

HOUSE BILL NO. 237

INTRODUCED BY C. JUNEAU

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A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING CERTAIN SCHOOL EMPLOYEES TO APPLY FOR UNEMPLOYMENT INSURANCE BENEFITS BETWEEN ACADEMIC TERMS; SUPERSEDING THE UNFUNDED MANDATE LAWS; AMENDING SECTION 39-51-2108, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY 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 services in public, charitable, or educational organizations. (1) (a) Benefits based on services in employment defined in 39-51-203(5) and (6) are payable in the same amount, on the same terms, and subject to the same conditions as benefits payable on the basis of other services subject to this chapter, ~~except that.~~ However, benefits based on services 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 performs the services in the first of the academic years or terms and if the individual has a contract to perform services or a reasonable assurance of performing services in any instructional, research, or principal administrative capacity for any educational institution in the second of the academic years or terms.

(b) Benefits based on services described in subsection (1)(a) must be denied to any individual for any week that commences during an established and customary vacation period or holiday recess if the individual performs the services in the period immediately before the vacation period or holiday recess and there is reasonable assurance that the individual will perform the service in the period immediately following the vacation period or holiday recess.

(c) Benefits based on services described in subsection (1)(a) to an individual who performed the services for an educational institution while in the employ of an educational service agency must be denied as specified in subsection (1)(a).

1 (2) Benefits based on services in any other capacity for an educational institution ~~must~~ may not be
2 denied to any individual for any week ~~which~~ that commences during a period between 2 successive academic
3 years or terms if the individual performs the services in the first of the academic years or terms and there is a
4 reasonable assurance that the individual will perform the services in the second of the academic years or terms,
5 unless a denial is required as a condition for full tax credit against the tax imposed by the Federal Unemployment
6 Tax Act, 26 U.S.C. 3301, et seq. ~~If any individual is denied benefits and was not offered an opportunity to~~
7 ~~perform the services for the educational institution for the second of the academic years or terms, the individual~~
8 ~~is entitled to a retroactive payment of the benefits for each week for which the individual filed a timely claim for~~
9 ~~benefits and for which benefits were denied solely by reason of the denial provided for in this section.~~

10 (3) For purposes of this section, the following definitions apply:

11 (a) "Educational service agency" means a governmental agency or governmental entity that is
12 established and operated exclusively for the purpose of providing the service to one or more educational
13 institutions.

14 (b) "Instructional capacity" means a service conducted to benefit students on behalf of an educational
15 institution that is performed by:

16 (i) a certified teacher or specialist, certified under the system established in 20-4-101, and employed
17 as a regular classroom teacher or school specialist;

18 (ii) a teacher or specialist, authorized to teach under 20-4-111, and employed as a regular classroom
19 teacher or school specialist; or

20 (iii) a nonlicensed substitute teacher or specialist on either a full-time or a part-time basis.

21 (c) "Principal administrative capacity" means the performance of services by an individual as a manager
22 of an educational institution or one of its major divisions or departments, including:

23 (i) establishing and administering policies, rules, and regulations that have a major impact on the overall
24 operation and function of the educational institution or one of its major divisions or departments; and

25 (ii) performing services under general direction and broad objectives and missions, with the authority
26 to determine goals and the techniques and methods of operation of the educational institution or one of its major
27 divisions or departments.

28 (d) "Research capacity" means a service performed by an individual that:

29 (i) consists of careful and systematic study and investigation in a field of science and knowledge,
30 undertaken to establish facts or principles;

