

SENATE BILL 420

Introduced by Aklestad

2/14	Introduced
2/14	Referred to Labor & Employment Relations
2/16	Hearing
2/16	Fiscal Note Requested
2/17	Committee Report--Bill Passed as Amended
2/20	2nd Reading Passed
2/20	Fiscal Note Received
2/20	Fiscal Note Printed
2/21	3rd Reading Passed

Transmitted to House

2/22	Referred to Labor & Employment Relations
3/14	Hearing
3/14	Tabled in Committee

1 *Senate* BILL NO. *420*  
2 INTRODUCED BY *AKKESTAD*

3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE THE MONTANA  
5 UNEMPLOYMENT INSURANCE LAW TO CONFORM WITH A FEDERAL  
6 DISTRICT COURT DECISION NULLIFYING PROVISIONS THAT ALLOW THE  
7 DEPARTMENT OF LABOR AND INDUSTRY TO INTERPRET VIOLATIONS OF  
8 THE FEDERAL LABOR LAW; AMENDING SECTION 39-51-2305, MCA; AND  
9 PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE."

10  
11 WHEREAS, section 39-51-2305(3), MCA, allows a striking  
12 worker, ordinarily disqualified from receiving unemployment  
13 benefits, to receive benefits if the Department of Labor and  
14 Industry finds that the labor dispute is caused by an  
15 employer's violation of the federal labor laws; and

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

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

1  
2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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

4 "39-51-2305. Disqualification when unemployment due to  
5 strike. (1) An individual ~~shall--be~~ is disqualified for  
6 benefits for any week with respect to which the department  
7 finds that his total unemployment is due to a strike which  
8 exists because of a labor dispute at the factory,  
9 establishment, or other premises at which he is or was last  
10 employed, provided that this subsection ~~shall~~ does not apply  
11 if it is shown to the satisfaction of the department that:

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

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

19 (2) If in any case separate branches of work which are  
20 commonly conducted as separate businesses in separate  
21 premises are conducted in separate departments of the same  
22 premises, each ~~such~~ department shall, for the purpose of  
23 this section, be deemed considered to be a separate factory,  
24 establishment, or other premises.

25 (3) If the department, upon investigation, ~~shall-find~~

1 finds that such the labor dispute is caused by the failure  
2 or refusal of any employer to conform to the provisions of  
3 any law of the state wherein the labor dispute occurs ~~or--of~~  
4 ~~the--United--States--pertaining--to--collective--bargaining,~~  
5 ~~hours--wages--or--other--conditions--of--work,~~ such the labor  
6 dispute ~~shall~~ does not render the workers ineligible for  
7 benefits."

8 NEW SECTION. Section 2. Extension of authority. Any  
9 existing authority to make rules on the subject of the  
10 provisions of [this act] is extended to the provisions of  
11 [this act].

12 NEW SECTION. Section 3. Effective date. [This act] is  
13 effective July 1, 1989.

14 NEW SECTION. Section 4. Applicability. [This act]  
15 applies to all claims for unemployment benefits filed on or  
16 after July 1, 1989.

-End-

## STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB420, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

"An Act to revise the Montana Unemployment Insurance Law to conform with a Federal District Court decision nullifying provisions that allow the Department of Labor and Industry to interpret violations of the Federal Labor Law; amending Section 39-51-2305, MCA; and providing an effective date and an applicability date."

ASSUMPTIONS:39-51-2305

1. Based on current data, during the period CY86 through CY88, 378 unemployment insurance benefit claims were paid as the result of labor disputes (strikes) where alleged violations of the law by the employer occurred.
2. There is no known data or information to substantiate what benefit expenditures would be in the next biennium based on current law nor what the decrease in benefit expenditures would be based on the proposed law.

FISCAL IMPACT ON EXPENDABLE TRUST FUNDFY90FY91

Change in benefit expenditures  
(current law)

Unknown

Unknown

Change in benefit expenditures  
(proposed law)

Unknown

Unknown

Net Effect on Trust Fund

Unknown

Unknown

DATE 2/20/89

RAY SHACKLEFORD, BUDGET DIRECTOR  
OFFICE OF BUDGET AND PROGRAM PLANNING

DATE 2/20/89

GARY C. AKLESTAD, PRIMARY SPONSOR

Fiscal Note for SB420, as introduced

**SB 420**

APPROVED BY COMMITTEE  
ON LABOR & EMPLOYMENT  
RELATIONS

## SENATE BILL NO. 420

INTRODUCED BY AKLESTAD

A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE THE MONTANA UNEMPLOYMENT INSURANCE LAW TO CONFORM WITH A FEDERAL DISTRICT COURT DECISION NULLIFYING PROVISIONS THAT ALLOW THE DEPARTMENT OF LABOR AND INDUSTRY TO INTERPRET VIOLATIONS OF THE FEDERAL LABOR LAW; AMENDING SECTION 39-51-2305, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE."

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

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

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

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

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

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

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

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

(2) If in any case separate branches of work which are commonly conducted as separate businesses in separate premises are conducted in separate departments of the same premises, each ~~such~~ department shall, for the purpose of this section, be ~~deemed~~ considered to be a separate factory,

1 establishment, or other premises.

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

11 (4) AN INDIVIDUAL OTHERWISE DISQUALIFIED FROM  
 12 RECEIVING BENEFITS UNDER THIS SECTION IS ENTITLED TO  
 13 UNEMPLOYMENT BENEFITS IF A COURT OR AGENCY OF THE FEDERAL  
 14 GOVERNMENT HAS DETERMINED THAT THE LABOR DISPUTE WAS CAUSED  
 15 BY THE EMPLOYER'S VIOLATION OF ANY LAW OF THE UNITED STATES  
 16 PERTAINING TO COLLECTIVE BARGAINING, HOURS, WAGES, OR OTHER  
 17 CONDITIONS OF WORK."

18 NEW SECTION. Section 2. Extension of authority. Any  
 19 existing authority to make rules on the subject of the  
 20 provisions of [this act] is extended to the provisions of  
 21 [this act].

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 23 effective July 1, 1989.

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