMARY SPONSOR 2/4/91
DATE

Fiscal Note for SB0215, as introduced.

SB 215

APPROVED BY COMM. ON
FINANCE AND CLAIMS

1 Senate BILL NO. 215
2 INTRODUCED BY HARP Mazurk
3 BY REQUEST OF THE MONTANA HEALTH FACILITY AUTHORITY

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT CREATING A CAPITAL
6 RESERVE ACCOUNT TO PROVIDE ADDITIONAL FINANCING FOR THE
7 MONTANA HEALTH FACILITY AUTHORITY; ESTABLISHING REQUIREMENTS
8 FOR ADMINISTRATION OF THE ACCOUNT; AUTHORIZING THE BOARD OF
9 INVESTMENTS TO PROVIDE LOANS TO THE AUTHORITY AND TO
10 PURCHASE BONDS AND NOTES ISSUED BY THE AUTHORITY; AMENDING
11 SECTION 90-7-102, MCA; AND PROVIDING AN EFFECTIVE DATE."

12
13 WHEREAS, it is necessary to establish effective,
14 low-cost financing options for the construction and
15 development of health facilities in Montana; and

16 WHEREAS, health facility financing will promote
17 affordable access and quality of health care services for
18 the people of the state.

19
20 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

21 **Section 1.** Section 90-7-102, MCA, is amended to read:

22 **"90-7-102. Definitions.** As used in this chapter, unless
23 the context requires otherwise, the following definitions
24 apply:

25 (1) "Authority" means the Montana health facility

1 authority created in 2-15-1815.

2 (2) "Capital reserve account" means the account
3 established in [section 2].

4 (2)(3) "Costs" means costs allowed under 90-7-103.

5 (3)(4) "Health facility" means any facility provided
6 for in 90-7-104.

7 (4)(5) "Health institution" means any public or private
8 nonprofit hospital, corporation, or other organization
9 authorized to provide or operate a health facility in this
10 state.

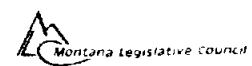
11 (5)(6) "Participating health institution" means a
12 health institution that undertakes the financing, refunding,
13 or refinancing of obligations on the construction or
14 acquisition of a health facility pursuant to the provisions
15 of this chapter.

16 (6)(7) "Revenues" means, with respect to facilities,
17 the rents, fees, charges, interest, principal repayments,
18 and other income received or to be received by the authority
19 from any source on account of such facilities."

20 NEW SECTION. **Section 2. Capital reserve account.** (1)
21 There is a capital reserve account in the enterprise fund
22 provided for in 90-7-202(17).

23 (2) The authority shall deposit into the capital
24 reserve account:

25 (a) funds from state appropriations received for



SECOND READING
SB 215

1 deposit into the account, as provided in [section 4];

2 (b) proceeds from the sale of bonds or notes to the
3 extent provided in the resolutions or indentures of the
4 authority authorizing their issuance;

5 (c) revenues from fees and charges imposed by the
6 authority;

7 (d) income from the investment of funds belonging to
8 the authority; and

9 (e) any other funds that may be available to the
10 authority for the purpose of the account from any other
11 source, including loans authorized under [section 5].

12 NEW SECTION. **Section 3. Administration of capital**
13 **reserve account.** (1) The authority may pledge funds from the
14 capital reserve account or a subaccount created in the
15 capital reserve account as security for the payment of bonds
16 and notes issued by the authority, as it may determine in
17 the resolutions or indentures providing for their issuance.

18 (2) All funds held in the capital reserve account must
19 be used solely for the payment of the principal and interest
20 on bonds secured in whole or in part by the account or the
21 debt service payments with respect to the bonds, the
22 purchase or redemption of the bonds, the payment of interest
23 on the bonds, or the payment of any redemption premium
24 required to be paid when the bonds are redeemed prior to
25 maturity.

1 (3) Funds in the capital reserve account may not, at
2 any time, be withdrawn in an amount that reduces the account
3 to an amount less than the sum of minimum capital reserve
4 requirements established for the account except, with
5 respect to bonds secured in whole or in part by the account,
6 for the purpose of making payments, when due, of principal,
7 interest, redemption premiums, and debt service fund
8 payments for the payment of which other funds pledged are
9 not available.

10 (4) Income or interest earned by or incremental to the
11 capital reserve account due to its investment may be
12 transferred to other accounts of the authority to the extent
13 it does not reduce the amount of the capital reserve account
14 below the sum of minimum capital reserve requirements for
15 the account.

16 NEW SECTION. **Section 4. Maintenance of capital reserve**
17 **account.** (1) In order to assure the maintenance of the
18 capital reserve account, the chairman of the authority
19 shall, on or before September 1 in each year preceding the
20 convening of the legislature, deliver to the governor a
21 certificate stating the sum, if any, required to restore the
22 capital reserve account to the sum of minimum capital
23 reserve requirements. The governor shall include in the
24 executive budget submitted to the legislature the sum
25 required to restore the capital reserve account to the

1 minimum capital reserve requirements. All funds appropriated
 2 by the legislature for maintenance of the capital reserve
 3 account must be deposited in the account, as required in
 4 [section 2].

5 (2) All amounts appropriated to the authority under
 6 this section constitute advances to the authority and,
 7 subject to the rights of the holders of bonds or notes of
 8 the authority, must be repaid to the state general fund
 9 without interest from available operating revenues of the
 10 authority in excess of amounts required for the payment of
 11 bonds, notes, or other obligations of the authority, for
 12 maintenance of the capital reserve account, and for
 13 operating expenses.

14 NEW SECTION. Section 5. Loans -- purchase of bonds and
 15 notes. Subject to the provisions of Title 17, chapter 6, the
 16 board of investments may, upon terms and conditions as the
 17 board considers reasonable:

18 (1) loan money to the authority for deposit in the
 19 capital reserve account; and

20 (2) purchase bonds and notes issued by the authority.

21 NEW SECTION. Section 6. Codification instruction.
 22 [Sections 2 through 5] are intended to be codified as an
 23 integral part of Title 90, chapter 7, part 3, and the
 24 provisions of Title 90, chapter 7, part 3, apply to
 25 [sections 2 through 5].

1 NEW SECTION. Section 7. Effective date. [This act] is
 2 effective July 1, 1991.

-End-

1 *Senate* BILL NO. *215*
 2 INTRODUCED BY *HARP* *Morgan*
 3 BY REQUEST OF THE MONTANA HEALTH FACILITY AUTHORITY

4
 5 A BILL FOR AN ACT ENTITLED: "AN ACT CREATING A CAPITAL
 6 RESERVE ACCOUNT TO PROVIDE ADDITIONAL FINANCING FOR THE
 7 MONTANA HEALTH FACILITY AUTHORITY; ESTABLISHING REQUIREMENTS
 8 FOR ADMINISTRATION OF THE ACCOUNT; AUTHORIZING THE BOARD OF
 9 INVESTMENTS TO PROVIDE LOANS TO THE AUTHORITY AND TO
 10 PURCHASE BONDS AND NOTES ISSUED BY THE AUTHORITY; AMENDING
 11 SECTION 90-7-102, MCA; AND PROVIDING AN EFFECTIVE DATE."

12
 13 WHEREAS, it is necessary to establish effective,
 14 low-cost financing options for the construction and
 15 development of health facilities in Montana; and

16 WHEREAS, health facility financing will promote
 17 affordable access and quality of health care services for
 18 the people of the state.

19
 20 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

21 **Section 1.** Section 90-7-102, MCA, is amended to read:
 22 "90-7-102. Definitions. As used in this chapter, unless
 23 the context requires otherwise, the following definitions
 24 apply:

25 (1) "Authority" means the Montana health facility

1 authority created in 2-15-1815.
 2 (2) "Capital reserve account" means the account
 3 established in [section 2].

4 (2)(3) "Costs" means costs allowed under 90-7-103.
 5 (3)(4) "Health facility" means any facility provided
 6 for in 90-7-104.

7 (4)(5) "Health institution" means any public or private
 8 nonprofit hospital, corporation, or other organization
 9 authorized to provide or operate a health facility in this
 10 state.

11 (5)(6) "Participating health institution" means a
 12 health institution that undertakes the financing, refunding,
 13 or refinancing of obligations on the construction or
 14 acquisition of a health facility pursuant to the provisions
 15 of this chapter.

16 (6)(7) "Revenues" means, with respect to facilities,
 17 the rents, fees, charges, interest, principal repayments,
 18 and other income received or to be received by the authority
 19 from any source on account of such facilities."

20 **NEW SECTION. Section 2. Capital reserve account. (1)**
 21 There is a capital reserve account in the enterprise fund
 22 provided for in 90-7-202(17).

23 (2) The authority shall deposit into the capital
 24 reserve account:

25 (a) funds from state appropriations received for



1 deposit into the account, as provided in [section 4];

2 (b) proceeds from the sale of bonds or notes to the
3 extent provided in the resolutions or indentures of the
4 authority authorizing their issuance;

5 (c) revenues from fees and charges imposed by the
6 authority;

7 (d) income from the investment of funds belonging to
8 the authority; and

9 (e) any other funds that may be available to the
10 authority for the purpose of the account from any other
11 source, including loans authorized under [section 5].

12 NEW SECTION. Section 3. Administration of capital
13 reserve account. (1) The authority may pledge funds from the
14 capital reserve account or a subaccount created in the
15 capital reserve account as security for the payment of bonds
16 and notes issued by the authority, as it may determine in
17 the resolutions or indentures providing for their issuance.

18 (2) All funds held in the capital reserve account must
19 be used solely for the payment of the principal and interest
20 on bonds secured in whole or in part by the account or the
21 debt service payments with respect to the bonds, the
22 purchase or redemption of the bonds, the payment of interest
23 on the bonds, or the payment of any redemption premium
24 required to be paid when the bonds are redeemed prior to
25 maturity.

1 (3) Funds in the capital reserve account may not, at
2 any time, be withdrawn in an amount that reduces the account
3 to an amount less than the sum of minimum capital reserve
4 requirements established for the account except, with
5 respect to bonds secured in whole or in part by the account,
6 for the purpose of making payments, when due, of principal,
7 interest, redemption premiums, and debt service fund
8 payments for the payment of which other funds pledged are
9 not available.

10 (4) Income or interest earned by or incremental to the
11 capital reserve account due to its investment may be
12 transferred to other accounts of the authority to the extent
13 it does not reduce the amount of the capital reserve account
14 below the sum of minimum capital reserve requirements for
15 the account.

16 NEW SECTION. Section 4. Maintenance of capital reserve
17 account. (1) In order to assure the maintenance of the
18 capital reserve account, the chairman of the authority
19 shall, on or before September 1 in each year preceding the
20 convening of the legislature, deliver to the governor a
21 certificate stating the sum, if any, required to restore the
22 capital reserve account to the sum of minimum capital
23 reserve requirements. The governor shall include in the
24 executive budget submitted to the legislature the sum
25 required to restore the capital reserve account to the

1 minimum capital reserve requirements. All funds appropriated
2 by the legislature for maintenance of the capital reserve
3 account must be deposited in the account, as required in
4 [section 2].

5 (2) All amounts appropriated to the authority under
6 this section constitute advances to the authority and,
7 subject to the rights of the holders of bonds or notes of
8 the authority, must be repaid to the state general fund
9 without interest from available operating revenues of the
10 authority in excess of amounts required for the payment of
11 bonds, notes, or other obligations of the authority, for
12 maintenance of the capital reserve account, and for
13 operating expenses.

14 NEW SECTION. Section 5. Loans -- purchase of bonds and
15 notes. Subject to the provisions of Title 17, chapter 6, the
16 board of investments may, upon terms and conditions as the
17 board considers reasonable:

18 (1) loan money to the authority for deposit in the
19 capital reserve account; and

20 (2) purchase bonds and notes issued by the authority.

21 NEW SECTION. Section 6. Codification instruction.
22 [Sections 2 through 5] are intended to be codified as an
23 integral part of Title 90, chapter 7, part 3, and the
24 provisions of Title 90, chapter 7, part 3, apply to
25 [sections 2 through 5].

1 NEW SECTION. Section 7. Effective date. [This act] is
2 effective July 1, 1991.

-End-

HOUSE STANDING COMMITTEE REPORT

April 4, 1991

Page 1 of 1

Mr. Speaker: We, the committee on Appropriations report that Senate Bill 215 (third reading copy -- blue) be concurred in as amended .

Signed: *Francis Bardanoue*
Francis Bardanoue, Chairman

Carried by: Rep. Kadas

And, that such amendments read:

1. Page 3, line 1.

Following: "4]"

Insert: ", for bonds issued to finance capital projects for
community health facilities that contract with the state to
provide health care services"

HOUSE
SB 215

SENATE BILL NO. 215

INTRODUCED BY HARP, MAZUREK

BY REQUEST OF THE MONTANA HEALTH FACILITY AUTHORITY

A BILL FOR AN ACT ENTITLED: "AN ACT CREATING A CAPITAL RESERVE ACCOUNT TO PROVIDE ADDITIONAL FINANCING FOR THE MONTANA HEALTH FACILITY AUTHORITY; ESTABLISHING REQUIREMENTS FOR ADMINISTRATION OF THE ACCOUNT; AUTHORIZING THE BOARD OF INVESTMENTS TO PROVIDE LOANS TO THE AUTHORITY AND TO PURCHASE BONDS AND NOTES ISSUED BY THE AUTHORITY; AMENDING SECTION 90-7-102, MCA; AND PROVIDING AN EFFECTIVE DATE."

WHEREAS, it is necessary to establish effective, low-cost financing options for the construction and development of health facilities in Montana; and

WHEREAS, health facility financing will promote affordable access and quality of health care services for the people of the state.

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

Section 1. Section 90-7-102, MCA, is amended to read:

*90-7-102. Definitions. As used in this chapter, unless the context requires otherwise, the following definitions apply:

(1) "Authority" means the Montana health facility

authority created in 2-15-1815.

(2) "Capital reserve account" means the account established in [section 2].

(3) "Costs" means costs allowed under 90-7-103.

(4) "Health facility" means any facility provided for in 90-7-104.

(5) "Health institution" means any public or private nonprofit hospital, corporation, or other organization authorized to provide or operate a health facility in this state.

(6) "Participating health institution" means a health institution that undertakes the financing, refunding, or refinancing of obligations on the construction or acquisition of a health facility pursuant to the provisions of this chapter.

(7) "Revenues" means, with respect to facilities, the rents, fees, charges, interest, principal repayments, and other income received or to be received by the authority from any source on account of such facilities."

NEW SECTION. Section 2. Capital reserve account. (1)

There is a capital reserve account in the enterprise fund provided for in 90-7-202(17).

(2) The authority shall deposit into the capital reserve account:

(a) funds from state appropriations received for



1 deposit into the account, as provided in [section 4], FOR
 2 BONDS ISSUED TO FINANCE CAPITAL PROJECTS FOR COMMUNITY
 3 HEALTH FACILITIES THAT CONTRACT WITH THE STATE TO PROVIDE
 4 HEALTH CARE SERVICES;

5 (b) proceeds from the sale of bonds or notes to the
 6 extent provided in the resolutions or indentures of the
 7 authority authorizing their issuance;

8 (c) revenues from fees and charges imposed by the
 9 authority;

10 (d) income from the investment of funds belonging to
 11 the authority; and

12 (e) any other funds that may be available to the
 13 authority for the purpose of the account from any other
 14 source, including loans authorized under [section 5].

15 NEW SECTION. Section 3. Administration of capital
 16 reserve account. (1) The authority may pledge funds from the
 17 capital reserve account or a subaccount created in the
 18 capital reserve account as security for the payment of bonds
 19 and notes issued by the authority, as it may determine in
 20 the resolutions or indentures providing for their issuance.

21 (2) All funds held in the capital reserve account must
 22 be used solely for the payment of the principal and interest
 23 on bonds secured in whole or in part by the account or the
 24 debt service payments with respect to the bonds, the
 25 purchase or redemption of the bonds, the payment of interest

1 on the bonds, or the payment of any redemption premium
 2 required to be paid when the bonds are redeemed prior to
 3 maturity.

4 (3) Funds in the capital reserve account may not, at
 5 any time, be withdrawn in an amount that reduces the account
 6 to an amount less than the sum of minimum capital reserve
 7 requirements established for the account except, with
 8 respect to bonds secured in whole or in part by the account,
 9 for the purpose of making payments, when due, of principal,
 10 interest, redemption premiums, and debt service fund
 11 payments for the payment of which other funds pledged are
 12 not available.

13 (4) Income or interest earned by or incremental to the
 14 capital reserve account due to its investment may be
 15 transferred to other accounts of the authority to the extent
 16 it does not reduce the amount of the capital reserve account
 17 below the sum of minimum capital reserve requirements for
 18 the account.

19 NEW SECTION. Section 4. Maintenance of capital reserve
 20 account. (1) In order to assure the maintenance of the
 21 capital reserve account, the chairman of the authority
 22 shall, on or before September 1 in each year preceding the
 23 convening of the legislature, deliver to the governor a
 24 certificate stating the sum, if any, required to restore the
 25 capital reserve account to the sum of minimum capital

1 reserve requirements. The governor shall include in the
 2 executive budget submitted to the legislature the sum
 3 required to restore the capital reserve account to the
 4 minimum capital reserve requirements. All funds appropriated
 5 by the legislature for maintenance of the capital reserve
 6 account must be deposited in the account, as required in
 7 [section 2].

8 (2) All amounts appropriated to the authority under
 9 this section constitute advances to the authority and,
 10 subject to the rights of the holders of bonds or notes of
 11 the authority, must be repaid to the state general fund
 12 without interest from available operating revenues of the
 13 authority in excess of amounts required for the payment of
 14 bonds, notes, or other obligations of the authority, for
 15 maintenance of the capital reserve account, and for
 16 operating expenses.

17 NEW SECTION. Section 5. Loans -- purchase of bonds and
 18 notes. Subject to the provisions of Title 17, chapter 6, the
 19 board of investments may, upon terms and conditions as the
 20 board considers reasonable:

21 (1) loan money to the authority for deposit in the
 22 capital reserve account; and

23 (2) purchase bonds and notes issued by the authority.

24 NEW SECTION. Section 6. Codification instruction.
 25 [Sections 2 through 5] are intended to be codified as an

1 integral part of Title 90, chapter 7, part 3, and the
 2 provisions of Title 90, chapter 7, part 3, apply to
 3 [sections 2 through 5].

4 NEW SECTION. Section 7. Effective date. [This act] is
 5 effective July 1, 1991.

-End-

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Senate BILL NO. *216*

INTRODUCED BY *Gov. Walter D. Dandridge*
Bob Pipinich *Richard Manning*
Yellowtail *Tyrone Jackson* *David G.*

A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE THE MONTANA UNEMPLOYMENT INSURANCE LAW TO PROVIDE THAT AN EMPLOYEE WHOSE UNEMPLOYMENT IS DUE TO A STRIKE BUT WHOSE WORK STOPPAGE IS CAUSED BY THE EMPLOYER'S FAILURE OR REFUSAL TO CONFORM TO FEDERAL LAW PERTAINING TO COLLECTIVE BARGAINING IS ENTITLED TO FILE A CLAIM FOR UNEMPLOYMENT INSURANCE BENEFITS; AMENDING SECTION 39-51-2305, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE."

WHEREAS, section 39-51-2305(3), MCA, allows an employee ordinarily disqualified from receiving unemployment benefits to receive benefits if the Department of Labor and Industry finds that the labor dispute is caused by an employer's violation of the federal labor laws; and

WHEREAS, in Decker Coal Company v. The Honorable Mary Margaret (Peg) Hartman, Commissioner of Labor and Industry, the federal District Court ruled that section 39-51-2305(3), MCA, is unconstitutional and void, as preempted by the National Labor Relations Act, to the extent that it requires a determination by a state agency of matters within the exclusive jurisdiction of the National Labor Relations Board.



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

THEREFORE, the Legislature of the State of Montana finds it appropriate to amend section 39-51-2305, MCA.

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

Section 1. Section 39-51-2305, MCA, is amended to read:

"39-51-2305. Disqualification when unemployment due to strike. (1) An individual ~~shall--be~~ is disqualified for benefits for any week with respect to which the department finds that his total unemployment is due to a strike ~~which~~ that exists because of a labor dispute at the factory, establishment, or other premises at which he is or was last employed, provided that this subsection ~~shall~~ does not apply if it is shown to the satisfaction of the department that:

(a) he is not participating in or financing or directly interested in the labor dispute ~~which~~ that caused the strike; and

(b) he does not belong to a grade or class of workers of which, immediately before the commencement of the strike, there were members employed at the premises at which the strike occurs, any of whom are participating in or financing or directly interested in the dispute.

(2) If in any case separate branches of work ~~which~~ that are commonly conducted as separate businesses in separate premises are conducted in separate departments of the same premises, each such department shall, for the purpose of

1 this section, be deemed considered to be a separate factory,
2 establishment, or other premises.

3 (3) If the department, upon investigation, ~~shall--find~~
4 finds that ~~such the~~ labor dispute is caused by the failure
5 or refusal of any employer to conform to the provisions of
6 any law of the state wherein the labor dispute occurs or of
7 the United States pertaining to collective bargaining,
8 hours, wages, or other conditions of work, ~~such the~~ labor
9 dispute ~~shall~~ does not render the workers ineligible for
10 benefits.

11 (4) An employee whose unemployment is due to a strike
12 but whose work stoppage is caused by the employer's failure
13 or refusal to conform to the provisions of any law of the
14 United States pertaining to collective bargaining is
15 entitled to receive benefits upon the filing of a bona fide
16 claim alleging a violation of federal law with the national
17 labor relations board. It is unnecessary to wait for the
18 national labor relations board or a court to adjudicate a
19 claim if an employer against whom the unemployment benefit
20 claim is filed is entitled to respond to the charges. The
21 claim must be denied if the employer shows that the employee
22 never filed the claim or, if the employee filed the claim,
23 that the claim was filed for frivolous reasons or only to
24 collect unemployment benefits. Neither the department nor a
25 court construing this section may decide the legal questions

1 raised in the claim filed with the national labor relations
2 board but must limit its determination to the question of
3 whether a legitimate and bona fide issue exists to be
4 adjudicated by the national labor relations board."

5 NEW SECTION. Section 2. Effective date. [This act] is
6 effective July 1, 1991.

7 NEW SECTION. Section 3. Applicability. [This act]
8 applies to all claims for unemployment benefits filed on or
9 after July 1, 1991.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB0216, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

A bill to revise the Montana unemployment insurance law to provide that an employee whose unemployment is due to a strike but whose work stoppage is caused by the employer's failure or refusal to conform to federal law pertaining to collective bargaining is entitled to file a claim for unemployment insurance benefits.

ASSUMPTIONS:

1. The Department of Labor and Industry would review allegations of violations of federal labor standards to determine the validity of the issues in a potential petition to the NLRB.
2. Allegations determined to be frivolous would result in disqualification of employees for UI benefits. If an allegation is determined to have merit, employees would be eligible for benefits. SB0216 does not appear to authorize recoupment of UI benefits if the NLRB rules in favor of the employer.
3. The incidence and magnitude of strikes in which there are meritorious allegations of violations of federal law is unpredictable.
4. A review of strikes in calendar years 1985 through 1990 indicated that 35% of all strikes involved allegations of an employer violation of law. No information is available regarding actual filing of charges or NLRB dispositions.
5. Cost estimates are based on actual claims filed for UI benefits in calendar years 1985-1990 in which unemployment was due to a strike and there were allegations of employer violations. Some individuals may have not filed to the extent that they perceived that under current law, they would not be eligible. The number of claims which would have been filed for UI benefits if the law had been in effect as proposed is inestimable.
6. Three estimates are provided as "low", "intermediate", and "high" estimates:

"Low" represents a year during the 1985-1990 period in which there were virtually no claims filed for UI benefits under the criteria specified in assumption #5.

"Intermediate" represents a normative characterization of the five-year period.

"High" represents a year (1985) in which a large number of claims (approximately 600) were filed for UI benefits meeting the criteria specified in assumption #5. It is believed that most individuals who would have been potentially eligible for UI benefits if SB0216 had been in effect in 1985 actually filed since the department paid UI benefits in that year to strikers.

FISCAL IMPACT:

see next page



ROD SUNDSTED, BUDGET DIRECTOR 2-4-91 DATE
Office of Budget and Program Planning



THOMAS E. "TOM" TOWE, PRIMARY SPONSOR 2/7/91 DATE

Fiscal Note for SB0216, as introduced.

SB216

FISCAL IMPACT:

Expenditures:

	<u>FY92</u>			<u>FY93</u>		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
<u>UI Benefits:</u>						
"Low"	43,000,000	43,000,000	0	42,000,000	42,000,000	0
"Intermediate"	43,000,000	43,300,000	300,000	42,000,000	42,300,000	300,000
"High"	43,000,000	44,364,000	1,364,000	42,000,000	43,364,000	1,364,000

TECHNICAL NOTE:

If SB0216 were interpreted to authorize recoupment of UI payments made when the NLRB does not determine that an employer violated the law, there would be a minimal net fiscal impact. Under current law, striking employees are eligible for retroactive UI benefits if the NLRB rules that an employer violated federal collective bargaining laws. If recoupment were authorized, the net effect would be to: 1) cause UI benefits to be paid immediately instead of retroactively in instances when the NLRB rules against the employer; and 2) cause UI benefits to be paid immediately but later partially but mostly recovered in instances when the NLRB rules in favor of the employer.

APPROVED BY COMMITTEE
ON LABOR & EMPLOYMENT
RELATIONS

Senate BILL NO. *216*

INTRODUCED BY *Gov. Walter D. Dandridge*
Bob Spinkish
Yellowtail

A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE THE MONTANA
UNEMPLOYMENT INSURANCE LAW TO PROVIDE THAT AN EMPLOYEE WHOSE
UNEMPLOYMENT IS DUE TO A STRIKE BUT WHOSE WORK STOPPAGE IS
CAUSED BY THE EMPLOYER'S FAILURE OR REFUSAL TO CONFORM TO
FEDERAL LAW PERTAINING TO COLLECTIVE BARGAINING IS ENTITLED
TO FILE A CLAIM FOR UNEMPLOYMENT INSURANCE BENEFITS;
AMENDING SECTION 39-51-2305, MCA; AND PROVIDING AN EFFECTIVE
DATE AND AN APPLICABILITY DATE."

WHEREAS, section 39-51-2305(3), MCA, allows an employee
ordinarily disqualified from receiving unemployment benefits
to receive benefits if the Department of Labor and Industry
finds that the labor dispute is caused by an employer's
violation of the federal labor laws; and

WHEREAS, in Decker Coal Company v. The Honorable Mary
Margaret (Peg) Hartman, Commissioner of Labor and Industry,
the federal District Court ruled that section 39-51-2305(3),
MCA, is unconstitutional and void, as preempted by the
National Labor Relations Act, to the extent that it requires
a determination by a state agency of matters within the
exclusive jurisdiction of the National Labor Relations
Board.

THEREFORE, the Legislature of the State of Montana finds
it appropriate to amend section 39-51-2305, MCA.

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

Section 1. Section 39-51-2305, MCA, is amended to read:

"39-51-2305. Disqualification when unemployment due to
strike. (1) An individual ~~shall--be~~ is disqualified for
benefits for any week with respect to which the department
finds that his total unemployment is due to a strike ~~which~~
that exists because of a labor dispute at the factory,
establishment, or other premises at which he is or was last
employed, provided that this subsection ~~shall~~ does not apply
if it is shown to the satisfaction of the department that:

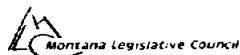
(a) he is not participating in or financing or directly
interested in the labor dispute ~~which~~ that caused the
strike; and

(b) he does not belong to a grade or class of workers
of which, immediately before the commencement of the strike,
there were members employed at the premises at which the
strike occurs, any of whom are participating in or financing
or directly interested in the dispute.

(2) If in any case separate branches of work ~~which~~ that
are commonly conducted as separate businesses in separate
premises are conducted in separate departments of the same
premises, each such department shall, for the purpose of

SECOND READING

SB 216



1 this section, be deemed considered to be a separate factory,
2 establishment, or other premises.

3 (3) If the department, upon investigation, ~~shall--find~~
4 finds that such the labor dispute is caused by the failure
5 or refusal of any employer to conform to the provisions of
6 any law of the state wherein the labor dispute occurs or of
7 the United States pertaining to collective bargaining,
8 hours, wages, or other conditions of work, such the labor
9 dispute shall does not render the workers ineligible for
10 benefits.

11 (4) An employee whose unemployment is due to a strike
12 but whose work stoppage is caused by the employer's failure
13 or refusal to conform to the provisions of any law of the
14 United States pertaining to collective bargaining is
15 entitled to receive benefits upon the filing of a bona fide
16 claim alleging a violation of federal law with the national
17 labor relations board. It is unnecessary to wait for the
18 national labor relations board or a court to adjudicate a
19 claim if an employer against whom the unemployment benefit
20 claim is filed is entitled to respond to the charges. The
21 claim must be denied if the employer shows that the employee
22 never filed the claim or, if the employee filed the claim,
23 that the claim was filed for frivolous reasons or only to
24 collect unemployment benefits. Neither the department nor a
25 court construing this section may decide the legal questions

1 raised in the claim filed with the national labor relations
2 board but must limit its determination to the question of
3 whether a legitimate and bona fide issue exists to be
4 adjudicated by the national labor relations board."

5 NEW SECTION. Section 2. Effective date. [This act] is
6 effective July 1, 1991.

7 NEW SECTION. Section 3. Applicability. [This act]
8 applies to all claims for unemployment benefits filed on or
9 after July 1, 1991.

-End-