

MINUTES OF THE MEETING
EDUCATION & CULTURAL RESOURCES COMMITTEE
MONTANA STATE
HOUSE OF REPRESENTATIVES

January 9, 1985

The Education & Cultural Resources Committee meeting was called to order January 9, 1985 by Chairman Harrington at 2:30 p.m. in Room 312-3 of the State Capitol Building.

ORGANIZATIONAL MEETING: Chairman Harrington requested that each committee member make a brief introduction of themselves. He also reviewed the operational procedures which will be used in committee as follows: 1) the chairman will call for the bill sponsor, proponents and opponents; 2) questions will then be directed at the bill sponsor and witnesses; 3) sponsor will be asked for closing statements; 4) executive action will be reserved for the end of the meetings after bills are heard. Chairman Harrington stated that Mr. Eudaily, the Vice-Chairman will share responsibility for chairing the committee. Members of the Judiciary and Education Committees who share Room 312-3 were asked to contribute \$5 towards purchase of a coffee pot and supplies if they so desire.

HOUSE BILL NO. 15: Hearing commenced on House Bill No. 15. Representative Melvin Williams, District #85, who sponsored the bill at the request of the Department of Labor and Industry explained that the bill will bring the Montana unemployment insurance law into conformity with Federal law. It seeks to deny unemployment insurance benefits to non-professional school employees (clerical workers, bus drivers, janitors, etc.) during the summer and holidays. Professional employees already are forbidden by law from collecting unemployment benefits during this time. Congress passed a law in 1983 requiring states to change their laws by April 15, 1984. Representative Williams hoped for immediate action as the State has a lawsuit against the Department of Labor for non-compliance.

Chairman Harrington called for proponents. Dave Wanzenried, Commission on Labor Disputes, introduced Exhibit 1. He reiterated that Congress is requiring the state to enact this legislation. The January 18 deadline is important because the following week the Federal Government sends out tax notices to employers. Proposed amendments would jeopardize conformity. Note subsection 2c on Exhibit 1 which states that the unemployment insurance benefits for the State of Montana will terminate if they are out of compliance.

Proponent Forest Bull, President of the Montana Chamber of Commerce, spoke of his concern for the employers of Montana and the penalty they would pay if the bill were not passed.

Proponent Chip Erdmann representing the Montana School Board Association spoke for the bill as unemployment insurance costs places a burden on the school district and employees know they have a job for the next school year.

Proponent George Allen, Montana Retail Association voiced support of the bill as unemployment was not set up as a supplement to

annual income, but to help those who have lost their job through no fault of their own. (Exhibit 2)

Proponent Bill Anderson, Deputy Superintendent, Office of Public Instruction voiced fairness in this bill as these people start as volunteers, then accept the part-time conditions. Also the premiums for the unemployment insurance are a factor.

Proponent Jess Long, School Administrators of Montana spoke in favor of this legislation.

Proponent Don Waldron, Superintendent of Schools in Missoula, urged passage of the bill.

There being no further proponents, Chairman Harrington called for opponents of HB 15. Don Judge, Montana State AFL-CIO, addressing the Committee urged consideration of the consequences of adoption. He voiced displeasure with the amendments to the Social Security Act of 1983 which created this provision. School district employees must comply with parts of the law in order to receive compensation. That means that they are available and seeking and accept work if offered. Burdensome to find employment for only the summer months. Employees are not highly paid, bottom of economic scale. These people draw minimum weekly unemployment benefits. Many times they are sole supporters of their families and cannot find employment in the summer. For economic reasons, these people may have to find permanent employment outside the school district. Provision in question is that of reasonable assurance, he hoped that assurance could be in writing. Another problem is that benefits will be paid retroactive during weeks which they file for benefits. In order to get them they have to apply every day, seek and find and accept employment and it seems unfair to ask them to do this. Other agencies will be paying for assisting these people and it is only a transfer of responsibility.

Opponent Linda Gordon from Anaconda spoke of being the lowest paid personnel in the school district. She makes \$400 per month and supports a family of five. Benefits last summer were \$68 per week, without them this summer people will be forced to go to public assistance for survival. She asked for a resolution urging Congress to repeal this law. Question of what is reasonable assurance.

Opponent and school bus driver Fran O'Farrell from Butte relayed that she would be forced to seek other employment and showed concern for doing so at her age. Hard finding employment for just three summer months. Received benefits of \$78 per week which kept her from seeking public aid. Asked to have a resolution adopted so that Congress would repeal this law.

Opponent Jim McGarvey, Montana Federation of Teachers, registered opposition as to the merits of the bill. Urged that Federal Government be shown that it does great damage to a section of Montana.

Opponent Phil Campbell from the Montana Education Association stands in opposition to the method of singling out school workers from other professions and is discriminatory.

There being no further opponents, questions were called for from the Committee. Representative Nelson asked Representative Williams if he had estimates of the number of people affected--the question was referred to Dave Wanzenried who responded he would try to come up with the figures.

Chairman Harrington questioned Representative Williams if contracted bus drivers would be affected. Representative Williams answered that any private bus services would not be affected but only those directly employed by the schools. Representative Harrington questioned if this would be setting precedence for discriminatory practices.

Rep. Williams questioned Superintendent Waldron of his interpretation of reasonable assurance. Reply was it would be in the form of a letter after evaluations were in in the spring. He was happy to see the retroactive benefit in the bill.

Discussion was held whether the letter of intent would be a binding contract and it was generally agreed that it would be in terms of this bill.

Discussion was held regarding the unemployment insurance portion paid by the employer would be greater as it is a bigger risk. It was estimated that it would be a savings of 1.7 million dollars per year. Currently 1,200 employees file for the benefit, responded Dave Wanzenried.

Chairman Harrington requested closing remarks by Rep. Williams. Realizing the hardships involved with lack of jobs, he reiterated that the State of Montana and employers will be placed under greater strains and opposes any amendments at this time. Conformity is needed to the 1983 law and urges immediate action.

HOUSE BILL NO. 100: Hearing commenced on House Bill No. 100 with a call to its sponsor, Representative Dave Brown from District 72. He explained that it came as a surprise to him that kindergartens were allowed but not mandated. There are 383 elementary school districts in Montana with 289 districts offering kindergarten, leaving 94 districts (approximately 600 children) or 5% of the population turning 5 years old before September 10th without public kindergartens. Funding would be minimal; the foundation program has presently allocated \$146,965,965 per school year. Monies are based on ANB enrollment. Per student costs would be \$1,411. Kindergarten students would get half the ANB cost at \$706 giving \$423,000 to the districts. The normal class of 20 students morning and afternoon would be \$28,240 with the average teacher's salary at \$19,700. He stated feeling that kindergarten is a starting point in society for socialization skills.

Proponents were called for. Harriott Maloy, American Association of University Women spoke in favor of this bill.

Proponent Jim McGarvey from the Montana Federation of Teachers spoke on behalf of his organization recommending passage of the bill.

Representative Williams spoke as a proponent stating that it gave students an advantage when entering first grade over those who were unable to attend.

Proponent Carol Esenstein, a concerned citizen would like to see kindergarten available to all children in the State of Montana.

Opponents were called for by Vice-Chairman Eudaily. Chip Erdmann from the Montana School Board Association rides in opposition to H.B. 100. The decision is presently vested in the local school board. Pressure can be applied directly by the public to the local school board. In some instances it is not financially feasible to have kindergarten. In one room schoolhouses a teacher cannot always pay attention to the few kindergarten students as good as could be expected. He spoke of the admirable quality of the bill, but it lacked financial feasibility. The foundation program does not pick up the entire cost.

Opponent Bill Anderson, Deputy Superintendent in the Office of Public Instruction discussed the transportation distance. He felt the responsibility should be left to the local boards as each situation is unique.

Richard Trerise, from the Montana Association of County School Superintendents opposed the bill saying that it may lead to mandatory attendance law changes and lower the age limits on that. Mandating kindergarten could put the entire school in jeopardy, he said. For one room school situations, it would be a disservice to all children.

Opponent Rick Vaught, Chairman of the Christian Education Association of Montana, stated H.B. 100 would coerce local district in to doing something that they may not like to do. It would be erosion of control by local school boards.

There being no further opponents, questions from the committee were called for. Representative Williams posed the question of transporting very few kindergarten students (or perhaps even one) on large bus.

Representative Peck brought to the attention of the committee that if kindergarten were mandated it would not necessarily mandate the attendance of five year old children.

Representative Hannah responded to Representative William's question on transportation that a bill has been enacted which allowed parents to receive reimbursement for transporting their

child(ren) to school. This would not allow anyone outside the family, however. The two choices are to ride the bus or be transported by the parent.

Representative Schye clarified that the programs could run on a three day/ two day split rather than half day every day.

There being no further questions, Representative Brown was called on for closing statements. He stated he was tired of local school boards threatening to cut kindergarten programs as a means to get a bond issue passed. Standards would probably apply to private schools.

Vice-Chairman Eudaily closed the hearing on House Bill 100.

HOUSE BILL NO.11: Representative Tom Hannah from District #86 spoke as sponsor at the request of the Joint Interim Subcommittee #4. Distributed at this time was Exhibit #3 showing a Gallup Poll survey. This bill addresses the reassignment or change of a school employee from an administrative position to a teaching position and would allow school districts to do so at a different pay scale. Amendments may be needed dealing with legal rights earned prior to enactment, but Hannah will reserve those statements for executive session.

Call for proponents brought forth Chip Erdmann with the Montana School Board Association. Solves the problem of going from nine month contract to ten month contract at the same rate of pay. He stated it will allow teachers or administrators to be placed back in the classroom at the same salary as if they would have remained in the classroom.

Proponent Bill Anderson from the Office of Public Instruction mentioned support of this bill.

Proponent Don Waldron, Superintendent of School from Hellgate Elementary. Asked for clarification should the change be made during the school year--is the school held responsible to the contract for the remainder of the year. Vice-Chairman Eudaily asked the committee researcher to look into the matter.

There being no further proponents and no opponents, questions from the committee were entertained. Representative Peck asked about tenured teacher status. It was clarified that principals do not make tenure, but should they return to the classroom, they would retain the rights of a tenured classroom teacher if they had earned it.

Mention was made by Rep. Glaser that districts may hesitate to advance teachers from within the ranks should this bill not be enacted.

EDUCATION & CULTURAL RESOURCES

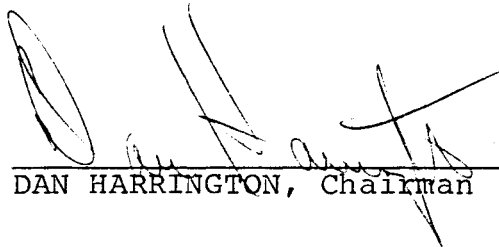
JANUARY 9, 1985

Page 6

There being no further questions and discussion, the hearing on H.B. 11 was closed and the Committee moved into Executive Action.

EXECUTIVE ACTION: A motion was made by Representative Mel Williams, with a second by Ted Schye that H.B. 15 do pass. A roll call vote showed 15 for; 2 against. The motion passed.

There being no further business, the committee adjourned at 4:35 p.m.



DAN HARRINGTON, Chairman

DH:crf

DAILY ROLL CALL

EDUCATION COMMITTEE

49th LEGISLATIVE SESSION -- 1985

Date 1-8-85

NAME	PRESENT	ABSENT	EXCUSED
Dan Harrington	✓		
Ralph Eudaily	✓		
Ray Brandewie	✓		
William Glaser	✓		
Joe Hammond	✓		
Thom Hannah	✓	Exc (Lat)	
Raymond Harbin	✓		
Roland Kennerly	✓		
Les Kitselman	✓		
John Mercer	✓		
John Montayne	✓		
Richard Nelson	✓		
Jerry Nisbet	✓		
Ray Peck	✓		
Jack Sands			✓
Ted Schye	✓		
Fred Thomas	✓		
Mel Williams	✓		

STANDING COMMITTEE REPORT

JANUARY 1

19 25

MR. SPEAKER

We, your committee on EDUCATION & CULTURAL RESOURCES

having had under consideration HOUSE Bill No. 15

FIRST reading copy (WHITE)
color

DENYING CERTAIN UNEMPLOYMENT BENEFITS TO SCHOOL EMPLOYEES

Respectfully report as follows: That HOUSE Bill No. 15

DO PASS

JW 1/4/25 4-55

STATE PUB. CO.
Helena, Mont.

.....
REPRESENTATIVE HARRINGTON Chairman.

COMMITTEE SECRETARY

ROLL CALL VOTE

HOUSE COMMITTEE EDUCATION

DATE 1-9-85 HB Bill No. 15 Time 4:30

NAME	(15) YES	(2) NO
Dan Harrington		✓
Ralph Eudaily	✓	
Ray Brandewie	✓	
William Glaser	✓	
Joe Hammond	✓	
Tom Hannah	✓	
Raymond Harbin	✓	
Roland Kennerly	✓	
Les Kitselman	✓	
John Mercer	✓	
John Montayne	✓	
Richard Nelson	✓	
Jerry Nisbet		✓
Ray Peck	✓	
Jack Sands		
Ted Schye	✓	
Fred Thomas	✓	
Mel Williams	✓	

Bernice Ruane Lay
Secretary

Chairman

Motion: H.B. 15 do pass, motion made by Mel Williams, second by Ted Schye

EXHIBIT 1
H.B. 15
1-9-85

DENIAL OF UNEMPLOYMENT INSURANCE BENEFITS FOR NON-PROFESSIONAL
SCHOOL EMPLOYEES BETWEEN TERMS

1. Mandatory that all states adopt this Congressional Act as part of their state law. (Effective April 1, 1984.)
2. Failure to enact will result in Montana being declared out of conformity with the U.S. Department of Labor. A non-conformity decision could result in the following action:
 - a. Loss of Federal Unemployment Tax credit for all state employers: currently 2.7% on first \$7,000 of wages; the tax credit amounts to \$36 million per year.
 - b. Loss of administrative support dollars to operate the Montana unemployment insurance system which would effectively shut down the current program; \$16 million per year.
 - c. Section 39-51-106 provides that if a state unemployment law is out of conformity with a federal law, the unemployment insurance laws of Montana will immediately terminate and have no force or effect.
3. A preliminary finding of non-conformity was delayed through a compromise agreement. The terms of the agreement require passage of the legislation by January 18, 1985, with a retroactive effective date of October 28, 1984.

Part 26 — Trade Readjustment

- 39-51-2601. Limitations on weeks of combined extended benefits and trade readjustment allowances.
- 39-51-2602. Approved trade readjustment training.

Parts 27 through 30 reserved**Part 31 — Protections and Limitations on Rights and Benefits**

- 39-51-3101. Protection against self-incrimination.
- 39-51-3102. Certain agreements in violation of chapter void.
- 39-51-3103. Employer prohibited from making, requiring, or accepting deduction from wages or requiring or accepting waiver of rights under chapter — penalty for violation.
- 39-51-3104. Limitation of fees in claim for benefits — penalty for violation.
- 39-51-3105. Assignment, pledge, or encumbrance of right to benefits void — benefits exempt from levy, execution, attachment, or other remedy for collection of debt — exception.
- 39-51-3106. Child support interception of unemployment benefits.

Part 32 — General Penalties

- 39-51-3201. Making false statement or representation or failing to disclose material fact in order to obtain or increase benefits — administrative penalty and remedy.
- 39-51-3202. Making false statement or representation or failing to disclose material fact in order to obtain or increase benefits — criminal penalty.
- 39-51-3203. Obtaining benefits through deception or other fraudulent means — criminal penalty.
- 39-51-3204. Employing unit making false statement or representation, failing to disclose material fact, or failing or refusing to make contributions or other payments, furnish reports, or permit inspection or copying of records — criminal penalty.
- 39-51-3205. Criminal penalty for violations of chapter where no penalty prescribed.
- 39-51-3206. Liability for wrongful or improper receipt of benefits.

Part 1**General Provisions**

39-51-101. Short title. This chapter shall be known and may be cited as the "Unemployment Insurance Law".

History: En. Sec. 1, Ch. 137, L. 1937; R.C.M. 1947, 87-101; amd. Sec. 1, Ch. 57, L. 1979.

39-51-102. Declaration of state public policy. As a guide to the interpretation and application of this chapter, the public policy of this state is declared to be as follows:

(1) Economic insecurity due to unemployment is a serious menace to the health, morals, and welfare of the people of this state.

(2) Involuntary unemployment is, therefore, a subject of general interest and concern which requires appropriate action by the legislature to prevent its spread and to lighten its burden which now so often falls with crushing force upon the unemployed worker and his family. The achievement of social security requires protection against this greatest hazard of our economic life. This can be provided by encouraging employers to provide more stable employment and by the systematic accumulation of funds during periods of

employment to provide benefits for periods of unemployment, thus maintaining purchasing power and limiting the serious social consequences of poor relief assistance.

(3) The legislature, therefore, declares that in its considered judgment the public good and the general welfare of the citizens of this state require the enactment of this measure under the police powers of the state for the compulsory setting aside of unemployment reserves to be used for the benefit of persons unemployed through no fault of their own.

History: En. Sec. 2, Ch. 137, L. 1937; R.C.M. 1947, 87-102.

39-51-103. Nonliability of state — right to benefits subject to provisions of chapter and extent of available funds. (1) Benefits shall be deemed to be due and payable under this chapter only to the extent provided in this chapter and to the extent that moneys are available therefor to the credit of the unemployment insurance fund, and neither the state nor the department shall be liable for any amount in excess of such sums.

(2) The legislature reserves the right to amend or repeal all or any part of this chapter at any time and there shall be no vested private right of any kind against such amendment or repeal. All the rights, privileges, or immunities conferred by this chapter or by acts done pursuant thereto shall exist subject to the power of the legislature to amend or repeal this chapter at any time.

History: (1) En. Sec. 18, Ch. 137, L. 1937; amd. Sec. 32, Ch. 368, L. 1975; Sec. 87-147, R.C.M. 1947; (2) En. Sec. 20, Ch. 137, L. 1937; Sec. 87-150, R.C.M. 1947; R.C.M. 1947, 87-147, 87-150; amd. Sec. 2, Ch. 57, L. 1979; amd. Sec. 1, Ch. 349, L. 1981.

Compiler's Comments

1981 Amendment: Substituted "department" for "division" near the end of (1).

39-51-104. Chapter to become inoperative if federal act becomes inoperative. If Title III or Title IX of the federal Social Security Act is declared unconstitutional or in any way becomes inoperative, then this chapter shall terminate and cease and have no force and effect as of the date when said title or titles of said act are declared unconstitutional or become inoperative.

History: En. Sec. 22, Ch. 137, L. 1937; R.C.M. 1947, 87-151.

39-51-105. Disbursement of funds if federal act becomes inoperative. If Title III or IX of the federal Social Security Act is declared unconstitutional or in any way is inoperative, this chapter automatically becomes inoperative under the provisions of this chapter and the funds which then remain in the unemployment trust fund shall immediately be paid to the state treasurer to be paid into the unemployment insurance fund and funds there held shall be immediately distributed, upon order of the department, to the employers who have contributed thereto on a proportionate basis. If any part thereof remains undistributed for a period of 1 year it shall be paid to the general fund of the state.

History: En. Subd. (d), Sec. 9, Ch. 137, L. 1937; amd. Sec. 8, Ch. 368, L. 1975; R.C.M. 1947, 87-114; amd. Sec. 2, Ch. 57, L. 1979; amd. Sec. 1, Ch. 349, L. 1981.

Compiler's Comments

1981 Amendment: Substituted "department" for "division" near the end of the first sentence.

39-51-106. Approval by secretary of labor required for chapter to have effect. If the secretary of labor shall fail to approve this chapter, the same shall immediately terminate and have no force and effect.

History: En. Sec. 23, Ch. 137, L. 1937; amd. Sec. 12, Ch. 156, L. 1961; R.C.M. 1947, 87-152.

Part 2

Definitions

39-51-201. General definitions. As used in this chapter, unless the context clearly requires otherwise, the following definitions apply:

(1) The word "administrator" refers to a person appointed by the commissioner of labor and industry to direct and administer the unemployment insurance laws and federal laws falling within the administrator's jurisdiction.

(2) "Annual payroll" means the total amount of wages paid by an employer, regardless of the time of payment, for employment during a calendar year.

(3) "Annual total payroll" means the total of the four quarters of total payrolls of an employer preceding the computation date as fixed herein.

(4) "Base period" means the first four of the last five completed calendar quarters immediately preceding the first day of an individual's benefit year. However, in the case of a combined-wage claim pursuant to the arrangement approved by the secretary of labor of the United States, the base period shall be that applicable under the unemployment law of the paying state. For an individual who fails to meet the qualifications of 39-51-2105 due to a temporary total disability as defined in 39-71-116 or a similar statute of another state or the United States, the base period means the first four quarters of the last five quarters preceding the disability if a claim for unemployment benefits is filed within 18 months of the individual's last employment.

(5) "Benefits" means the money payments payable to an individual, as provided in this chapter, with respect to his unemployment.

(6) "Benefit year", with respect to any individual, means the 52 consecutive-week period beginning with the first day of the calendar week in which such individual files a valid claim for benefits, except that the benefit year shall be 53 weeks if filing a new valid claim would result in overlapping any quarter of the base year of a previously filed new claim. A subsequent benefit year may not be established until the expiration of the current benefit year. However, in the case of a combined-wage claim pursuant to the arrangement approved by the secretary of labor of the United States, the base period is the period applicable under the unemployment law of the paying state.

(7) "Board" means the board of labor appeals provided for in Title 2, chapter 15, part 17.

(8) "Calendar quarter" means the period of 3 consecutive calendar months ending on March 31, June 30, September 30, or December 31.

(9) "Contributions" means the money payments to the state unemployment insurance fund required by this chapter.

(10) "Department" means the department of labor and industry provided for in Title 2, chapter 15, part 17.

(6)(A) compensation is payable on the basis of service to which section 3309(a)(1) applies, in the same amount, on the same terms, and subject to the same conditions as compensation payable on the basis of other service subject to the law; except that—

(i) with respect to services in an instructional, research, or principal administrative capacity for an educational institution to which section 3309(a)(1) applies, compensation shall not be payable based on such services for any week commencing during the period between two successive academic years or terms (or, when an agreement provides instead for a similar period between two regular but not successive terms, during such period) to any individual if such individual performs such services in the first of such academic years (or terms) and if there is a contract or reasonable assurance that such individual will perform services in any such capacity for any educational institution in the second of such academic years or terms,

(ii) with respect to services in any other capacity for an educational institution to which section 3309(a)(1) applies—

(I) compensation payable on the basis of such services shall be denied to any individual for any week which commences during a period between 2 successive academic years or terms if such individual performs such services in the first of such academic years or terms and there is a reasonable assurance that such individual will perform such services in the second of such academic years or terms, except that

(II) if compensation is denied to any individual for any week under subclause (I) and such individual was not offered an opportunity to perform such services for the educational institution for the second of such academic years or terms, such individual shall be entitled to a retroactive payment of the compensation for each week for which the individual filed a timely claim for compensation and for which compensation was denied solely by reason of subclause (I),

(iii) with respect to any services described in clause (i) or (ii), compensation payable on the basis of such services shall be denied to any individual for any week which commences during an established and customary vacation period or holiday recess if such individual performs such services in the period immediately before such vacation period or holiday recess, and there is a reasonable assurance that such individual will perform such services in the period immediately following such vacation period or holiday recess,

(iv) with respect to any services described in clause (i) or (ii), compensation payable on the basis of services in any such capacity shall be denied as specified in clauses (i), (ii), and (iii) to any individual who performed such services in an educational institution while in the employ of an educational service agency, and for this purpose the term "educational service agency" means a governmental agency or governmental entity which is established and operated exclusively for the purpose of providing such services to one or more educational institutions, and

(v) with respect to services to which section 3309(a)(1) applies, if such services are provided to or on behalf of an educational institution, compensation may be denied under the same circumstances as described in clauses (i) through (iv), and

(B) payments (in lieu of contributions) with respect to service to which section 3309(a)(1) applies may be made into the State unemployment fund on the basis set forth in section 3309(a)(2);

(7) an individual who has received compensation during his benefit year is required to have had work since the beginning of such year in order to qualify for compensation in his next benefit year;

THE UNDER SECRETARY OF LABOR

WASHINGTON, D. C.

20210



RECEIVED

1 1984

DEPT. OF LABOR & INDUSTRY
COMMISSIONER'S OFFICE

Case No. 84-CCP-3

In the Matter of)

STATE OF CALIFORNIA)
Employment Development)
Department)

STATE OF IDAHO)
Department of Employment)

STATE OF MONTANA)
Department of Labor and)
Industry)

COMMONWEALTH OF PUERTO)
RICO)
Department of Labor)

FINAL DECISION AND ORDER

Pursuant to a Notice of Hearing, published on September 12, 1984, 49 FR 35878, proceedings were instituted with respect to the conformity of the States of California, Idaho, and Montana and the Commonwealth of Puerto Rico with the requirements of section 3304(a)(6)(A) of the Federal Unemployment Tax Act (FUTA), codified at section 3304(a)(6)(A) of the Internal Revenue Code of 1954, 26 U.S.C. § 3304(a)(6)(A), as amended by Section 521(a)(2) of the Social Security Amendments of 1983 (Public Law 98-21, 97 Stat. 147).

Subsequent to the issuance of this notice, each of the aforementioned respondents entered into separate stipulation agreements with the U.S. Department of Labor (DOL), and, on the basis of these stipulations, a hearing on the issues raised

in the notice was waived. On October 9, 1984, Administrative Law Judge Nicodemo DeGregorio issued a recommended decision based on the provisions of the individual stipulations. The matter is now before me for decision under section 3304(c) of FUTA, 26 U.S.C. 3303(c).

Based upon my review of the record in this case, I make the findings set forth below.

State of California. The unemployment compensation law of the State of California was amended, on September 20, 1984, for the express purpose of implementing the requirements of clause (iv) of section 3304(a)(6)(A). This action was stipulated to, and it was further stipulated that the California unemployment compensation law, as so amended, will be interpreted consistently in all respects with section 3304(a)(6)(A), as amended by Public Law 98-21. The stipulation further provides that the California unemployment compensation law, as interpreted, now conforms to the provisions of clause (iv) of section 3304(a)(6)(A), and that, accordingly, the issues stated in the Notice of Hearing are now resolved. Finally, as requested in the stipulation, the administrative law judge recommended that I issue an order dismissing the conformity proceedings against the State of California.

In view of these stipulated actions and understandings, I am satisfied that the California unemployment compensation

law now contains the provisions required by section 3304(a)(6)(A)(iv), and I find that the California law is now in conformity with the requirements of FUTA.

State of Idaho. On September 10, 1984, the Director of the Idaho Department of Employment Security issued a rule which became effective on October 1, 1984. In this connection, the Director provided the opinion of the Attorney General of Idaho holding that the Director has the authority under Idaho law to adopt such a rule. This rule was issued for the express purpose of conformance and compliance with the requirements of clause (iv) of section 3304(a)(6)(A). This action was stipulated to, and it was further stipulated that the Idaho unemployment compensation law and the aforementioned rule will be interpreted consistently in all respects with section 3304(a)(6)(A), as amended by Public Law 98-21. Accordingly, it was agreed in the stipulation agreement that issuance and interpretation of the Idaho unemployment compensation law and the rule is sufficient, for the purposes of these 1984 conformity proceedings, to conform the Idaho law to the provisions of clause (iv) of section 3304(a)(6)(A). It was, however, expressly stipulated that this agreement is not binding on DOL for other than these 1984 conformity proceedings. Finally, as requested in the stipulation, the administrative law judge recommended that I issue an order dismissing the conformity proceedings against the State of Idaho.

In view of these stipulated actions and understandings, I am satisfied that the Idaho unemployment compensation law currently contains the provisions required by section 3304(a)(6)(A)(iv), and I find that the Idaho law now conforms with the requirements of FUTA.

State of Montana. The State of Montana Department of Labor and Industry has stipulated that the Montana unemployment compensation law fails to conform with the requirements of the Federal law as specifically set forth in the Notice of Hearing. Accordingly, I find that the Montana unemployment compensation law does not contain the provisions required by clauses (ii), (iii) and (iv) of section 3304(a)(6)(A) of FUTA, as amended by section 521 of Public Law 98-21. Further, and in accordance with the stipulation agreement, the State of Montana will not be included in the listing of States with respect to which certifications are made by me to the Secretary of the Treasury on October 31, 1984 under sections 3303(b)(1) and 3304(c) of FUTA.

The State of Montana Department of Labor and Industry has further stipulated that it will diligently seek, under the State law and constitution, the enactment of a conforming amendment of the Montana unemployment compensation law at the earliest possible time, and that the conforming amendment shall be made effective for any weeks which begin after October 28, 1984.

Accordingly, and in accordance with the stipulations, I further find that the omission of the State of Montana from the certifications does not constitute a withholding of the 1984 certifications at this time. The 1984 certifications under sections 3303(b)(1) and 3304(c) of FUTA will be made, or affirmatively withheld, on or before January 31, 1985. If I receive, on or before January 18, 1985, a certified copy of the conforming amendment referred to above, I shall make the 1984 certifications with respect to the State of Montana under sections 3303(b)(1) and 3304(c) of FUTA. If I am not satisfied that conformity has been fully achieved, I will withhold those certifications for 1984 and so notify the Secretary of the Treasury.

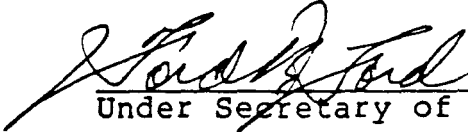
Commonwealth of Puerto Rico. The Secretary of the Puerto Rico Department of Labor and Human Resources (PRDLHR) has promulgated a rule containing amendments to Puerto Rico's regulations, and has furnished DOL with a true copy of an English translation of the rule. The rule became effective on August 27, 1984, and is being implemented by PRDLHR for the express purpose of conforming and complying with the requirements of clause (iii) and (iv) of section 3304(a)(6)(A). An opinion of the Office of Secretary of Justice of Puerto Rico confirms the authority of the Secretary of PRDLHR to adopt such a rule. The adoption of the rule has been stipulated to, and it was further stipulated that the Puerto Rico unemployment compensation law and the

rule promulgated by the Secretary of PRDLHR has been, and will be, interpreted consistently in all respects with section 3304(a)(6)(A), as amended by Public Law 98-21. It was, accordingly, agreed in the stipulation that promulgation of the rule and interpretation of the Puerto Rico law is sufficient, for purposes of these 1984 conformity proceedings, to conform the Puerto Rico unemployment compensation law to the requirements of clauses (iii) and (iv) of section 3304(a)(6)(A). It was, however, expressly stipulated that this agreement is not binding on DOL for other than these 1984 conformity proceedings and that PRDLHR will diligently seek the enactment of conforming amendments to the Puerto Rico unemployment compensation law at the earliest possible time. Finally, as requested in the stipulation, the administrative law judge recommended that I issue an order dismissing the conformity proceedings against the Commonwealth of Puerto Rico.

In view of these stipulated actions and understandings, I am satisfied that the Puerto Rico unemployment compensation law currently contains the provisions required by section 3304(a)(b)(A), and I find that the Puerto Rico law is now in conformity with the requirements of FUTA.

Ordered. Therefore, it is Ordered that the conformity proceedings against the States of California and Idaho and against the Commonwealth of Puerto Rico on the issues set

forth in the Notice of Hearing are terminated in accordance with the individual stipulations entered into by DOL and the State of California, the State of Idaho, and the Commonwealth of Puerto Rico. Accordingly, I will certify to the Secretary of the Treasury the States of California and Idaho and the Commonwealth of Puerto Rico for the 12-month period ending October 31, 1984, in accordance with the provisions of sections 3303(b)(1) and 3304(c) of FUTA. The State of Montana, however, will not be included in the listing of States with respect to which certifications are made by me to the Secretary of Treasury under sections 3303(b)(1) and 3304(c) of FUTA.


Under Secretary of Labor

OCT 29 1984

CERTIFICATE OF SERVICE

Case Name: U.S. Dept. of Labor v. States of California,
Idaho, Montana and Commonwealth of Puerto Rico

Case No.: 84-CCP-3

Document: FINAL DECISION AND ORDER

This is to certify that on October 29, 1984 a copy of the foregoing document was mailed to the following persons.

Clares Rengas

CETIFIED MAIL

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EXHIBIT 2
H.B. 15
1-9-85
Executive Office
P.O. Box 440
34 West Sixth
Helena, MT 59624
Phone (406) 442-3388

TESTIMONY
Wednesday, January 9, 1985
Unemployment Insurance Laws
Dealing with the Education System and Teachers

Mr. Chairman and Members of the Committee:

My name is George Allen. I am a registered lobbyist for the Montana Retail Association. I'm here to support House Bill #15.

As you know, Unemployment Insurance was set up for the purpose of supplying financial support for an employee who lost their job through no fault of their own. It was not intended as a financial supplement to a person's annual wage.

It seems to me that the intent of Unemployment Insurance was not to provide additional income for employees who were hired for a specific period of time or a specific job.

House Bill #15 would bring the state of Montana into conformity with the federal law.

We therefore urge you to support House Bill #15.

Thank you very much.

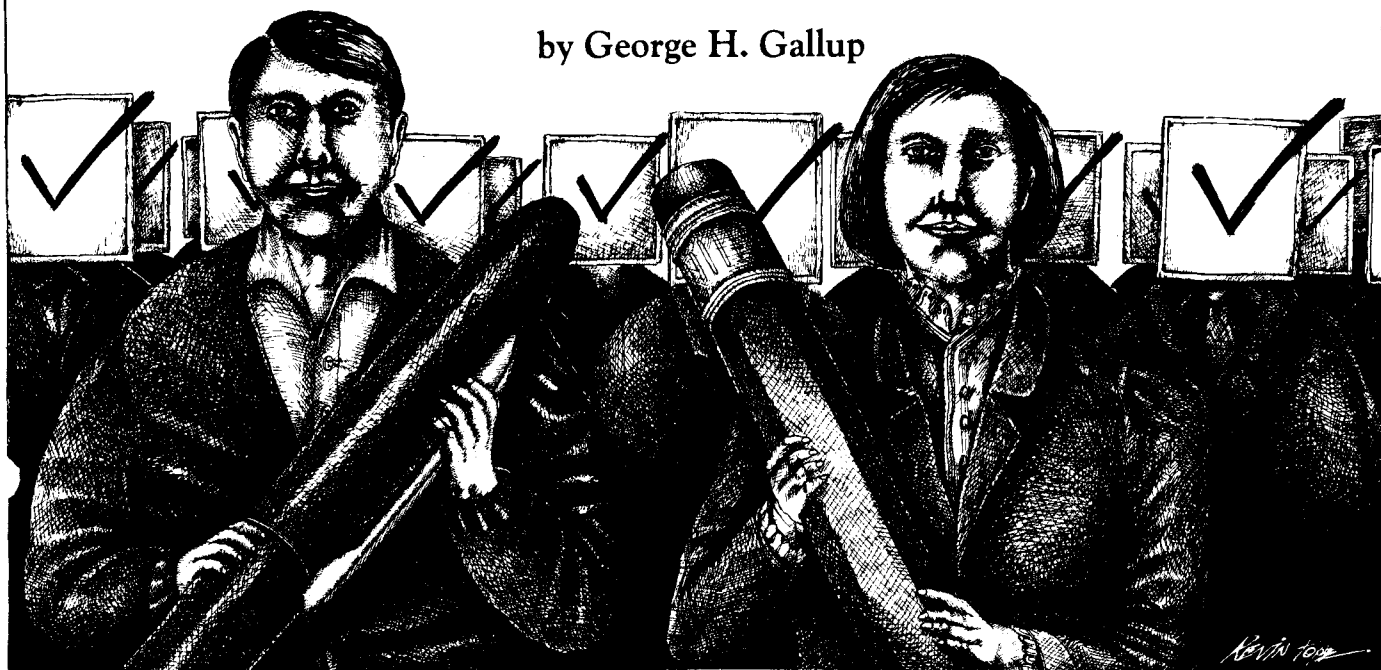
Respectfully,

A handwritten signature in cursive script, appearing to read "George Allen".

George Allen
Executive Vice President
Montana Retail Association

The 16th Annual Gallup Poll Of the Public's Attitudes Toward The Public Schools

by George H. Gallup



The annual Gallup Poll of the Public's Attitudes Toward the Public Schools, now financed by Phi Delta Kappa, is intended to be a continuing source of reliable information concerning trends in opinion about significant school questions. For school officials, the poll is valuable in at least two ways: it alerts decision makers to overall public reaction to a variety of school programs and policies, and it serves as a national benchmark against which local attitudes can be measured.

Local officials are welcome to use questions asked in the Gallup education surveys. The questions are not copyrighted. Moreover, no limits are placed on the use of information contained in these reports, beyond customary credit to the source and observance of the canons of accuracy and completeness of quotation.

Phi Delta Kappa's Dissemination Division, assisted by the Gallup Organization, is prepared to help school districts and other agencies survey local populations on education questions. For details of this service, called PACE (Polling Attitudes of the Community on Education), write or telephone Wilmer Bugher, associate executive secretary for administration, Phi Delta Kappa, P.O. Box 789, Bloomington, IN 47402. The phone number is 812/339-1156.

Nearly 100 Phi Delta Kappans and education writers offered suggestions for this year's poll. We wish to thank them for their cooperation. We are also grateful to the panel assembled by Phi Delta Kappa last January to discuss poll questions with George Gallup and members of his staff at the headquarters of the National School Boards Association in Washington, D.C. The panel was composed of Adrienne Bailey, vice president for academic affairs, College Board; Michael J. Bakalis, professor of education and public management, School of Education, Northwestern University; David Bednarek, education writer for the *Milwaukee Journal*; Ben Brodinsky, education consultant; Jerome G. Kopp, president of Phi Delta Kappa and principal of Downey High School in Modesto, California; Anne Lewis, executive editor, *Education USA*; Glen Robinson, executive director, Educational Research Service; Thomas Shannon, executive director, National School Boards Association; John Vasconcellos, chairman, Assembly Ways and Means Committee, State of California; and Gary Wittlich, professor of music, Indiana University. Representing the Phi Delta Kappa headquarters staff were Lowell Rose, executive secretary; Robert W. Cole, Jr., editor, *Phi Delta Kappan*; and myself. — Stanley Elam, coordinator, Gallup-Phi Delta Kappa Education Poll.

WITNESS STATEMENT

Name RICK VACANT Committee On EDUCATION
Address Box 635 Bozeman, MT 59715 Date 1-9-85
Representing CHRISTIAN ED. ASS. OF MT. Support _____
Bill No. HB 100 Oppose ✓
Amend _____

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. *H.B. 100 will coerce local school boards into a course of action they may disagree with.*
2. *Therefore it erodes local control by school boards.*
3. *And, it assumes that local school boards are irresponsible. This ~~defies~~ ^{defies} common sense*
4. *since local school boards are closer to the situation and are directly responsible for their actions.*

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.

WITNESS STATEMENT

Name Chip EDMANN ^{Hace} Committee On EDUCATION
 Address Helena Date 1/9/84
 Representing MSBA Support X
 Bill No. 11 Oppose _____
 Amend _____

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. This bill will allow school districts to return school administrators to the teaching ranks at the same salary they would have had if they ^{had} remained a teacher.
- 2.
3. Re MT SCT held we must pay them at their administrative salary - which puts them off the salary schedule and subjects the District to a UCF (Unfair Labor Practice)
4. IT is also in the best interests of tax payers - administrators should be paid administrator salaries and teachers teacher salaries.

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.

WITNESS STATEMENT

Name Chip Erdmann House Committee On Education
Address Helena Date 1/9/84
Representing MSBA Support X
Bill No. 15 Oppose _____
Amend _____

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. we support this bill since many of these ~~committees~~ employees ~~have~~ have a contract for the next school year. They know they will have a job in 3 months.
2. Currently it places a burden on school districts since these employees would always seek unemployment during the summer.
- 3.
4. Teachers already are prohibited from collecting unemployment during the summer.
In addition it is important to get in compliance with Federal legislation.

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.

WITNESS STATEMENT

Name Chip Erdmann Committee On Education
Address Helen Date 1/9/84
Representing MSBA Support _____
Bill No. 100 Oppose X
Amend _____

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. local option - no constitution
guarantees local control of the school district
he left to school boards - mandate from school
2. 383 some elementary districts don't need
kindergartens
3. 94 districts don't have them - can't justify
the cost
4. \$66 million - /year
\$1,411 - state cost, per child
? - district cost per child

- if district has enough children of
kindergarten age
- local control - each district can choose
on its own whether to
have

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.

VISITOR'S REGISTER

HOUSE EDUCATION & CULTURAL RESOURCES COMMITTEE

BILL HB 11; HB 15, HB 100

DATE JANUARY 9, 1985

SPONSOR

NAME	RESIDENCE	REPRESENTING	SUP- PORT	OP- POSE
Eric Feaver	Helena	MSA		
Steve Vick	Belt	CEAM		
Rick Vaughn	BOZEMAN	CHRISTIAN ED. Ass of MT (CEAM)		
Phil Campbell		MSA		
Kathy Harrington	Butte	Intern		
Chip Erdmann	Helena	MSBA		
George Olsen	Helena	MT. R. Paul Olson	15	
Don Judge	Helena	MT STATE AFL-CIO		Amend X
Jack Long	Helena	School Admin of MT		
Pietrenice	Helena	MACSS		Y 10
F.L. Boles	HELENA	MONT. CHAMBER	X	HB 15
DAVE BROWN	Butte-Silver Bow	District #72	100	
CHAD SMITH	HELENA	Unemp. Comp. Advisors	HB 15	
W. M. Kirkpatrick	MISSOULA		14 X 17	
Margaret Swenson	Harve			
Wilbur Swenson	Harve			
Jim McGarvey		For Mont Fed of Teachers		
Don Waldron	Helena, Elmer School Missoula	Helena, Elmer School	15 11	
Tom Schneider	MPEA, Helena	MPEO	15	X

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.