

1 *Senate* BILL NO. *80*  
 2 INTRODUCED BY *Select Committee on State Employee Pay*  
 3 *(Rehark, chairman)*

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND  
 5 CLARIFY THE LAWS RELATING TO COLLECTIVE BARGAINING AND  
 6 PUBLIC EMPLOYMENT RELATIONS; AMENDING SECTIONS 59-904,  
 7 59-907, 59-1602, 59-1605, 59-1606, AND 17-807, R.C.M. 1947."

8  
 9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

10 Section 1. Section 59-904, R.C.M. 1947, is amended to  
 11 read as follows:

12 "59-904. Officers and employees excepted from  
 13 provisions of act. This act does not apply to the following  
 14 positions in state government:

- 15 (1) elected officials and their chief deputy and  
 16 executive secretary;
- 17 (2) officers and employees of the legislative branch;
- 18 (3) judges and employees of the judicial branch;
- 19 (4) members of boards and commissions appointed by the  
 20 governor, appointed by the legislature or appointed by other  
 21 elected state officials;
- 22 (5) officers or members of the militia;
- 23 (6) agency heads appointed by the governor;
- 24 (7) ~~academic and professional administrative personnel~~  
 25 ~~with individual contracts under the authority of the board~~

1 ~~of regents of higher education officials and employees of~~  
 2 ~~the university system;~~

3 (8) academic and professional administrative personnel  
 4 who have entered into individual contracts with the state  
 5 school for the deaf and blind under the authority of the  
 6 state board of public education;

7 (9) personal staff of the elected officials enumerated  
 8 in Article VI, section 1, of the constitution of Montana are  
 9 exempt from ~~sections 59-909, 59-910, and 59-911 of this act,~~  
 10 ~~and section 82A-1014."~~

11 Section 2. Section 59-907, R.C.M. 1947, is amended to  
 12 read as follows:

13 "59-907. Review of positions -- change in  
 14 classification. (1) The department shall continuously  
 15 review all positions on a regular basis and adjust  
 16 classifications to reflect significant changes in duties and  
 17 responsibilities, ~~provided, however, employees and employee~~  
 18 ~~organizations will be given the opportunity to~~

19 (2) ~~Employees~~ may appeal any changes in  
 20 classifications or positions.

21 (3) Anything relevant to the determination of  
 22 ~~reasonable classifications and~~ grade levels for state  
 23 ~~employees shall be~~ is a negotiable item appropriate for the  
 24 consideration of the state and exclusive representatives  
 25 under the provisions of Title 59, chapter 16, ~~R.C.M. 1947."~~

1 Section 3. There is a new R.C.M. section that reads as  
2 follows:

3 Classification appeals. (1) An employee represented by  
4 an exclusive representative for the purpose of collective  
5 bargaining may file an appeal only to challenge his assigned  
6 position within a classification series.

7 (2) An employee who is not represented by an exclusive  
8 representative for the purpose of collective bargaining may  
9 file either an appeal to challenge his assigned position  
10 within a classification series or a class action appeal but  
11 not both. However, the employee may file a class action  
12 appeal in addition to any other appeal if the employee can  
13 establish that his position was improperly classified when  
14 the classification and wage plan was implemented or if the  
15 employee can establish that since then a significant change  
16 in his duties and responsibilities has occurred.

17 (3) The board of personnel appeals shall promulgate  
18 rules and establish procedures to implement this section.

19 Section 4. Section 59-1602, R.C.M. 1947, is amended to  
20 read as follows:

21 "59-1602. Definitions. ~~When As~~ used in this act ~~the~~  
22 following definitions apply:

23 (1) "~~publie~~ Public employer" means the state of  
24 Montana or any political subdivision thereof, including but  
25 not limited to, any town, city, county, district, school

1 board, board of regents, public and quasi-public  
2 corporation, housing authority, or other authority  
3 established by law, and any representative or agent  
4 designated by the public employer to act in its interest in  
5 dealing with public employees, ~~when~~ when the board of  
6 regents is the public employer ~~defined-in-this-section~~, the  
7 student government at an institution of higher education may  
8 designate an agent or representative to meet and confer  
9 with the board of regents and the faculty bargaining agent  
10 prior to negotiations with the professional educational  
11 employees, to observe those negotiations and participate in  
12 caucuses as part of the public employer's bargaining team,  
13 and to meet and confer with the board of regents regarding  
14 the terms of agreement prior to the execution of a written  
15 contract between the regents and the professional  
16 educational employees. The student observer is obliged to  
17 maintain the confidentiality of these negotiations.

18 (2) "~~publie~~ Public employee" means a person employed  
19 by a public employer in any capacity, except elected  
20 officials, persons directly appointed by the governor,  
21 supervisory employees and management officials, ~~as--defined~~  
22 ~~in--subsection-(3)-and-(4)-below~~, or members or of any state  
23 board or commission who serve the state intermittently,  
24 school district clerks and school administrators, registered  
25 professional nurses performing service for health care

1 facilities, professional engineers and engineers in  
2 training, or any person with access to confidential labor  
3 relations information, and includes any individual whose  
4 work has ceased as a consequence of, or in connection with  
5 any unfair labor practice or concerted employee action~~±~~.

6 (3) "~~supervisory~~ Supervisory employee" means any  
7 individual having authority, in the interest of the employer  
8 to hire, transfer, suspend, lay off, recall, promote,  
9 discharge, assign, reward, or discipline other employees,  
10 having responsibility to direct them, to adjust their  
11 grievances, or effectively to recommend such action, if in  
12 connection with the foregoing the exercise of such authority  
13 is not of a merely routine or clerical nature, but requires  
14 the use of independent judgment~~±~~.

15 (4) "~~management~~ Management officials" means  
16 representatives of management having authority to act for  
17 the agency on any matters relating to the implementation of  
18 agency policy~~±~~.

19 (5) "~~labor~~ Labor organization" means any organization  
20 or association of any kind in which employees participate  
21 and which exists for the primary purpose of dealing with  
22 employers concerning grievances, labor disputes, wages,  
23 rates of pay, hours of employment, fringe benefits, or other  
24 conditions of employment~~±~~.

25 (6) "~~exclusive~~ Exclusive representative" means the

1 labor organization which has been designated by the board as  
2 the exclusive representative of employees in an appropriate  
3 unit or has been so recognized by the public employer~~±~~.

4 (7) "~~board~~ Board" means the board of personnel appeals  
5 provided for in section 82A-1014~~±~~.

6 (8) "~~person~~ Person" includes one or more individuals,  
7 labor organizations, public employees, associations,  
8 corporations, legal representatives, trustees, trustees in  
9 bankruptcy, or receivers~~±~~.

10 (9) "~~unfair~~ Unfair labor practice" means any unfair  
11 labor practice listed in section 59-1605~~±~~.

12 (10) "~~labor~~ Labor dispute" includes any controversy  
13 concerning terms, tenure~~±~~ or conditions of employment, or  
14 concerning the association or representation of persons in  
15 negotiating, fixing, maintaining, changing, or seeking to  
16 arrange terms or conditions of employment, regardless of  
17 whether the disputants stand in the proximate relation of  
18 employer and employee~~±~~.

19 (11) "~~appropriate~~ Appropriate unit" means a group of  
20 public employees banded together for collective bargaining  
21 purposes as designated by the board.

22 (12) "~~Appropriate~~ coalition" means a group of public  
23 employee bargaining units, representing the same or similar  
24 occupations, banded together for the purpose of negotiating  
25 economic items."

1 Section 5. Section 59-1605, R.C.M. 1947, is amended to  
2 read as follows:

3 \*59-1605. Unfair labor practices of ~~employer or~~ labor  
4 organization. (1) It is an unfair labor practice for a  
5 public employer to:

6 (a) interfere with, restrain, or coerce employees in  
7 the exercise of the rights guaranteed in section 59-1603;

8 (b) dominate, interfere, or assist in the formation or  
9 administration of any labor organization; however, subject  
10 to rules adopted by the board under section 59-1613(4), an  
11 employer is not prohibited from permitting employees to  
12 confer with him during working hours without loss of time or  
13 pay;

14 (c) discriminate in regard to hire or tenure of  
15 employment or any term or condition of employment to  
16 encourage or discourage membership in any labor  
17 organization; however, nothing in this act or in any other  
18 statute of this state precludes a public employer from  
19 making an agreement with an exclusive representative to  
20 require that an employee who is not or does not become a  
21 union member shall be required as a condition of employment  
22 to have an amount equal to the union initiation fee and  
23 monthly dues deducted from his wages in the same manner as  
24 checkoff of union dues;

25 (d) discharge or otherwise discriminate against an

1 employee because he has signed or filed an affidavit,  
2 petition, or complaint or given any information or testimony  
3 under this act;

4 (e) refuse to bargain collectively in good faith with  
5 an exclusive representative.

6 (2) It is an unfair labor practice for a labor  
7 organization or its agents to:

8 (a) restrain or coerce employees in the exercise of  
9 the right guaranteed in ~~subsection (1) of section~~  
10 59-1603(1) or a public employer in the selection of his  
11 representative for the purpose of collective bargaining or  
12 the adjustment of grievances;

13 (b) refuse to bargain collectively in good faith with  
14 a public employer, if it has been designated as the  
15 exclusive representative of employees;

16 (c) use agency shop fees for contributions to  
17 political candidates or parties at state or local levels.

18 (3) For the purpose of this act, to bargain  
19 collectively is the performance of the mutual obligation of  
20 the public employer or his designated representatives and  
21 the representatives of the exclusive representative to meet  
22 at reasonable times and negotiate in good faith with respect  
23 to wages, hours, fringe benefits, and other conditions of  
24 employment or the negotiation of an agreement, or any  
25 question arising thereunder, and the execution of a written

1 contract incorporating any agreement reached. Such  
2 obligation does not compel either party to agree to a  
3 proposal or require the making of a concession.

4 (4) For purposes of state government only, the  
5 requirement of negotiating in good faith may be met by the  
6 submission of a negotiated settlement to the legislature in  
7 the executive budget, or by bill or joint resolution. The  
8 failure to reach a negotiated settlement for submission is  
9 not, by itself, prima facie evidence of a failure to  
10 negotiate in good faith. Any negotiated agreement that  
11 includes a provision that exceeds state law or that requires  
12 appropriation for implementation must receive legislative  
13 approval prior to becoming effective.

14 (5) This act does not limit the authority of the  
15 legislature, any political subdivision, or the governing  
16 body, relative to appropriations for salary and wages,  
17 hours, fringe benefits, and other conditions of employment."

18 Section 6. Section 59-1606, R.C.M. 1947, is amended to  
19 read as follows:

20 "59-1606. Petition on representation matters --  
21 hearing -- notice -- election. (1) Whenever the board or an  
22 agent of the board shall investigate the petition whenever  
23 in accordance with such rules as may be prescribed by the  
24 board, a petition has been filed:

25 (a) by an employee or group of employees or any labor

1 organization acting in their behalf alleging that ~~thirty~~  
2 ~~percent~~ {30%} of the employees:

3 (i) wish to be represented for collective bargaining  
4 by a labor organization as exclusive representative; or

5 (ii) assert that the labor organization which has been  
6 certified or is currently being recognized by the public  
7 employer as bargaining representative is no longer the  
8 representative of the majority of employees in the unit; or

9 (b) by the public employer alleging that one or more  
10 labor organizations has presented to it a claim to be  
11 recognized as the exclusive representative in an appropriate  
12 unit.

13 (2) ~~If the board the board or an agent of the board~~  
14 ~~shall investigate the petition and if it~~ has reasonable  
15 cause to believe that a question of representation exists,  
16 it shall provide for an appropriate hearing upon due notice.  
17 In this hearing the board is not bound by common law and  
18 statutory rules of evidence. If the board or an agent of  
19 the board finds that there is a question of representation,  
20 it shall direct an election by secret ballot to determine  
21 whether, and by which labor organization, the employees  
22 desire to be represented or whether they desire to have no  
23 labor organization represent them and shall certify the  
24 results thereof. Only those labor organizations which have  
25 been designated by more than ~~ten percent~~ {10%} of the

1 employees in the unit found to be appropriate shall may be  
 2 placed on the ballot. Nothing in this section prohibits the  
 3 waiving of hearings by stipulation for the purpose of a  
 4 consent election in conformity with the rules of the board.

5 ~~{2}--in order to assure employees the fullest freedom~~  
 6 ~~in exercising the rights guaranteed by this act, the board~~  
 7 ~~or an agent of the board shall decide the unit appropriate~~  
 8 ~~for the purpose of collective bargaining and shall consider~~  
 9 ~~such factors as community of interest, wages, hours, fringe~~  
 10 ~~benefits, and other working conditions of the employees~~  
 11 ~~involved, the history of collective bargaining, common~~  
 12 ~~supervision, common personnel policies, extent of~~  
 13 ~~integration of work functions and interchange among~~  
 14 ~~employees affected, and the desires of the employees.~~

15 (3) An election shall may not be directed in any  
 16 bargaining unit or in any subdivision thereof within which,  
 17 in the preceding ~~twelve (12) month~~ 12-month period, a valid  
 18 election has been held. The board or an agent of the board  
 19 shall determine who is eligible to vote in the election and  
 20 shall establish rules governing the election. Unless the  
 21 majority vote is for no representation by a labor  
 22 organization and in any election where none of the choices  
 23 for a representative on the ballot receives a majority, a  
 24 runoff election shall be conducted; the ballot providing for  
 25 selection between the two choices receiving the largest and

1 the second largest number of valid votes cast in the  
 2 election. A labor organization which receives the majority  
 3 of the votes cast in an election shall be certified by the  
 4 board as the exclusive representative."

5 Section 7. There is a new R.C.M. section that reads as  
 6 follows:

7 Appropriate bargaining units. (1) To assure employees  
 8 the fullest freedom in exercising the rights guaranteed by  
 9 Title 59, chapter 16, the board or an agent of the board  
 10 shall decide the unit appropriate for the purpose of  
 11 collective bargaining and shall consider such factors as:

- 12 (a) community of interest of the employees involved;
- 13 (b) wages, fringe benefits, and other working
- 14 conditions of the employees involved;
- 15 (c) the history of collective bargaining;
- 16 (d) common supervision, common personnel policies, and
- 17 the extent of the integration of work functions of the
- 18 employees affected; and
- 19 (e) the desire of the employees.

20 Section 8. There is a new R.C.M. section that reads as  
 21 follows:

22 Coalition bargaining in state government. (1) For the  
 23 purposes of state government only, exclusive representatives  
 24 who represent employees from the same or similar occupations  
 25 or classifications of employees shall be banded together to

1 form an appropriate coalition for the purposes of  
2 negotiating economic items for those employees.

3 (2) The department of administration shall make  
4 investigations and hold hearings for the purposes of banding  
5 together the appropriate coalitions. The department shall  
6 place all organized employees into one of the following six  
7 occupational coalitions:

- 8 (a) blue-collar craft;
- 9 (b) nonexempt white collar;
- 10 (c) law enforcement and security;
- 11 (d) professional;
- 12 (e) health services;
- 13 (f) technical.

14 (3) The board of personnel appeals shall resolve all  
15 disputes as to the proper allocation of a position to an  
16 occupational coalition.

17 (4) Representation within the appropriate coalition  
18 shall be on a percentage basis. Each exclusive  
19 representative is entitled to representation in the  
20 coalition in proportion to the percentage each is of the  
21 total coalition.

22 (5) Ratification of economic packages negotiated by  
23 the coalition shall be based on a majority of those voting  
24 within the total appropriate coalition.

25 Section 9. There is a new R.C.M. section that reads as

1 follows:

2 Collective bargaining and open meetings. (1) The  
3 initial demands and the initial proposals of the employer  
4 and exclusive representative respectively are open to public  
5 inspection.

6 (2) Collective bargaining agreements executed by the  
7 parties are open to public inspection.

8 (3) Negotiating sessions between exclusive  
9 representatives and public employers are not open to the  
10 public unless the parties to a collective bargaining session  
11 mutually agree otherwise.

12 Section 10. Section 17-807, R.C.M. 1947, is amended to  
13 read as follows:

14 \*17-807. What cannot be specifically enforced. The  
15 following obligations cannot be specifically enforced:

16 ~~1~~ (1) An an obligation to render personal service or  
17 to employ another therein;

18 ~~2~~ (2) An an agreement to marry or live with another;

19 ~~3~~ ~~An agreement to submit a controversy to~~  
20 ~~arbitration;~~

21 ~~4~~ (3) An an agreement to perform an act which the  
22 party has not power to perform lawfully when required to do  
23 so;

24 ~~5~~ (4) An an agreement to procure the act or consent of  
25 the spouse of the contracting party or of any other third

1 person; or  
2 ~~6.15~~ An agreement, the terms of which are not  
3 sufficiently certain to make the precise act which is to be  
4 done clearly ascertainable."

-End-



SENATE BILL NO. 80

INTRODUCED BY SELECT COMMITTEE ON STATE EMPLOYEE PAY

(ROBERTS, CHAIRMAN)

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND CLARIFY THE LAWS RELATING TO COLLECTIVE BARGAINING AND PUBLIC EMPLOYMENT RELATIONS; AMENDING SECTIONS 59-904, 59-907, 59-1602, 59-1605, 59-1606, AND 17-807, R.C.M. 1947."

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

Section 1. Section 59-904, R.C.M. 1947, is amended to read as follows:

"59-904. Officers and employees excepted from provisions of act. This act CHAPTER does not apply to the following positions in state government:

- (1) elected officials and their chief deputy and executive secretary;
(2) officers and employees of the legislative branch;
(3) judges and employees of the judicial branch;
(4) members of boards and commissions appointed by the governor, appointed by the legislature or appointed by other elected state officials;
(5) officers or members of the militia;
(6) agency heads appointed by the governor;
(7) academic-and-professional-administrative-personnel

~~with individual contracts under the authority of the board of regents of higher education officials and employees of the university system AS PROVIDED IN 59-915;~~

(8) academic and professional administrative personnel who have entered into individual contracts with the state school for the deaf and blind under the authority of the state board of public education;

(9) personal staff of the elected officials enumerated in Article VI, section 1, of the constitution of Montana are exempt from sections 59-909, 59-910, and 59-911 of this act, and section 82A-1014."

Section 2. Section 59-907, R.C.M. 1947, is amended to read as follows:

"59-907. Review of positions -- change in classification. (1) The department shall continuously review all positions on a regular basis and adjust classifications to reflect significant changes in duties and responsibilities, provided, however, employees and employee organizations will be given the opportunity to

(2) Employees AND EMPLOYEE ORGANIZATIONS may appeal any changes in classifications or positions.

(3) Anything relevant to the determination of reasonable classifications and REASONABLE CLASSIFICATIONS FOR grade levels for state employees shall be is a negotiable item appropriate for the consideration of the

1 state and exclusive representatives under the provisions of  
2 Title 59, chapter 16~~7-R.C.M.-1947.~~"

3 Section 3. There is a new R.C.M. section that reads as  
4 follows:

5 Classification appeals. (1) An employee represented by  
6 an exclusive representative for the purpose of collective  
7 bargaining may file an appeal only to challenge his assigned  
8 ~~position within a~~ classification series.

9 (2) An employee who is not represented by an exclusive  
10 representative for the purpose of collective bargaining may  
11 file either an appeal to challenge his assigned ~~position~~  
12 ~~within a~~ classification series or a class action appeal but  
13 not both. However, the employee may file a class action  
14 appeal in addition to any other appeal if the employee can  
15 establish that his position was improperly classified when  
16 the classification and wage plan was implemented or if the  
17 employee can establish that since then a significant change  
18 in his duties and responsibilities has occurred.

19 (3) The board of personnel appeals shall promulgate  
20 rules and establish procedures to implement this section.

21 Section 4. Section 59-1602, R.C.M. 1947, is amended to  
22 read as follows:

23 "59-1602. Definitions. ~~When As~~ used in this act ~~the~~  
24 following definitions apply:

25 (1) "pub~~lic~~ Public employer" means the state of

1 Montana or any political subdivision thereof, including but  
2 not limited to any town, city, county, district, school  
3 board, board of regents, public and quasi-public  
4 corporation, housing authority, or other authority  
5 established by law and any representative or agent  
6 designated by the public employer to act in its interest in  
7 dealing with public employees, ~~when~~ When the board of  
8 regents is the public employer ~~defined in this section~~, the  
9 student government at an institution of higher education may  
10 designate an agent or representative to meet and confer  
11 with the board of regents and the faculty bargaining agent  
12 prior to negotiations with the professional educational  
13 employees, to observe those negotiations and participate in  
14 caucuses as part of the public employer's bargaining team,  
15 and to meet and confer with the board of regents regarding  
16 the terms of agreement prior to the execution of a written  
17 contract between the regents and the professional  
18 educational employees. The student observer is obliged to  
19 maintain the confidentiality of these negotiations.

20 (2) "~~pub~~lic~~ Public~~ employee" means a person employed  
21 by a public employer in any capacity, except elected  
22 officials, persons directly appointed by the governor,  
23 supervisory employees and management officials, ~~as defined~~  
24 ~~in subsection (3) and (4) below~~ or members or of any state  
25 board or commission who serve the state intermittently,

1 school district clerks and school administrators, registered  
 2 professional nurses performing service for health care  
 3 facilities, professional engineers and engineers in  
 4 training, ~~or any person with access to confidential labor~~  
 5 ~~relations--information~~ RULED ON BY THE BOARD TO BE A  
 6 CONFIDENTIAL LABOR RELATIONS EMPLOYEE, and includes any  
 7 individual whose work has ceased as a consequence of, or in  
 8 connection with any unfair labor practice or concerted  
 9 employee action.

10 (3) "supervisory ~~Supervisory~~ employee" means any  
 11 individual having authority, in the interest of the employer  
 12 to hire, transfer, suspend, lay off, recall, promote,  
 13 discharge, assign, reward, ~~or~~ discipline other employees,  
 14 having responsibility to direct them, to adjust their  
 15 grievances, or effectively to recommend such action, if in  
 16 connection with the foregoing the exercise of such authority  
 17 is not of a merely routine or clerical nature, but requires  
 18 the use of independent judgment.

19 (4) "management ~~Management~~ officials" means  
 20 representatives of management having authority to act for  
 21 the agency on any matters relating to the implementation of  
 22 agency policy.

23 (5) "labor ~~Labor~~ organization" means any organization  
 24 or association of any kind in which employees participate  
 25 and which exists for the primary purpose of dealing with

1 employers concerning grievances, labor disputes, wages,  
 2 rates of pay, hours of employment, fringe benefits, or other  
 3 conditions of employment.

4 (6) "~~exclusive~~ ~~Exclusive~~ representative" means the  
 5 labor organization which has been designated by the board as  
 6 the exclusive representative of employees in an appropriate  
 7 unit or has been so recognized by the public employer.

8 (7) "~~board~~ ~~Board~~" means the board of personnel appeals  
 9 provided for in section 82A-1014.

10 (8) "~~person~~ ~~Person~~" includes one or more individuals,  
 11 labor organizations, public employees, associations,  
 12 corporations, legal representatives, trustees, trustees in  
 13 bankruptcy, or receivers.

14 (9) "~~unfair~~ ~~Unfair~~ labor practice" means any unfair  
 15 labor practice listed in section 59-1605.

16 (10) "~~labor~~ ~~Labor~~ dispute" includes any controversy  
 17 concerning terms, tenure, or conditions of employment, or  
 18 concerning the association or representation of persons in  
 19 negotiating, fixing, maintaining, changing, or seeking to  
 20 arrange terms or conditions of employment, regardless of  
 21 whether the disputants stand in the proximate relation of  
 22 employer and employee.

23 (11) "~~appropriate~~ ~~Appropriate~~ unit" means a group of  
 24 public employees banded together for collective bargaining  
 25 purposes as designated by the board.

1 (12) "Appropriate coalition" means a group of public  
 2 employee bargaining units, representing the same or similar  
 3 occupations, banded together for the purpose of negotiating  
 4 economic items."

5 Section 5. Section 59-1605, R.C.M. 1947, is amended to  
 6 read as follows:

7 "59-1605. Unfair labor practices of ~~employer or~~ labor  
 8 organization. (1) It is an unfair labor practice for a  
 9 public employer to:

10 (a) interfere with, restrain, or coerce employees in  
 11 the exercise of the rights guaranteed in ~~section~~ 59-1603;

12 (b) dominate, interfere, or assist in the formation or  
 13 administration of any labor organization; however, subject  
 14 to rules adopted by the board under ~~section~~ 59-1613(4), an  
 15 employer is not prohibited from permitting employees to  
 16 confer with him during working hours without loss of time or  
 17 pay;

18 (c) discriminate in regard to hire or tenure of  
 19 employment or any term or condition of employment to  
 20 encourage or discourage membership in any labor  
 21 organization; however, nothing in this act or in any other  
 22 statute of this state precludes a public employer from  
 23 making an agreement with an exclusive representative to  
 24 require that an employee who is not or does not become a  
 25 union member shall be required as a condition of employment

1 to have an amount equal to the union initiation fee and  
 2 monthly dues deducted from his wages in the same manner as  
 3 checkoff of union dues;

4 (d) discharge or otherwise discriminate against an  
 5 employee because he has signed or filed an affidavit,  
 6 petition, or complaint or given any information or testimony  
 7 under this act;

8 (e) refuse to bargain collectively in good faith with  
 9 an exclusive representative.

10 (2) It is an unfair labor practice for a labor  
 11 organization or its agents to:

12 (a) restrain or coerce employees in the exercise of  
 13 the right guaranteed in ~~subsection (1) of section~~  
 14 ~~59-1603(1)~~ of ~~this act~~ or a public employer in the  
 15 selection of his representative for the purpose of  
 16 collective bargaining or the adjustment of grievances;

17 (b) refuse to bargain collectively in good faith with  
 18 a public employer, if it has been designated as the  
 19 exclusive representative of employees;

20 (c) use agency shop fees for contributions to  
 21 political candidates or parties at state or local levels.

22 (3) For the purpose of this act, to bargain  
 23 collectively is the performance of the mutual obligation of  
 24 the public employer, or his designated representatives, and  
 25 the representatives of the exclusive representative to meet

1 at reasonable times and negotiate in good faith with respect  
 2 to wages, hours, fringe benefits, and other conditions of  
 3 employment, or the negotiation of an agreement, or any  
 4 question arising thereunder, and the execution of a written  
 5 contract incorporating any agreement reached. Such  
 6 obligation does not compel either party to agree to a  
 7 proposal or require the making of a concession.

8 (4) For purposes of state government only, the  
 9 requirement of negotiating in good faith may be met by the  
 10 submission of a negotiated settlement to the legislature in  
 11 the executive budget, or by bill or joint resolution. The  
 12 failure to reach a negotiated settlement for submission is  
 13 not, by itself, prima facie evidence of a failure to  
 14 negotiate in good faith. ~~Any negotiated agreement that~~  
 15 ~~includes a provision THAT PART OF A NEGOTIATED AGREEMENT~~  
 16 ~~that exceeds state law or that requires appropriation for~~  
 17 ~~implementation must receive legislative approval prior to~~  
 18 ~~becoming effective.~~

19 (5) This act does not limit the authority of the  
 20 legislature, any political subdivision, or the governing  
 21 body, relative to appropriations for salary and wages,  
 22 hours, fringe benefits, and other conditions of employment."

23 Section 6. Section 59-1606, R.C.M. 1947, is amended to  
 24 read as follows:

25 "59-1606. Petition on representation matters --

1 hearing -- notice -- election. (1) ~~Whenever The board or an~~  
 2 ~~agent of the board shall investigate the petition whenever~~  
 3 in accordance with such rules as may be prescribed by the  
 4 board, a petition has been filed:

5 (a) by an employee or group of employees or any labor  
 6 organization acting in their behalf alleging that ~~thirty~~  
 7 ~~percent~~ {30%} of the employees:

8 (i) wish to be represented for collective bargaining  
 9 by a labor organization as exclusive representative; or

10 (ii) assert that the labor organization which has been  
 11 certified or is currently being recognized by the public  
 12 employer as bargaining representative is no longer the  
 13 representative of the majority of employees in the unit; or

14 (b) by the public employer alleging that one or more  
 15 labor organizations has presented to it a claim to be  
 16 recognized as the exclusive representative in an appropriate  
 17 unit.

18 (2) ~~If the board the board or an agent of the board~~  
 19 ~~shall investigate the petition, and if it~~ has reasonable  
 20 cause to believe that a question of representation exists,  
 21 it shall provide for an appropriate hearing upon due notice.  
 22 In this hearing the board is not bound by common law and  
 23 statutory rules of evidence. ~~if~~ ~~WHENEVER~~ the board or an  
 24 agent of the board finds that there is a question of  
 25 representation, it shall direct an election by secret ballot

1 to determine whether, and by which labor organization, the  
 2 employees desire to be represented or whether they desire to  
 3 have no labor organization represent them and shall certify  
 4 the results thereof. Only those labor organizations which  
 5 have been designated by more than ten percent (10%) of the  
 6 employees in the unit found to be appropriate shall ~~may~~ be  
 7 placed on the ballot. Nothing in this section prohibits the  
 8 waiving of hearings by stipulation for the purpose of a  
 9 consent election in conformity with the rules of the board.

10 ~~(2) In order to assure employees the fullest freedom~~  
 11 ~~in exercising the rights guaranteed by this act, the board~~  
 12 ~~or an agent of the board shall decide the unit appropriate~~  
 13 ~~for the purpose of collective bargaining and shall consider~~  
 14 ~~such factors as community of interest, wages, hours, fringe~~  
 15 ~~benefits, and other working conditions of the employees~~  
 16 ~~involved, the history of collective bargaining, common~~  
 17 ~~supervision, common personnel policies, extent of~~  
 18 ~~integration of work functions and interchange among~~  
 19 ~~employees affected, and the desires of the employees.~~

20 (3) An election shall ~~may~~ not be directed in any  
 21 bargaining unit or in any subdivision thereof within which,  
 22 in the preceding ~~twelve (12) month~~ 12-month period, a valid  
 23 election has been held. The board or an agent of the board  
 24 shall determine who is eligible to vote in the election and  
 25 shall establish rules governing the election. Unless the

1 majority vote is for no representation by a labor  
 2 organization and in any election where none of the choices  
 3 for a representative on the ballot receives a majority, a  
 4 runoff election shall be conducted; the ballot providing for  
 5 selection between the two choices receiving the largest and  
 6 the second largest number of valid votes cast in the  
 7 election. A labor organization which receives the majority  
 8 of the votes cast in an election shall be certified by the  
 9 board as the exclusive representative."

10 Section 7. There is a new R.C.M. section that reads as  
 11 follows:

12 Appropriate bargaining units. (1) To assure employees  
 13 the fullest freedom in exercising the rights guaranteed by  
 14 Title 59, chapter 16, the board or an agent of the board  
 15 shall decide the unit appropriate for the purpose of  
 16 collective bargaining and shall consider such factors as:

- 17 (a) community of interest of the employees involved;
- 18 (b) wages, HOURS, fringe benefits, and other working  
 19 conditions of the employees involved;
- 20 (c) the history of collective bargaining;
- 21 (d) common supervision, common personnel policies, and  
 22 the extent of the integration of work functions of AND  
 23 INTERCHANGE AMONG the employees affected; and
- 24 (e) the desire of the employees.

25 Section 8. There is a new R.C.M. section that reads as

1 follows:

2 Coalition bargaining in state government. (1) For the  
 3 purposes of state government only, exclusive representatives  
 4 who represent employees from the same or similar occupations  
 5 or classifications of employees shall ~~be banded~~ ~~WORK~~  
 6 together to form an appropriate coalition for the purposes  
 7 of negotiating economic items for those employees.

8 (2) ~~The department of administration~~ REPRESENTATIVE OF  
 9 THE PUBLIC EMPLOYER shall make investigations and hold  
 10 hearings OR MEETINGS WITH THE LABOR ORGANIZATIONS for the  
 11 purposes of ~~banding~~ FORMULATING together the appropriate  
 12 coalitions. ~~The department~~ ON AGREEMENT, THE REPRESENTATIVE  
 13 OF THE PUBLIC EMPLOYER shall place all organized employees  
 14 into one of the following ~~six occupational~~ APPROPRIATE  
 15 coalitions:

- 16 (a) blue-collar craft;
- 17 (b) nonexempt white collar;
- 18 (c) law enforcement and security;
- 19 (d) professional;
- 20 (e) health services;
- 21 (f) technical; OR

22 (G) ANY OTHER OCCUPATIONAL APPROPRIATE COALITION  
 23 MUTUALLY AGREED TO BY LABOR ORGANIZATIONS AND THE  
 24 REPRESENTATIVE OF THE PUBLIC EMPLOYER.

25 (3) The board of ~~personnel~~ ~~appeals~~ shall resolve all

1 disputes as to the proper allocation of a position to an  
 2 ESTABLISHED occupational ~~APPROPRIATE~~ coalition.

3 (4) Representation within the appropriate coalition  
 4 shall be ~~on a percentage basis.~~ ~~Each exclusive~~  
 5 ~~representative is entitled to representation in the~~  
 6 ~~coalition in proportion to the percentage each is of the~~  
 7 ~~total coalition~~ BY MUTUAL AGREEMENT OF THE LABOR  
 8 ORGANIZATIONS INVOLVED ON THE BASIS OF ONE VOTE FOR EACH  
 9 BARGAINING UNIT REPRESENTED IN THE COALITION.

10 (5) Ratification WITHIN THE COALITION of economic  
 11 packages negotiated by the coalition shall be ~~based on a~~  
 12 ~~majority of those voting within the total appropriate~~  
 13 ~~coalition~~ BY MUTUAL AGREEMENT OF THE LABOR ORGANIZATIONS  
 14 INVOLVED ACCORDING TO PROCEDURES ADOPTED BY A MAJORITY VOTE  
 15 OF THE BARGAINING UNITS REPRESENTED IN THE COALITION.

16 Section 9. There is a new R.C.M. section that reads as  
 17 follows:

18 Collective bargaining and open meetings. (1) The  
 19 initial demands and the initial proposals of the employer  
 20 and exclusive representative respectively are open to public  
 21 inspection.

22 (2) Collective bargaining agreements executed by the  
 23 parties are open to public inspection.

24 (3) Negotiating sessions between exclusive  
 25 representatives and public employers are ~~not~~ open to the

1 public unless the parties to a collective bargaining session  
2 mutually agree otherwise.

3 Section 10. Section 17-807, R.C.M. 1947, is amended to  
4 read as follows:

5 "17-807. What cannot be specifically enforced. The  
6 following obligations cannot be specifically enforced:

7 ~~1. (1) An an~~ obligation to render personal service, or  
8 to employ another therein;

9 ~~2. (2) An an~~ agreement to marry or live with another;

10 ~~3. An agreement to submit a controversy to~~  
11 ~~arbitration;~~ (3) AN AGREEMENT TO SUBMIT A CONTROVERSY TO

12 ARBITRATION, EXCEPT THAT THIS SUBSECTION DOES NOT APPLY TO  
13 ARBITRATION AGREEMENTS ENTERED INTO UNDER TITLE 59, CHAPTER  
14 16 OR ENTERED INTO AS PART OF ANY OTHER COLLECTIVE  
15 BARGAINING AGREEMENTS;

16 ~~4. (3) (4) An an~~ agreement to perform an act which the  
17 party has not power to perform lawfully when required to do  
18 so;

19 ~~5. (4) (5) An an~~ agreement to procure the act or consent  
20 of the spouse of the contracting party, or of any other  
21 third person; or

22 ~~6. (5) (6) An an~~ agreement, the terms of which are not  
23 sufficiently certain to make the precise act which is to be  
24 done clearly ascertainable."

25 SECTION 11. THERE IS A NEW R.C.M. SECTION NUMBERED

1 59-915 THAT READS AS FOLLOWS:

2 59-915. Classification system for university  
3 employees. (1) The board of regents shall administer the  
4 classification system for employees of the university  
5 system.

6 (2) The department of administration shall furnish  
7 technical assistance to the board of regents for the  
8 administration of the classification system.

9 (3) The board of personnel appeals shall hear and rule  
10 upon appeals to assigned classifications of the university  
11 system in accordance with 82A-1014.

12 SECTION 12. SEVERABILITY. IF A PART OF THIS ACT IS  
13 INVALID, ALL VALID PARTS THAT ARE SEVERABLE FROM THE INVALID  
14 PART REMAIN IN EFFECT. IF A PART OF THIS ACT IS INVALID IN  
15 ONE OR MORE OF ITS APPLICATIONS, THE PART REMAINS IN EFFECT  
16 IN ALL VALID APPLICATIONS THAT ARE SEVERABLE FROM THE  
17 INVALID APPLICATIONS.

-End-



Labor & Employment Relations

Without recommendation  
*as amended*

SENATE BILL NO. 80

INTRODUCED BY SELECT COMMITTEE ON STATE EMPLOYEE PAY

(ROBERTS, CHAIRMAN)

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND CLARIFY THE LAWS RELATING TO COLLECTIVE BARGAINING AND PUBLIC EMPLOYMENT RELATIONS; AMENDING SECTIONS 59-904, 59-907, 59-1602, 59-1605, 59-1606, AND 17-807, R.C.M. 1947."

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

Section 1. Section 59-904, R.C.M. 1947, is amended to read as follows:

"59-904. Officers and employees excepted from provisions of act. This act does not apply to the following positions in state government:

- (1) elected officials and their chief deputy and executive secretary;
- (2) officers and employees of the legislative branch;
- (3) judges and employees of the judicial branch;
- (4) members of boards and commissions appointed by the governor, appointed by the legislature or appointed by other elected state officials;
- (5) officers or members of the militia;
- (6) agency heads appointed by the governor;
- (7) ~~academic and professional administrative personnel~~

~~with individual contracts under the authority of the board of regents of higher education officials and employees of the university system;~~

(8) academic and professional administrative personnel who have entered into individual contracts with the state school for the deaf and blind under the authority of the state board of public education;

(9) personal staff of the elected officials enumerated in Article VI, section 1, of the constitution of Montana are exempt from sections 59-909, 59-910, and 59-911 of this act, and section 82A-1014."

Section 2. Section 59-907, R.C.M. 1947, is amended to read as follows:

"59-907. Review of positions -- change in classification. (1) The department shall continuously review all positions on a regular basis and adjust classifications to reflect significant changes in duties and responsibilities, ~~provided, however, employees and employee organizations will be given the opportunity to~~

(2) Employees AND EMPLOYEE ORGANIZATIONS may appeal any changes in classifications or positions.

(3) Anything relevant to the determination of ~~reasonable~~ classifications and grade levels for state employees shall be is a negotiable item appropriate for the consideration of the state and exclusive representatives

1 under the provisions of Title 59, chapter 16~~y-R.C.M.--1947.~~"

2 Section 3. There is a new R.C.M. section that reads as  
3 follows:

4 Classification appeals. (1) An employee represented by  
5 an exclusive representative for the purpose of collective  
6 bargaining may file an appeal only to challenge his assigned  
7 ~~position-within-a~~ classification series.

8 (2) An employee who is not represented by an exclusive  
9 representative for the purpose of collective bargaining may  
10 file either an appeal to challenge his assigned ~~position~~  
11 ~~within-a~~ classification series or a class action appeal but  
12 not both. However, the employee may file a class action  
13 appeal in addition to any other appeal if the employee can  
14 establish that his position was improperly classified when  
15 the classification and wage plan was implemented or if the  
16 employee can establish that since then a significant change  
17 in his duties and responsibilities has occurred.

18 (3) The board of personnel appeals shall promulgate  
19 rules and establish procedures to implement this section.

20 Section 4. Section 59-1602, R.C.M. 1947, is amended to  
21 read as follows:

22 "59-1602. Definitions. ~~When As~~ used in this act ~~the~~  
23 ~~following definitions apply:~~

24 (1) "~~public~~ Public employer" means the state of  
25 Montana or any political subdivision thereof, including but

1 not limited to~~y~~ any town, city, county, district, school  
2 board, board of regents, public and quasi-public  
3 corporation, housing authority, or other authority  
4 established by law~~y~~ and any representative or agent  
5 designated by the public employer to act in its interest in  
6 dealing with public employees, ~~when~~ ~~When~~ the board of  
7 regents is the public employer ~~defined-in-this-section~~, the  
8 student government at an institution of higher education may  
9 designate an agent or representative to meet and confer  
10 with the board of regents and the faculty bargaining agent  
11 prior to negotiations with the professional educational  
12 employees, to observe those negotiations and participate in  
13 caucuses as part of the public employer's bargaining team,  
14 and to meet and confer with the board of regents regarding  
15 the terms of agreement prior to the execution of a written  
16 contract between the regents and the professional  
17 educational employees. The student observer is obliged to  
18 maintain the confidentiality of these negotiations.

19 (2) "~~public~~ Public employee" means a person employed  
20 by a public employer in any capacity, except elected  
21 officials, persons directly appointed by the governor,  
22 supervisory employees and management officials, ~~(as--defined~~  
23 ~~in--subsection-(3)-and-(4)-below)~~ or members or of any state  
24 board or commission who serve the state intermittently,  
25 school district clerks and school administrators, registered

1 professional nurses performing service for health care  
 2 facilities, professional engineers and engineers in  
 3 training, ~~or any person with access to confidential labor~~  
 4 ~~relations--information RULED ON BY THE BOARD TO BE A~~  
 5 ~~CONFIDENTIAL LABOR RELATIONS EMPLOYEE,~~ and includes any  
 6 individual whose work has ceased as a consequence of, or in  
 7 connection with any unfair labor practice or concerted  
 8 employee action~~;~~

9 (3) "~~supervisory~~ Supervisory employee" means any  
 10 individual having authority, in the interest of the employer  
 11 to hire, transfer, suspend, lay off, recall, promote,  
 12 discharge, assign, reward, ~~or~~ discipline other employees,  
 13 having responsibility to direct them, to adjust their  
 14 grievances, or effectively to recommend such action, if in  
 15 connection with the foregoing the exercise of such authority  
 16 is not of a merely routine or clerical nature, but requires  
 17 the use of independent judgment~~;~~

18 (4) "~~management~~ Management officials" means  
 19 representatives of management having authority to act for  
 20 the agency on any matters relating to the implementation of  
 21 agency policy~~;~~

22 (5) "~~labor~~ Labor organization" means any organization  
 23 or association of any kind in which employees participate  
 24 and which exists for the primary purpose of dealing with  
 25 employers concerning grievances, labor disputes, wages,

1 rates of pay, hours of employment, fringe benefits, or other  
 2 conditions of employment~~;~~

3 (6) "~~exclusive~~ Exclusive representative" means the  
 4 labor organization which has been designated by the board as  
 5 the exclusive representative of employees in an appropriate  
 6 unit or has been so recognized by the public employer~~;~~

7 (7) "~~board~~ Board" means the board of personnel appeals  
 8 provided for in section 82A-1014~~;~~

9 (8) "~~person~~ Person" includes one or more individuals,  
 10 labor organizations, public employees, associations,  
 11 corporations, legal representatives, trustees, trustees in  
 12 bankruptcy, or receivers~~;~~

13 (9) "~~unfair~~ Unfair labor practice" means any unfair  
 14 labor practice listed in section 59-1605~~;~~

15 (10) "~~labor~~ Labor dispute" includes any controversy  
 16 concerning terms, tenure, or conditions of employment, or  
 17 concerning the association or representation of persons in  
 18 negotiating, fixing, maintaining, changing, or seeking to  
 19 arrange terms or conditions of employment, regardless of  
 20 whether the disputants stand in the proximate relation of  
 21 employer and employee~~;~~

22 (11) "~~appropriate~~ Appropriate unit" means a group of  
 23 public employees banded together for collective bargaining  
 24 purposes as designated by the board.

25 (12) "Appropriate coalition" means a group of public

1 employee bargaining units, representing the same or similar  
 2 occupations, banded together for the purpose of negotiating  
 3 economic items."

4 Section 5. Section 59-1605, R.C.M. 1947, is amended to  
 5 read as follows:

6 "59-1605. Unfair labor practices of ~~employer or labor~~  
 7 ~~organization.~~ (1) It is an unfair labor practice for a  
 8 public employer to:

9 (a) interfere with, restrain, or coerce employees in  
 10 the exercise of the rights guaranteed in ~~section~~ 59-1603;

11 (b) dominate, interfere, or assist in the formation or  
 12 administration of any labor organization; however, subject  
 13 to rules adopted by the board under ~~section~~ 59-1613(4), an  
 14 employer is not prohibited from permitting employees to  
 15 confer with him during working hours without loss of time or  
 16 pay;

17 (c) discriminate in regard to hire or tenure of  
 18 employment or any term or condition of employment to  
 19 encourage or discourage membership in any labor  
 20 organization; however, nothing in this act or in any other  
 21 statute of this state precludes a public employer from  
 22 making an agreement with an exclusive representative to  
 23 require that an employee who is not or does not become a  
 24 union member shall be required as a condition of employment  
 25 to have an amount equal to the union initiation fee and

1 monthly dues deducted from his wages in the same manner as  
 2 checkoff of union dues;

3 (d) discharge or otherwise discriminate against an  
 4 employee because he has signed or filed an affidavit,  
 5 petition, or complaint or given any information or testimony  
 6 under this act;

7 (e) refuse to bargain collectively in good faith with  
 8 an exclusive representative.

9 (2) It is an unfair labor practice for a labor  
 10 organization or its agents to:

11 (a) restrain or coerce employees in the exercise of  
 12 the right guaranteed in ~~subsection (1) of section~~  
 13 ~~59-1603(1) of this act~~ or a public employer in the  
 14 selection of his representative for the purpose of  
 15 collective bargaining or the adjustment of grievances;

16 (b) refuse to bargain collectively in good faith with  
 17 a public employer, if it has been designated as the  
 18 exclusive representative of employees;

19 (c) use agency shop fees for contributions to  
 20 political candidates or parties at state or local levels.

21 (3) For the purpose of this act, to bargain  
 22 collectively is the performance of the mutual obligation of  
 23 the public employer, or his designated representatives, and  
 24 the representatives of the exclusive representative to meet  
 25 at reasonable times and negotiate in good faith with respect

1 to wages, hours, fringe benefits, and other conditions of  
 2 employment, or the negotiation of an agreement, or any  
 3 question arising thereunder, and the execution of a written  
 4 contract incorporating any agreement reached. Such  
 5 obligation does not compel either party to agree to a  
 6 proposal or require the making of a concession.

7 (4) For purposes of state government only, the  
 8 requirement of negotiating in good faith may be met by the  
 9 submission of a negotiated settlement to the legislature in  
 10 the executive budget, or by bill or joint resolution. The  
 11 failure to reach a negotiated settlement for submission is  
 12 not, by itself, prima facie evidence of a failure to  
 13 negotiate in good faith. Any negotiated agreement that  
 14 includes a provision that exceeds state law or that requires  
 15 appropriation for implementation must receive legislative  
 16 approval prior to becoming effective.

17 (5) This act does not limit the authority of the  
 18 legislature, any political subdivision, or the governing  
 19 body, relative to appropriations for salary and wages,  
 20 hours, fringe benefits, and other conditions of employment."

21 Section 6. Section 59-1606, R.C.M. 1947, is amended to  
 22 read as follows:

23 "59-1606. Petition on representation matters --  
 24 hearing -- notice -- election. (1) Whenever the board or an  
 25 agent of the board shall investigate the petition whenever

1 in accordance with such rules as may be prescribed by the  
 2 board, a petition has been filed:

3 (a) by an employee or group of employees or any labor  
 4 organization acting in their behalf alleging that ~~thirty~~  
 5 ~~percent-(30%)~~ of the employees:

6 (i) wish to be represented for collective bargaining  
 7 by a labor organization as exclusive representative, or

8 (ii) assert that the labor organization which has been  
 9 certified or is currently being recognized by the public  
 10 employer as bargaining representative is no longer the  
 11 representative of the majority of employees in the unit; or

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 13 labor organizations has presented to it a claim to be  
 14 recognized as the exclusive representative in an appropriate  
 15 unity.

16 (2) ~~If the board the board or an agent of the board~~  
 17 ~~shall investigate the petition, and if it~~ has reasonable  
 18 cause to believe that a question of representation exists,  
 19 it shall provide for an appropriate hearing upon due notice.  
 20 In this hearing the board is not bound by common law and  
 21 statutory rules of evidence. ~~If~~ **WHENEVER** the board or an  
 22 agent of the board finds that there is a question of  
 23 representation, it shall direct an election by secret ballot  
 24 to determine whether, and by which labor organization, the  
 25 employees desire to be represented or whether they desire to

1 have no labor organization represent them and shall certify  
 2 the results thereof. Only those labor organizations which  
 3 have been designated by more than ten percent ~~(10%)~~ of the  
 4 employees in the unit found to be appropriate shall ~~may~~ be  
 5 placed on the ballot. Nothing in this section prohibits the  
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 7 consent election in conformity with the rules of the board.

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 9 ~~in exercising the rights guaranteed by this act, the board~~  
 10 ~~or an agent of the board shall decide the unit appropriate~~  
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 19 bargaining unit or in any subdivision thereof within which,  
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 21 election has been held. The board or an agent of the board  
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 11 the fullest freedom in exercising the rights guaranteed by  
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 13 shall decide the unit appropriate for the purpose of  
 14 collective bargaining and shall consider such factors as:

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 2 who represent employees from the same or similar occupations  
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 12 into one of the following ~~six~~ occupational coalitions:

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5 ARBITRATION AGREEMENTS ENTERED INTO UNDER TITLE 59, CHAPTER  
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8 party has not power to perform lawfully when required to do  
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20 IN ALL VALID APPLICATIONS THAT ARE SEVERABLE FROM THE  
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-End-



1 SENATE BILL NO. 80  
 2 INTRODUCED BY SELECT COMMITTEE ON STATE EMPLOYEE PAY  
 3 (ROBERTS, CHAIRMAN)  
 4  
 5 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND  
 6 CLARIFY THE LAWS RELATING TO COLLECTIVE BARGAINING AND  
 7 PUBLIC EMPLOYMENT RELATIONS; AMENDING SECTIONS 59-904,  
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 10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
 11 Section 1. Section 59-904, R.C.M. 1947, is amended to  
 12 read as follows:  
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 16 (1) elected officials and their chief deputy and  
 17 executive secretary;  
 18 (2) officers and employees of the legislative branch;  
 19 (3) judges and employees of the judicial branch;  
 20 (4) members of boards and commissions appointed by the  
 21 governor, appointed by the legislature or appointed by other  
 22 elected state officials;  
 23 (5) officers or members of the militia;  
 24 (6) agency heads appointed by the governor;  
 25 (7) ~~academic and professional administrative personnel~~

1 ~~with individual contracts under the authority of the board~~  
 2 ~~of regents of higher education officials and employees of~~  
 3 ~~the university system;~~  
 4 (8) academic and professional administrative personnel  
 5 who have entered into individual contracts with the state  
 6 school for the deaf and blind under the authority of the  
 7 state board of public education;  
 8 (9) personal staff of the elected officials enumerated  
 9 in Article VI, section 1, of the constitution of Montana are  
 10 exempt from ~~sections 59-909, 59-910, and 59-911 of this act,~~  
 11 ~~and section 82A-1014."~~  
 12 Section 2. Section 59-907, R.C.M. 1947, is amended to  
 13 read as follows:  
 14 "59-907. Review of positions -- change in  
 15 classification. (1) The department shall continuously  
 16 review all positions on a regular basis and adjust  
 17 classifications to reflect significant changes in duties and  
 18 responsibilities, ~~provided, however, employees and employee~~  
 19 ~~organizations will be given the opportunity to~~  
 20 (2) Employees AND EMPLOYEE ORGANIZATIONS may appeal  
 21 any changes in classifications or positions.  
 22 (3) Anything relevant to the determination of  
 23 ~~reasonable classifications and grade levels for state~~  
 24 ~~employees shall be~~ is a negotiable item appropriate for the  
 25 consideration of the state and exclusive representatives

There are no changes in SB80.  
 Please refer to yellow copy for complete text. THIRD READING

1 under the provisions of Title 59, chapter 16~~y-R.C.M.--1947.~~"

2 Section 3. There is a new R.C.M. section that reads as  
3 follows:

4 Classification appeals. (1) An employee represented by  
5 an exclusive representative for the purpose of collective  
6 bargaining may file an appeal only to challenge his assigned  
7 ~~position within a classification series.~~

8 (2) An employee who is not represented by an exclusive  
9 representative for the purpose of collective bargaining may  
10 file either an appeal to challenge his assigned ~~position~~  
11 ~~within a classification series~~ or a class action appeal but  
12 not both. However, the employee may file a class action  
13 appeal in addition to any other appeal if the employee can  
14 establish that his position was improperly classified when  
15 the classification and wage plan was implemented or if the  
16 employee can establish that since then a significant change  
17 in his duties and responsibilities has occurred.

18 (3) The board of personnel appeals shall promulgate  
19 rules and establish procedures to implement this section.

20 Section 4. Section 59-1602, R.C.M. 1947, is amended to  
21 read as follows:

22 "59-1602. Definitions. ~~When As~~ used in this act ~~the~~  
23 following definitions apply:

24 (1) "~~publie~~ Public employer" means the state of  
25 Montana or any political subdivision thereof, including but

1 not limited to any town, city, county, district, school  
2 board, board of regents, public and quasi-public  
3 corporation, housing authority, or other authority  
4 established by law and any representative or agent  
5 designated by the public employer to act in its interest in  
6 dealing with public employees, ~~when~~ ~~When~~ the board of  
7 regents is the public employer ~~defined in this section~~, the  
8 student government at an institution of higher education may  
9 designate an agent or representative to meet and confer  
10 with the board of regents and the faculty bargaining agent  
11 prior to negotiations with the professional educational  
12 employees, to observe those negotiations and participate in  
13 caucuses as part of the public employer's bargaining team,  
14 and to meet and confer with the board of regents regarding  
15 the terms of agreement prior to the execution of a written  
16 contract between the regents and the professional  
17 educational employees. The student observer is obliged to  
18 maintain the confidentiality of these negotiations.

19 (2) "~~publie~~ Public employee" means a person employed  
20 by a public employer in any capacity, except elected  
21 officials, persons directly appointed by the governor,  
22 supervisory employees and management officials, ~~as defined~~  
23 ~~in subsection (3) and (4) below~~ or members or of any state  
24 board or commission who serve the state intermittently,  
25 school district clerks and school administrators, registered

April 2, 1977

JOINT SELECT COMMITTEE ON EMPLOYEE COMPENSATION SENATE BILL 80  
be amended in the third reading copy as follows:

1. Amend page 2, section 2, line 23.  
Following: "and"  
Insert: "reasonable classifications for"
2. Amend page 9, section 5, lines 13 and 14.  
Following: "faith."  
Strike: "Any negotiated agreement that includes a provision"  
Insert: "That part of a negotiated agreement"
3. Amend page 13, section 8, line 12.  
Following: "~~six~~"  
Strike: "occupational"  
Insert: "appropriate"
4. Amend page 13, section 8, line 19.  
Following: "OTHER"  
Strike: "OCCUPATIONAL"  
Insert: "appropriate"
5. Amend page 13, section 8, line 24.  
Following: "ESTABLISHED"  
Strike: "occupational"  
Insert: "appropriate"
6. Amend page 14, section 8, lines 1 through 4.  
Following: "be"  
Strike: "on a percentage basis. Each exclusive representative is entitled to representation in the coalition in proportion to the percentage each is of the total coalition"  
Insert: "by mutual agreement of the labor organizations involved"
7. Amend page 14, section 8, lines 6 and 7.  
Following: "be"  
Strike: "based on a majority of those voting within the total appropriate coalition"  
Insert: "by mutual agreement of the labor organizations involved"
8. Amend page 14, section 9, line 17.  
Following: "are"  
Strike: "not"
9. Amend page 15, section 10, line 6.  
Following: "16"  
Insert: "or entered into as part of any other collective bargaining agreements"

10. Amend page 15, line 15.

Following: Line 15.

Insert: "Section 11. There is a new R.C.M. section numbered  
59-915 that reads as follows:

'59-915. Classification system for university employees.

(1) The board of regents shall administer the classification system  
for employees of the university system.

(2) The department of administration shall furnish technical  
assistance to the board of regents for the administration of the  
classification system.

(3) The board of personnel appeals shall hear and rule upon  
appeals to assigned classifications of the university system in  
accordance with 82A-1014.' "

Renumber: subsequent section.

AS AMENDED BE CONCURRED IN.

1 SENATE BILL NO. 80  
 2 INTRODUCED BY SELECT COMMITTEE ON STATE EMPLOYEE PAY  
 3 (ROBERTS, CHAIRMAN)  
 4  
 5 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND  
 6 CLARIFY THE LAWS RELATING TO COLLECTIVE BARGAINING AND  
 7 PUBLIC EMPLOYMENT RELATIONS; AMENDING SECTIONS 59-904,  
 8 59-907, 59-1602, 59-1605, 59-1606, AND 17-807, R.C.M. 1947."  
 9  
 10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
 11 Section 1. Section 59-904, R.C.M. 1947, is amended to  
 12 read as follows:  
 13 "59-904. Officers and employees excepted from  
 14 provisions of act. This act does not apply to the following  
 15 positions in state government:  
 16 (1) elected officials and their chief deputy and  
 17 executive secretary;  
 18 (2) officers and employees of the legislative branch;  
 19 (3) judges and employees of the judicial branch;  
 20 (4) members of boards and commissions appointed by the  
 21 governor, appointed by the legislature or appointed by other  
 22 elected state officials;  
 23 (5) officers or members of the militia;  
 24 (6) agency heads appointed by the governor;  
 25 (7) ~~academic and professional administrative personnel~~

1 ~~with individual contracts under the authority of the board~~  
 2 ~~of regents of higher education officials and employees of~~  
 3 ~~the university system;~~  
 4 (8) academic and professional administrative personnel  
 5 who have entered into individual contracts with the state  
 6 school for the deaf and blind under the authority of the  
 7 state board of public education;  
 8 (9) personal staff of the elected officials enumerated  
 9 in Article VI, section 1, of the constitution of Montana are  
 10 exempt from sections 59-909, 59-910, and 59-911 of this act,  
 11 and section 82A-1014."  
 12 Section 2. Section 59-907, R.C.M. 1947, is amended to  
 13 read as follows:  
 14 "59-907. Review of positions -- change in  
 15 classification. (1) The department shall continuously  
 16 review all positions on a regular basis and adjust  
 17 classifications to reflect significant changes in duties and  
 18 responsibilities, ~~provided, however, employees and employee~~  
 19 ~~organizations will be given the opportunity to~~  
 20 (2) ~~Employees AND EMPLOYEE ORGANIZATIONS~~ may appeal  
 21 any changes in classifications or positions.  
 22 (3) Anything relevant to the determination of  
 23 ~~reasonable classifications and~~ REASONABLE CLASSIFICATIONS  
 24 ~~FOR~~ grade levels for state employees ~~shall be~~ is a  
 25 negotiable item appropriate for the consideration of the

1 state and exclusive representatives under the provisions of  
2 Title 59, chapter 16~~y~~-R.C.M.-1947."

3 Section 3. There is a new R.C.M. section that reads as  
4 follows:

5 Classification appeals. (1) An employee represented by  
6 an exclusive representative for the purpose of collective  
7 bargaining may file an appeal only to challenge his assigned  
8 position ~~within a classification series.~~

9 (2) An employee who is not represented by an exclusive  
10 representative for the purpose of collective bargaining may  
11 file either an appeal to challenge his assigned position  
12 ~~within a classification series~~ or a class action appeal but  
13 not both. However, the employee may file a class action  
14 appeal in addition to any other appeal if the employee can  
15 establish that his position was improperly classified when  
16 the classification and wage plan was implemented or if the  
17 employee can establish that since then a significant change  
18 in his duties and responsibilities has occurred.

19 (3) The board of personnel appeals shall promulgate  
20 rules and establish procedures to implement this section.

21 Section 4. Section 59-1602, R.C.M. 1947, is amended to  
22 read as follows:

23 "59-1602. Definitions. ~~When As~~ used in this act ~~the~~  
24 following definitions apply:

25 (1) "~~publie~~ Public employer" means the state of

1 Montana or any political subdivision thereof, including but  
2 not limited to~~y~~ any town, city, county, district, school  
3 board, board of regents, public and quasi-public  
4 corporation, housing authority~~s~~ or other authority  
5 established by law~~y~~ and any representative or agent  
6 designated by the public employer to act in its interest in  
7 dealing with public employees~~s~~, ~~when~~ when the board of  
8 regents is the public employer ~~defined in this section~~, the  
9 student government at an institution of higher education may  
10 designate an agent or representative to meet and confer  
11 with the board of regents and the faculty bargaining agent  
12 prior to negotiations with the professional educational  
13 employees, to observe those negotiations and participate in  
14 caucuses as part of the public employer's bargaining team,  
15 and to meet and confer with the board of regents regarding  
16 the terms of agreement prior to the execution of a written  
17 contract between the regents and the professional  
18 educational employees. The student observer is obliged to  
19 maintain the confidentiality of these negotiations.

20 (2) "~~publie~~ Public employee" means a person employed  
21 by a public employer in any capacity, except elected  
22 officials, persons directly appointed by the governor,  
23 supervisory employees and management officials~~s~~, ~~as defined~~  
24 ~~in subsection (3) and (4) below~~ or members or of any state  
25 board or commission who serve the state intermittently,

1 school district clerks and school administrators, registered  
 2 professional nurses performing service for health care  
 3 facilities, professional engineers and engineers in  
 4 training, ~~or any person with access to confidential labor~~  
 5 ~~relations information~~ RULED ON BY THE BOARD TO BE A  
 6 CONFIDENTIAL LABOR RELATIONS EMPLOYEE, and includes any  
 7 individual whose work has ceased as a consequence of, or in  
 8 connection with any unfair labor practice or concerted  
 9 employee action.

10 (3) "supervisory Supervisory employee" means any  
 11 individual having authority, in the interest of the employer  
 12 to hire, transfer, suspend, lay off, recall, promote,  
 13 discharge, assign, reward, ~~or~~ discipline other employees,  
 14 having responsibility to direct them, to adjust their  
 15 grievances, or effectively to recommend such action, if in  
 16 connection with the foregoing the exercise of such authority  
 17 is not of a merely routine or clerical nature, but requires  
 18 the use of independent judgment.

19 (4) "management Management officials" means  
 20 representatives of management having authority to act for  
 21 the agency on any matters relating to the implementation of  
 22 agency policy.

23 (5) "labor Labor organization" means any organization  
 24 or association of any kind in which employees participate  
 25 and which exists for the primary purpose of dealing with

1 employers concerning grievances, labor disputes, wages,  
 2 rates of pay, hours of employment, fringe benefits, or other  
 3 conditions of employment.

4 (6) "exclusive Exclusive representative" means the  
 5 labor organization which has been designated by the board as  
 6 the exclusive representative of employees in an appropriate  
 7 unit or has been so recognized by the public employer.

8 (7) "board Board" means the board of personnel appeals  
 9 provided for in section 82A-1014.

10 (8) "person Person" includes one or more individuals,  
 11 labor organizations, public employees, associations,  
 12 corporations, legal representatives, trustees, trustees in  
 13 bankruptcy, or receivers.

14 (9) "unfair Unfair labor practice" means any unfair  
 15 labor practice listed in section 59-1605.

16 (10) "labor Labor dispute" includes any controversy  
 17 concerning terms, tenure, or conditions of employment, or  
 18 concerning the association or representation of persons in  
 19 negotiating, fixing, maintaining, changing, or seeking to  
 20 arrange terms or conditions of employment, regardless of  
 21 whether the disputants stand in the proximate relation of  
 22 employer and employee.

23 (11) "appropriate Appropriate unit" means a group of  
 24 public employees banded together for collective bargaining  
 25 purposes as designated by the board.

1        (12) "Appropriate coalition" means a group of public  
 2 employee bargaining units, representing the same or similar  
 3 occupations, banded together for the purpose of negotiating  
 4 economic items."

5        Section 5. Section 59-1605, R.C.M. 1947, is amended to  
 6 read as follows:

7        "59-1605. Unfair labor practices of ~~employer or~~ labor  
 8 organization. (1) It is an unfair labor practice for a  
 9 public employer to:

10        (a) interfere with, restrain, or coerce employees in  
 11 the exercise of the rights guaranteed in section 59-1603;

12        (b) dominate, interfere, or assist in the formation or  
 13 administration of any labor organization; however, subject  
 14 to rules adopted by the board under section 59-1613(4), an  
 15 employer is not prohibited from permitting employees to  
 16 confer with him during working hours without loss of time or  
 17 pay;

18        (c) discriminate in regard to hire or tenure of  
 19 employment or any term or condition of employment to  
 20 encourage or discourage membership in any labor  
 21 organization; however, nothing in this act or in any other  
 22 statute of this state precludes a public employer from  
 23 making an agreement with an exclusive representative to  
 24 require that an employee who is not or does not become a  
 25 union member shall be required as a condition of employment

1        to have an amount equal to the union initiation fee and  
 2 monthly dues deducted from his wages in the same manner as  
 3 checkoff of union dues;

4        (d) discharge or otherwise discriminate against an  
 5 employee because he has signed or filed an affidavit,  
 6 petition, or complaint or given any information or testimony  
 7 under this act;

8        (e) refuse to bargain collectively in good faith with  
 9 an exclusive representative.

10        (2) It is an unfair labor practice for a labor  
 11 organization or its agents to:

12        (a) restrain or coerce employees in the exercise of  
 13 the right guaranteed in ~~subsection (1) of~~ section  
 14 59-1603(1), ~~of this act~~ or a public employer in the  
 15 selection of his representative for the purpose of  
 16 collective bargaining or the adjustment of grievances;

17        (b) refuse to bargain collectively in good faith with  
 18 a public employer, if it has been designated as the  
 19 exclusive representative of employees;

20        (c) use agency shop fees for contributions to  
 21 political candidates or parties at state or local levels.

22        (3) For the purpose of this act, to bargain  
 23 collectively is the performance of the mutual obligation of  
 24 the public employer, or his designated representatives, and  
 25 the representatives of the exclusive representative to meet



1 at reasonable times and negotiate in good faith with respect  
 2 to wages, hours, fringe benefits, and other conditions of  
 3 employment, or the negotiation of an agreement, or any  
 4 question arising thereunder, and the execution of a written  
 5 contract incorporating any agreement reached. Such  
 6 obligation does not compel either party to agree to a  
 7 proposal or require the making of a concession.

8 (4) For purposes of state government only, the  
 9 requirement of negotiating in good faith may be met by the  
 10 submission of a negotiated settlement to the legislature in  
 11 the executive budget, or by bill or joint resolution. The  
 12 failure to reach a negotiated settlement for submission is  
 13 not, by itself, prima facie evidence of a failure to  
 14 negotiate in good faith. ~~Any negotiated agreement that~~  
 15 ~~includes a provision THAT PART OF A NEGOTIATED AGREEMENT~~  
 16 ~~that exceeds state law or that requires appropriation for~~  
 17 ~~implementation must receive legislative approval prior to~~  
 18 ~~becoming effective.~~

19 (5) This act does not limit the authority of the  
 20 legislature, any political subdivision, or the governing  
 21 body, relative to appropriations for salary and wages,  
 22 hours, fringe benefits, and other conditions of employment."

23 Section 6. Section 59-1606, R.C.M. 1947, is amended to  
 24 read as follows:

25 "59-1606. Petition on representation matters --

1 hearing -- notice -- election. (1) ~~Whenever The board or an~~  
 2 ~~agent of the board shall investigate the petition whenever~~  
 3 in accordance with such rules as may be prescribed by the  
 4 board, a petition has been filed:

5 (a) by an employee or group of employees or any labor  
 6 organization acting in their behalf alleging that ~~thirty~~  
 7 ~~percent~~ (30%) of the employees:

8 (i) wish to be represented for collective bargaining  
 9 by a labor organization as exclusive representative, or

10 (ii) assert that the labor organization which has been  
 11 certified or is currently being recognized by the public  
 12 employer as bargaining representative is no longer the  
 13 representative of the majority of employees in the unit; or

14 (b) by the public employer alleging that one or more  
 15 labor organizations has presented to it a claim to be  
 16 recognized as the exclusive representative in an appropriate  
 17 unit.

18 (2) ~~If the board the board or an agent of the board~~  
 19 ~~shall investigate the petition, and if it~~ has reasonable  
 20 cause to believe that a question of representation exists,  
 21 it shall provide for an appropriate hearing upon due notice.  
 22 In this hearing the board is not bound by common law and  
 23 statutory rules of evidence. ~~if~~ ~~WHENEVER~~ the board or an  
 24 agent of the board finds that there is a question of  
 25 representation, it shall direct an election by secret ballot

1 to determine whether, and by which labor organization, the  
 2 employees desire to be represented or whether they desire to  
 3 have no labor organization represent them and shall certify  
 4 the results thereof. Only those labor organizations which  
 5 have been designated by more than ten-percent-{10%} of the  
 6 employees in the unit found to be appropriate shall ~~may~~ be  
 7 placed on the ballot. Nothing in this section prohibits the  
 8 waiving of hearings by stipulation for the purpose of a  
 9 consent election in conformity with the rules of the board.

10 ~~{2}--In order to assure employees the fullest freedom~~  
 11 ~~in exercising the rights guaranteed by this act, the board~~  
 12 ~~or an agent of the board shall decide the unit appropriate~~  
 13 ~~for the purpose of collective bargaining, and shall consider~~  
 14 ~~such factors as community of interest, wages, hours, fringe~~  
 15 ~~benefits, and other working conditions of the employees~~  
 16 ~~involved, the history of collective bargaining, common~~  
 17 ~~supervision, common personnel policies, extent of~~  
 18 ~~integration of work functions and interchange among~~  
 19 ~~employees affected, and the desires of the employees.~~

20 (3) An election shall ~~may~~ not be directed in any  
 21 bargaining unit or in any subdivision thereof within which,  
 22 in the preceding twelve-{12}-month ~~12-month~~ period, a valid  
 23 election has been held. The board or an agent of the board  
 24 shall determine who is eligible to vote in the election and  
 25 shall establish rules governing the election. Unless the

1 majority vote is for no representation by a labor  
 2 organization and in any election where none of the choices  
 3 for a representative on the ballot receives a majority, a  
 4 runoff election shall be conducted; the ballot providing for  
 5 selection between the two choices receiving the largest and  
 6 the second largest number of valid votes cast in the  
 7 election. A labor organization which receives the majority  
 8 of the votes cast in an election shall be certified by the  
 9 board as the exclusive representative."

10 Section 7. There is a new R.C.M. section that reads as  
 11 follows:

12 Appropriate bargaining units. (1) To assure employees  
 13 the fullest freedom in exercising the rights guaranteed by  
 14 Title 59, chapter 16, the board or an agent of the board  
 15 shall decide the unit appropriate for the purpose of  
 16 collective bargaining and shall consider such factors as:

- 17 (a) community of interest of the employees involved;
- 18 (b) wages, HOURS, fringe benefits, and other working
- 19 conditions of the employees involved;
- 20 (c) the history of collective bargaining;
- 21 (d) common supervision, common personnel policies, and
- 22 the extent of the integration of work functions of AND
- 23 INTERCHANGE AMONG the employees affected; and
- 24 (e) the desire of the employees.

25 Section 8. There is a new R.C.M. section that reads as

1 follows:

2 Coalition bargaining in state government. (1) For the  
3 purposes of state government only, exclusive representatives  
4 who represent employees from the same or similar occupations  
5 or classifications of employees shall be ~~banded~~ WORK  
6 together to form an appropriate coalition for the purposes  
7 of negotiating economic items for those employees.

8 (2) ~~The department of administration~~ REPRESENTATIVE OF  
9 THE PUBLIC EMPLOYER shall make investigations and hold  
10 hearings OR MEETINGS WITH THE LABOR ORGANIZATIONS for the  
11 purposes of ~~banding~~ FORMULATING together the appropriate  
12 coalitions. ~~The department~~ ON AGREEMENT, THE REPRESENTATIVE  
13 OF THE PUBLIC EMPLOYER shall place all organized employees  
14 into one of the following ~~six occupational~~ APPROPRIATE  
15 coalitions:

- 16 (a) blue-collar craft;  
17 (b) nonexempt white collar;  
18 (c) law enforcement and security;  
19 (d) professional;  
20 (e) health services;  
21 (f) technical; OR  
22 (G) ANY OTHER OCCUPATIONAL APPROPRIATE COALITION  
23 MUTUALLY AGREED TO BY LABOR ORGANIZATIONS AND THE  
24 REPRESENTATIVE OF THE PUBLIC EMPLOYER.

25 (3) ~~The board of personnel appeals~~ shall resolve all

1 disputes as to the proper allocation of a position to an  
2 ESTABLISHED occupational APPROPRIATE coalition.

3 (4) Representation within the appropriate coalition  
4 shall be ~~on a percentage basis. Each exclusive~~  
5 ~~representative is entitled to representation in the~~  
6 ~~coalition in proportion to the percentage each is of the~~  
7 ~~total coalition~~ BY MUTUAL AGREEMENT OF THE LABOR  
8 ORGANIZATIONS INVOLVED.

9 (5) Ratification of economic packages negotiated by  
10 the coalition shall be ~~based on a majority of those voting~~  
11 ~~within the total appropriate coalition~~ BY MUTUAL AGREEMENT  
12 OF THE LABOR ORGANIZATIONS INVOLVED.

13 Section 9. There is a new R.C.M. section that reads as  
14 follows:

15 Collective bargaining and open meetings. (1) The  
16 initial demands and the initial proposals of the employer  
17 and exclusive representative respectively are open to public  
18 inspection.

19 (2) Collective bargaining agreements executed by the  
20 parties are open to public inspection.

21 (3) Negotiating sessions between exclusive  
22 representatives and public employers are ~~not~~ open to the  
23 public unless the parties to a collective bargaining session  
24 mutually agree otherwise.

25 Section 10. Section 17-807, R.C.M. 1947, is amended to

1 read as follows:

2 "17-807. What cannot be specifically enforced. The  
3 following obligations cannot be specifically enforced:

4 ~~1. (1) An an obligation to render personal service or~~  
5 ~~to employ another therein;~~

6 ~~2. (2) An an agreement to marry or live with another;~~

7 ~~3. An agreement to submit a controversy to~~  
8 ~~arbitration.~~ (3) AN AGREEMENT TO SUBMIT A CONTROVERSY TO

9 ARBITRATION, EXCEPT THAT THIS SUBSECTION DOES NOT APPLY TO  
10 ARBITRATION AGREEMENTS ENTERED INTO UNDER TITLE 59, CHAPTER

11 16 OR ENTERED INTO AS PART OF ANY OTHER COLLECTIVE  
12 BARGAINING AGREEMENTS;

13 ~~4. (3)(4) An an agreement to perform an act which the~~  
14 ~~party has not power to perform lawfully when required to do~~  
15 ~~so;~~

16 ~~5. (4)(5) An an agreement to procure the act or consent~~  
17 ~~of the spouse of the contracting party or of any other~~  
18 ~~third person; or~~

19 ~~6. (5)(6) An an agreement, the terms of which are not~~  
20 ~~sufficiently certain to make the precise act which is to be~~  
21 ~~done clearly ascertainable."~~

22 SECTION 11. THERE IS A NEW R.C.M. SECTION NUMBERED  
23 59-915 THAT READS AS FOLLOWS:

24 59-915. Classification system for university  
25 employees. (1) The board of regents shall administer the

1 classification system for employees of the university  
2 system.

3 (2) The department of administration shall furnish  
4 technical assistance to the board of regents for the  
5 administration of the classification system.

6 (3) The board of personnel appeals shall hear and rule  
7 upon appeals to assigned classifications of the university  
8 system in accordance with 82A-1014.

9 SECTION 12. SEVERABILITY. IF A PART OF THIS ACT IS  
10 INVALID, ALL VALID PARTS THAT ARE SEVERABLE FROM THE INVALID  
11 PART REMAIN IN EFFECT. IF A PART OF THIS ACT IS INVALID IN  
12 ONE OR MORE OF ITS APPLICATIONS, THE PART REMAINS IN EFFECT  
13 IN ALL VALID APPLICATIONS THAT ARE SEVERABLE FROM THE  
14 INVALID APPLICATIONS.

-End-