

HOUSE BILL NO. 76

INTRODUCED BY HARPER

BY REQUEST OF THE DEPARTMENT OF LABOR AND INDUSTRY

IN THE HOUSE

January 6, 1981	Introduced and referred to Committee on Labor and Industry.
January 21, 1981	Committee recommend bill do pass, as amended. Report adopted.
January 22, 1981	Bill printed and placed on members' desks.
January 23, 1981	Second reading, do pass.
January 24, 1981	Correctly engrossed.
	Third reading, passed. Transmitted to Senate.

IN THE SENATE

January 26, 1981	Introduced and referred to Committee on Labor and Employment Relations.
February 3, 1981	Committee recommend bill be concurred in. Report adopted.
February 5, 1981	Second reading, concurred in.
February 9, 1981	Third reading, concurred in.

IN THE HOUSE

February 10, 1981	Returned from Senate. Concurred in. Sent to enrolling.
February 11, 1981	Reported correctly enrolled.

February 11, 1981	Signed by President.
	Signed by Speaker.
	Delivered to Governor.
February 16, 1981	Returned from Governor with recommended amendments.
February 18, 1981	Reported correctly printed with Governor's amendments.
February 20, 1981	Pass consideration until 46th legislative day.
March 2, 1981	Second reading, amendments concurred in.
March 3, 1981	Third reading, amendments concurred in. Transmitted to Senate.

#### IN THE SENATE

March 4, 1981	Received from House.
March 5, 1981	Second reading, amendments concurred in.
March 6, 1981	Third reading, amendments concurred in. Yeas, 46; Nays, 1.

#### IN THE HOUSE

March 6, 1981	Returned from Senate. Sent to enrolling.
	Reported correctly enrolled.

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

12 Section 1. Section 39-51-2203, MCA, is amended to

13

14        "39-51-2203. Reduction of benefits because of amounts  
15        received from certain other sources. (1) Claimant's weekly  
16        benefit amount shall be reduced by the amount that he is  
17        receiving from a governmental or other pension, retirement  
18        pay, annuity, or other similar periodic payment which is  
19        based on work for and contributed to in whole or in part by  
20        a base-period employer. This-provision-does-not-apply-to-the  
21        receipt-of-benefits-under-the-federal-Social--Security--Act,  
22        as-amended.

23           121. However, if the service performed for the  
24 base-period employer does not affect either the eligibility  
25 for or the amount of the pension or other type of retirement

1 benefit received from the plan maintained or contributed to  
2 by the base-period employer, the reduction requirement of  
3 subsection (1) does not apply.  
4 (3) The exception in subsection (2) is not applicable  
5 to the receipt of social security and/or railroad retirement  
6 benefits."

-End-

Approved by Committee  
on Labor & Employment  
Relations

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

12           Section 1. Section 39-51-2203, MCA, is amended to  
13        read:

1 THE AMOUNT THAT HE IS RECEIVING FROM SUCH PAYMENTS.  
2  
3 (2) However, if the service performed for the  
4 base-period employer does not affect either the eligibility  
5 for or the amount of the pension or other type of retirement  
6 benefit received from the plan maintained or contributed to  
7 by the base-period employer, the reduction requirement of  
8 subsection (1) does not apply.  
9  
10 (3) The exception in subsection (2) is not applicable  
to the receipt of social security and/or railroad retirement  
benefits."

-End-

## SECOND READING

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

12 Section 1. Section 39-51-2203, MCA, is amended to  
13 read:

14        "39-51-2203. Reduction of benefits because of amounts  
15        received from certain other sources. (1) Claimant's weekly  
16        benefit amount shall be reduced by the amount that he is  
17        receiving from a governmental or other pension, retirement  
18        pay, annuity, or other similar periodic payment which is  
19        based on work for and contributed to in whole or in part by  
20        a base-period employer. This provision does not apply to the  
21        receipt of benefits under the Federal Social Security Act  
22        as amended. (2) A CLAIMANT IS RECEIVING PAYMENTS UNDER THE  
23        FEDERAL SOCIAL SECURITY ACT OR THE FEDERAL RAILROAD  
24        RETIREMENT ACT OR FROM A PENSION TO WHICH HE HAS CONTRIBUTED  
25        IN PART, HIS WEEKLY BENEFIT AMOUNT MUST BE REDUCED BY 50% OF

1 THE AMOUNT THAT HE IS RECEIVING FROM SUCH PAYMENTS.  
2  
3 (2) However, if the service performed for the  
4 base-period employer does not affect either the eligibility  
5 for or the amount of the pension or other type of retirement  
6 benefit received from the plan maintained or contributed to  
7 by the base-period employer, the reduction requirement of  
8 subsection (1) does not apply.  
9  
10 (3) The exception in subsection (2) is not applicable  
to the receipt of social security and/or railroad retirement  
benefits."

-End-

### THIRD READING

HOUSE BILL NO. 76

INTRODUCED BY HARPER

BY REQUEST OF THE DEPARTMENT OF LABOR AND INDUSTRY

5 A BILL FOR AN ACT ENTITLED: "AN ACT TO EXEMPT CERTAIN  
6 PENSIONS FROM THE REDUCTION REQUIREMENTS WHICH APPLY TO  
7 CLAIMANTS OF UNEMPLOYMENT INSURANCE AND TO INCLUDE SOCIAL  
8 SECURITY BENEFITS WITHIN THE REDUCTION REQUIREMENT; AMENDING  
9 SECTION 39-51-2203, MCA."

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

12                   Section 1. Section 39-51-2203, MCA, is amended to  
13                   read:

14 "39-51-2203. Reduction of benefits because of amounts  
15 received from certain other sources. (i) Claimant's weekly  
16 benefit amount shall be reduced by the amount that he is  
17 receiving from a governmental or other pension, retirement  
18 pay, annuity, or other similar periodic payment which is  
19 based on work for and contributed to in whole or in part by  
20 a base-period employer. ~~This provision does not apply to the~~  
21 ~~receipt of benefits under the Federal Social Security Act~~  
22 as amended. IF A CLAIMANT IS RECEIVING PAYMENTS UNDER THE  
23 FEDERAL SOCIAL SECURITY ACT OR THE FEDERAL RAILROAD  
24 RETIREMENT ACT OR FROM A PENSION TO WHICH HE HAS CONTRIBUTED  
25 IN PART, HIS WEEKLY BENEFIT AMOUNT MUST BE REDUCED BY 50% OF

1 THE AMOUNT THAT HE IS RECEIVING FROM SUCH PAYMENTS.

2       12) However, if the service performed for the  
3       base-period employer does not affect either the eligibility  
4       for or the amount of the pension or other type of retirement  
5       benefit received from the plan maintained or contributed to  
6       by the base-period employer, the reduction requirement of  
7       subsection (1) does not apply.

8       13) The exception in subsection (2) is not applicable  
9       to the receipt of social security and/or railroad retirement  
10      benefits."

-Enst-

February 16, 1981

PROPOSED AMENDMENTS TO HOUSE BILL NO. 76

1. STATEMENT OF INTENT

A statement of intent is required for this bill because it delegates rulemaking authority to the Employment Security Division of the Department of Labor and Industry in section 4. It is the intent of this bill to grant the Division the authority to adopt the minimum federal offset requirements as set forth in the federal Employee Retirement Income Security Act of 1974, as amended. This is a conformity requirement of the federal Employee Retirement Income Security Act which is imposed on the states.

2. Page 1, line 8

Following: "WITHIN THE REDUCTION REQUIREMENT;" on line 8,

Insert: AND TO GRANT RULEMAKING AUTHORITY TO THE EMPLOYMENT SECURITY DIVISION OF THE DEPARTMENT OF LABOR AND INDUSTRY TO ADOPT MINIMUM FEDERAL OFFSET REQUIREMENTS:

3. Page 2, line 11

Add new section

Insert: "(4) For the purposes of subsection (1), the division shall, by rule, adopt minimum federal offset requirements as imposed by the federal Employee Retirement Income Security Act of 1974, P. L. 94-566, as amended in 1980 by P. L. 96-364, and as may be amended after (the effective date of this act)."

4. Section 5. Effective date. This act is effective on passage and approval.

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Governor's Proposed Amendments

## STATEMENT OF INTENT

HOUSE BILL 76

4 A statement of intent is required for this bill because  
5 it delegates rulemaking authority to the Employment Security  
6 Division of the Department of Labor and Industry in  
7 subsection (4). It is the intent of this bill to grant the  
8 Division the authority to adopt the minimum federal offset  
9 requirements as set forth in the federal Employee Retirement  
10 Income Security Act of 1974, as amended. This is a  
11 conformity requirement of the federal Employee Retirement  
12 Income Security Act which is imposed on the states.

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

15 Section 1. Section 39-51-2203, MCA, is amended to

16 read:

17 "39-51-2203. Reduction of benefits because of amounts

18 received from certain other sources. (1) Claimant's weekly

19 benefit amount shall be reduced by the amount that he is

20 receiving from a governmental or other pension, retirement

21 pay, annuity, or other similar periodic payment which is

22 based on work for and contributed to in whole or in part by

23 a base-period employer. This provision does not apply to the

24 receipt of benefits under the Federal Social Security Act

25 as amended. IF A CLAIMANT IS RECEIVING PAYMENTS UNDER THE

1 FEDERAL SOCIAL SECURITY ACT OR THE FEDERAL RAILROAD  
2 RETIREMENT ACT OR FROM A PENSION TO WHICH HE HAS CONTRIBUTED  
3 IN PART, HIS WEEKLY BENEFIT AMOUNT MUST BE REDUCED BY 50% OF  
4 THE AMOUNT THAT HE IS RECEIVING FROM SUCH PAYMENTS.

5           (2) However, if the service performed for the  
6 base-period employer does not affect either the eligibility  
7 for or the amount of the pension or other type of retirement  
8 benefit received from the plan maintained or contributed to  
9 by the base-period employer, the reduction requirement of  
10 subsection (1) does not apply.

11           (3) The exception in subsection (2) is not applicable  
12           to the receipt of social security and/or railroad retirement  
13           benefits.

14        (4) FOR THE PURPOSES OF SUBSECTION (1), THE DIVISION  
15        SHALL, BY RULE, ADOPT MINIMUM FEDERAL OFFSET REQUIREMENTS AS  
16        IMPOSED BY THE FEDERAL EMPLOYEE RETIREMENT INCOME SECURITY  
17        ACT OF 1974, P.L. 94-566, AS AMENDED IN 1980 BY P.L. 96-364,  
18        AND AS MAY BE AMENDED AFTER [THE EFFECTIVE DATE OF THIS  
19        ACT]."

20 SECTION 2. EFFECTIVE DATE. THIS ACT IS EFFECTIVE ON  
21 PASSAGE AND APPROVAL.

-End-

REFERENCE BILL: INCLUDES GOVERNOR'S  
AMENDMENTS DATED 2-18-81

State of Montana  
Office of the Governor  
Helena 59620

TED SCHWINDEN  
GOVERNOR

February 16, 1981

The Honorable Jean A. Turnage  
President of the Senate  
State Capitol Building  
Helena, Montana 59620

The Honorable Robert L. Marks  
Speaker of the House  
State Capitol Building  
Helena, Montana 59620

Dear Senator Turnage and Representative Marks:

In accordance with the power vested in me as Governor by the Constitution and the laws of the State of Montana, I hereby return House Bill No. 76, "AN ACT TO EXEMPT CERTAIN PENSIONS FROM THE REDUCTION REQUIREMENTS WHICH APPLY TO CLAIMANTS OF UNEMPLOYMENT INSURANCE AND TO INCLUDE SOCIAL SECURITY BENEFITS WITHIN THE REDUCTION REQUIREMENT; AMENDING SECTION 39-51-2203, MCA," without my signature and recommend the attached amendments.

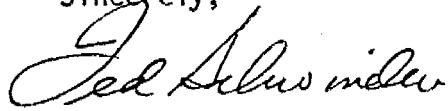
House Bill No. 76 as adopted allows for the reduction of unemployment insurance payments in cases where a person is receiving both pension and unemployment benefits. House Bill No. 76 reflects current mandatory changes in federal law which are imposed upon the state. The adoption of this bill allows Montana employers to continue to receive an unemployment insurance tax credit.

Recently introduced legislation now in the U. S. Congress has the potential to drastically change the federal requirements in the pension offset area and jeopardize the employer tax credit. House Bill No. 76 does not provide the State with the ability to adapt to changing federal requirements in the pension offset area.

The problem can be solved by language which grants the Employment Security Division of the Department of Labor and Industry rulemaking authority to adopt minimum federal offset requirements. This amendment will allow the state to maintain conformity with subsequent changes to the federal offset requirements.

I urge your concurrence in these amendments.

Sincerely,

  
TED SCHWINDEN  
Governor

Attachment