

SENATE BILL 421

Introduced by Bianchi

2/16	Introduced
2/18	First Reading
2/18	Referred to State Administration
2/18	Fiscal Note Requested
2/20	Hearing
2/22	Fiscal Note Received
2/22	Fiscal Note Printed
2/22	Committee Report--Bill Passed as Amended
2/25	2nd Reading Passed
2/26	3rd Reading Passed
	Transmitted to House
3/04	First Reading
3/04	Referred to State Administration
3/13	Hearing
3/13	Committee Report--Bill Concurred as Amended
3/14	Revised Fiscal Note Requested
3/15	Rereferred to Appropriations
3/19	Revised Fiscal Note Received
4/04	Hearing
4/04	Tabled in Committee
4/04	Fiscal Note Requested
4/05	Fiscal Note Received
4/06	Fiscal Note Printed

1 *Senate* BILL NO. *421*
2 INTRODUCED BY *Beauchamp*

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING PUBLIC
5 EMPLOYEES TERMINATING EMPLOYMENT WITH THE OPTION OF A
6 LUMP-SUM PAYMENT FOR ACCUMULATED SICK LEAVE OR CREDIT
7 AGAINST THE PAYMENT OF HEALTH INSURANCE PREMIUMS TO THE
8 EXTENT OF THE ACCUMULATED SICK LEAVE; AND AMENDING SECTION
9 2-18-618, MCA."

10
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12 **Section 1.** Section 2-18-618, MCA, is amended to read:

13 **"2-18-618. Sick leave.** (1) Each permanent full-time
14 employee shall earn sick leave credits from the first day of
15 employment. For calculating sick leave credits, 2,080 hours
16 (52 weeks x 40 hours) shall equal 1 year. Sick leave credits
17 shall be credited at the end of each pay period. Sick leave
18 credits shall be earned at the rate of 12 working days for
19 each year of service without restriction as to the number of
20 working days that may be accumulated. Employees are not
21 entitled to be paid sick leave until they have been
22 continuously employed 90 days.

23 (2) An employee may not accrue sick leave credits while
24 in a leave-without-pay status.

25 (3) Permanent part-time employees are entitled to

1 prorated leave benefits if they have worked the qualifying
2 period.

3 (4) Full-time temporary and seasonal employees are
4 entitled to sick leave benefits provided they work the
5 qualifying period.

6 (5) (a) An employee who terminates employment with the
7 agency is entitled to either a lump-sum payment under
8 subsection (5)(b) equal to one-fourth of the pay attributed
9 to the accumulated sick leave or is entitled to use the
10 accumulated pay attributed to the accumulated sick leave for
11 the payment of health insurance premiums under subsection
12 (5)(c). The In either case, the pay attributed to the
13 accumulated sick leave shall be computed on the basis of the
14 employee's salary or wage at the time he terminates his
15 employment with the state, county, or city.

16 (b) Accrual of sick leave credits for calculating the
17 lump-sum payment provided for in this subsection begins July
18 1, 1971. The payment therefor shall be the responsibility of
19 the agency wherein the sick leave accrues. However, no
20 employee forfeits any sick leave rights or benefits he had
21 accrued prior to July 1, 1971. However, where an employee
22 transfers between agencies within the same jurisdiction, he
23 is not entitled to a lump-sum payment. In a transfer between
24 agencies, the receiving agency shall assume the liability
25 for the accrued sick leave credits earned after July 1,



1 1971, and transferred with the employee.

2 †6) An employee who receives a lump-sum payment
3 pursuant to this section subsection and who is again
4 employed by any agency may not be credited with any sick
5 leave for which the employee has previously been
6 compensated.

7 (c) The accumulated pay attributable to accumulated
8 unused sick leave may be converted to credits for payment of
9 the employee's and the employer's share of health insurance
10 premiums for insurance for an employee insured at the time
11 of retirement or for the employee's surviving insured
12 dependents, or both. The entire amount of the premium must
13 be deducted from the credits until the credits are
14 exhausted.

15 †7)†6) Abuse of sick leave is cause for dismissal and
16 forfeiture of the lump-sum payments provided for in this
17 section.

18 †8)†7) An employee may contribute any portion of his
19 accumulated sick leave to a nonrefundable sick leave fund
20 for state employees and thereby become eligible to draw upon
21 the fund if an extensive illness or accident exhausts his
22 accumulated sick leave. The department of administration
23 shall, in consultation with the sick leave advisory council
24 provided for in 2-15-216, administer the sick leave fund and
25 adopt rules to implement this subsection.

1 †9)†8) A local government may establish and administer
2 through local rule a sick leave fund into which its
3 employees may contribute a portion of their accumulated sick
4 leave."

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB0421, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act providing public employees terminating employment with the option of a lump-sum payment for accumulated sick leave or credit against the payment of health insurance premiums to the extent of the accumulated sick leave.

ASSUMPTIONS:

1. Average years of service for retirees is 18 years. Average sick leave balance for state employees with 16-21 years of service is 760 hours. Average projected salary for state employees retiring from service is \$13.86 per hour in FY92 and \$14.48 in FY93.
2. During FY90, 225 employees retired from state agencies, 52 employees retired from the university system and 380 employees retired from local governments. These trends are expected to continue during the 1993 biennium.
3. Current law represents the payment of only 25% of accrued sick leave. The distribution of funding is based on the distribution of cost represented in HB0509.
4. All retiring employees opt to apply their sick leave credits towards health insurance.

FISCAL IMPACT:

	FY 92			FY 93		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
<u>Expenditures:</u>						
Personal Services	729,452	2,917,807	2,188,355	762,082	3,048,330	2,286,248
<u>Funding:</u>						
General Fund	313,664	1,250,280	936,616	327,695	1,306,209	978,514
State Special	189,658	758,630	568,972	198,141	792,565	594,424
Federal Special	158,291	639,729	481,438	165,372	668,347	502,975
Proprietary Fund	65,651	260,415	194,764	68,587	272,063	203,476
Other Funds	<u>2,188</u>	<u>8,753</u>	<u>6,565</u>	<u>2,287</u>	<u>9,146</u>	<u>6,859</u>
Total	729,452	2,917,807	2,188,355	762,082	3,048,330	2,286,248
Impact to General Fund			(936,616)			(978,514)

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

The proposed legislation would apply to all local governments and school district employees. Cost per retired employee would likely be similar to those projected for state government. Estimated cost would be \$2,461,640 in FY92 and \$2,603,000 in FY93.


 ROD SUNDSTED BUDGET DIRECTOR
 Office of Budget and Program Planning
 DATE 2-22-91


 DON BIANCHI PRIMARY SPONSOR
 DATE 2/23/91

Fiscal Note for SB0421, as introduced

SB 421

TECHNICAL NOTES:

The proposed legislation uses the term "accumulated pay attributable to accumulated unused sick leave." The proposed terminology implies that funds are accumulated as sick leave credits accumulate which is incorrect. Sick leave is funded through budgeted appropriations. Often vacant FTE are left unfilled for extended periods of time to provide the appropriation authority necessary to pay sick and annual leave cash outs. The costs of this proposed legislation would be an additional cost.

Subsection (c) only refers to retirees and surviving spouses. The title suggests the bill is intended to apply to all terminating employees.

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB0421, third reading, amended.

DESCRIPTION OF PROPOSED LEGISLATION:

An act providing retiring public employees or employees' surviving dependents with the option of a lump-sum payment for accumulated sick leave or payment of health insurance premiums equal to 100% of the accumulated sick leave.

ASSUMPTIONS:

1. During FY90, 225 employees retired from state agencies, 52 employees retired from the university system and 380 employees retired from local governments. These trends are expected to continue during the 1993 biennium.
2. Current law represents the payment of only 25% of accrued sick leave. The distribution of funding is based on the distribution of cost represented in HB0509.
3. Under the proposed legislation, as amended, retiring employees will have the option to use 100% of the value from accumulated sick leave for monthly health insurance premiums. All retiring employees will opt to apply their sick leave credits towards health insurance.
4. The proposed legislation will require the employer to make the employee's monthly premium payments. The proposed monthly payments must be considered wages and, therefore, would require the mandatory employer taxes and benefits. Employer taxes and benefits average 22% of wages.
5. The estimated cost of health insurance is \$165 per month in FY92 and \$180 per month in FY93. The total amount of health insurance premium payments and benefits may not exceed the total value of the employee's accumulated sick leave.
6. Average years of service for retirees is 18 years. Average sick leave balance for state employees with 16-21 years of service is 760 hours. The average projected salary for state employees retiring from service is \$13.86 per hour in FY92 and \$14.48 in FY93. The average retiree will have an accumulated sick leave balance for approximately 60 months of health insurance.
7. Per the amendments approved by the House, the amount of the premium paid from the insurance trust fund is considered to be, and must be represented in the state accounting system to be, an expense accrued during the month in which the premium payment is made.
8. Any impact on the Department of Higher Education has not been included in this fiscal note.

FISCAL IMPACT:

see next page

Rod Sundsted *hbs* 4/5/91
 ROD SUNDSTED BUDGET DIRECTOR DATE
 Office of Budget and Program Planning

Don Bianchi 4/6/91
 DON BIANCHI, PRIMARY SPONSOR DATE

Fiscal Note for SB0421, third reading, amended

SB 421-42

FISCAL IMPACT:

	FY 92			FY 93		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
<u>Expenditures:</u>						
Personal Services	816,354	357,539	(458,815)	852,872	809,100	(43,772)
<u>Funding:</u>						
General Fund	349,399	153,027	(196,372)	365,029	346,295	(18,734)
State Special	212,252	92,960	(119,292)	221,746	210,366	(11,380)
Federal Special	179,599	78,659	(100,940)	187,633	178,002	(9,631)
Proprietary Fund	72,656	31,820	(40,836)	75,906	72,010	(3,896)
Other Funds	<u>2,448</u>	<u>1,073</u>	<u>(1,375)</u>	<u>2,558</u>	<u>2,427</u>	<u>(131)</u>
Total	816,354	357,539	(458,815)	852,872	809,100	(43,772)
Impact to General Fund		(savings) → 159,179			(decrease) → (20,124)	

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

The proposed legislation would apply to all local governments and school districts. Cost per retired employee would likely be similar to those projected for state government. Estimated costs would be \$750,000 in FY92 and \$1.4 million in FY93.

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

Although the initial cost of the proposed legislation is less than current law, the long term cost is greater than current law. Total cost will increase and eventually level off at the end of five years as new retirees increase the number of total pensioners receiving health insurance benefits. At the end of five years, the total estimated cost of the proposed legislation will be approximately \$2.8 million out of which \$1.2 million would be general fund.

TECHNICAL NOTES:

1. The proposed legislation uses the term "accumulated pay attributable to accumulated unused sick leave." The proposed terminology implies that funds are accumulated as sick leave credits increase, which is incorrect. Sick leave is funded through budgeted appropriations. Often vacant FTE are left unfilled for extended periods of time to provide the appropriation authority necessary to pay sick and annual leave cash outs. The costs of this proposed legislation would be an additional cost.
2. 19-3-1104, MCA does not allow a person to receive retirement benefits and wages from a participating PERS employer. The proposed legislation may need to amend relevant statutes to exclude the health insurance payments from the provisions pertaining to reemployment.
3. This legislation will require an IRS ruling on the timing and manner of taxability of the benefit provided in this legislation. This will affect when employee and employer state and federal tax withholding will be effective and when employee and employer fringe benefit withholdings will be effective.

SB 421-42

APPROVED BY COMMITTEE
ON STATE ADMINISTRATION

1 SENATE BILL NO. 421
 2 INTRODUCED BY BIANCHI
 3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING RETIRING
 5 PUBLIC EMPLOYEES ~~TERMINATING--EMPLOYMENT~~ OR EMPLOYEES'
 6 SURVIVING DEPENDENTS WITH THE OPTION OF A LUMP-SUM PAYMENT
 7 FOR ACCUMULATED SICK LEAVE OR ~~CREDIT-AGAINST-THE~~ PAYMENT OF
 8 HEALTH INSURANCE PREMIUMS EQUAL TO THE-EXTENT 25 PERCENT OF
 9 THE ACCUMULATED SICK LEAVE; AND AMENDING SECTION 2-18-618,
 10 MCA."

11
12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13 **Section 1.** Section 2-18-618, MCA, is amended to read:

14 "2-18-618. Sick leave. (1) Each permanent full-time
 15 employee shall earn sick leave credits from the first day of
 16 employment. For calculating sick leave credits, 2,080 hours
 17 (52 weeks x 40 hours) shall equal 1 year. Sick leave credits
 18 shall be credited at the end of each pay period. Sick leave
 19 credits shall be earned at the rate of 12 working days for
 20 each year of service without restriction as to the number of
 21 working days that may be accumulated. Employees are not
 22 entitled to be paid sick leave until they have been
 23 continuously employed 90 days.

24 (2) An employee may not accrue sick leave credits while
 25 in a leave-without-pay status.

1 (3) Permanent part-time employees are entitled to
 2 prorated leave benefits if they have worked the qualifying
 3 period.

4 (4) Full-time temporary and seasonal employees are
 5 entitled to sick leave benefits provided they work the
 6 qualifying period.

7 (5) (a) An employee who terminates employment with the
 8 agency OTHER THAN BY RETIREMENT is entitled to either a
 9 lump-sum payment under-subsection-(5)(b) equal to one-fourth
 10 of the pay attributed to the accumulated sick leave or--is
 11 entitled--to--use--the--accumulated--pay--attributed--to--the
 12 accumulated-sick-leave-for-the-payment-of--health--insurance
 13 premiums--under--subsection--(5)(c). The In either-case THE
 14 CASE OF EITHER THE LUMP-SUM PAYMENT UNDER SUBSECTION (5)(B)
 15 OR THE PAYMENT OF HEALTH INSURANCE PREMIUMS UNDER SUBSECTION
 16 (5)(C), the pay attributed to the accumulated sick leave
 17 shall be computed on the basis of the employee's salary or
 18 wage at the time he terminates his employment with the
 19 state, county, or city.

20 (b) Accrual of sick leave credits for calculating the
 21 lump-sum payment provided for in this subsection begins July
 22 1, 1971. The payment therefor shall be the responsibility of
 23 the agency wherein the sick leave accrues. However, no
 24 employee forfeits any sick leave rights or benefits he had
 25 accrued prior to July 1, 1971. However, where an employee



1 transfers between agencies within the same jurisdiction, he
 2 is not entitled to a lump-sum payment. In a transfer between
 3 agencies, the receiving agency shall assume the liability
 4 for the accrued sick leave credits earned after July 1,
 5 1971, and transferred with the employee.

6 ~~(6)~~ An employee who receives a lump-sum payment
 7 pursuant to this ~~section~~ subsection and who is again
 8 employed by any agency may not be credited with any sick
 9 leave for which the employee has previously been
 10 compensated.

11 (c) The AN EMPLOYEE WHO RETIRES FROM AN AGENCY MAY
 12 CHOOSE THE LUMP-SUM PAYMENT UNDER SUBSECTION (5)(B) OR IS
 13 ENTITLED TO USE 25% OF THE ACCUMULATED PAY ATTRIBUTED TO THE
 14 ACCUMULATED SICK LEAVE FOR THE PAYMENT OF HEALTH INSURANCE
 15 PREMIUMS UNDER THIS SUBSECTION. IF THE EMPLOYEE CHOOSES THE
 16 OPTION UNDER THIS SUBSECTION, THE accumulated pay
 17 attributable to accumulated unused sick leave may--be
 18 converted-to-credits MUST BE PAID MONTHLY BY THE EMPLOYER
 19 INTO THE INSURANCE TRUST FUND for payment of the employee's
 20 and the employer's share of health insurance premiums for
 21 insurance for an employee AND ANY DEPENDENTS insured at the
 22 time of retirement or for the employee's surviving insured
 23 dependents--or--both. The entire amount of the premium must
 24 be deducted from the credits INSURANCE TRUST FUND until the
 25 credits AMOUNT CREDITED TO THE EMPLOYEE AND ANY EARNINGS

1 THEREON are exhausted.

2 ~~(7)~~(6) Abuse of sick leave is cause for dismissal and
 3 forfeiture of the lump-sum payments provided for in this
 4 section.

5 ~~(8)~~(7) An employee may contribute any portion of his
 6 accumulated sick leave to a nonrefundable sick leave fund
 7 for state employees and thereby become eligible to draw upon
 8 the fund if an extensive illness or accident exhausts his
 9 accumulated sick leave. The department of administration
 10 shall, in consultation with the sick leave advisory council
 11 provided for in 2-15-216, administer the sick leave fund and
 12 adopt rules to implement this subsection.

13 ~~(9)~~(8) A local government may establish and administer
 14 through local rule a sick leave fund into which its
 15 employees may contribute a portion of their accumulated sick
 16 leave."

-End-

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2 INTRODUCED BY BIANCHI

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5 PUBLIC EMPLOYEES TERMINATING--EMPLOYMENT OR EMPLOYEES'
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19 credits shall be earned at the rate of 12 working days for
20 each year of service without restriction as to the number of
21 working days that may be accumulated. Employees are not
22 entitled to be paid sick leave until they have been
23 continuously employed 90 days.

24 (2) An employee may not accrue sick leave credits while
25 in a leave-without-pay status.

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2 prorated leave benefits if they have worked the qualifying
3 period.

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5 entitled to sick leave benefits provided they work the
6 qualifying period.

7 (5) (a) An employee who terminates employment with the
8 agency OTHER THAN BY RETIREMENT is entitled to either a
9 lump-sum payment under-subsection-(5)(b) equal to one-fourth
10 of the pay attributed to the accumulated sick leave or--is
11 entitled--to--use--the--accumulated--pay--attributed--to--the
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13 premiums--under--subsection--(5)(c). The In either case THE
14 CASE OF EITHER THE LUMP-SUM PAYMENT UNDER SUBSECTION (5)(B)
15 OR THE PAYMENT OF HEALTH INSURANCE PREMIUMS UNDER SUBSECTION
16 (5)(C), the pay attributed to the accumulated sick leave
17 shall be computed on the basis of the employee's salary or
18 wage at the time he terminates his employment with the
19 state, county, or city.

20 (b) Accrual of sick leave credits for calculating the
21 lump-sum payment provided for in this subsection begins July
22 1, 1971. The payment therefor shall be the responsibility of
23 the agency wherein the sick leave accrues. However, no
24 employee forfeits any sick leave rights or benefits he had
25 accrued prior to July 1, 1971. However, where an employee

1 transfers between agencies within the same jurisdiction, he
2 is not entitled to a lump-sum payment. In a transfer between
3 agencies, the receiving agency shall assume the liability
4 for the accrued sick leave credits earned after July 1,
5 1971, and transferred with the employee.

6 †6‡ An employee who receives a lump-sum payment
7 pursuant to this section subsection and who is again
8 employed by any agency may not be credited with any sick
9 leave for which the employee has previously been
10 compensated.

11 (c) The AN EMPLOYEE WHO RETIRES FROM AN AGENCY MAY
12 CHOOSE THE LUMP-SUM PAYMENT UNDER SUBSECTION (5)(B) OR IS
13 ENTITLED TO USE 25% OF THE ACCUMULATED PAY ATTRIBUTED TO THE
14 ACCUMULATED SICK LEAVE FOR THE PAYMENT OF HEALTH INSURANCE
15 PREMIUMS UNDER THIS SUBSECTION. IF THE EMPLOYEE CHOOSES THE
16 OPTION UNDER THIS SUBSECTION, THE accumulated pay
17 attributable to accumulated unused sick leave may--be
18 converted-to-credits MUST BE PAID MONTHLY BY THE EMPLOYER
19 INTO THE INSURANCE TRUST FUND for payment of the employee's
20 and the employer's share of health insurance premiums for
21 insurance for an employee AND ANY DEPENDENTS insured at the
22 time of retirement or for the employee's surviving insured
23 dependents,--or--both. The entire amount of the premium must
24 be deducted from the credits INSURANCE TRUST FUND until the
25 credits AMOUNT CREDITED TO THE EMPLOYEE AND ANY EARNINGS

1 THEREON are exhausted.

2 †7‡(6) Abuse of sick leave is cause for dismissal and
3 forfeiture of the lump-sum payments provided for in this
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9 accumulated sick leave. The department of administration
10 shall, in consultation with the sick leave advisory council
11 provided for in 2-15-216, administer the sick leave fund and
12 adopt rules to implement this subsection.

13 †9‡(8) A local government may establish and administer
14 through local rule a sick leave fund into which its
15 employees may contribute a portion of their accumulated sick
16 leave."

-End-

HOUSE STANDING COMMITTEE REPORT

March 13, 1991

Page 1 of 1

Mr. Speaker: We, the committee on State Administration report that Senate Bill 421 (third reading copy -- blue) be concurred in as amended .

Signed: Jan Brown
Jan Brown, Chairman

Carried by: Rep. Cocchiarella

And, that such amendments read:

1. Title, line 8.

Strike: "25"

Insert: "100"

2. Page 3, line 13.

Strike: "25%"

Insert: "100%"

SB 421

HOUSE