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House BILL NO. 355 *Robert Luther*

INTRODUCED BY *Harvey* *Shen* *Tom* *Squire* *Quay* *See*

Case *W Ryan* *James* *Franklin* *Meridian* *Lynch* *Palmer*

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A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING PAYMENT OF WAGES AND BENEFITS TO NONCERTIFIED SCHOOL EMPLOYEES DURING EMERGENCY SCHOOL CLOSURES; ALLOWING PAYMENT OF UNEMPLOYMENT INSURANCE BENEFITS TO NONCERTIFIED SCHOOL EMPLOYEES BETWEEN ACADEMIC TERMS AND DURING VACATIONS AND HOLIDAYS; 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 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~~ shall conduct during the school year in order to be entitled to full annual equalization apportionment; and

(2) noncertified school employees must receive full wages and benefits for the pupil-instruction days that are not rescheduled."

Section 2. 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(5) and (6) and subsections (2) and (3) of 39-51-204(2) and (3)~~ 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.~~ However, 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

1 assurance of a contract to perform services in any ~~such~~ capacity for any ~~such~~ educational institution for
2 both ~~such~~ academic years or both ~~such~~ terms.

3 ~~(2) Benefits based on services in any other capacity for an educational institution shall be denied~~
4 ~~to any individual for any week which commences during a period between 2 successive academic years~~
5 ~~or terms if the individual performs such services in the first of such academic years or terms and there is~~
6 ~~a reasonable assurance that the individual will perform such services in the second of such academic years~~
7 ~~or terms. If any individual is denied benefits and was not offered an opportunity to perform such service~~
8 ~~for the educational institution for the second of such academic years or terms, such individual shall be~~
9 ~~entitled to a retroactive payment of the benefits for each week for which the individual filed a timely claim~~
10 ~~for benefits and for which benefits were denied solely by reason of the denial provided for in this section.~~

11 ~~(3) Benefits based on services described in subsections subsection (1) and (2) of this section shall~~
12 ~~must be denied to any individual for any week which that commences during an established and customary~~
13 ~~vacation period or holiday recess if such the individual performs such the services in the period immediately~~
14 ~~before such the vacation period or holiday recess and there is reasonable assurance that such the individual~~
15 ~~will perform such the service in the period immediately following such the vacation period or holiday recess.~~

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

22
23 **NEW SECTION. Section 3. Applicability.** (1) [Section 1] applies retroactively, within the meaning
24 of 1-2-109, to emergency closures on or after January 1, 1997.

25 (2) [Section 2] applies to claims for benefits that are made after [the effective date of this act].

26
27 **NEW SECTION. Section 4. Effective date.** [This act] is effective on passage and approval.

28 -END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0355, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

An act requiring payment of wages and benefits to noncertified school employees during emergency school closures, and allowing payment of unemployment insurance benefits to noncertified school employees between academic terms and during vacations and holidays.

ASSUMPTIONS:

1. From FY83 through FY85, similar legislation existed. The average annual benefit charges for government entities for the three year period (FY83 through FY85) were \$4,600,000. During this period qualification provisions allowing payments to noncertified school employees were as proposed in HB 355.
2. In 1985, legislation was enacted which disallowed the possibility of benefits for noncertified school employees. The average annual benefit charges for government entities for a three year period following the change (FY86 - FY88) were equal to \$2,900,000 due to this reduction in 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 three year periods is attributed in whole to the denial of benefits to noncertified school employees between academic terms and during vacations or holidays.
4. The average weekly benefit amount (WBA) in FY85 was \$120. The average WBA is projected to be \$154 (28% increase) in FY98 and \$159 (32.5% increase) in FY99. Using the change in average weekly benefit amount as an inflation factor, the \$1,700,000 difference from item 3 would result in a projected \$2,176,000 additional benefit charges in FY98 and \$2,252,000 additional benefit charges in FY99.
5. Since July 1, 1994, 137 school districts have switched from governmental employer to reimbursable employer status. These schools reimburse benefit payments to the Unemployment Insurance Division, dollar for dollar.
6. The additional funds needed by school districts would be paid out of the county retirement levy, which would produce a mandatory tax levy. It is assumed that the state general fund would share in that levy approximately 30%. Therefore the state general fund impact in FY98 would be \$653,000 (\$2,176,000 x 30%); and in FY99 it would be \$676,000 (\$2,252,000 x 30%)
7. The fiscal impact of the "emergency" portion of the bill is not being addressed due to its infrequency, and in the last known emergency in Helena, noncertified employees were compensated.

FISCAL IMPACT:

	<u>FY98</u>	<u>FY99</u>
<u>Expenditures:</u>	<u>Difference</u>	<u>Difference</u>
Supt.of Public Instruction:		
School equalization (01)	\$653,000	\$676,000
<u>Funding:</u>		
General fund (01)	\$653,000	\$676,000

(Continued)

Dave Lewis 1-31-97

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

DAN HARRINGTON, PRIMARY SPONSOR DATE

Fiscal Note for HB0355, as introduced

HB 355

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

Assuming the calculation of the impact in the above assumptions is correct, the impact on local governments is \$1,523,000 in FY98 and \$1,576,000 in FY99. For those schools that have elected the "reimbursable employer" system, the impact noted above will be felt immediately and thereafter. For those schools on the "governmental employer" system, the impact will be more gradual, but will still be paid in years to come through rate adjustments.

TECHNICAL NOTES:

This bill may require local governments to spend additional sums for which no specific means of financing are provided. Section 1-2-114, MCA, provides that bills which have such an impact may not be introduced.