MINUTES

MONTANA SENATE
52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON LABOR & EMPLOYMENT RELATIONS

Call to Order: By Senator Richard Manning, on February 7, 1991, at 3:15 p.m.

ROLL CALL

Members Present:

Richard Manning, Chairman (D)
Thomas Towe, Vice Chairman (D)
Gary Aklestad (R)
Chet Blaylock (D)
Gerry Devlin (R)
Thomas Keating (R)
J.D. Lynch (D)
Dennis Nathe (R)
Bob Pipinich (D)

Members Excused: NONE.

Staff Present: Tom Gomez (Legislative Council).

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Announcements/Discussion: Senator Manning informed the Committee that Senator Lynch would be allowed at this time to cast his vote on the Aklestad motion to TABLE Senate Bill 73 as amended. Senator Lynch's vote is NO. Motion FAILED.

Being that Senator Aklestad's motion to TABLE was a substitute motion the Committee voted on the previous motion of Senator Towe's -- DO PASS as amended Senate Bill 73. The Roll Call Vote was 5 YES, 3 NO. Motion CARRIED. Senator Nathe's vote was recorded later as NO. Final Roll Call Vote on DO PASS as amended Senate Bill 73 was 5 YES, 4 NO.

HEARING ON HOUSE BILL 68

Presentation and Opening Statement by Sponsor:

Representative Tim Whalen told the Committee that House Bill 68 modifies the disqualification statute for receiving unemployment insurance benefits by returning to the pre-1985 law which amended the statute by striking the words "stoppage of work" and inserting the word "strike". He explained anytime employees were forced to strike their employer, the employee was put in a position of having no income even if the employer

continued to operate. House Bill 68 would allow striking employees to receive a limited income if the employer continues to operate his business and derive an economic benefit. (Exhibit #1)

Proponents' Testimony:

Don Judge, Executive Secretary for the Montana State AFL-CIO spoke from prepared testimony. (Exhibit #2)

Jay Reardon, President of Local 72 of the United Steelworkers of America at the ASARCO plant in East Helena spoke in favor of House Bill 68. Mr. Reardon told the Committee that after negotiation in 1986 there was a 30% reduction in wages in 1987. He explained ASARCO's attitude changed in negotiation since the law was changed in 1985. Mr. Reardon said the union was threatened with continued operation of the plant (by salaried workers, scabs and strikebreakers), and it encouraged workers to cross the picket line. He explained that if the law had not been amended the 1985 the union would have been in a better position to negotiate with the company.

John Manzer, Business Representative for the Teamsters Union in Montana spoke in favor of House Bill 68. Mr. Manzer told the Committee that 90% of the employers he has negotiated with are fair. He explained there have been employers who ask for pay cuts and benefit reductions. He explained these employers have admitted they know the employees would not receive unemployment benefits if there were a strike. Mr. Manzer told the Committee this gave the employer an unfair advantage.

Phil Campbell of the Montana Education Association told the Committee House Bill 68 was a "matter of equity". If neither side is operating, no one benefits; but if employer stays open the workers should be entitled to unemployment benefits.

Bob Heiser of the United Food and Commercial Workers International Union spoke in favor of House Bill 68. He told the Committee that prior to 1985 there were "true negotiations" between the employer and the union. Since the change the employer asks for roll-back in wages, as well as other concessions. (Exhibit #3)

Michael Mizenko, Vice President of the Montana Association of Plumbers and Pipefitters spoke in favor of House Bill 68.

Mark Langdorf, Field Representative for the American Federation of State, County and Municipal Employees spoke in favor of House Bill 68.

Opponents' Testimony:

Forrest H. "Buck" Boles, President of the Montana Chamber of Commerce spoke in opposition to House Bill 68. Mr. Boles told

the Committee in 1985 public opinion was in favor of the business community in regards to this issue. He explained that people who go out on strike do it of their own free will and do not meet the criteria for receiving unemployment benefits. Mr. Boles explained that from 1986 until 1988 if all benefits would have been paid in the 20 strikes that occurred the cost would have been $8 million. He pointed out that during the same period $1 million of benefits were paid to strikers. He said strikers are not automatically denied benefits. Mr. Boles made reference to the statements in proponent testimony in which employees gave up benefits and wages. He explained that due to economic situation across the country all workers, not just Montana workers, were experiencing the same wage and benefit cuts. Mr. Boles told the Committee that the employers of Montana have made efforts to make the Fund solvent in order to meet the needs of legitimately unemployed people. He explained that the people and employers of Montana subsidize strikes by increased rates when the Fund balance drops; and 85% of the workers and employers not organized contributed to build the Fund.

Rex Manuel representing CENEX Petroleum Division told the Committee in the 1985 session Senate Bill 81 was passed due to the "loud public outcry against the practice of allowing strikers to receive unemployment benefits". He cited a five month strike in 1984 against the CENEX refinery in Laurel which cost over a half a million dollars in benefits. He told the Committee that some workers had told the press they "enjoyed the strike" and "likened it to a paid vacation". He explained this added to prolonging the strike. He pointed out that union members make up 15% of the Montana workforce. He questioned whether the other 85% should subsidize strikers.

Chadwick Smith representing Unemployment Compensation Advisors spoke in opposition to House Bill 68. He told the Committee that paying unemployment compensation to strikers causes concern to those that recognize the Unemployment Compensation Law originally was to compensate those "who are unemployed through no fault of their own". He explained that Montana has had an unemployment compensation law since 1937, and until 1978 strikers were disqualified from receiving unemployment benefits. He told the Committee that 19 states have amended the law as Montana did in 1985. Mr. Smith referred to the Fiscal Note. He explained that just one example would go beyond the $80,000. He told the Committee it is the "duty of the State to maintain a position of neutrality in a strike situation".

Lorna Frank of the Montana Farm Bureau told the Committee many Farm Bureau members are strongly opposed to House Bill 68. She explained persons on strike should not be eligible for food stamps, surplus commodities, unemployment benefits or welfare.

Laurie Shadoan of the Bozeman Chamber of Commerce told the Committee if House Bill 68 were to become law it would have an effect on the unemployment insurance rate. She explained the

Unemployment Insurance Division in the early 1980s was running in a deficit fund, and as an employer in the retail classification the retail sector was subsidizing other classifications. She told the Committee that today a "better balance exists" in the classification.

Dennis Anderson, President and CEO of the Great Falls Area Chamber of Commerce spoke in opposition to House Bill 68.

Kay Foster of the Billings Chamber of Commerce spoke in opposition to House Bill 68. She told the Committee the two largest members and employers in Billings are hospitals, not out of state corporations. They cannot engage in stoppage of work. She explained it was the local members and local employers that would be hurt by this bill.

Charles Brooks of the Montana Retail Association spoke from prepared testimony. (Exhibit #4)

Kathy Anderson representing the Montana Wood Products Association spoke in opposition to House Bill 68. She told the Committee the trade association represents the mills that process approximately 90% of the logs in Montana. She explained the organization of wood products industries is concerned about its future stability in Montana. Ms. Anderson said the mill owner has the right and privilege to provide jobs and economic stability to timber dependent communities and in western Montana that economic base is approximately 46%.

Questions From Committee Members:

Senator Blaylock asked how many of the people who are opposed to paying unemployment compensation to strikers would support binding arbitration.

Senator Aklestad asked Representative Whalen if he had stated that since this law in 1985 the number of strikes have been reduced; and how many more strikes there would have been, and the number of employees that would have affected. Representative Whalen explained that he was not aware of making the statement, but if he had it were because the financial situation of those forced to go out on strike is onerous.

Senator Aklestad asked if Representative Whalen assumed there would have been more strikes. Representative Whalen explained it may have created a situation where employers were more willing to enter into good faith negotiations and may have created less strikes.

Senator Keating asked Representative Whalen how much influence would unemployment benefits for strikers have on increasing strikes. Representative Whalen explained it is onerous for employees, as well as employers, to go on strike.

Closing by Sponsor:

Representative Whalen told the Committee when the law was passed in 1985 the employees gave up benefit cuts. He explained the appeal process for obtaining benefits for a three year period found in favor of the claimant only 26% of the time. The unemployment payroll taxes are paid out of the wealth that is created by the employees.

HEARING ON SENATE BILL 216

Presentation and Opening Statement by Sponsor:

Senator Towe told the Committee there are instances where striking workers can receive unemployment benefits. He explained when an employer is engaged in a violation of the law, such as an unfair labor practice, a striking employee can receive unemployment insurance because the strike was caused by the employer.

Senator Towe explained the National Labor Relations Board's procedure. An employee files a complaint before the NLRB, the claim of an unfair labor practice is investigated by an NLRB staff who makes a determination. The Chief Counsel of the NLRB then may agree the determination is correct. A decision is then made to file a complaint by the NLRB before the board. Senator Towe explained that most cases settle at that point, however if a case does not settle, a Hearings Officer hears the facts and makes another decision. If it is decided an unfair labor practice has taken place either side can appeal that decision to the full National Labor Relations Board. The decision of the board can be appealed further to the Circuit Court of Appeals; and the Circuit Court of Appeals decision can be appealed to the United States Supreme Court.

Senator Towe explained that under Judge Battin's decision there is currently an issue as to when the decision has been made that "triggers" the benefits. Senator Towe told the Committee the most logical place to make that decision is when the employee files the claim with the NLRB, after the Board makes the initial determination; that being when the Board's staff makes the decision to file a complaint.

Senator Towe told the Committee that Senate Bill 216 would codify the law as he sees it now. He explained there is no question that benefits should be paid, only when they should be paid if there has been an unfair labor practice. Senator Towe explained that the wait may be a long. He cited the Decker strike in which the strike commenced on October 1, 1987, a decision was made in a matter of months and the claims were paid. However, the NLRB Hearings Officer has heard the case, ruled there were unfair labor practices; but the decision is on appeal, with a possibility of appeal to the courts. (Exhibits #5, #6, and #7)

Proponents' Testimony:

Don Judge, Executive Secretary of the Montana State AFL-CIO spoke from prepared testimony in support of Senate Bill 216. (Exhibit #8)

Bob Heiser of the United Food and Commercial Workers International Union spoke in favor of Senate Bill 216.

Jay Reardon, President of Local 72 of United Steelworkers of America spoke in support of Senate Bill 216.

Michael Mizenko of the Montana State Association of Plumbers and Pipefitters spoke in support of Senate Bill 216.

Opponents' Testimony:

Mike Micone, Commissioner of the Department of Labor and Industry spoke in opposition to Senate Bill 216. Mr. Micone explained the bill obligates the department to determine that a work stoppage is caused by the employer's failure to comply with Federal law, and it asks the Montana Department of Labor to make a finding that an unfair labor practice has occurred which the federal courts have clearly stated is not within the departments jurisdiction. Mr. Micone asked that the term "bona fide claim" be clarified. Mr. Micone commented that the cumulative fiscal impact of all the pieces of legislation that have been introduced would increase the department's FTEs by three or five.

Charles Smith representing the Unemployment Compensation Advisors spoke in opposition to Senate Bill 216. He told the Committee that inclusion of language "it is unnecessary to wait for the NLRB or a court to adjudicate a claim" would not convince a federal judge that is a way to circumvent the preemption of the federal law. He also explained if the state department's jurisdiction is enlarged, state law should be increased.

Forrest H. Boles, President of the Montana Chamber of Commerce spoke in opposition to Senate Bill 216. Mr. Boles explained the employers of Montana were getting a break because rates had been reduced. He told the Committee that was exactly the plan.

Richard Nisbet, Director of Public Works for the City of Helena told the Committee that the City Commission went on record Monday, February 4, 1991, in opposition to Senate Bill 216.

Questions From Committee Members:

Senator Pipinich asked Mike Micone or Buck Boles if the intent of this bill had been up in the last session. He questioned if it were not the legislation Senator Aklestad sponsored, and Mr. Micone and Mr. Boles supported.

Senator Aklestad explained the bill last session was to coincide with the federal ruling.

Senator Lynch asked if this legislation would do as Mr. Micone suggested; the Legislature could not presume to overrule a federal court. Senator Towe explained the language in the bill makes it clear the Legislature is not making a decision of whether there has been an unfair labor practice, that is reserved for the federal courts.

Mr. Micone told the Committee that it is the opinion of the Department of Labor's legal department the Battin decision made Sub-section (3) null and void.

Closing by Sponsor:

Senator Towe cited that last page of Judge Battin's decision (Exhibit #7) in which the Court "does hereby declare that MCA 39-51-2305(3) 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."

Senator Towe told the Committee the concern is about when the decision is made. The law still entitles an employee to be paid, the only question is when should he be paid. The claimant should not have to wait until after the NLRB, or the United States Supreme Court has made a decision three or four years after the strike is started.

ADJOURNMENT

Adjournment At: 4:40 p.m.

RICHARD E. MANNING, Chairman

LINDA CASEY, Secretary

REM/llc

ROLL CALL

SENATE LABOR AND EMPLOYMENT RELATIONS COMMITTEE

DATE 2/7/91

___ LEGISLATIVE SESSION ___

NAME	PRESENT	ABSENT	EXCUSED
SENATOR AKLESTAD	P		
SENATOR BLAYLOCK	P		
SENATOR DEVLIN	P		
SENATOR KEATING	P		
SENATOR LYNCH	P		
SENATOR MANNING	P		
SENATOR NATHE	P		
SENATOR PIPINICH	P		
SENATOR TOWE	P		

Each day attach to minutes.

SENATE STANDING COMMITTEE REPORT

February 8, 1991

MR. PRESIDENT:

We, your committee on Labor and Employment Relations having had under consideration Senate Bill No. 73 (first reading copy -- white), respectfully report that Senate Bill No. 73 be amended and as so amended do pass:

1. Title, line 5.
Following: "MEAL"
Strike: "AND REST"
Following: "PERIODS"
Insert: "; AND PROVIDING CERTAIN EXEMPTIONS"

2. Page 1, lines 8 through 24.
Strike: everything following the enacting clause
Insert: "NEW SECTION. Section 1. Meal periods for employees -- penalty -- defense. (1) Each employer shall provide at least a half hour meal period not later than 5 hours after the beginning of the employee's workday.

(2) An employer who fails, neglects, or refuses to provide meal periods as provided in this section, after being requested to provide a meal period by an employee, or who permits an overseer, superintendent, or agent to violate the provisions of this section is guilty of a misdemeanor and, upon conviction, is subject to a fine not to exceed $500 for each offense. A true emergency is a complete defense under this subsection.

NEW SECTION. Section 2. Exemptions. (1) [Section 1] does not apply to persons employed in:

(a) agricultural labor as defined in 39-51-205; or

(b) the television or radio broadcast media.

(2) [Section 1] does not apply to an employee who works in a shift in which the employer has fewer than five employees.

(3) [Section 1] does not apply to employees covered by a collective bargaining agreement if the collective bargaining agreement provides meal periods for employees covered by the agreement.

NEW SECTION. Section 3. Codification instruction. [Sections 1 and 2] are intended to be codified as an integral part of Title 39, chapter 2, part 2, and the provisions of Title 39, chapter 2, part 2, apply to [sections 1 and 2]."

Signed: _____
Richard E. Manning, Chairman

Amd. Coord. 2-11-91

Sec. of Senate 2:15

Strikes, lockouts on steep decline

Business

WASHINGTON (AP) — Unions and management engaged in just 45 strikes and lockouts last year, the second-lowest number of work stoppages on record, the government reported this week.

Strikes and lockouts have been declining in recent years, and in 1990 fell again, down from the 51 work stoppages that occurred in 1989, the Labor Department said. A decade ago, there were about 200 strikes a year.

It was the next-to-lowest number of work stoppages since the government began tracking labor-management disputes in 1947. The high was in 1952, when there were 470 worker-initiated strikes or employer lockouts of workers; the low was the 40 that occurred in 1988.

Labor leaders attribute the dramatic drop in the number of work stoppages, in part, to union reluctance to strike because of a growing trend by employers to merely replace union workers if they walk out on strike.

Instead of immediately responding with a strike, unions are now trying other methods first, such as stockholder campaigns, pickets and one-day sitdowns.

"While we'll never give up the right to strike, the reality is that it's our ultimate weapon, but it's not our only weapon," said Steve Rosenthal of the Communications Workers of America.

The 45 strikes and lockouts that occurred last year involved 202,000 workers and 6.6 million idled work days, the Labor Department said.

The government tracks strikes and lockouts involving 1,000 workers or more, when the work stoppage lasted at least one shift. The government does not break down the number of strikes and lockouts when tallying the count.

The 1990 work stoppages with the most workers involved were General Motor employees represented by the United Auto Workers and teachers in West Virginia and Oklahoma.

The longest stoppage involved tugboat and barge crew members represented by the International Longshoremen's Association and employed by companies in the port of New York and New Jersey. The job action began in February 1988 and continued through 1991.

The lengthiest stoppage beginning in 1990 was the Greyhound strike, which began last March, involving 9,400 drivers and mechanics at its peak. The dispute continues, although many original Greyhound workers have now found other jobs.

MONTANA STATE AFL-CIO
APRIL 29 1956

DONALD R. JUDGE
EXECUTIVE SECRETARY

110 WEST 13TH STREET
P.O. BOX 1176
HELENA, MONTANA 59624

(406) 442-1708

TESTIMONY OF DON JUDGE BEFORE THE SENATE LABOR AND EMPLOYMENT RELATIONS COMMITTEE ON HOUSE BILL 68, FEBRUARY 7, 1991.

Mr. Chairman, members of the committee, for the record my name is Don Judge and I'm here today representing the Montana State AFL-CIO to testify in support of House Bill 68.

House Bill 68 would return the balance between Montana's workers and their employers as it relates to our state's unemployment compensation system. It would reverse a tragic decision made by the Legislature in 1985 to deny striking workers unemployment compensation benefits when their employer used strikebreakers to subvert the collective bargaining process.

Previous to 1985, striking workers would not automatically receive unemployment benefits, nor would they be automatically denied such benefits. If a business is shut down during a strike, workers would have been denied UI benefits. If an employer used strikebreakers so that the business continued to operate, then the striking workers could have been found eligible to receive such benefits. Even then, as under the provisions of HB 68, striking workers had to apply for benefits, be seeking other work, be available to accept other work, and accept such work, if offered.

That system provided an economic balance between the employer and his workers. If one was to lose money, then both would lose money. If one was to continue to receive an income, then both would continue to receive an income. This balance generally meant that both parties to negotiations would work hard at reaching a settlement, either before or during a strike.

In 1985 the situation changed. We don't have to look far to see the impact on Montana's workers and our economy. Since 1985, workers have been far more reluctant to strike. Their concern for feeding their families, making payments on homes cars and college tuition for their kids, and realizing that they would automatically be denied unemployment benefits during a strike boxed them in.

Employers, on the other hand, became much more aggressive in their negotiations. Recognizing that they held the upper hand, economically, they engaged in massive concessionary bargaining. Some employers, mostly large out of state corporations, extracted millions of dollars from Montana's workers and its economy.

SENATE LABOR & EMPLOYMENT
EXHIBIT NO. 2
DATE 2/7/91
BILL NO. HB68

Armed with their new boldness, such corporations in Montana's western timber industry extracted wage concessions amounting to approximately $3,600 per employee, per year, beginning in 1986. Many of these workers will not even reach their old 1986 wage levels until sometime this year. Those concessions, made to corporations which were earning record profits, took tens of millions of dollars from western Montana and our state.

Here in East Helena, another large out of state corporation, ASARCO, began in 1986 to extract millions of dollars from their workers. Money which left Mainstreet Montana to go to corporate headquarters located elsewhere.

Mr. Chairman, the list of concessionary wage give-backs in Montana since the adoption of the change in our unemployment could include miners, store clerks, restaurant workers, mechanics, building trades workers and many more. It's no surprise that Montana's average annual income has not kept pace with the nation.

The fiscal note on this bill indicates that the cost of providing such benefits to eligible striking workers from January 1989 to December 1990 would have amounted to approximately $40,000 per year.... a mere fraction of one percent of the UI fund's expenditures each year! In fact, over the years that striking workers were eligible to receive such benefits, the average was less than one percent of the fund expenditures.

Some would argue that not all employers should be charged for the cost of providing UI benefits to some striking workers, and we agree! As you know, the Unemployment Insurance system is an experience-rated tax structure whereby those employers who force a strike on their workers would absorb most of the cost in increased taxes. In addition, we are firmly convinced that Mainstreet businesses are already paying an unfair burden through the loss of purchasing power forced on workers by large out-of-state corporations.

No one likes a strike. Not workers, not employers, not communities. But no one likes economic tyranny, either. Passage of House Bill 68 will help us avoid both.

For these reasons, we encourage you to vote in favor of House Bill 68. Thank you for your consideration of our position on this important measure.

SENATE LABOR 3:00 P.M. 2-7-91

Mr. Chairman and Members of the Committee, for the record my name is Bob Heiser and I am here on behalf of the United Food and Commercial Workers who represent over 3,000 workers in the State of Montana.

We are here in SUPPORT of H.B. 68. H.B. 68 is a good bill as it helps put the WORKERS in Montana on a more level playing field with the employer. This bill is the pre 1985 law that was in effect prior to it being changed.

All this bill does is allow workers out on strike to receive UI benefits as long as they meet the requirements of the UI law, they have to : be available for, seeking and accept work, if offered and this is the way it should be.Also in order to collect UI the employers place of business has to remain open. If the business is closed because of the strike the workers would not be granted UI.

Opponents say that striking workers are "voluntarily unemployed" and should be denied benefits. Many workers are forced out on strike because of outrageous demands for concessions from the employers. No one likes a strike, especially workers. Workers stand to lose their home have their gas and lights turned off and have no money to spend on Montana main street business, thus everyone is a loser except the employer who continues to do business and make money with replacement workers THIS IS NOT RIGHT.

WE ASK YOUR SUPPORT OF H.B. 68 AND GIVE IT A DO PASS

THANK YOU FOR YOUR TIME

SENATE LABOR & EMPLOYMENT
EXHIBIT NO. 3
DATE 2/7/91
BILL NO. HB68

Montana Retail Association

Executive Office
318 N. Last Chance Gulch
P.O. Box 440
Helena, MT 59624
Phone (406) 442-3388

TESTIMONY
FEBRUARY 7. 1991
HOUSE BILL 68

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE:

FOR THE RECORD. I AM CHARLES BROOKS , EXECUTIVE VICE PRESIDENT OF THE MONTANA RETAIL ASSOCIATION AND ITS AFFILIATES: MONTANA HARDWARE AND IMPLEMENT ASSOCIATION AND THE MONTANA TIRE DEALERS ASSOCIATION, I AM HERE TO OPPOSE HOUSE BILL 68. MY OFFICE HAS RECEIVE A NUMBER OF CALLS ABOUT THIS BILL ASKING US TO OPPOSE HB 68.

HB68 CREATES A STATE POLICY OF SUBSIDIZING STRIKERS BY MONTANA EMPLOYERS. THIS BILL FORCES ALL MONTANA EMPLOYERS TO SUBSIDIZE LABOR DISPUTES FOR ONLY 15% OF THE WORK FORCE THROUGH EMPLOYER'S PREMIUMS TO THE UNEMPLOYMENT INSURANCE FUND. WE RETAILERS STRONGLY OPPOSE THIS FORCED SUPPORT OF STRIKERS. IT SEEMS TO BE UNFAIR FOR ALL RETAILERS TO SUBSIDIZE A STRIKE THROUGH THE UNEMPLOYMENT FUND. WHEN WE ARE NOT A PARTY TO THE DISPUTE.

MONTANA LAW STATES AN INDIVIDUAL IS ELIGIBLE TO RECEIVE BENEFITS IF:" .... HE IS ABLE TO WORK AND IS AVAILABLE TO WORK"
39-51-2104(2) MCA. AN INDIVIDUAL ON THE PICKET LINE IS NEITHER. "... AVAILABLE TO WORK OR SEEKING WORK." THIS IS A FUNDAMENTAL CHANGE IN THE LAW. WHICH WE ASK YOU TO OPPOSE.

THANK YOU FOR THE OPPORTUNITY TO PRESENT OUR POSITION ON THIS BILL.

EMPLOYMENT
4
DATE 2/7/91
BILL NO. HB68

Walter D. Richards
3723 Blue Stem. RR 11
Billings, MT 59105

February 6, 1991

Senator Tom Towe
Room 440
Capitol Station
Helena, MT 59620

SENATE LABOR & EMPLOYMENT
EXHIBIT NO. 5
DATE 2/7/91
BILL NO. SB 216

Dear Senator Towe:

I wish to comment to you on my support of your bill for striking workers to qualify for unemployment benefits and provide you with some background as to what has happened to me relating to this issue.

I was an employee of Greyhound Lines for 28 years and a member of the Amalgamated Transit Union. Last year, prior to the expiration of our contract agreement, Greyhound Lines refused to fairly negotiate a new contract with our union. Since that time the National Labor Relations Board had filed dozens of unfair labor practice charges against the company, this issue has not yet been settled. At the time of expiration of our contract, the union offered to continue working under the old contract agreement until a new contract could be agreed upon. Rather than allow this, Greyhound changed all of the locks on the depots, cancelled the runs of existing employees, and had replacement employees hired and assigned to do the job. I was notified by Greyhound dispatch 1 day before the contract expired that I would be making my last trip as a regular driver and that my run would terminate in Butte, MT. I was also told I would be placed on the "extra" board in Butte and would be used on a call basis. This was in violation of the existing contract because I was not given the opportunity to bid another run. I was also told that I may have to find my own transportation home from Butte. The contract expired on March 2, 1991. In June the union offered an unconditional return to work. Greyhound refused this offer and said there was no work available, they had other employees performing the work, similar to a lay-off situation. Since Greyhound did not contact me regarding the return to work, and indicated positions were not available, it seems to me that Greyhound severed my employment.

I immediately sought out permanent employment. I did not seek this employment as a stop-gap but with the attitude of working on a permanent basis. I was experienced in driving cement trucks and had a better opportunity to find employment in this field that other driving fields. I was able to secure work delivering cement on 4/30/90. I also tried to find temporary employment driving during the winter months when I could not deliver concrete with the intention of returning to R.L. Schaff when the weather permitted. I

was unable to find non-seasonal employment. Although I was making considerably less money delivering concrete I did not attempt to file unemployment due to reduced wages. After working 33 weeks for R.L. Schaff my work hours were cut substantially due to weather conditions. I filed for unemployment and benefits were denied.

As far as I am concerned, my employer is R.L. Schaff concrete. I consider myself a permanent employee. They pay into the unemployment fund for benefits for me. I believe that the State of Montana is discriminating against be for being a union member and has never even considered the true circumstances of my lost position with Greyhound. The State of Montana is allowing employers the freedom to unfairly treat employee's and randomly dicqualify the employee's for benefits by classifying the action as a strike. This is not the case when a non-union member loses a job. I have seen the State of Montana take more of the side of the employee than employer in these actions.

I have never sought to use or abuse the unemployment system but have strived to find my own means to support my family. I believe that I should be entitled to benefits as are the other employees of companies whose workload is seasonal.

Thank you for considering how this bill would affect people with the circumstances I have faced.

Sincerely,

Walter D Richards (ac)

Walter D. Richards

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF MONTANA

BILLINGS DIVISION

DECKER COAL COMPANY,

Plaintiff,

vs.

THE HONORABLE MARY MARGARET (PEG) HARTMAN, Commissioner of the Montana State Department of Labor and Industry,

Defendant.

UNITED MINE WORKERS OF AMERICA, LOCAL UNION NO. 1972, representing 244 individual claimants,

Intervenors.

CV 87-304-BLG-JFB

FILED

FEB 28 1989

LOU ALEKSICH, JR., Clerk
By [illegible]
Deputy Clerk

MEMORANDUM AND ORDER

Presently pending before the Court is the defendant-intervenors' Motion for Reconsideration of this Court's Memorandum Opinion and Order of September 30, 1988, granting plaintiff's Motion for Judgment on the Pleadings. For the reasons stated below, the Motion for Reconsideration is denied.

FACTS AND PROCEDURAL BACKGROUND

By Memorandum and Order dated September 30, 1988, this Court held that Mont. Code Ann. §39-51-2305(3) is unconstitutional and void, as preempted by the National Labor

Relations Act, 29 U.S.C. §151 et. seq., to the extent that it requires determination by a state agency of matters within the exclusive jurisdiction of the National Labor Relations Board. That holding was based upon this Court's determination that eligibility for state unemployment benefits may not properly be based upon a finding by a state agency that an employer has engaged in unfair labor practices, since jurisdiction to determine such issues rests solely in the National Labor Relations Board (NLRB), under the provisions of the National Labor Relations Act of 1947, 29 U.S.C. §151 et. seq. (NLRA).

The intervenors move for reconsideration of that Order, on the ground that the "unfair labor practice" standard of eligibility is a legitimate attempt by the Legislature to establish the voluntary or involuntary nature of unemployment. Given the intent of Congress to allow states broad freedom in setting up their unemployment compensation plans, and the important state interest in an unemployment scheme, preemption is not proper absent a compelling congressional intent to do so.

The intervenors also argue that, from a procedural standpoint, it is impractical to require the state to await a decision by the NLRB as to the commission of an unfair labor practice before determining eligibility for unemployment benefits, due to the protracted nature of NLRB proceedings.

Plaintiffs oppose the motion for reconsideration, arguing that the issues raised do not constitute a proper basis for reconsideration, and that the procedural implications of the Court's prior decision do not provide sufficient basis for enforcing a statutory provision which is otherwise unconstitutional.

DISCUSSION

A motion for reconsideration may be brought pursuant to Rule 59(e) or Rule 60(b), Fed.R.Civ.P.. Lewis v. United States Postal Service, 840 F.2d 712, 713 n.1 (9th Cir. 1988). Courts have delineated three major grounds justifying reconsideration:

(1) An intervening change in controlling law;
(2) The availability of new evidence;
(3) The need to correct clear error or prevent manifest injustice.

All Hawaii Tours v. Polynesian Cultural Center, 116 F.R.D. 645, 649 (D.Hawaii 1987).

A motion for reconsideration must demonstrate some reason why the Court should reconsider its prior decision, and must set forth facts or law of a strongly convincing nature to induce the Court to reverse its prior decision. Id. However, a motion for reconsideration that presents no arguments that have not already been raised in opposition to summary judgment should be denied. Id. (citing Backlund v. Barnhart, 778 F.2d 1386, 1388 (9th Cir. 1985)).

The intervenors rely on the third ground for reconsideration, arguing that the decision should be vacated because of legal error. More specifically, the intervenors argue that (1) the procedural reality of awaiting a determination by the NLRB as to the existence of unfair labor practices before awarding unemployment benefits effectively destroys the state's ability to determine the voluntary or involuntary nature of the unemployment in question and to award benefits in a timely fashion; and (2) in enacting Title IX of the Social Security Act of 1935, Congress intended the states to have broad freedom in setting up the types of unemployment compensation programs they desired, and intended to tolerate some conflict between state and federal laws in this area. The intervenors contend that the Court failed to give proper consideration to those factors in arriving at its prior decision, and that the eligibility standard contained in M.C.A. §39-51-2305(3) is consistent with both the voluntary/involuntary key to eligibility and the state's broad freedom to establish eligibility standards.

At the outset, the Court notes that the preemption arguments raised by the intervenors upon reconsideration were addressed extensively by the parties in prior briefs, and considered by the Court in arriving at its prior decision. To the extent that the intervenors reiterate arguments made in opposition to the motion for judgment on the pleadings, the

motion for reconsideration has no valid legal basis. However, because the Court did not engage in extensive discussion of those issues in its prior order, it will now take this opportunity to expand upon its reasoning more fully.

It is true, as the intervenors assert, that the intent of the Congress in enacting the NLRA must be read, to some degree, in light of the intent behind the Social Security Act of 1935. See New York Telephone Co. v. New York Labor Dept., 440 U.S. 519 (1979); Baker v. General Motors Corp., 478 U.S. 621 (1986). Both were enacted in the same year, approximately 40 days apart, and have some bearing on the issues raised here. The U. S. Supreme Court, after careful review of both acts, has concluded that the states were intended to have "broad freedom to set up the types of unemployment compensation that they wish", New York Telephone 440 U.S. at 537, and that Congress intended to tolerate some conflict between state and federal law, in the area of unemployment compensation. Baker, 478 U.S. at 634. In this area concerning laws of general application and involving strong local interests, Congress cannot be said to have deprived the states of the power to act without "compelling congressional direction". New York Telephone, 440 U.S. at 540.

In New York Telephone, the United States Supreme Court upheld against a preemption challenge a New York state statute authorizing payment of benefits to striking employees. In so

deciding, the Court reasoned that "[t]he omission of any direction concerning payment to strikers in either the National Labor Relations Act or the Social Security Act implies that Congress intended that the states be free to authorize, or to prohibit, such payments, even though the relative strength of the parties to a bargaining dispute was affected thereby." New York Telephone, 440 U.S. at 544. Similarly, in Baker, the Supreme Court upheld a Michigan statute making an employee ineligible for unemployment compensation if he has "financed", by means other than paying union dues, a strike which caused his unemployment, affirming the states' power to make the policy choice between paying or denying unemployment benefits to striking workers. Baker, 478 U.S. at 634. These cases are illustrative of the notion that a state's power to make policy determinations in the field of unemployment compensation is not subject to preemption, absent compelling congressional direction.

However, the present case does not involve the states' power to make a broad policy choice about whether to pay benefits to strikers, or to implement the type of program it desires. It involves a challenge to a specific statutory subsection setting forth a standard for eligibility, chosen by the state to implement its policy decisions. The particular standard employed, depending as it does upon a finding of unfair labor practices by the employer, primarily involves

labor-management relations and has a regulatory or prohibitory effect. It is therefore subject to a greater preemptive force than were the statutes considered in Baker and New York Telephone. This is true, notwithstanding the fact that the subsection also may happen to accomplish the desired goal of distinguishing voluntary from involuntary unemployment, for purposes of eligibility for benefits. Allowing a state agency to make a substantive determination regarding the commission of unfair labor practices by an employer, with financial and other ramifications flowing from that determination, is contrary to the clear congressional intent to avoid incompatible and conflicting adjudications in labor controversies and, in the Court's opinion, exceeds the degree of conflict between federal and state law which Congress intended to tolerate.

Procedural impracticability resulting from this conclusion does not warrant upholding a statute which is otherwise unconstitutional. The state, having made a policy determination to award unemployment benefits to striking workers in certain situations, must devise a standard for eligibility which does not intrude upon the exclusive jurisdiction of the NLRB to determine violations of labor laws.

Based on the foregoing,

IT IS ORDERED that defendant-intervenor's Motion for Reconsideration of this Court's Order of September 30, 1988 be and is hereby denied.

The Clerk is directed forthwith to notify counsel for the respective parties of the making of this order.

Done and dated this 27th day of February, 1989.

James F. Battin
Chief Judge

MEMORAND\87304\01

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF MONTANA

BILLINGS DIVISION

DECKER COAL COMPANY, a Joint Venture, Plaintiff, vs. **THE HONORABLE MARY MARGARET (PEG) HARTMAN**, Commissioner of the Montana State Department of Labor and Industry, Defendant.	Cause No. CV 87-304-BLG-JFB **MEMORANDUM OPINION AND ORDER** *********

Presently pending before the Court is plaintiff's Motion for Judgment on the Pleadings. For the reasons stated below, plaintiff's motion is granted.

FACTS AND PROCEDURAL BACKGROUND

Plaintiff filed this action on December 3, 1987, seeking a declaratory ruling that Mont. Code Ann. § 39-51-2305(3) is unconstitutional, as preempted by the National Labor Relations Act of 1947, 29 U.S.C. § 151 et seq. (NLRA). The subsection in question allows a striking worker, ordinarily disqualified from receiving unemployment benefits under § 39-51-2305(1), to receive benefits when the Montana State Department of Labor and Industry finds that the labor dispute is caused by an employer's failure to conform to the provisions of federal or state labor law. Plaintiff contends that jurisdiction to make a determination of unfair labor practices by an employer rests solely in the National Labor Relations Board (NLRB) under the provisions of the

NLRA. To the extent that the Montana standard for eligibility for benefits is based upon the making of such a determination by a state agency, it is preempted. The defendants, on the other hand, argue that the statute in question is valid since it does not regulate or prohibit any conduct which is within the sphere of the NLRA, but, instead, serves only as a criteria for determining eligibility.

This Court previously denied motions to dismiss filed by the defendant and intervening defendants and reserved ruling on plaintiff's Motion for Judgment on the Pleadings until such time as the pleadings were closed. See, Memorandum Opinion and Order of March 29, 1988. All necessary pleadings having been filed, and the issues having been fully briefed and argued, the Court is prepared to issue its ruling at this time

DISCUSSION

As a preliminary matter, the Court considers it instructive to review the standards for grant or denial of a motion for judgment on the pleadings. To prevail, plaintiff must establish that "no material issue of fact remains to be resolved and that [it] is entitled to judgment as a matter of law." **McGlinchy v. Shell Chemical Co.**, 845 F.2d 802 (9th Cir. 1988) (**citing Doleman v. Meiji Mutual Life Insurance Co.**, 727 F.2d 1480, 1482 (9th Cir. 1984)). In this case, no material issues of disputed fact are raised by the pleadings. The legal issues involved are, therefore, appropriately addressed through the vehicle of a

motion for judgment on the pleadings pursuant to Rule 12(c), Fed. R. Civ. P.

I. Preemption

In enacting the NLRA, Congress evidenced an intent that the regulation of unfair labor practices in this nation be entrusted exclusively to the NLRB, "a centralized administrative agency, armed with its own procedures, and equipped with its specialized knowledge and cumulative experience . . ." San Diego Building Trades Council v. Garmon, 359 U.S. 236, 242 (1959). Congress, in doing so, "largely displaced state regulation of industrial relations . . . [a]lthough some controversy continues over the Act's preemptive scope . . ." Wisconsin Department of Industry v. Gould, 475 U.S. 282, 286 (1986). It is, however, well established "that states may not regulate activity that the NLRA protects, prohibits, or arguably protects or prohibits." Id. "[That] rule is designed to prevent 'conflict in its broadest sense' with the 'complex and interrelated federal scheme of law, remedy, and administration.'" Id. (citing Garmon, 359 U.S. at 243).

Here, the Court is concerned with a statute which, on its face, does not attempt nor purport to regulate or prohibit activities governed by the NLRA. Cf., Gould, 475 U.S. 282. Instead, the statute was apparently intended simply to serve as a standard for determining eligibility for state unemployment benefits. However, eligibility hinges upon a finding (by the state agency) that the employer has committed an unfair labor

practice. Because such a finding has financial and other consequences to defendant, the Court must go beyond the express statutory language and consider whether the statute, in effect, accomplishes what the state cannot do directly -- namely, the regulation or prohibition of conduct within the sphere of the NLRA.

Congressional purpose is "'the ultimate touchstone' of pre-emption analysis." Gould, 475 U.S. at 290 (quoting Allis-Chalmers Corp. v. Lueck, 471 U.S. 202, 208 (1985). One of Congress' primary goals, in passing the NLRA and vesting jurisdiction over labor disputes in the NLRB, was to "obtain uniform application of its substantive rules and to avoid [the] diversities and conflicts likely to result from a variety of local procedures and attitudes toward labor controversies . . . A multiplicity of tribunals and a diversity of procedures are quite as apt to produce incompatible or conflicting adjudications as are different rules of substantive law." Garmon, 359 U.S. at 242-43 (quoting Garner v. Teamsters Union, 346 U.S. 485, 490-91). At the outset, it is obvious that any determination by the Montana State Department of Labor and Industry as to whether or not plaintiff has or has not engaged in unfair labor practices under § 8 of the NLRA would greatly infringe upon this purpose. Should the state agency reach a finding contrary to the NLRB's decision on the same matter, the uniformity and consistency of substantive labor law would be jeopardized, creating the exact

sort of disparity which Congress sought to prevent. In this respect, the statute is defective.

Further, the Court agrees with plaintiff that although the statute may have been designed to function solely as an eligibility standard by drawing a distinction between workers voluntarily unemployed and those unemployed involuntarily through no fault of their own, the effect of the statute is to regulate or prohibit plaintiff's conduct. A finding by the agency that plaintiff did engage in unfair labor practices would result in certain consequences, financial and otherwise, to plaintiff. Plaintiff's contribution obligation to the state unemployment fund would increase, and subsequent activities would inevitably be colored by that finding. The Supreme Court has recognized that regulation of conduct "can be as effectively exerted through an award of damages as through some form of preventive relief", Garmon, 359 U.S. at 246-47, and the Court believes that the same may be said in this case. The fact that any such regulation is indirect and consequential in nature, rather than intentional, does not lessen the regulatory effect.

In so deciding, the Court acknowledges the broad freedom generally accorded states to design and implement an unemployment compensation program reflecting their own policy choices. See, New York Telephone Co. v. New York Department of Labor, 440 U.S. 519, 537 (1979). However, this freedom is not unlimited and must defer to the larger Congressional purpose behind the NLRA. The Court believes that the State of Montana exceeded its bounds by

enacting legislation requiring state agency determination of a matter subject to the sole regulatory jurisdiction of the NLRB. Cf., id. As such, the statute must be declared unconstitutional.

This does not say that the commission of an unfair labor practice by an employer may not ever be used as a criteria for determining benefit eligibility. However, that determination must be made in the first instance by the NLRB, the federal agency entrusted by Congress with the sole jurisdiction to make such a finding.

II. **Abstention**

Defendants ask the Court to abstain from ruling in this action under the principles of Younger v. Harris, 401 U.S. 37 (1971). Under Younger and its progeny, federal-court interference with ongoing state judicial proceedings is discouraged, absent extraordinary circumstances, based on "notions of comity and respect for state functions." Fresh International v. Agricultural Labor Relations Board, 805 F.2d 1353 (9th Cir. 1986). Younger principles apply to pending state administrative proceedings where important state interests are involved. Ohio Civil Rights Commission v. Dayton Christian Schools, Inc., 106 S.Ct. 2718, 2723 and n. 2 (1986).

The Supreme Court has established a three-part test for determining whether absention in favor of a state proceeding is appropriate in a given situation. Absention is proper if:

(1) the state proceedings are ongoing;
(2) the proceedings implicate important state interests; and

(3) the state proceedings provide an adequate opportunity to raise federal questions.

Fresh, 805 F.2d at 1358 (citing Middlesex County Ethics Committee v. Garden State Bar Association, 457 U.S. 423 (1982). In this case, it is the second factor which is contested.

Defendants contend that the State of Montana has an important interest in enforcing its unemployment benefits law. Plaintiff, relying heavily on the Ninth Circuit's decision in Champion International Corp. v. Brown, 731 F.2d 1406 (9th Cir. 1984), counters that no important state interest is involved because the statute in question is preempted by the NLRA, and a state cannot have a substantial interest in enforcing an invalid law.

In Champion, the Circuit Court did hold that the State of Montana had no substantial interest in enforcing its age discrimination laws because they were preempted by ERISA. Id., at 1408-09. However, in a later case, Fresh International v. Agricultural Labor Relations Board, 805 F.2d 1353 (9th Cir. 1986), the court clarified its prior decision, stating:

> [W]e did not say in Champion that absention is never appropriate when a preemption claim is raised . . . Rather, Champion was a case in which preemption was readily apparent.

Id., at 1361. Thus, under Fresh, when an important state interest is involved, absention is not required when preemption is readily apparent.

However, in the present case, as in Fresh, preemption is not readily apparent. Defendants make a persuasive argument that the

statute in question does not purport to regulate or prohibit conduct or activities governed by preemptive federal law and is, therefore, not preempted. The attractiveness of this argument is illustrated by the fact that this Court, when initially confronted with the preemption issue, was inclined to agree with defendants. See, Memorandum and Order of December 8, 1987. The fact that further consideration has led the Court to alter its prior analysis does not make preemption "readily apparent." Based on this factor alone, abstention would appear to be proper.

The inquiry may not end at this point, however. In **Fresh**, the Court acknowledged that "a different result might obtain if the effect of preemption were to deprive a state agency or court of jurisdiction." **Fresh**, 805 F.2d at 1362, n. 13. In the present case, plaintiff essentially challenges the power of the state, through its administrative agency, to determine whether plaintiff has engaged in unfair labor practices as a criteria for awarding unemployment benefits. The Court has concluded, as a matter of federal law, that the state lacks that power since Congress has vested jurisdiction over such determinations exclusively with the NLRB, under 29 U.S.C. § 160. The effect of that conclusion is to deprive the state of jurisdiction over the matters which it seeks to decide. As such, principles of comity and federalism do not require the Court to allow the proceedings to continue.

Based on the foregoing,

IT IS ORDERED that plaintiff's Motion for Judgment on the Pleadings be, and hereby is, granted, and the Court does hereby declare that Mont. Code Ann. § 39-51-2305(3) is unconstitutional and void, as preempted by the National Labor Relations Act, 29 U.S.C. § 151 et seq., to the extent that it requires determination by a state agency of matters within the exclusive jurisdiction of the National Labor Relations Board.

The Clerk of Court shall forthwith notify the parties of the making of this order.

DONE and **DATED** this 30th day of September, 1988.

James F. Battin
Chief Judge

MONTANA STATE AFL-CIO
APRIL 29 1956

DONALD R. JUDGE
EXECUTIVE SECRETARY

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(406) 442-1708

Testimony of Don Judge on Senate Bill 216 before the Senate Labor Committee, February 7, 1991

Mr. Chairman, members of the Committee, for the record, I am Don Judge, Executive Secretary of the Montana State AFL-CIO, here today to testify in favor of Senate Bill 216.

As you know, this bill would make striking workers eligible for receipt of unemployment benefits upon filing of an unfair labor practice charge with the National Labor Relations Board.

Under present law, such workers are eligible to receive unemployment benefits if it is determined that the employer has committed an unfair labor practice.

However, the wheels of justice turn slowly at the National Labor Relations Board and if the adjudication process is delayed, the rightful claim of workers to benefits is delayed as well. In some cases, the National Labor Relations Board may take years to render such a decision. In these cases, the human needs of workers and their families are denied while the administration of justice grinds slowly forward.

If a worker applies for and receives benefits, and the NLRB later determines that an unfair labor practice was not committed by the employer, repayment of those benefits is provided for by law.

Senate Bill 216 also contains provisions to prevent the frivolous filing of an unfair labor practice charge or the filing of a charge only to collect unemployment benefits.

I am sure that no one here wants to deny workers unemployment benefits to which they are rightfully and lawfully entitled. I am sure that no one here wants to delay payment to workers, unemployment benefits to which they are rightfully and lawfully entitled.

The passage of this law would help prevent such a delay, and it contains provisions that would screen unlawful attempts to abuse the system.

We urge you to support Senate Bill 216, and give it a "do pass" recommendation.

Thank you.

SENATE LABOR & EMPLOYMENT
EXHIBIT NO. 8
DATE 2/7/91
BILL NO. SB216

Amendments to Senate Bill No. 73
First Reading Copy

Requested by Senator Tom Towe
For the Senate Committee on Labor and Employment Relations

Prepared by Tom Gomez
February 5, 1991

1. Title, line 5.
Following: "MEAL"
Strike: "AND REST"
Following: "PERIODS"
Insert: "; AND PROVIDING CERTAIN EXEMPTIONS"

2. Page 1, lines 8 through 24.
Strike: everything following the enacting clause
Insert: "NEW SECTION. **Section 1. Meal periods for employees.** (1) Each employer shall provide at least a half hour meal period not later than 5 hours after the beginning of the employee's workday.

(2) An employer who fails, neglects, or refuses to provide meal periods, as provided in this section, after being requested to provide a meal period by an employee, or who permits an overseer, superintendent, or agent to violate the provisions of this section is guilty of a misdemeanor and, upon conviction, is subject to a fine not to exceed $500 for each offense. A true emergency is a complete defense under this subsection.

NEW SECTION. **Section 2. Exemptions.** (1) [Section 1] does not apply to persons employed in:

(a) agricultural labor as defined in 39-51-205; or

(b) the television or radio broadcast media.

(2) [Section 1] does not apply to an employee who works in a shift in which the employer has fewer than 5 employees.

(3) [Section 1] does not apply to employees covered by a collective bargaining agreement if the collective bargaining agreement provides meal periods for employees covered by the agreement.

NEW SECTION. **Section 3. Codification instruction.** [Sections 1 and 2] are intended to be codified as an integral part of Title 39, chapter 2, part 2, and the provisions of Title 39, chapter 2, part 2, apply to [sections 1 and 2]."

DATE 2/7/91

COMMITTEE ON Senate Labor

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One: Support	Check One: Oppose
F.H. Buck Boles	MT CHAMBER	HB 68 SB 216		X
MICHAEL MIZENKO	Plumbers + Pipe Fitters	HB 68 SB 216	X	
REX MANUEL	CENEX	HB 68		✓
Bob Heiser	WFCW	HB 68 SB 216	X	
Rick Bacon	DLI	SB 216		X
Kathy Anderson	MT WOOD PROD. ASSN	HB 68		X
Charles R. Brooks	MT RETAIL ASSOC	HB 68		✓
MARK LANGDORF	AFSCME	HB 68 SB 216	X	
Kay Foster	Billings Chamber	HB 68 SB 216		✓
AMY REARDON	USWA Local 72	HB 68 SB 216	X	
John Seebergen	GT Falls Area Chamber of Commerce	SB 216 HB 68		✓
Dave Stanton	Bozeman Chamber	HB 68		X
Don Judge	MT STATE AFL-CIO	HB 68 SB 216	X	
Lorna FRANK	MT. FARM BUREAU	HB 68 SB 216		X
TUCKER HILL	Champion INT'L	HB 68		X
CHADWICK SMITH	Unemployment Insurance advisory	HB 68 SB 216		X
John Manzer	Teamsters Union	HB 68 SB 216	X	
Riley Johnson	NFIB			X
Richard Nisbet	City of Helena	SB 216		X
DENNIS ANDERSON	GREAT FALLS CHAMBER of COM.	HB 68		X
Phil Campbell	MEA	HB 68	X	

(Please leave prepared statement with Secretary)

ROLL CALL VOTE

SENATE COMMITTEE LABOR AND EMPLOYMENT RELATIONS

Date 2/7/91 Senate Bill No. 73 Time 3:15

NAME	YES	NO
SENATOR AKLESTAD		X
SENATOR BLAYLOCK	X	
SENATOR DEVLIN		X
SENATOR KEATING		X
SENATOR LYNCH	X	
SENATOR MANNING	X	
SENATOR NATHE		X
SENATOR PIPINICH	X	
SENATOR TOWE	X	

Secretary

Chairman

Motion: SB 73 as amended
DO PASS MOTION

Lynch

SB Votes Yes on SB216

HB Votes Yes on HB 68

Bloyluck Amendments to 237 Yes

S.B. 237 (No)

I vote to

Reconsider our

action on

SB 237

I vote against

motion to TABLE

SB 73