

SENATE BILL NO. 52
INTRODUCED BY D. HARRINGTON

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; 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. (1) If a school is closed by reason of an unforeseen emergency that results in a declaration of emergency by the board of trustees, the trustees may later adopt a resolution that a reasonable effort has been made to reschedule the pupil-instruction time lost because of the unforeseen emergency.

(2) If the trustees adopt the resolution:

(a) the pupil-instruction time 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

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

~~(2)~~(3) At least 3 school days or the equivalent aggregate hours must have been made up before the trustees can declare that a reasonable effort has been made."

Section 2. 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) 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.

~~(2) Benefits based on services in any other capacity for an educational institution must be denied to any individual for any week which commences during a period between 2 successive academic years or terms if the individual performs the services in the first of the academic years or terms and there is a reasonable assurance that the individual will perform the services in the second of the academic years or terms. If any individual is denied benefits and was not offered an opportunity to perform the services for the educational institution for the second of the academic years or terms, the individual is 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 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.

~~(4)~~(3) Benefits based on services described in ~~subsections~~ subsection (1) and ~~(2)~~ 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 subsections (1) ~~through (3)~~ and (2). The term "educational service agency" means a governmental agency or governmental entity ~~which~~ that is established and operated exclusively for the purpose of providing the service to one or more educational institutions."

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

NEW SECTION. Section 4. Applicability. (1) [Section 1] applies retroactively, within the meaning of 1-2-109, to emergency closures on or after January 1, 2003.

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

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