

HOUSE BILL NO. 812

INTRODUCED BY D. JOY, J. REAVIS, E. MATTHEWS

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT CERTAIN NONPROFESSIONAL EMPLOYEES OF EDUCATIONAL INSTITUTIONS MAY CLAIM UNEMPLOYMENT BENEFITS AS ALLOWED UNDER FEDERAL LAW; AND AMENDING SECTION 39-51-2108, MCA."

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) 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 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 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) (a) 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

1 benefits were denied solely by reason of the denial provided for in this section.

(b) For the purposes of this subsection (2), the term "individual" does not include nonprofessional employees of an educational institution in compliance with 26 U.S.C. 3304(a)(6)(A)(ii)(I).

(3) Benefits based on services described in subsections (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.

9 (4) Benefits based on services described in subsections (1) and (2) to an individual who performed
10 the services for an educational institution while in the employ of an educational service agency must be denied
11 as specified in subsections (1) through (3). The term "educational service agency" means a governmental
12 agency or governmental entity which is established and operated exclusively for the purpose of providing the
13 service to one or more educational institutions."

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