

HOUSE BILL 644

Introduced by Harrington, et al.

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| 2/10 | Introduced |
| 2/11 | Referred to Labor & Employment Relations |
| 2/13 | Fiscal Note Requested |
| 2/16 | Hearing |
| 2/17 | Committee Report--Bill Passed as Amended |
| 2/18 | Fiscal Note Received |
| 2/18 | Fiscal Note Printed |
| 2/21 | 2nd Reading Do Pass Motion Failed |

1 *Signet* *House* BILL NO. *644*
 2 INTRODUCED BY *Harrington* *Daniel* *Suzanne* *Carroll*
 3 *Smith* *David* *Brown* *St* *Marshall* *Douglas* *Trunk*
 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO ALLOW PAYMENT OF
 5 UNEMPLOYMENT INSURANCE BENEFITS TO NONPROFESSIONAL SCHOOL

6 EMPLOYEES BETWEEN ACADEMIC TERMS AND DURING VACATIONS AND
 7 HOLIDAYS; AMENDING SECTION 39-51-2108, MCA; AND PROVIDING AN
 8 IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

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

11 **Section 1.** Section 39-51-2108, MCA, is amended to read:

12 "39-51-2108. Payment of benefits based on service in
 13 public, charitable, or educational organizations. (1)
 14 Benefits based on service in employment defined in
 15 subsections (5) and (6) of 39-51-203 and subsections (2) and
 16 (3) of 39-51-204 are payable in the same amount, on the same
 17 terms, and subject to the same conditions as compensation
 18 payable on the basis of other service subject to this
 19 chapter, except that benefits based on service in an
 20 instructional, research, or principal administrative
 21 capacity for an educational institution may not be paid to
 22 an individual for any week of unemployment which begins
 23 during the period between two successive academic years or
 24 during a similar period between two regular terms, whether
 25 or not successive, or during a period of paid sabbatical

1 leave provided for in the individual's contract if the
 2 individual has a contract or reasonable assurance of a
 3 contract to perform services in any such capacity for any
 4 such educational institution for both such academic years or
 5 both such terms.

6 {2}--Benefits-based-on-services-in-any-other-capacity
 7 for--an--educational--institution--shall--be--denied--to--any
 8 individual--for--any--week--which--commences--during--a--period
 9 between---2--successive--academic--years--or--terms--if--the
 10 individual--performs--such--services--in--the--first--of--such
 11 academic--years--or--terms--and--there--is--a--reasonable--assurance
 12 that--the--individual--will--perform--such--services--in--the--second
 13 of--such--academic--years--or--terms--if--any--individual--is--denied
 14 benefits--and--was--not--offered--an--opportunity--to--perform--such
 15 service--for--the--educational--institution--for--the--second--of
 16 such--academic--years--or--terms;--such--individual--shall--be
 17 entitled--to--a--retroactive--payment--of--the--benefits--for--each
 18 week--for--which--the--individual--filed--a--timely--claim--for
 19 benefits--and--for--which--benefits--were--denied--solely--by--reason
 20 of--the--denial--provided--for--in--this--section;

21 {3}{2} Benefits based on services described in
 22 subsections subsection (1) and {2} of this section shall be
 23 denied to any individual for any week which commences during
 24 an established and customary vacation period or holiday
 25 recess if such individual performs such services in the

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1 period immediately before such vacation period or holiday
2 recess and there is reasonable assurance that such
3 individual will perform such service in the period
4 immediately following such vacation period or holiday
5 recess.

6 ~~(4)~~(3) Benefits based on services described in
7 subsections subsection (1) and (2) of this section to an
8 individual who performed such services for an educational
9 institution while in the employ of an educational service
10 agency shall be denied as specified in subsections (1) ~~and~~
11 (2) ~~and (3) of this section~~. The term "educational service
12 agency" means a governmental agency or governmental entity
13 which is established and operated exclusively for the
14 purpose of providing such service to one or more educational
15 institutions."

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

20 NEW SECTION. Section 3. Applicability date. [This act]
21 applies to claims for benefits that are made after [the
22 effective date of this act].

23 NEW SECTION. Section 4. Effective date. [This act] is
24 effective on passage and approval.

-End-

APPROVED BY COMMITTEE
ON LABOR & EMPLOYMENT
RELATIONS

HOUSE BILL NO. 644

INTRODUCED BY HARRINGTON, DAILY, SQUIRES, PAVLOVICH,
LYNCH, DRISCOLL, D. BROWN, STRIZICH, MENAHAN, QUILICI,
RUSSELL, STIMATZ, COCCHIARELLA, WALKER, PIPINICH

A BILL FOR AN ACT ENTITLED: "AN ACT TO ALLOW PAYMENT OF
UNEMPLOYMENT INSURANCE BENEFITS OR WAGES AND BENEFITS TO
NONPROFESSIONAL SCHOOL EMPLOYEES BETWEEN ACADEMIC TERMS AND
DURING VACATIONS AND HOLIDAYS OR DURING AN EMERGENCY
CLOSURE; AMENDING ~~SECTION~~ SECTIONS 20-9-806 AND 39-51-2108,
MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN
APPLICABILITY DATE DATES."

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

Section 1. Section 39-51-2108, MCA, is amended to
read:

"39-51-2108. Payment of benefits based on service in
public, charitable, or educational organizations. (1)
Benefits based on service in employment defined in
subsections (5) and (6) of 39-51-203 and subsections (2) and
(3) of 39-51-204 are payable 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 this
chapter, except that benefits based on service in an
instructional, research, or principal administrative

capacity for an educational institution may not be paid to
an individual for any week of unemployment which begins
during the period between two successive academic years or
during a similar period between two regular terms, whether
or not successive, or during a period of paid sabbatical
leave provided for in the individual's contract if the
individual has a contract or reasonable assurance of a
contract to perform services in any such capacity for any
such educational institution for both such academic years or
both such terms.

~~{2}-Benefits-based-on-services-in-any-other-capacity
for-an-educational-institution-shall-be-denied-to-any
individual-for-any-week-which-commences-during-a-period
between---2---successive-academic-years-or-terms-if-the
individual-performs-such-services-in-the-first-of-such
academic-years-or-terms-and-there-is-a-reasonable-assurance
that-the-individual-will-perform-such-services-in-the-second
of-such-academic-years-or-terms-if-any-individual-is-denied
benefits-and-was-not-offered-an-opportunity-to-perform-such
service-for-the-educational-institution-for-the-second-of
such-academic-years-or-terms;--such-individual-shall-be
entitled-to-a-retroactive-payment-of-the-benefits-for-each
week-for-which-the-individual-filed-a-timely-claim-for
benefits-and-for-which-benefits-were-denied-solely-by-reason
of-the-denial-provided-for-in-this-section-~~

~~{3}~~(2) Benefits based on services described in subsections subsection (1) and {2} of this section 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 reasonable assurance that such individual will perform such service in the period immediately following such vacation period or holiday recess.

~~{4}~~(3) Benefits based on services described in subsections subsection (1) and {2} of this section to an individual who performed such services for an educational institution while in the employ of an educational service agency shall be denied as specified in subsections (1) ~~and (2) and {3} of this section~~. The term "educational service agency" means a governmental agency or governmental entity which is established and operated exclusively for the purpose of providing such service to one or more educational institutions."

SECTION 2. SECTION 20-9-806, MCA, IS AMENDED TO READ:

"20-9-806. School closure by declaration of emergency.
If a school is closed by reason of a declaration of emergency by the governor:

(1) the pupil-instruction days lost during the closure

need not be rescheduled to meet the minimum requirement for pupil-instruction days that a school district must conduct during the school year in order to be entitled to full annual equalization apportionment; and

(2) nonprofessional school employees must receive full wages and benefits for those days not rescheduled."

NEW SECTION. Section 3. Extension of authority. Any existing authority to make rules on the subject of the provisions of [this act] is extended to the provisions of [this act].

NEW SECTION. Section 4. Applicability date. (1) ~~[This act]~~ [SECTION 1] applies to claims for benefits that are made after [the effective date of this act].

(2) [SECTION 2] APPLIES RETROACTIVELY, WITHIN THE MEANING OF 1-2-109, TO EMERGENCY CLOSURES ON OR AFTER JANUARY 1, 1989.

NEW SECTION. Section 5. Effective date. [This act] is effective on passage and approval.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB644, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

"An act to allow payment of unemployment insurance benefits to nonprofessional school employees between academic terms and during vacations and holidays; amending Section 39-51-2108, MCA; and providing an immediate effective date and an applicability date."

ASSUMPTIONS: 39-51-2108

1. The average benefit charges for government entities for FY83 through FY85 is equal to \$4,600,000.
2. The average benefit charges for government entities for FY86 through FY88 is equal to \$2,900,000.
3. The difference (\$1,700,000) is attributed in whole to the denial of benefits to nonprofessional school employees between academic terms and during vacations and holidays for the period of FY86 through FY88.
4. Based on proposed legislation, would expect governmental benefit charges to increase by that same amount (\$1,700,000) each year of the biennium.

FISCAL IMPACT:

| | Current | FY90 | | Current | FY91 | |
|------------------------|---------|-------------|---------------|---------|-------------|-------------|
| | Law | Proposed | Difference | Law | Proposed | Difference |
| <u>Expenditures:</u> | | | | | | |
| Benefits and Claims \$ | -0- | \$1,700,000 | \$1,700,000 | \$ | -0- | \$1,700,000 |
| <u>Fund Impact:</u> | | | | | | |
| Expendable Trust | | | | | | |
| Fund | \$ -0- | \$1,700,000 | (\$1,700,000) | \$ -0- | \$1,700,000 | (1,700,000) |

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

The proposed legislation will raise state and local government and all private experience-rated employers' Unemployment Insurance tax rates over the long term.

TECHNICAL OR MECHANICAL DEFECTS OR CONFLICTS WITH EXISTING LEGISLATION:

Section 3304 Federal Unemployment Tax Act requires nonprofessional school employees to be treated the same as instructional, research or administrative school employees between academic terms and during vacations and holidays, with respect to Unemployment Insurance benefit eligibility. The proposed legislation would put Montana in nonconformance with federal legislation thereby jeopardizing millions of administrative dollars, and loss of the 5.4% FUTA tax credit to employers.



RAY SHACKLEFORD, BUDGET DIRECTOR
OFFICE OF BUDGET AND PROGRAM PLANNING

DATE 2/17/89



DATE 2/18/89

Fiscal Note for HB644, as introduced

HB 644