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

INTRODUCED BY HARRINGTON 2 3 A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING PAYMENT OF 4 UNEMPLOYMENT INSURANCE BENEFITS OR WAGES AND BENEFITS TO 5 NONPROFESSIONAL SCHOOL EMPLOYEES BETWEEN ACADEMIC TERMS AND 6 DURING VACATIONS AND HOLIDAYS OR DURING EMERGENCY CLOSURES; 7 REQUIRING PAYMENT OF WAGES AND BENEFITS TO CERTAIN SCHOOL 8 EMPLOYEES DURING EMERGENCY CLOSURES: AMENDING SECTIONS 9 20-9-806 AND 39-51-2108, MCA; AND PROVIDING AN IMMEDIATE 10 EFFECTIVE DATE AND APPLICABILITY DATES." 11

HOUSE BILL NO. 73

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

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

Montana Legislative Counce

1 during the period between two successive academic years or 2 during a similar period between two regular terms, whether 3 or not successive, or during a period of paid sabbatical leave provided for in the individual's contract if the 4 5 individual has a contract or reasonable assurance of a 6 contract to perform services in any such capacity for any 7 such educational institution for both such the academic 8 years or both such the terms.

9 (2)--Benefits-based-on-services-in--any--other--capacity 10 for--an--educational--institution--shall--be--denied--to-any 11 individual-for-any-week--which--commences--during--a--period 12 between---2--successive--academic--years--or--terms--if--the 13 individual-performs-such--services--in--the--first--of--such 14 academic--years-or-terms-and-there-is-a-reasonable-assurance 15 that-the-individual-will-perform-such-services-in-the-second 16 of-such-academic-years-or-terms--if-any-individual-is-denied 17 benefits-and-was-not-offered-an-opportunity-to-perform--such service--for--the--educational-institution-for-the-second-of 18 19 such-academic-years--or--terms;--such--individual--shall--be 20 entitled--to--a-retroactive-payment-of-the-benefits-for-each 21 week-for-which-the--individual--filed--a--timely--claim--for 22 benefits-and-for-which-benefits-were-denied-solely-by-reason 23 of-the-denial-provided-for-in-this-section-24 (3)(2) Benefits based on services described in 25 subsections subsection (1) and-{2}--of--this--section--shall

> -2- H&73 INTRODUCED BILL

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 ۸ such the services in the period immediately before such the 5 vacation period or holiday recess and there is reasonable assurance that such the individual will perform such the 6 7 service in the period immediately following such the vacation period or holiday recess. 8

(4)(3) Benefits based on services described in 9 10 subsections subsection (1) and-{2}-of--this--section to an who performed such 11 individual the services for an educational institution while in the employ of an 12 13 educational service agency shall must be denied, as 14 specified in subsections (1)7 and (2)7-and--(3)--of--this 15 section. The term "educational service agency" means a governmental agency or governmental entity which that is 16 17 established and operated exclusively for the purpose of 18 providing such service to one or more educational 19 institutions."

20 Section 2. Section 20-9-806, MCA, is amended to read:
21 "20-9-806. 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 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

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4 (2) nonprofessional school employees must receive full
5 wages and benefits for the days not scheduled."

6 <u>NEW SECTION.</u> Section 3. Applicability. (1) [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 1-2-109, to emergency closures on or after 11 January 1, 1993.

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

-End-

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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 academin 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			
Expendable Trust Fund	Current Law	Proposed Law	Difference	<u>Current 1</u>	Law Proposed Law	Difference
	\$14,600,000	\$12,732,000	(\$1,868,000)	\$13,500,0	000 \$11,618,000	(\$1,882,000)

(continued)

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

DAN HARRINGTON, PRIMARY SPONSOR

DATE

Fiscal Note for HB0073, as introduced

HB 73

Fiscal Note Request, <u>HB0073, as introduced</u> Form BD-15 page 2 (continued)

Expenditures:

Fund

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

\$64,100,000

0

\$64,100,000

0

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

\$64,500,000

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

\$64,500,000

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.

53rd Legislature

HB 0073/02

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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 4 5 UNEMPLOYMENT INSURANCE BENEFITS OR WAGES AND BENEFITS TO NONPROFESSIONAL SCHOOL EMPLOYEES BETWEEN ACADEMIC TERMS AND 6 7 DERING--VACATIONS-AND-HOLIDAYS-OR-DURING-ENERGENCY-CLOSURES: 8 REQUIRING PAYMENT OF WAGES AND BENEFITS TO CERTAIN SCHOOL 9 EMPLOYEES DURING EMERGENCY CLOSURES; AMENDING SECTIONS SECTION 20-9-806--AND 39-51-2108, MCA; AND PROVIDING AN 10 11 IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATES DATE."

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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 15 16 public, charitable, or educational organizations. (1) 17 Benefits based on service in employment defined in 18 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 19 20 terms, and subject to the same conditions as compensation 21 payable on the basis of other service subject to this 22 chapter, except that benefits based on service in an 23 instructional, research, or principal administrative 24 capacity for an educational institution may not be paid to 25 an individual for any week of unemployment which that begins

during the period between two successive academic years or 1 2 during a similar period between two regular terms, whether з or not successive, or during a period of paid sabbatical leave provided for in the individual's contract if the 4 individual has a contract or--reasonable--assurance-of-a 5 6 contract to perform services in any such capacity for any such educational institution for both such the academic 7 8 years or both such the terms.

9 (2)--Benefits-based-on-services-in--any--other--capacity for--an--educational--institution--shall--be--denied--to-any 10 individual-for-any-week--which--commences--during--a--period 11 between---2--successive--academic--years--or--terms--if--the 12 13 individual-performs-such--services--in--the--first--of--such 14 academic--years-or-terms-and-there-is-a-reasonable-assurance 15 that-the-individual-will-perform-such-services-in-the-second of-such-academic-years-or-terms--If-any-individual-is-denied 16 benefits-and-was-not-offered-an-opportunity-to-perform--such 17 18 service--for--the--educational-institution-for-the-second-of 19 such-academic-years-or-termsy--such--individual--shail--be 20 entitled--to--a-retroactive-payment-of-the-benefits-for-each week-for-which-the--individual--filed--a--timely--claim--for 21 benefits-and-for-which-benefits-were-denied-solely-by-reason 22 23 of-the-denial-provided-for-in-this-section: 24 (3) Benefits based on services described in 25 subsections subsection (1) and-(2)--of--this--section--shall

-2-

BECOND READING

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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 specified-in-subsections-(1); and (2);--and--(3)--of--this 14 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 providing--such--service--to---one---or---more---educational 18 19 institutions."

Section 2 -- Section-20-9-8867-MEA7-is-amended-to-read:--20 #20-9-806---School--closure-by-declaration-of-emergency-21 22 If-a--school--is--closed--by--reason--of--a--declaration--of 23 emergency-by-the-governor7+

24 (1)--the--pupil-instruction-days-lost-during-the-closure 25 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 2 3 annual-equalization-apportionment;-and 4 t2}--nonprofessional--school-employees-must-receive-full 5 wages-and-benefits-for-the-days-not-scheduled." 6 NEW SECTION. Section 2. Applicability. 71) [Section 1] applies to claims for benefits that are made after [the 7 8 effective date of this act]. 9 {2}--{Bection---2}--applies--retroactively;--within--the 10 meaning-of--1-2-1897--to--emergency--closures--on--or--after 11 January-17-1993-12 NEW SECTION. Section 3. Effective date. [This act] is

-End-

effective on passage and approval.

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HB 0073/02

HOUSE BILL NO. 73

INTRODUCED BY HARRINGTON

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING PAYMENT OF 4 5 UNEMPLOYMENT INSURANCE BENEFITS OR WAGES AND BENEFITS TO 6 NONPROPESSIONAL SCHOOL ENPLOYEES BETWEEN ACADENIC TERMS AND 7 puring---vacations-and-bolidays-or-during-bnergency-closures: R REQUIRING PAYMENT OF WAGES AND BENEFITS TO CERTAIN SCHOOL 9 EMPLOYEES DURING EMERGENCY CLOSURES; AMENDING SECTIONS 10 SECTION 20-9-886--AND 39-51-2108, MCA; AND PROVIDING AN 11 IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATES DATE."

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

14 Section 1. Section 39-51-2108, MCA, is amended to read: *39-51-2108. Payment of benefits based on service in 15 16 public, charitable, or educational organizations. (1) 17 Benefits based on service in employment defined in 18 subsections (5) and (6) of 39-51-203 and subsections (2) and 19 (3) of 39-51-204 are payable in the same amount, on the same 20 terms, and subject to the same conditions as compensation 21 payable on the basis of other service subject to this 22 chapter, except that benefits based on service in an 23 instructional, research, or principal administrative 24 capacity for an educational institution may not be paid to 25 an individual for any week of unemployment which that begins

1 during the period between two successive academic years or 2 during a similar period between two regular terms, whether 3 or not successive, or during a period of paid sabbatical leave provided for in the individual's contract if the 4 5 individual has a contract or--reasonable--assurance-of-a 6 contract to perform services in any such capacity for any 7 such educational institution for both such the academic 8 years or both such the terms.

9 t2)--Benefits-based-on-services-in--any--other--capacity for--an--educational--institution--shall--be--denied--to-any 10 individual-for-any-week--which--commences--during--a--period 11 12 between---2--successive--academic--years--or--terms--if--the individual-performs-such-services--in--the--first--of--such 13 14 academic--years-or-terms-and-there-is-a-reasonable-assurance 15 that-the-individual-will-perform-such-services-in-the-second of-such-academic-years-or-terms:-if-any-individual-is-denied 16 17 benefits-and-was-not-offered-an-opportunity-to-perform--such 18 service--for--the--educational-institution-for-the-second-of 19 such-academic-years--or--termsy--such--individual--shall--be entitled--to--a-retroactive-payment-of-the-benefits-for-each 20 21 week-for-which-the--individual--filed--a--timely--claim--for benefits-and-for-which-benefits-were-denied-solely-by-reason 22 of-the-denial-provided-for-in-this-section-23 24 (3)(2) Benefits based on services described in

25 subsections subsection (1) and-(2)--of--this--section--shall

-2-

HB 73 THIRD READING

1 be denied to any individual for any week which that ≝ust commences during an established and customary vacation 2 period or holiday recess if such the individual performs 3 such the services in the period immediately before such the 4 vacation period or holiday recess and there is reasonable 5 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.

(4)(3)--Benefits---based---on---services---described--in 9 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--deniedy as specified-in-subsections-(1), and (2),-and--(3)--of--this 14 15 16 governmental-agency-or-governmental--entity--which that is established--and--operated--exclusively--for--the-purpose-of 17 providing--such--service--to---one---ot---more---educational 18 19 institutions."

 20
 Section-2:--section-20-9-8867-NCA7-is-amended-to-read:-

 21
 *20-9-8867--School--closure-by-declaration-of-emergencyr

 22
 if-a--school--is--closed--by--reason--of--a--declaration--of

 23
 emergency-by-the-governorr:

 24
 <u>flt</u>--the--pupil-instruction-days-lost-during-the-closure

 25
 need-not-be-rescheduled-to-meet-the-minimum-requirement--for

HB 0073/02

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1	pupil-instructiondaysthat-a-school-district-must-conduct
2	during-the-school-year-inordertobeentitledtofull
3	annual-equalization-apportionment;-and
4	<u>{2}nonprofessionalschool-employees-must-receive-full</u>
5	wages-and-benefits-for-the-days-not-scheduled,*
6	NEW SECTION. Section 2. Applicability. [Section 1]
7	applies to claims for benefits that are made after [the
8	effective date of this act].
9	{2}{Section2}appliesretroactively7withinthe
10	meaning-of1-2-1097toemergencyclosuresonorafter
11	January-17-1993.
12	NEW SECTION. Section 3. Effective date. [This act] is
13	effective on passage and approval.
	-End-

-3-

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