

HOUSE BILL 73

Introduced by Harrington

12/29	Introduced
12/30	Referred to Labor & Employment Relations
12/31	Fiscal Note Requested
1/04	First Reading
1/11	Fiscal Note Received
1/11	Fiscal Note Printed
1/14	Hearing
2/11	Committee Report--Bill Passed as Amended
2/13	2nd Reading Passed
2/17	3rd Reading Failed
2/17	Motion Failed to Reconsider Previous Action and Place Back on 3rd Reading

HOUSE BILL NO. 73

INTRODUCED BY HARRINGTON

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING PAYMENT OF UNEMPLOYMENT INSURANCE BENEFITS OR WAGES AND BENEFITS TO NONPROFESSIONAL SCHOOL EMPLOYEES BETWEEN ACADEMIC TERMS AND DURING VACATIONS AND HOLIDAYS OR DURING EMERGENCY CLOSURES; REQUIRING PAYMENT OF WAGES AND BENEFITS TO CERTAIN SCHOOL EMPLOYEES DURING EMERGENCY CLOSURES; AMENDING SECTIONS 20-9-806 AND 39-51-2108, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND APPLICABILITY 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 that 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 the academic years or both such the 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

must be denied to any individual for any week which that commences during an established and customary vacation period or holiday recess if such the individual performs such the services in the period immediately before such the vacation period or holiday recess and there is reasonable assurance that such the individual will perform such the service in the period immediately following such the vacation period or holiday recess.

(3) Benefits based on services described in subsections subsection (1) and (2) of this section to an individual who performed such the services for an educational institution while in the employ of an educational service agency shall must 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 that 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 the days not scheduled."

NEW SECTION. Section 3. Applicability. (1) [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, 1993.

NEW SECTION. Section 4. 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 HB0073, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION: This bill would allow payment of unemployment insurance benefits or wages and benefits to nonprofessional school employees between academic terms and during vacations and holidays or during emergency closures; it would require payment of wages and benefits to certain school employees during emergency closures effective immediately.

ASSUMPTIONS:**Department of Labor and Industry**

1. The average annual benefit charges for government entities for FY83 through FY85 was \$4,600,000. Disqualification provisions for school employees were as proposed in HB73 during this period.
2. The average annual benefit charges for government entities for FY86 through FY88 was equal to \$2,900,000 due to this reduction of benefits. More recent years are not used for comparison because benefit charges have changed for other economic reasons.
3. The difference of \$1,700,000 in average benefit charges between the two periods is attributed in whole to the denial of benefits to nonprofessional school employees between academic terms and during vacations or holidays.
4. Average weekly benefit amounts are expected to be 9.9% higher for the 1995 biennium than they were for FY86 through FY88, and an additional 0.75% increase from the 1995 biennium.

Office of Public Instruction

5. Emergency closures are insignificant in number.
6. Data from the Dept. of Labor and U.S. Census Bureau information indicate that approximately 12,000 non-certified employees are part of public school workforce (bus drivers, cooks, custodians, substitute teachers, aids, tutors, coaches, nurses, social workers, secretaries, etc.).
7. It is likely that over 3/4 of these employees are not employed in the summer.

FISCAL IMPACT:

	FY '94			FY '95		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
Expendable Trust Fund	\$14,600,000	\$12,732,000	(\$1,868,000)	\$13,500,000	\$11,618,000	(\$1,882,000)

(continued)

David Lewis 1-11-93

DAVID LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

DAN HARRINGTON, PRIMARY SPONSOR

DATE

Fiscal Note for HB0073, as introduced

HB 73

Expenditures:

	<u>FY '94</u>			<u>FY '95</u>		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
Benefits and Claims	\$49,900,000	\$51,768,000	\$1,868,000	\$50,600,000	\$52,482,000	\$1,882,000

Revenues:

	<u>FY '94</u>			<u>FY '95</u>		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
Unemployment Insurance Fund	\$64,500,000	\$64,500,000	0	\$64,100,000	\$64,100,000	0

Net Impact: Negative impact to the Expendable Trust Fund of \$1,868,000.

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES: The proposal will raise future state and local government unemployment insurance tax rates.

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION: State and local government unemployment insurance tax rates will increase in the long term and private experience-rated employer tax rates also have the potential of being raised.

APPROVED BY COMMITTEE
ON LABOR & EMPLOYMENT
RELATIONS

HOUSE BILL NO. 73

INTRODUCED BY HARRINGTON

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

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 that 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 the academic
years or both such the 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

must be denied to any individual for any week which that commences during an established and customary vacation period or holiday recess if such the individual performs such the services in the period immediately before such the vacation period or holiday recess and there is reasonable assurance that such the individual will perform such the service in the period immediately following such the 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 the services--for--an educational--institution--while--in---the---employ---of---an educational---service---agency--shall must 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 that 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 the days not scheduled;"~~

NEW SECTION. Section 2. Applicability. ~~{1}~~ [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, 1993.~~

NEW SECTION. Section 3. Effective date. [This act] is effective on passage and approval.

-End-

HOUSE BILL NO. 73

INTRODUCED BY HARRINGTON

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

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 that 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 the academic years or both such the 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

1 must be denied to any individual for any week which that
 2 commences during an established and customary vacation
 3 period or holiday recess if such the individual performs
 4 such the services in the period immediately before such the
 5 vacation period or holiday recess and there is reasonable
 6 assurance that such the individual will perform such the
 7 service in the period immediately following such the
 8 vacation period or holiday recess.

9 {4}{3}--Benefits---based---on---services---described---in
 10 subsections subsection {1} and {2} of--this--section--to--an
 11 individual---who---performed---such the services--for--an
 12 educational--institution--while--in--the--employ---of--an
 13 educational---service---agency--shall must be--denied, as
 14 specified-in-subsections-{1}, and {2},--and--{3}--of--this
 15 section,--The--term--"educational--service--agency"--means-a
 16 governmental-agency-or-governmental--entity--which that is
 17 established--and--operated--exclusively--for--the-purpose-of
 18 providing--such--service--to---one---or---more---educational
 19 institutions."

20 **Section 2.**--Section 20-9-886, MCA, is amended to read:--

21 "20-9-886,--School--closure-by-declaration-of-emergency,
 22 if-a--school--is--closed--by--reason--of--a--declaration--of
 23 emergency-by-the-governor,;

24 {1}--the--pupil-instruction-days-lost-during-the-closure
 25 need-not-be-recheduled-to-meet-the-minimum-requirement--for

1 pupil-instruction--days--that-a-school-district-must-conduct
 2 during-the-school-year-in--order--to--be--entitled--to--full
 3 annual-equalization-apportionment,;and

4 {2}--nonprofessional--school-employees-must-receive-full
 5 wages-and-benefits-for-the-days-not-scheduled,."

6 **NEW SECTION. Section 2. Applicability.** (I) [Section 1]
 7 applies to claims for benefits that are made after [the
 8 effective date of this act].

9 {2}--{Section--2}--applies--retroactively,--within--the
 10 meaning-of--1-2-189,--to--emergency--closures--on--or--after
 11 January-1, 1993.

12 **NEW SECTION. Section 3. Effective date.** [This act] is
 13 effective on passage and approval.

-End-