

SENATE BILL NO. 355

INTRODUCED BY D. WANZENRIED, HENRY, RASER, GRINDE, WINDY BOY, BIXBY, BRANAE, NOONAN, LARSON, KITZENBERG, MCALPIN, COCCHIARELLA, J. TROPILA, JACOBSON, VILLA, JOPEK, COHENOUR, BECKER, WILLIAMS, PHILLIPS, BERGREN, JAYNE, WILMER, MCCHESENEY, SQUIRES, JUNEAU, KEANE, SANDS, PERRY

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 -- conditions for and prohibitions against denial of benefits. (1) Benefits Except as provided in subsections SUBSECTION (2) and (3)(b), 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 benefits,

(2) Benefits based on services in an instructional capacity, a research capacity, or a principal administrative capacity for an educational institution OR EDUCATIONAL SERVICE AGENCY may not be paid to an individual;

(a) 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; OR

(2)(b) 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

1 recess and there is reasonable assurance that the individual will perform the service in the period immediately
 2 following the vacation period or holiday recess; or.

3 (c) who performed the services for an educational institution while in the employ of an educational
 4 service agency.

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

13 (b) Benefits as described in subsection (3)(a) may be denied if denial is required as a condition for a full
 14 tax credit against the tax imposed by the Federal Unemployment Tax Act, 26 U.S.C. 3301, et seq THE SCHOOL
 15 DISTRICT PROVIDES ALTERNATIVE WORK AT THE EMPLOYEE'S REGULAR WAGE THAT PROVIDES A PAYCHECK AT LEAST
 16 EQUIVALENT TO THE UNEMPLOYMENT BENEFITS FOR WHICH THE INDIVIDUAL OTHERWISE WOULD BE ELIGIBLE.

17 (4) IF AN INDIVIDUAL IS DENIED BENEFITS AND WAS NOT OFFERED AN OPPORTUNITY TO PERFORM THE SERVICES
 18 FOR THE EDUCATIONAL INSTITUTION OR EDUCATIONAL SERVICE AGENCY FOR THE SECOND OF THE ACADEMIC YEARS OR
 19 TERMS, THE INDIVIDUAL IS ENTITLED TO A RETROACTIVE PAYMENT OF THE BENEFITS FOR EACH WEEK FOR WHICH THE
 20 INDIVIDUAL FILED A TIMELY CLAIM FOR BENEFITS AND FOR WHICH BENEFITS WERE DENIED SOLELY BY REASON OF THE
 21 DENIAL PROVIDED FOR IN THIS SECTION.

22 (3) Benefits based on services described in subsections (1) and (2) of this section must be denied to any
 23 individual for any week that commences during an established and customary vacation period or holiday recess
 24 if the individual performs the services in the period immediately before the vacation period or holiday recess and
 25 there is reasonable assurance that the individual will perform the service in the period immediately following the
 26 vacation period or holiday recess.

27 (4) Benefits based on services described in subsections (1) and (2) to an individual who performed the
 28 services for an educational institution while in the employ of an educational service agency must be denied as
 29 specified in subsections (1) through (3). The term "educational

30 (4)(5) For the purposes of this section, the following definitions apply:

