

MINUTES OF THE MEETING OF THE HOUSE LABOR COMMITTEE
January 27, 1981

The House Labor Committee met at 12:30 p.m. on January 27, 1981, in Room 129 of the State Capitol, with Chairman Robert Ellerd presiding and all members present.

Chairman Ellerd opened the meeting to a hearing of the bill HB 259.

HOUSE BILL 259

REPRESENTATIVE JOHN G. HARP, District 19, chief sponsor, said this act is to prohibit nonprofessional school employees, other than those of institutions of higher learning, from receiving unemployment compensation benefits during school holidays and between terms. He handed to the committee copies of an inter-office memorandum from the Employment Security Division, a copy of this is EXHIBIT 1 of the minutes. He said he had also hunted out some other material on other states and a copy of this is EXHIBIT 2 of the minutes. He mentioned \$10,000 had been paid for benefits this past Christmas.

JESSE W. LONG, School Administrators of the State of Montana, said the nonprofessional people accept the employment knowing that their situation would give them a weeks vacation at Christmas and spring breaks and time off over the summer. Knowing this, they then seemingly will rob the taxpayer by asking for unemployment insurance benefits even though they know they have their job at the end of the vacation.

CHAD SMITH, Unemployment Compensation Advisors and School Boards Association, spoke in support. He said it is more than just a matter of extensive cost. It is also a matter of philosophy as unemployment compensation was not designed to cover during an expected period of unemployment. It was designed to compensate the individual who enters a job that fails him and it enables him to meet expenses on a daily basis until he has time to find another job. He felt the nonprofessional school people could plan from the time they start the job, as they know exactly when the job will end and when they will be reemployed. He said most states recognize this and we are one of nine states that allow this kind of payment.

JOHN CAMPBELL, Business Manager for the Helena School District, said permitting the nonprofessional school employees to collect benefits is defeating the intent of unemployment insurance. He felt they should not be eligible. He said the cost of this is borne totally by the property taxpayer. He said the rate of claims is two to three times as much as during the school year. He said this type of employment is in high demand in Helena and there is a backlog of people wanting this work as it coincides with their children's school year. This past school year he

said they surveyed their secretaries to see if they wanted twelve month work. None did but four applied for compensation. He said they responded to the Unemployment Compensation Division with the information in the files that they did not want full time work. Two of the four got unemployment benefits. He felt passage of this bill would give the unemployment people some standards on eligibility.

Opponents

JEAN DARR, Library Aide from Butte, representing the school bus drivers and aides, spoke in opposition. A copy of her testimony is EXHIBIT 3 and part of the minutes. She read letters opposing from MARY JUNKER and JEAN HUDSON, and copies of these letters are attached to the minutes.

LEONARD HIHNALA, Butte, said he was a bus driver and bus drivers receive about half the pay of a teacher. He said many of the people do get work in the summer and if they don't they will end up on welfare. He said they can't depend on coming back in September - and they don't know until September if they do get their jobs back. He asked the committee to keep the worker in mind when they voted on the bill.

ROBERT ANUL, Butte, said he was a bus driver and mentioned a charter bus he had driven to Missoula several years before and been taken to dinner by the attending teacher, and offered a sandwich later but turned it down. He said the teacher had extra money to use and if they have that kind of money for extra curricular trips they can well afford to use some on the workers.

THOMAS SCHNIEDER, Montana Public Employees Association, said he represents the employees Mr. Campbell was talking about. He said their employees take substantially less salary as these are prize jobs for those who want to be off in the summer. He said in the Helena School District this is about \$25 a month less for doing the same job. He said there were 44 people working under the contracts mentioned by Mr. Campbell and four applied for benefits - it appears they needed the money and couldn't find jobs. Why should they be prohibited from unemployment just because they are public employees. He said most of the people don't want a summer job, but if they do and can't find work they should be entitled to unemployment like another worker.

RANDY SEIMERS, Public Servants in Great Falls School District, said it is interesting that they are being held responsible to the taxpayer. He said he would tell them that.

DON JUDGE, AFL-CIO, spoke in opposition and a copy of his testimony is EXHIBIT 4 and part of the minutes.

Questions were asked by the committee. Rep. Harrington said to receive reasonable assurance of a job after the summer

months, wouldn't there need to be a signed contract. Rep. Harp agreed if we go to this type of law they would need a contract. Mr. Smith thought, too, that this would be valid. Rep. Keyser asked if contractual agreements aren't arrived at in the spring. Mr. Campbell responded they have such an agreement with their workers.

Rep. Pavlovich asked how much the average benefit is. Mr. Harold Kansier of the Labor Department said the average benefit is \$89, with the maximum being \$131 and the minimum \$33.

Mr. Judge responded to a question that there are 401 school districts and there could be 401 rates of pay. Rep. O'Connell questioned how on \$2.25 an hour, which is what many of the workers receive, they can save up to last them through the summer months.

Mr. Schnieder responded to a question that they have a group contract and not individual ones so no guarantee of a job. Rep. Menahan mentioned a lot depends on whether the mill levy passes.

Mr. Kansier responded to a question that government entities are supposed to be cost effective. How much was paid out affects the amount paid in as they are assigned rates according to a schedule.

Rep. Seifert asked Rep. Harp if the language concerning the WHEREAS (page 1, line 12 to line 7, page 2) were removed. Rep. Harp said no problem.

REPRESENTATIVE HARP closed. He said this is an existing loophole. He said no one touched on the \$10,000 given during Christmas. He handed to the members copies of a chart showing that unemployment compensation contributions and benefits are on a crash course. A copy of this is EXHIBIT 5 and part of the minutes. Also included in Exhibit 5 is an inter-office memorandum showing the balance sheet of UI contributions and benefits. He said they won't be solvent much longer if loopholes like this one are left.

Chairman Ellerd closed the hearing on HB 259 and opened the meeting to a consideration of the following bill.

EXECUTIVE SESSION

HOUSE BILL 193 Rep. Seifert moved the amendments (EXHIBIT 6). Rep. Harper said this would just scrap the law. He said the law was passed to provide protection for workers and anyone who might be injured by the contractor. He felt the bill should be killed. Rep. Seifert said Rep. Harper has a point and we could raise the amount back to what it was and be sure there is an audit. Rep. Keyser felt \$50,000 should be the amount. Rep. Briggs wondered if \$25,000 might be a more realistic figure. Rep. Sivertsen said it was not up to the

committee to be writing bills. He said there are serious problems with the bill still. He said he was confused as to its intent. He said all we would do is eliminate the requirement of certification.

Rep. Underdal moved to amend the amendment to change the figure to \$30,000. Rep. Harper said the requirement of a financial statement is not enough - it could be written by anybody. Question was called on this motion and it failed with Reps. Briggs, Hanson, Keyser, Schultz, Smith and Underdal voting for the amendment (Reps. Keedy and Thoft absent).

Rep. Seifert changed his amendment to \$50,000 and this with the remaining ones on Exhibit 6 were voted on. The motion carried with 8 for and 7 against and 2 absent (against were Reps. Dozier, Harper, Harrington, Menahan, O'Connell, Pavlovich, Sivertsen); absent were Rep. Keedy and Schultz (Rep. Thoft had left a vote).

Rep. Harper moved DO NOT PASS. This motion failed with six voting for (Reps. Dozier, Harper, Harrington, Menahan, O'Connell, Pavlovich); eight against and 3 absent (Keedy, Schultz, Sivertsen). Rep. Pavlovich moved to reverse the vote. This passed and HB 193 receives a DO PASS AS AMENDED recommendation.

Rep. Seifert moved to adjourn. Motion carried. Meeting adjourned at 2:30 p.m.

Respectfully submitted,



ROBERT ELLERD, Chairman

eas

EMPLOYMENT SECURITY DIVISION OF MONTANA

Helena, Montana

INTER-OFFICE MEMORANDUM

To: H.V. Kansier, Dep. Admin. for UI

Date: Jan. 7, 1981

From: S. Mohr, Mgmt. Analyst I

Subject: Benefit Costs for Non-Professional 2ndary Sch. Employees

This study was conducted for the purpose of estimating benefit costs incurred by non-professional secondary school employees during summer and holiday lay-offs. In order to estimate benefit costs during summer layoff, I looked at total benefits charged to secondary schools for 2nd and 3rd Qtr., 1980. Currently, there are 408 secondary schools shown on the employer listing in Contributions. However, only 195 schools out of the 408 total possible schools showed benefit charges for 2nd and 3rd qtr, 1980. These total benefit charges include both teachers who were laid off without a contract for the next school year and non-professional employees laid off for the summer. To eliminate benefits charged by teachers, a 10% sample of 20 schools was selected based on statewide distribution of the civilian workforce.

By obtaining the benefit charge notices for 3rd Qtr-80 from these 20 schools, each individual charging benefits was examined and, if found to be a teacher, was subtracted from the total benefits charged to that school. Sample results showed that 28% of total benefits charged to the schools was as a result of teacher lay-offs.

Therefore benefit costs for non-professional school employees can be estimated as follows:

Total benefits charged to Governmental entities:	2nd Qtr-80	-\$ 562,591.60
	3rd Qtr-80	-\$1,584,271.83
	Total	\$2,146,863.43

Total benefits charged to secondary schools	:2nd Qtr-80	-\$ 180,709.32
	3rd Qtr-80	-\$1,039,599.64
	Total	\$1,220,308.96

Total benefits charged to secondary schools:	2nd Qtr-80	-\$ 130,111.00
(Non-professionals only)	3rd Qtr-80	-\$ 748,512.00
	Total	\$ 878,623.00

These non-professional charges amount to 72% of total secondary school employee charges and 41% of total governmental entity charges for 2nd and 3rd Qtr-80. And, for the calendar year 1980, non-professional school employee charges would be about 24% of total charges to governmental entities.

Pinning down benefits paid to non-professionals during holidays such as Christmas, Thanksgiving and Easter is more difficult due to the problem of identifying which employees actually return to work after the holiday and which continue to draw benefits and never return to work. Jack Austin kept a count of additional and initials filed by secondary school employees during this last Christmas holiday. 54 additional and 2 initial claims were filed for this 2 week holiday for an estimated benefit cost of \$10,500.

It seems that benefit costs for holidays is pretty negligible compared to summer layoff

8x.2

ELIGIBILITY

TABLE 407.--SPECIAL PROVISIONS FOR STUDENTS AND SCHOOL EMPLOYEES

State (1)	Students--		School employees--	
	Disqualified for voluntarily leaving to attend school (7 States) (2)	Ineligible during school attendance (12 States) (3)	"Nonprofessionals" denied between terms (4)	Benefits denied during vacation periods within terms (5)
Ala.	X	. . . . .
Alaska
Ariz.	X	X
Ark.	X	X
Calif.	X	X
Colo.	X	. . . . .	X	X
Conn.	X	. . . . .	X	. . . . .
Del.	X	X
D.C.
Fla.	X	X
Ga.	X	. . . . .
Hawaii
Idaho	Not unemployed	X	X
Ill.	Unavailable <u>1/</u>	X	. . . . .
Ind.	X	X
Iowa	Not unemployed	X	X
Kans.	X	. . . . .	X	X
Ky.	X	. . . . .	X	X
La.	Unavailable <u>1/2/</u>	X	X
Maine	X	X
Md.	X	X
Mass.	X	X
Mich.	X	X
Minn.	Unavailable <u>1/2/</u>	X	X
Miss.	X	. . . . .
Mo.	X	. . . . .
Mont.	Disqualified <u>1/</u>	. . . . .	. . . . .
Nebr.	Disqualified <u>2/</u>	X	X
Nev.	X	X
N.H.	X	X
N.J.	X	X
N.Mex.	X	. . . . .
N.Y.	X	X
N.C.	Unavailable <u>1/2/</u>	X	X
N.Dak.	Disqualified	X	. . . . .
Ohio	(2)	X	X
Okla.	X	. . . . .
Oreg.	X	X
Pa.	X	X
P.R.
R.I.
S.C.	X	. . . . .
S.Dak.	X	X
Tenn.	X	X
Tex.	X	. . . . .	X	X

(Table continued on next page)

ELIGIBILITY

TABLE 407,--SPECIAL PROVISIONS FOR STUDENTS AND SCHOOL EMPLOYEES (CONTINUED)

State	Students--		School employees--	
	Disqualified for voluntarily leaving to attend school (7 States)	Ineligible during school attendance (12 States)	"Nonprofessionals" denied between terms	Benefits denied during vacation periods within terms
(1)	(2)	(3)	(4)	(5)
Utah	.....	Disqualified <u>1/2/</u>	X	X
Vt.	.....	.....	.....	.....
Va.	.....	.....	X <u>3/</u>	X <u>3/</u>
V.I.	.....	.....	.....	.....
Wash.	X <u>2/</u>	Disqualified <u>2/</u>	X	.....
W.Va.	X	.....	X	X
Wis.	.....	.....	X	X
Wyo.	.....	.....	.....	.....

1/ Disqualification or ineligibility continues during vacation periods, Ill., La., Minn., Mont., N.C., Utah.

2/ Not applicable to student who loses job while in school and is available for suitable work, La. Not disqualified if major part of bpw were for services performed while attending school, Minn., Neb., Utah; if full-time work is concurrent with school attendance, N.C. Individual who becomes unemployed while attending school and whose bpw were at least partially earned while attending school meets availability and work search requirements if he makes himself available for suitable employment on any shift, Ohio. Disqualification applies if individual is registered at a school that provides instruction of 12 or more hours per week, Wash.

3/ Includes part-time and substitute school employees.

I am Jean Darr, a Library Aide for an elementary school in Butte School District #1. I am here today on behalf of school bus drivers and school aides to speak in opposition to House Bill 259, which is to exclude non-professional school district employees from collecting unemployment insurance during the summer months when school is not in session.

Unemployment insurance is not a gift. All of us must legally qualify to draw benefits. We must be able, available and actively seeking work, but at this time of high unemployment, especially in the Butte and Anaconda area, it is very difficult to find any kind of employment. It is even more difficult to find work for a three month period in the summer.

I would like to remind you that we are employed to help children and to transport your children safely. On the one hand the school district knows that continuity of employees is good for children. Bus drivers become more professional with each year they drive. Teachers aides build up their skills and their rapport with children who are already handicapped, emotionally, mentally or physically. This rapport is especially important for these children, and continued relationships is a definite necessity for their continued growth.

On the other hand, this bill would deny us a means of supporting ourselves during the summer months. Many of our people are heads of households, and if they have no income or jobs during these months, they will be forced to seek some form of public assistance. I have a letter from one such woman which I would like to read to you.

My name is Mary Junker, I am a 57 year old widow who has been employed as a Special Ed Aide by School District No 1 for the past 15 years.

At my age with no formal education it is almost impossible to find summer time work because no one wants to train me for three months employment.

I do maintain my home for two mentally retarded foster children but without any unemployment I could not pay for it.

Sincerely,
Mary Junker

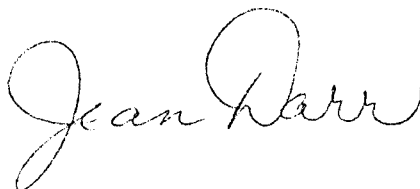
I might add that in our district there are many teacher aides that started on Public Service Programs who are now regular employees. For many of these people it was the first time they felt the pride and dignity of supporting themselves. If they are denied unemployment insurance, where will they go for food and sustenance during the summer months? If many of these people had enough marketable skills to qualify for other jobs, they would be working at other better paying jobs. Taking away unemployment insurance is going to force many of these people back on Welfare, or they will be forced to find other employment, and who will suffer? THE CHILDREN.

The time when school district employees went to work for extra pin money is past. A second pay check is not a luxury anymore, but a necessity for the average family, ^{as you can see from this letter.} Skyrocketing inflation has eaten away the value of the dollar, as we all know, and to deprive a large segment of public employees of the benefits for which they must qualify is bad enough. To force them to give up the pride and dignity of being self-supporting, to penalize them for caring about the future of our nation and our most precious resource, our children is unfair and uncaring.

I would like to point out that the employer contribution rate for state employees is now at .75, and school districts throughout the state are at .79. There is not that much difference between the two rates. The Anaconda bus drivers are employed through a contractor and their rate is the same as Butte, where the district owns the buses.

In conclusion, I strongly urge you to vote against this unfair and discriminatory bill.

Thank you.



January 23, 1981

Bob Ellerd, Chairman
Labor

Dear Sir:

In regard to Bill HB259/ stating "Prohibiting professional employees of educational institutions and non-professional employees of educational institutions other than college and universities from receiving unemployment insurance benefits between certain school years or terms and on customary holidays/ I would like to state it is my opinion and the opinion of many other people employed as I am as a school bus driver, the unfairness of the above bill.

Unemployment compensation is for many a very important necessity through the three summer months between school terms. The yearly wages through the school terms in many instances provide only for a monthly living without provision for the three unemployed months. Temporary employment is often quite difficult to obtain.

Again, for many, the unemployment compensation is indeed a very important necessity for existence.

Thank You,

Jean Hudson
School Bus Driver
School District No. 1
Butte, Montana



6x.4



Box 1176, Helena, Montana

JAMES W. MURRY
EXECUTIVE SECRETARY

ZIP CODE 59601
406/442-1708

Room 100 "Steamboat Block"
616 Helena Ave.

TESTIMONY OF MONTANA STATE AFL-CIO ON HOUSE BILL 259, HEARINGS BEFORE THE HOUSE
LABOR AND INDUSTRY COMMITTEE, JANUARY 27, 1981

Mr. Chairman, members of the committee, my name is Don Judge and I'm here today representing the Montana State AFL-CIO. I am appearing in opposition to House Bill 259.

House Bill 259, as you are aware, would preclude non-teaching school district employees, who work only during the academic season, from receiving unemployment compensation benefits during regular periods of layoffs. This legislation would effect cooks, bus drivers, teachers' aides, custodial workers and clerical workers in our school districts. These employees are traditionally underpaid with almost no chance for internal advancement. They are, however, very loyal, dedicated, and trustworthy people who have the admired ability to inter-react with our youth.

How many of us, for example, could spend four to six hours a day driving a school bus loaded with kids ranging in age from 6 to 18, full of the vim and viniger that we all admire in the young. How do we measure the value of a driver who can analyze and relate to each and every one of his passingers' moods, physical conditions and emotional needs? Who knows his route, the weather, the hazards, and the timing?

Or how do we measure the value of the cooks, the aids and the custodians who are called upon to inter-react with these same children in much the same manner as the bus drivers?

Professionals in the educational field and parents alike well know that stability is a critical component in the raising of well adjusted youth. That means stability not only in the home and professional teachers, but also in those other persons who come into daily contact with the young. We can all remember that special cook who gave us the extra piece of cake; the driver who took us right up to the yard when the weather was bad; the custodian who fixed our broken desk or helped us get into our jammed lockers; and the aides who took care of us when a problem was too tough or we weren't feeling quite right.

That type of stability is hard to buy. But we get not only this kind of stability, but also the mental comfort of parents who know that their children are in good, "trustworthy" hands.

These workers aren't violating any of the intentions of the Unemployment Compensation Act by drawing benefits in the off seasons. They must still seek other employment, they must still have earned the qualifying credits, and they must accept appropriate employment if it is offered to them.

The fact of the matter is that employers don't want employees who can only work three months.

over

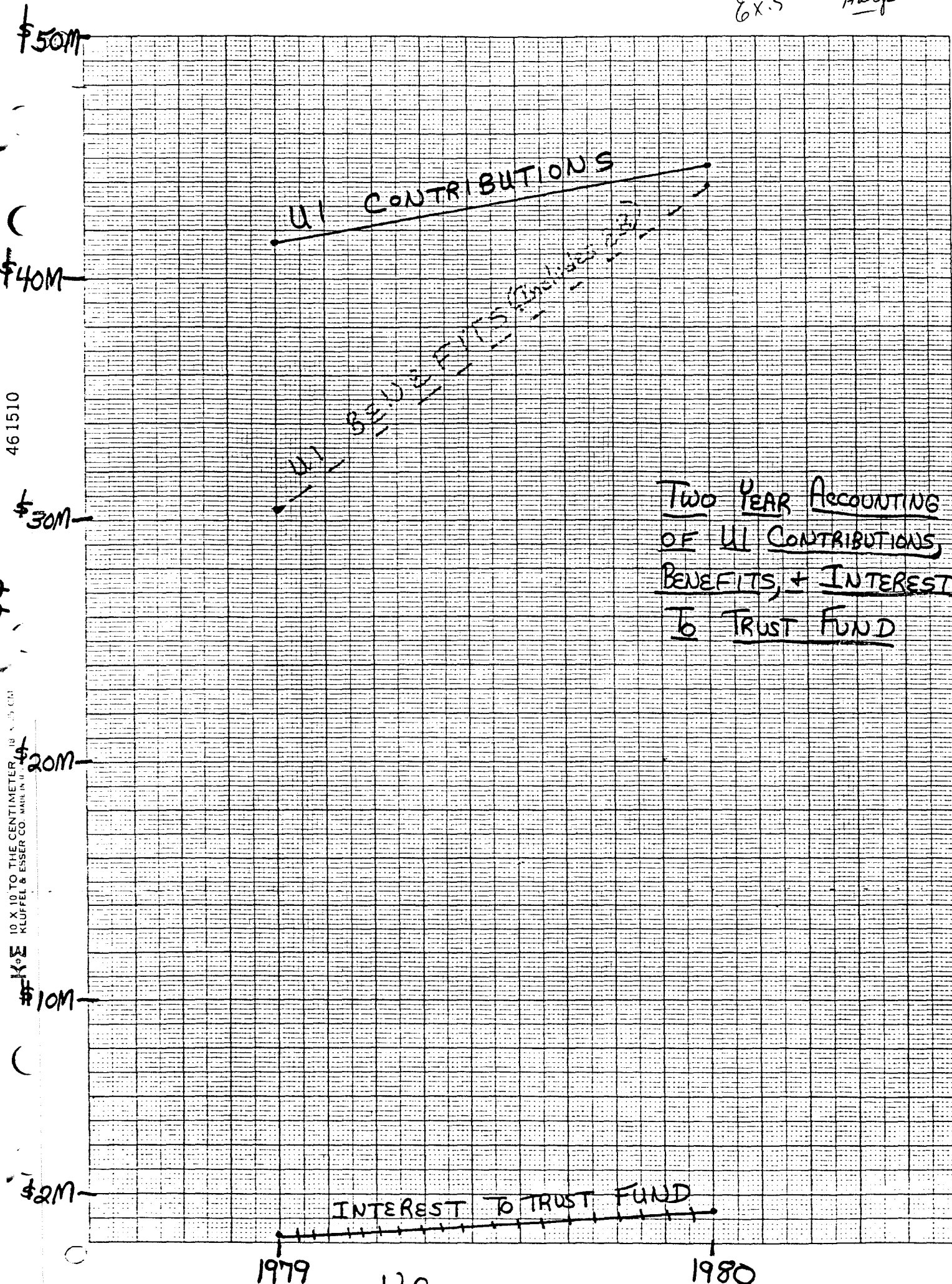
Proponents of this bill have talked about the "vacation" which these employees receive in the summer months. We should not confuse the term "vacation" which means "time off with pay", with the real situation these people are in. They are "out of work" in a "non-paid" status. When you are in a "paid vacation" status, you are not entitled to receive unemployment compensation benefits.

Mr. Chairman, members of the committee, we are in a trade off position here. We can deny these workers their rightful benefits and, subsequently deny our children this stable pool of helping hands.

Or we can continue to grant these earned benefits and hang on to this precious resource that our youth have come to know and depend upon.

We respectfully request that you give House Bill 259 a "do not pass" recommendation.

Ex. 5 Hays



Amend HB 193

1. Title, line 5.

Following: "TO"

Strike: "LIMIT THE APPLICATION OF"

Insert: "INCLUDE WITHIN"

2. Title, line 6.

Following: "REQUIREMENT"

Strike: "TO"

3. Title, line 7.

Following: "OF"

Strike: "\$200,000"

Insert: "10,000 AND TO ELIMINATE THE REQUIREMENT OF CERTIFICATION
BY A CERTIFIED PUBLIC ACCOUNTANT"

4. Page 1, line 13.

Following: "statement"

Strike: "certified by a licensed"

5. Page 1, line 14.

Strike: "certified public accountant"

6. Page 1, line 15.

Following: "of"

Strike: "\$50,000 ~~200,000~~"

Insert: "\$10,000"