

HOUSE BILL NO. 758

INTRODUCED BY BARNHART, HARPER, BLAYLOCK

IN THE HOUSE

FEBRUARY 12, 1991 INTRODUCED AND REFERRED TO COMMITTEE
 ON STATE ADMINISTRATION.

 FIRST READING.

FEBRUARY 19, 1991 COMMITTEE RECOMMEND BILL
 DO PASS AS AMENDED. REPORT ADOPTED.

FEBRUARY 20, 1991 PRINTING REPORT.

FEBRUARY 25, 1991 SECOND READING, DO PASS.

 ENGROSSING REPORT.

FEBRUARY 26, 1991 THIRD READING, PASSED.
 AYES, 64; NOES, 34.

 TRANSMITTED TO SENATE.

IN THE SENATE

FEBRUARY 26, 1991 INTRODUCED AND REFERRED TO COMMITTEE
 ON STATE ADMINISTRATION.

 FIRST READING.

MARCH 14, 1991 COMMITTEE RECOMMEND BILL BE
 CONCURRED IN AS AMENDED. REPORT
 ADOPTED.

MARCH 16, 1991 SECOND READING, CONCURRED IN.

MARCH 18, 1991 THIRD READING, CONCURRED IN.
 AYES, 29; NOES, 20.

 RETURNED TO HOUSE WITH AMENDMENTS.

IN THE HOUSE

MARCH 21, 1991 RECEIVED FROM SENATE.

 SECOND READING, AMENDMENTS
 CONCURRED IN.

MARCH 23, 1991 THIRD READING, AMENDMENTS

CONCURRED IN.
SENT TO ENROLLING.
MARCH 25, 1991 REPORTED CORRECTLY ENROLLED.
MARCH 26, 1991 SIGNED BY PRESIDENT.
SIGNED BY SPEAKER.
DELIVERED TO GOVERNOR.
APRIL 1, 1991 RETURNED FROM GOVERNOR WITH
RECOMMENDED AMENDMENTS.
APRIL 8, 1991 SECOND READING, GOVERNOR'S
AMENDMENTS NOT CONCURRED IN.
IN THE SENATE
APRIL 19, 1991 SECOND READING, GOVERNOR'S
AMENDMENTS CONCURRED IN.
APRIL 20, 1991 THIRD READING, GOVERNOR'S
AMENDMENTS CONCURRED IN.
IN THE HOUSE.
APRIL 22, 1991 ON MOTION, CONFERENCE COMMITTEE
REQUESTED AND APPOINTED.
APRIL 24, 1991 CONFERENCE COMMITTEE REPORTED.
IN THE SENATE
APRIL 24, 1991 ON MOTION, CONFERENCE COMMITTEE
REQUESTED AND APPOINTED.
IN THE HOUSE
APRIL 25, 1991 SECOND READING, CONFERENCE COMMITTEE
REPORT ADOPTED.
THIRD READING, CONFERENCE COMMITTEE
REPORT ADOPTED.
IN THE SENATE
APRIL 25, 1991 CONFERENCE COMMITTEE REPORT ADOPTED.
IN THE HOUSE

APRIL 30, 1991

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 *HOUSE* BILL NO. *758*
 2 INTRODUCED BY *B. Baunton* *Hayes* *Blaylock*
 3

4 A BILL FOR AN ACT ENTITLED: "AN ACT DIRECTING THE
 5 DEPARTMENT OF ADMINISTRATION TO PERMIT PARENTAL LEAVE FOR
 6 STATE EMPLOYEES ADOPTING CHILDREN UNDER 1 YEAR OF AGE; AND
 7 AMENDING SECTION 2-18-601, MCA."

8
 9 WHEREAS, maternity leave regulations promulgated by the
 10 Department of Administration now provide that maternity
 11 leave is based solely on a state employee's disability due
 12 to pregnancy but do not require proof of medical disability
 13 for the first 6 weeks after birth; and

14 WHEREAS, this rule is arbitrary in that it excludes
 15 employees from parental leave when employees seek to
 16 establish families through means other than childbirth; and

17 WHEREAS, this rule is against public policy in that it
 18 fails to recognize the equal contributions to societal
 19 well-being of both families created through adoption and
 20 families created through childbirth.

21
 22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

23 NEW SECTION. **Section 1.** Parental leave for state
 24 employees adopting children. The department of
 25 administration shall develop an adoptive parental leave

1 policy for permanent state employees adopting a child under
 2 1 year of age. The policy must permit an employee adopting a
 3 child under 1 year of age to take a reasonable leave of
 4 absence and permit the employee to use sick leave for the
 5 same amount of time authorized for leave following the birth
 6 of a child.

7 **Section 2.** Section 2-18-601, MCA, is amended to read:

8 **"2-18-601. Definitions.** For the purpose of this part,
 9 except 2-18-620, the following definitions apply:

10 (1) "Agency" means any legally constituted department,
 11 board, or commission of state, county, or city government or
 12 any political subdivision thereof.

13 (2) "Employee" means any person employed by an agency
 14 except elected state, county, and city officials,
 15 schoolteachers, and persons contracted as independent
 16 contractors or hired under personal services contracts.

17 (3) "Permanent employee" means an employee who is
 18 assigned to a position designated as permanent on the
 19 appropriate list of authorized positions referenced in
 20 2-18-206 and approved as such in the biennium budget.

21 (4) "Part-time employee" means an employee who normally
 22 works less than 40 hours a week.

23 (5) "Full-time employee" means an employee who normally
 24 works 40 hours a week.

25 (6) "Temporary employee" means an employee assigned to

1 a position designated as temporary on the appropriate agency
 2 list of authorized positions referenced in 2-18-206, created
 3 for a definite period of time not to exceed 9 months.

4 (7) "Seasonal employee" means an employee assigned to a
 5 position designated as seasonal on the appropriate agency
 6 list of authorized positions referenced in 2-18-206 and for
 7 which the agency has a permanent need but which is
 8 interrupted by the seasonal nature of the assignment.

9 (8) "Vacation leave" means a leave of absence with pay
 10 for the purpose of rest, relaxation, or personal business at
 11 the request of the employee and with the concurrence of the
 12 employer.

13 (9) "Sick leave" means a leave of absence with pay for
 14 a sickness suffered by an employee or his immediate family
 15 or for a permanent state employee adopting a child under 1
 16 year of age.

17 (10) "Sick-pay plan" means a plan that:

18 (a) provides for an agency to make payments in lieu of
 19 wages to employees on account of sickness or accident
 20 disability; and

21 (b) meets the requirements of 42 U.S.C. 409(b) or (d).

22 (11) "Transfer" means a change of employment from one
 23 agency to another agency in the same jurisdiction without a
 24 break in service.

25 (12) "Continuous employment" means working within the

1 same jurisdiction without a break in service of more than 5
 2 working days or without a continuous absence without pay of
 3 more than 15 working days.

4 (13) "Break in service" means a period of time in excess
 5 of 5 working days when the person is not employed and that
 6 severs continuous employment."

7 NEW SECTION. Section 3. Codification instruction.
 8 [Section 1] is intended to be codified as an integral part
 9 of Title 2, chapter 18, part 6, and the provisions of Title
 10 2, chapter 18, part 6, apply to [section 1].

-End-

APPROVED BY COMMITTEE
ON STATE ADMINISTRATION

1 HOUSE BILL NO. 758

2 INTRODUCED BY BARNHART, HARPER, BLAYLOCK

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT DIRECTING THE
5 DEPARTMENT OF ADMINISTRATION TO PERMIT PARENTAL LEAVE FOR
6 STATE EMPLOYEES WHO ARE NATURAL FATHERS OR ARE ADOPTING
7 CHILDREN UNDER 1 YEAR OF AGE; AND AMENDING SECTION 2-18-601,
8 MCA."

9
10 WHEREAS, maternity leave regulations ~~promulgated-by-the~~
11 ~~Department-of--Administration~~ now provide that maternity
12 leave is based solely on a state employee's disability due
13 to pregnancy but do not require proof of medical disability
14 for the first 6 weeks after birth; and

15 WHEREAS, this rule is arbitrary in that it excludes
16 employees from parental leave when employees seek to
17 establish families through means other than childbirth; and

18 WHEREAS, this rule is against public policy in that it
19 fails to recognize the equal contributions to societal
20 well-being of both families created through adoption and
21 families created through childbirth.

22
23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

24 NEW SECTION. Section 1. Parental leave for state
25 employees ~~adopting----~~children. The department of

1 administration shall develop an adoptive parental leave
2 policy for permanent state employees ~~adopting-a-child--under~~
3 ~~1-year-of-age~~. The policy must permit an employee ~~adopting-a~~
4 ~~child--under--1--year--of--age~~ to take a reasonable leave of
5 absence and permit the employee to use sick leave for the
6 same amount of time authorized for MATERNAL leave DUE TO
7 DISABILITY following the birth of a child IF:

8 (1) THE EMPLOYEE IS ADOPTING A CHILD UNDER 1 YEAR OF
9 AGE; OR

10 (2) THE EMPLOYEE IS A NATURAL FATHER.

11 **Section 2.** Section 2-18-601, MCA, is amended to read:

12 **"2-18-601. Definitions.** For the purpose of this part,
13 except 2-18-620, the following definitions apply:

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15 board, or commission of state, county, or city government or
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18 except elected state, county, and city officials,
19 schoolteachers, and persons contracted as independent
20 contractors or hired under personal services contracts.

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22 assigned to a position designated as permanent on the
23 appropriate list of authorized positions referenced in
24 2-18-206 and approved as such in the biennium budget.

25 (4) "Part-time employee" means an employee who normally

SECOND READING

1 works less than 40 hours a week.

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3 works 40 hours a week.

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5 a position designated as temporary on the appropriate agency
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7 for a definite period of time not to exceed 9 months.

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11 which the agency has a permanent need but which is
12 interrupted by the seasonal nature of the assignment.

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14 for the purpose of rest, relaxation, or personal business at
15 the request of the employee and with the concurrence of the
16 employer.

17 (9) "Sick leave" means a leave of absence with pay for
18 a sickness suffered by an employee or his immediate family
19 or for a permanent state employee adopting a child under 1
20 year of age.

21 (10) "Sick-pay plan" means a plan that:

22 (a) provides for an agency to make payments in lieu of
23 wages to employees on account of sickness or accident
24 disability; and

25 (b) meets the requirements of 42 U.S.C. 409(b) or (d).

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2 agency to another agency in the same jurisdiction without a
3 break in service.

4 (12) "Continuous employment" means working within the
5 same jurisdiction without a break in service of more than 5
6 working days or without a continuous absence without pay of
7 more than 15 working days.

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9 of 5 working days when the person is not employed and that
10 severs continuous employment."

11 NEW SECTION. Section 3. Codification instruction.
12 [Section 1] is intended to be codified as an integral part
13 of Title 2, chapter 18, part 6, and the provisions of Title
14 2, chapter 18, part 6, apply to [section 1].

-End-

HOUSE BILL NO. 758

INTRODUCED BY BARNHART, HARPER, BLAYLOCK

A BILL FOR AN ACT ENTITLED: "AN ACT DIRECTING THE DEPARTMENT OF ADMINISTRATION TO PERMIT PARENTAL LEAVE FOR STATE EMPLOYEES WHO ARE NATURAL FATHERS OR ARE ADOPTING CHILDREN UNDER 1 YEAR OF AGE; AND AMENDING SECTION 2-18-601, MCA."

WHEREAS, maternity leave regulations promulgated-by-the Department-of--Administration now provide that maternity leave is based solely on a state employee's disability due to pregnancy but do not require proof of medical disability for the first 6 weeks after birth; and

WHEREAS, this rule is arbitrary in that it excludes employees from parental leave when employees seek to establish families through means other than childbirth; and

WHEREAS, this rule is against public policy in that it fails to recognize the equal contributions to societal well-being of both families created through adoption and families created through childbirth.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Parental leave for state employees adopting----children. The department of

administration shall develop an adoptive parental leave policy for permanent state employees ~~adopting-a-child--under 1-year-of-age~~. The policy must permit an employee ~~adopting-a child--under--1--year--of--age~~ to take a reasonable leave of absence and permit the employee to use sick leave for the same amount of time authorized for MATERNAL leave DUE TO DISABILITY following the birth of a child IF:

(1) THE EMPLOYEE IS ADOPTING A CHILD UNDER 1 YEAR OF AGE; OR

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Section 2. Section 2-18-601, MCA, is amended to read:

"2-18-601. Definitions. For the purpose of this part, except 2-18-620, the following definitions apply:

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(3) "Permanent employee" means an employee who is assigned to a position designated as permanent on the appropriate list of authorized positions referenced in 2-18-206 and approved as such in the biennium budget.

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THIRD READING



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21 (10) "Sick-pay plan" means a plan that:

22 (a) provides for an agency to make payments in lieu of
23 wages to employees on account of sickness or accident
24 disability; and

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13 of Title 2, chapter 18, part 6, and the provisions of Title
14 2, chapter 18, part 6, apply to [section 1].

-End-

SENATE STANDING COMMITTEE REPORT

Page 2 of 2
March 14, 1991

Page 1 of 2
March 14, 1991

MR. PRESIDENT:

We, your committee on State Administration having had under consideration House Bill No. 758 (third reading copy -- blue), respectfully report that House Bill No. 758 be amended and as so amended be concurred in:

1. Title, line 6.
Following: "ARE"
Strike: "NATURAL"
Insert: "BIRTH"

2. Title, line 7.
Following: "CHILDREN"
Strike: "UNDER 1 YEAR OF AGE"

3. Page 1, line 25.
Following: "children."
Insert: "(1)"

4. Page 2, line 1.
Following: "develop"
Strike: "an adoptive"
Insert: "a"

5. Page 2, line 5.
Following: "leave"
Insert: ", immediately following the birth or placement of a child,"

6. Page 2, lines 8 and 9.
Strike: "(1)" on line 8
Insert: "(a)"
Following: "CHILD" on line 8
Strike: "UNDER 1 YEAR OF AGE"

7. Page 2, line 10.
Strike: "(2)"
Insert: "(b)"

8. Page 2, line 10.
Strike: "NATURAL"
Insert: "birth"

9. Page 2.
Following: line 10
Insert: "(2) As used in this section "placement" means placement for adoption as defined in 40-8-103."

10. Page 3, lines 19 and 20.
Following: "employee" on line 19
Strike: "adopting a child under 1 year of age"
Insert: "who is eligible for parental leave under the provisions of [section 1]"

Signed: Eleanor Vaughn
Eleanor Vaughn, Chairman

KK 3-14-91
Ad. Coord.
SB 3-14 12:45
Sec. of Senate

HOUSE BILL NO. 758

INTRODUCED BY BARNHART, HARPER, BLAYLOCK

A BILL FOR AN ACT ENTITLED: "AN ACT DIRECTING THE DEPARTMENT OF ADMINISTRATION TO PERMIT PARENTAL LEAVE FOR STATE EMPLOYEES WHO ARE NATURAL BIRTH FATHERS OR ARE ADOPTING CHILDREN UNDER-1-YEAR-OF-AGE; AND AMENDING SECTION 2-18-601, MCA."

WHEREAS, maternity leave regulations promulgated-by-the Department-of--Administration now provide that maternity leave is based solely on a state employee's disability due to pregnancy but do not require proof of medical disability for the first 6 weeks after birth; and

WHEREAS, this rule is arbitrary in that it excludes employees from parental leave when employees seek to establish families through means other than childbirth; and

WHEREAS, this rule is against public policy in that it fails to recognize the equal contributions to societal well-being of both families created through adoption and families created through childbirth.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Parental leave for state employees adopting--children. (1) The department of

administration shall develop an-adoptive A parental leave policy for permanent state employees adopting-a-child--under 1-year-of-age. The policy must permit an employee adopting-a child--under--1--year--of--age to take a reasonable leave of absence and permit the employee to use sick leave, IMMEDIATELY FOLLOWING THE BIRTH OR PLACEMENT OF A CHILD, for the same amount of time authorized for MATERNAL leave DUE TO DISABILITY following the birth of a child IF:

(1)(A) THE EMPLOYEE IS ADOPTING A CHILD UNDER-1-YEAR-OF AGE; OR

(2)(B) THE EMPLOYEE IS A NATURAL BIRTH FATHER.

(2) AS USED IN THIS SECTION, "PLACEMENT" MEANS PLACEMENT FOR ADOPTION AS DEFINED IN 40-8-103.

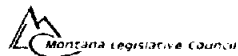
Section 2. Section 2-18-601, MCA, is amended to read:

"2-18-601. Definitions. For the purpose of this part, except 2-18-620, the following definitions apply:

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(3) "Permanent employee" means an employee who is assigned to a position designated as permanent on the



1 appropriate list of authorized positions referenced in
 2 2-18-206 and approved as such in the biennium budget.

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 4 works less than 40 hours a week.

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 6 works 40 hours a week.

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 10 for a definite period of time not to exceed 9 months.

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 12 position designated as seasonal on the appropriate agency
 13 list of authorized positions referenced in 2-18-206 and for
 14 which the agency has a permanent need but which is
 15 interrupted by the seasonal nature of the assignment.

16 (8) "Vacation leave" means a leave of absence with pay
 17 for the purpose of rest, relaxation, or personal business at
 18 the request of the employee and with the concurrence of the
 19 employer.

20 (9) "Sick leave" means a leave of absence with pay for
 21 a sickness suffered by an employee or his immediate family
 22 or for a permanent state employee adopting a child under 1
 23 year-of-age WHO IS ELIGIBLE FOR PARENTAL LEAVE UNDER THE
 24 PROVISIONS OF [SECTION 1].

25 (10) "Sick-pay plan" means a plan that:

1 (a) provides for an agency to make payments in lieu of
 2 wages to employees on account of sickness or accident
 3 disability; and

4 (b) meets the requirements of 42 U.S.C. 409(b) or (d).

5 (11) "Transfer" means a change of employment from one
 6 agency to another agency in the same jurisdiction without a
 7 break in service.

8 (12) "Continuous employment" means working within the
 9 same jurisdiction without a break in service of more than 5
 10 working days or without a continuous absence without pay of
 11 more than 15 working days.

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 13 of 5 working days when the person is not employed and that
 14 severs continuous employment."

15 NEW SECTION. Section 3. Codification instruction.
 16 [Section 1] is intended to be codified as an integral part
 17 of Title 2, chapter 18, part 6, and the provisions of Title
 18 2, chapter 18, part 6, apply to [section 1].

-End-

GOVERNOR'S AMENDMENTS TO
HOUSE BILL 758
(REFERENCE COPY, AS AMENDED)
APRIL 1, 1991

1. Page 2, lines 7 and 8
Strike: "the same amount of time authorized for MATERNAL
leave DUE TO DISABILITY following the birth of a child"
Insert: "a period not to exceed 10 working days"

Gov. Amend.
HB 758

Conference Committee
on House Bill 758
Report No. 1, April 24, 1991

4/24/91
1:52 pm
JDA

Page 1 of 1

Mr. Speaker and Mr. President:

We, your Conference Committee on House Bill 758 met and considered Governor's amendments to House Bill 758, dated April 1, 1991, and recommend that House Bill 758 (reference copy -- salmon) be amended as follows:

1. Page 2, lines 7 and 8.

Strike: "the same amount of time authorized for MATERNAL leave DUE TO DISABILITY following the birth of a child"

Insert: "a period not to exceed 15 working days"

And this Conference Committee report be adopted.

For the House:

For the Senate:

B. Barnhart
Rep. Barnhart, Chair

John Ed Kennedy Jr
Sen. Kennedy, Chair

Anthony A. Cody
Rep. Cody

Chet Blaylock
Sen. Blaylock

Char Messmore
Rep. Messmore

James W. Burnett
Sen. Burnett

ADOPT
REJECT

CCR #1
HB 758
881125CC.HSF



AN ACT DIRECTING THE DEPARTMENT OF ADMINISTRATION TO PERMIT PARENTAL LEAVE FOR STATE EMPLOYEES WHO ARE BIRTH FATHERS OR ARE ADOPTING CHILDREN; AND AMENDING SECTION 2-18-601, MCA.

WHEREAS, maternity leave regulations now provide that maternity leave is based solely on a state employee's disability due to pregnancy but do not require proof of medical disability for the first 6 weeks after birth; and

WHEREAS, this rule is arbitrary in that it excludes employees from parental leave when employees seek to establish families through means other than childbirth; and

WHEREAS, this rule is against public policy in that it fails to recognize the equal contributions to societal well-being of both families created through adoption and families created through childbirth.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Parental leave for state employees. (1) The department of administration shall develop a parental leave policy for permanent state employees. The policy must permit an employee to take a reasonable leave of absence and permit the employee to use sick leave, immediately following the birth or placement of a child, for a period not to exceed 15 working days if:

- (a) the employee is adopting a child; or
- (b) the employee is a birth father.

(2) As used in this section, "placement" means placement for adoption as defined in 40-8-103.

Section 2. Section 2-18-601, MCA, is amended to read:

"2-18-601. Definitions. For the purpose of this part, except 2-18-620, the following definitions apply:

(1) "Agency" means any legally constituted department, board, or commission of state, county, or city government or any political subdivision thereof.

(2) "Employee" means any person employed by an agency except elected state, county, and city officials, schoolteachers, and persons contracted as independent contractors or hired under personal services contracts.

(3) "Permanent employee" means an employee who is assigned to a position designated as permanent on the appropriate list of authorized positions referenced in 2-18-206 and approved as such in the biennium budget.

(4) "Part-time employee" means an employee who normally works less than 40 hours a week.

(5) "Full-time employee" means an employee who normally works 40 hours a week.

(6) "Temporary employee" means an employee assigned to a position designated as temporary on the appropriate agency list of authorized positions referenced in 2-18-206, created for a definite period of time not to exceed 9 months.

(7) "Seasonal employee" means an employee assigned to a

position designated as seasonal on the appropriate agency list of authorized positions referenced in 2-18-206 and for which the agency has a permanent need but which is interrupted by the seasonal nature of the assignment.

(8) "Vacation leave" means a leave of absence with pay for the purpose of rest, relaxation, or personal business at the request of the employee and with the concurrence of the employer.

(9) "Sick leave" means a leave of absence with pay for a sickness suffered by an employee or his immediate family or for a permanent state employee who is eligible for parental leave under the provisions of [section 1].

(10) "Sick-pay plan" means a plan that:

(a) provides for an agency to make payments in lieu of wages to employees on account of sickness or accident disability; and

(b) meets the requirements of 42 U.S.C. 409(b) or (d).

(11) "Transfer" means a change of employment from one agency to another agency in the same jurisdiction without a break in service.

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Section 3. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 2, chapter 18, part 6, and the provisions of Title 2, chapter 18, part 6, apply to [section 1].