

1 H BILL NO. 296  
 2 INTRODUCED BY Brodley Esterson Holmes Hussault  
 3 Meloy Linder Lynch Gunderson

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE PART-TIME  
 5 CAREER EMPLOYMENT; AMENDING SECTIONS 59-1001 AND 59-1008,  
 6 R.C.M. 1947."

7  
 8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

9 Section 1. Short title. This act may be cited as the  
 10 "Part-Time Career Employment Act".

11 Section 2. Purpose. The purpose of this act is to  
 12 provide employment opportunities in state government for  
 13 individuals who are unable or who do not desire to work on a  
 14 full-time basis.

15 Section 3. Definitions. As used in this act, the  
 16 following definitions apply:

17 (1) "Part-time career employment" means permanent  
 18 part-time employment between 16 and 30 hours a week,  
 19 including 4 hours each workday, 5 hours each workday, a  
 20 different number of hours each workday, or 2, 3, or 4 days a  
 21 week, job-sharing arrangements, or such other arrangements  
 22 as may be established by the department of administration.  
 23 Part-time career employment does not include an employee who  
 24 is employed on a temporary or intermittent basis.

25 (2) "Grade" means any grade in the state

1 classification and pay plan except grade 16 and above.

2 (3) "Department" means any department provided for in  
 3 Article VI, section 7, of the Montana constitution.

4 Section 4. Part-time career employment minimums. (1)  
 5 Within 1 year of the effective date of this act, at least 2%  
 6 of all positions in each grade of each department shall be  
 7 restructured for part-time employment and made available to  
 8 individuals on a part-time career employment basis.

9 (2) Within 2 years of the effective date of this act,  
 10 at least 4% of all positions in each grade of each  
 11 department shall be restructured and made available on a  
 12 part-time career employment basis.

13 (3) Within 3 years of the effective date of this act,  
 14 at least 6% of all positions in each grade of each  
 15 department shall be restructured and made available on a  
 16 part-time career employment basis.

17 (4) Within 4 years of the effective date of this act,  
 18 at least 8% of all positions in each grade of each  
 19 department shall be restructured and made available on a  
 20 part-time career employment basis.

21 (5) Within 5 years of the effective date of this act,  
 22 at least 10% of all positions in each grade of each  
 23 department shall be restructured and made available on a  
 24 part-time career employment basis.

25 Section 5. Waiver of minimums. (1) Upon the request of

1 a department, the department of administration may waive or  
 2 reduce the part-time career employment minimums not yet  
 3 achieved and applicable to any year for positions in a grade  
 4 of a department.

5 (2) In considering whether to grant a waiver or  
 6 reduction in the minimums, the department of administration  
 7 must establish that compliance with the minimum for those  
 8 positions in that grade for that year by the department  
 9 would substantially impair the ability of the department to  
 10 perform its function. The department of administration may  
 11 find that compliance would substantially impair the ability  
 12 of the department to perform its function when:

13 (a) compliance would severely disrupt the department's  
 14 efficiency; or

15 (b) the department is undergoing a substantial  
 16 reduction in work force or a freeze on new hiring that would  
 17 make it impossible to comply with the minimums not yet  
 18 achieved without seriously jeopardizing the employment  
 19 rights of department employees.

20 (3) The department of administration must publicize  
 21 the request for a waiver or a reduction and the reasons for  
 22 the request and must afford interested parties adequate time  
 23 to submit comments regarding the request.

24 (4) A decision of the department of administration on  
 25 a request for a waiver or reduction of a minimum must

1 include the reasons for the decision. Copies of each  
 2 decision are to be available to the public without charge.

3 (5) The department of administration may not grant a  
 4 waiver or reduction on any single occasion for more than 1  
 5 year.

6 Section 6. Implementation. (1) The department of  
 7 administration may make rules in accordance with the Montana  
 8 Administrative Procedure Act to implement this act.

9 (2) The department of administration shall develop a  
 10 program to assist departments in implementing this act and  
 11 shall report to the legislature during each session on the  
 12 progress of the program.

13 Section 7. Limitations. (1) This act does not affect  
 14 rights and duties that matured or proceedings that were  
 15 begun prior to the effective date of this act.

16 (2) This act does not apply to positions occupied by  
 17 employees who are under a collective bargaining agreement in  
 18 effect on the effective date of this act. However, this act  
 19 does apply to positions in a collective bargaining agreement  
 20 that is negotiated subsequent to the effective date of this  
 21 act.

22 (3) Persons employed in positions on a temporary  
 23 part-time, intermittent, or consultant basis may not be  
 24 counted in determining whether a department has complied  
 25 with this act.

1 Section 8. Benefits. An employee employed on a  
2 part-time career employment basis is entitled to receive the  
3 same benefits accorded a full-time employee on a prorated  
4 basis or as otherwise provided by law.

5 Section 9. Legislative agencies. Legislative agencies  
6 are encouraged to develop a part-time career employment  
7 program and to seek any necessary assistance from the  
8 department of administration.

9 Section 10. Section 59-1001, R.C.M. 1947, is amended  
10 to read as follows:

11 \*59-1001. Annual vacation leave. (1) Each full-time  
12 employee of the state, or any county or city thereof is  
13 entitled to and shall earn annual vacation leave credits  
14 from the first full pay period of employment. For  
15 calculating vacation leave credits two thousand eighty  
16 (2,080) hours (52 weeks x 40 hours) shall equal one (1)  
17 year. Proportionate vacation leave credits shall be earned  
18 and credited at the end of each pay period. However,  
19 employees are not entitled to any vacation leave with pay  
20 until they have been continuously employed for a period of  
21 six (6) calendar months. Persons regularly employed nine (9)  
22 or more months each year, but whose continuous employment is  
23 interrupted by the seasonal nature of the position, shall  
24 earn vacation credits. However, such persons must be  
25 employed six (6) qualifying months before they can use the

1 vacation credits. In order to qualify, such employees must  
2 immediately report back for work when operations resume in  
3 order to avoid a break in service. Vacation leave credits  
4 shall be earned in accordance with the following schedule:

5 (a) from one (1) full pay period through ten (10)  
6 years of employment at the rate of fifteen (15) working days  
7 for each year of service;

8 (b) after ten (10) years through fifteen (15) years of  
9 employment at the rate of eighteen (18) working days for  
10 each year of service;

11 (c) after fifteen (15) years through twenty (20) years  
12 of employment at the rate of twenty-one (21) working days  
13 for each year of service;

14 (d) after twenty (20) years of employment at the rate  
15 of twenty-four (24) working days for each year of service.

16 Permanent part-time employees are entitled to prorated  
17 annual vacation benefits if they have regularly scheduled  
18 work assignments and normally work at least ~~twenty-(20)~~ 16  
19 hours each week of the pay period and have worked the  
20 qualifying period.

21 (2) It shall be unlawful for an employer to terminate  
22 or separate an employee from his employment in an attempt to  
23 circumvent the provisions of this law. Should a question  
24 arise under this paragraph, it shall be submitted to  
25 arbitration as provided in chapter 201, Title 93, R.C.M.,

1 1947 unless there is a collective bargaining agreement  
2 applicable."

3 Section 11. Section 59-1008, R.C.M. 1947, is amended  
4 to read as follows:

5 "59-1008. Sick leave. (1) Each full-time employee of  
6 the state, or of any county or city thereof, is entitled to  
7 and shall earn sick leave credits from the first full pay  
8 period of employment. For calculating sick leave credits two  
9 thousand eighty (2,080) hours (52 weeks x 40 hours) shall  
10 equal one (1) year. Proportionate sick leave credits shall  
11 be earned and credited at the end of each pay period. Sick  
12 leave credits shall be earned at the rate of twelve (12)  
13 working days for each year of service without restriction as  
14 to the number of working days he may accumulate.

15 (2) An employee may not accrue sick leave credits  
16 during a continuous leave of absence without pay, which  
17 exceeds fifteen (15) calendar days. Employees are not  
18 entitled to be paid for sick leave under the provisions of  
19 this act until they have been continuously employed for  
20 ninety (90) days. Upon completion of the qualifying period,  
21 the employee is entitled to the sick leave credits he has  
22 earned.

23 (3) Permanent part-time employees are entitled to  
24 prorated leave benefits if they have a regularly scheduled  
25 work assignment, and normally work at least twenty--(20) 16

1 hours each week of the pay period, and have worked the  
2 qualifying 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) An employee who terminates employment with the  
7 state or of any county or city thereof, is entitled to a  
8 lump-sum payment equal to one-fourth (1/4) of the pay  
9 attributed to the accumulated sick leave. The pay  
10 attributed to the accumulated sick leave shall be computed  
11 on the basis of the employee's salary or wage at the time  
12 he terminates his employment with the state, county, or  
13 city. Accrual of sick leave credits for calculating the  
14 lump-sum payment provided for in this subsection begins July  
15 1, 1971, and the payment therefor, shall be the  
16 responsibility of the state, or any county or city thereof,  
17 wherein the sick leave accrues. However, no employee  
18 forfeits any sick leave rights or benefits he had accrued  
19 prior to July 1, 1971. However, where an employee transfers  
20 between agencies within the same state, county or city  
21 jurisdiction he shall not be entitled to a lump-sum payment.  
22 In such a transfer the receiving agency shall assume the  
23 liability for the accrued sick leave credits earned after  
24 July 1, 1971, and transferred with the employee.

25 (6) An employee of the state or any county or city

1   thereof who receives a lump-sum payment pursuant to this act  
2   and who is again employed by the state or a county or city  
3   thereof shall not be credited with any sick leave for which  
4   he has previously been compensated.

5       (7) The department of administration of the state of  
6   Montana or the administrative office of any county or city  
7   thereof shall be responsible for the proper administration  
8   of sick leave and shall promulgate such rules and  
9   regulations as it deems necessary to achieve the uniform  
10  administration of sick leave and to prevent the abuse  
11  thereof. When promulgated these rules and regulations are  
12  effective as to all employees of the state of Montana or any  
13  county or city thereof.

14       (8) Abuse of sick leave is cause for dismissal and  
15  forfeiture of the lump-sum payments provided for in this  
16  act."

-End-

## STATE OF MONTANA

REQUEST NO. 160-77

## FISCAL NOTE

Form BD-15

In compliance with a written request received January 24, 19 77, there is hereby submitted a Fiscal Note for House Bill 296 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly.

Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

## DESCRIPTION:

An act to provide part-time career employment.

## ASSUMPTIONS:

1. All positions restructured for part-time employment would be filled by part-time employees, to include positions included under collective bargaining units.
2. The average number of full-time positions will be 14,300 in each year of the 1979 Biennium.
3. The average salary of a state employee is \$10,500 per year.
4. Employee benefits will remain the same as in FY77.
5. Part-time personnel currently employed who are working at least 16 hours per week but less than 20 hours per week make up 1% of the total work force.
6. Administrative costs in other agencies to implement the act can be absorbed in those agencies' current budgets.

## FISCAL IMPACT:

|  |                  |                  |
|--|------------------|------------------|
|  | <u>FY78</u>      | <u>FY79</u>      |
| Additional benefits due to reducing the number of hours to be worked to be eligible for benefits | \$ 92,567        | \$ 92,567        |
| Additional group health insurance contribution   | 34,320           | 68,640           |
| Cost to administer act   | <u>20,000</u>    | <u>16,000</u>    |
| Additional cost of proposed legislation  | <u>\$146,887</u> | <u>\$177,207</u> |

It is emphasized that the above costs do not reflect the cost of vacations and sick leave allowed, nor the increase in the vacation and sick leave liabilities due to the change in eligibility for these benefits from 20 hours worked per week to 16 hours worked per week.

## LOCAL IMPACT:

Although no dollar estimate can be given, the inclusion of employees who work from 16 to 20 hours per week in the definition of permanent part-time employees for sick leave and vacation credit will increase costs of local government.

## LONG-TERM IMPACT:

As the number of positions of state government that are restructured for part-time employment increases, so will the cost of certain benefits and administration increase.

*Richard L. Tracy*  
BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 1-27-77

STATE OF MONTANA

REQUEST NO. 160-77

FISCAL NOTE

(Revised)

Form BD-15

In compliance with a written request received March 8, 19 77, there is hereby submitted a Fiscal Note for House Bill 296 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly. Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

THIS FISCAL NOTE REVISES THE ORIGINAL FISCAL NOTE ON HOUSE BILL 296.

The original fiscal note indicated an additional cost of \$92,567 per year due to increased employer benefits. Since employers, no matter how many hours employees work, must pay unemployment taxes, FICA, and Workers' Compensation insurance fees, and since it is assumed that additional part-time employees will not be eligible to participate in a state retirement system, no additional employer benefits costs will be realized.

Also, the assumption has been added that the group health insurance contribution will be prorated for employees working at least sixteen (16) hours per week but less than twenty (20) hours per week. If this assumption is correct, the additional cost due to the insurance contribution will be minimal for each agency.

DESCRIPTION OF PROPOSED LEGISLATION:

An act to provide part-time career employment.

ASSUMPTIONS:

1. All positions restructured for part-time employment would be filled by part-time employees, to include positions included under collective bargaining units.
2. A central staff person and related costs will be needed to monitor and enforce the act.
3. Employees working less than twenty (20) hours per week will work less than 480 hours per year; thus, they will not be eligible for retirement benefits except on a prorated basis if current laws are changed.
4. The state group health insurance contribution would be prorated for employees working less than twenty (20) hours per week; therefore any additional cost would be minimal.
5. Administrative costs in other agencies to implement the act can be absorbed in those agencies' current budgets.

FISCAL IMPACT:

|                                       | <u>FY 78</u>    | <u>FY 79</u>    |
|---------------------------------------|-----------------|-----------------|
| Additional cost to administer the act | <u>\$20,000</u> | <u>\$16,000</u> |

The above cost does not reflect the cost of vacations and sick leave allowed, nor the increase in the vacation and sick leave liabilities due to the change in eligibility for these benefits from twenty (20) hours worked per week to sixteen (16) hours worked per week.

*Richard L. Drayton*  
BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 3-8-77

Objection Raised to  
Adverse Committee Report  
Labor & Employment  
Relations

1 H BILL NO. 296  
2 INTRODUCED BY Broadley, (Extenson) Holmes, Alusacc  
3 Meloy, Linder, Lynch, Edmondson

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE PART-TIME  
5 CAREER EMPLOYMENT; AMENDING SECTIONS 59-1001 AND 59-1008,  
6 R.C.M. 1947."

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

9 Section 1. Short title. This act may be cited as the  
10 "Part-Time Career Employment Act".

11 Section 2. Purpose. The purpose of this act is to  
12 provide employment opportunities in state government for  
13 individuals who are unable or who do not desire to work on a  
14 full-time basis.

15 Section 3. Definitions. As used in this act, the  
16 following definitions apply:

17 (1) "Part-time career employment" means permanent  
18 part-time employment between 16 and 30 hours a week,  
19 including 4 hours each workday, 5 hours each workday, a  
20 different number of hours each workday, or 2, 3, or 4 days a  
21 week, job-sharing arrangements, or such other arrangements  
22 as may be established by the department of administration.  
23 Part-time career employment does not include an employee who  
24 is employed on a temporary or intermittent basis.

25 (2) "Grade" means any grade in the state

1 classification and pay plan except grade 16 and above.

2 (3) "Department" means any department provided for in  
3 Article VI, section 7, of the Montana constitution.

4 Section 4. Part-time career employment minimums. (1)  
5 Within 1 year of the effective date of this act, at least 2%  
6 of all positions in each grade of each department shall be  
7 restructured for part-time employment and made available to  
8 individuals on a part-time career employment basis.

9 (2) Within 2 years of the effective date of this act,  
10 at least 4% of all positions in each grade of each  
11 department shall be restructured and made available on a  
12 part-time career employment basis.

13 (3) Within 3 years of the effective date of this act,  
14 at least 6% of all positions in each grade of each  
15 department shall be restructured and made available on a  
16 part-time career employment basis.

17 (4) Within 4 years of the effective date of this act,  
18 at least 8% of all positions in each grade of each  
19 department shall be restructured and made available on a  
20 part-time career employment basis.

21 (5) Within 5 years of the effective date of this act,  
22 at least 10% of all positions in each grade of each  
23 department shall be restructured and made available on a  
24 part-time career employment basis.

25 Section 5. Waiver of minimums. (1) Upon the request of



1 a department, the department of administration may waive or  
 2 reduce the part-time career employment minimums not yet  
 3 achieved and applicable to any year for positions in a grade  
 4 of a department.

5 (2) In considering whether to grant a waiver or  
 6 reduction in the minimums, the department of administration  
 7 must establish that compliance with the minimum for those  
 8 positions in that grade for that year by the department  
 9 would substantially impair the ability of the department to  
 10 perform its function. The department of administration may  
 11 find that compliance would substantially impair the ability  
 12 of the department to perform its function when:

13 (a) compliance would severely disrupt the department's  
 14 efficiency; or

15 (b) the department is undergoing a substantial  
 16 reduction in work force or a freeze on new hiring that would  
 17 make it impossible to comply with the minimums not yet  
 18 achieved without seriously jeopardizing the employment  
 19 rights of department employees.

20 (3) The department of administration must publicize  
 21 the request for a waiver or a reduction and the reasons for  
 22 the request and must afford interested parties adequate time  
 23 to submit comments regarding the request.

24 (4) A decision of the department of administration on  
 25 a request for a waiver or reduction of a minimum must

1 include the reasons for the decision. Copies of each  
 2 decision are to be available to the public without charge.

3 (5) The department of administration may not grant a  
 4 waiver or reduction on any single occasion for more than 1  
 5 year.

6 Section 6. Implementation. (1) The department of  
 7 administration may make rules in accordance with the Montana  
 8 Administrative Procedure Act to implement this act.

9 (2) The department of administration shall develop a  
 10 program to assist departments in implementing this act and  
 11 shall report to the legislature during each session on the  
 12 progress of the program.

13 Section 7. Limitations. (1) This act does not affect  
 14 rights and duties that matured or proceedings that were  
 15 begun prior to the effective date of this act.

16 (2) This act does not apply to positions occupied by  
 17 employees who are under a collective bargaining agreement in  
 18 effect on the effective date of this act. However, this act  
 19 does apply to positions in a collective bargaining agreement  
 20 that is negotiated subsequent to the effective date of this  
 21 act.

22 (3) Persons employed in positions on a temporary  
 23 part-time, intermittent, or consultant basis may not be  
 24 counted in determining whether a department has complied  
 25 with this act.

1 Section 8. Benefits. An employee employed on a  
2 part-time career employment basis is entitled to receive the  
3 same benefits accorded a full-time employee on a prorated  
4 basis or as otherwise provided by law.

5 Section 9. Legislative agencies. Legislative agencies  
6 are encouraged to develop a part-time career employment  
7 program and to seek any necessary assistance from the  
8 department of administration.

9 Section 10. Section 59-1001, R.C.M. 1947, is amended  
10 to read as follows:

11 "59-1001. Annual vacation leave. (1) Each full-time  
12 employee of the state, or any county or city thereof is  
13 entitled to and shall earn annual vacation leave credits  
14 from the first full pay period of employment. For  
15 calculating vacation leave credits two thousand eighty  
16 (2,080) hours (52 weeks x 40 hours) shall equal one (1)  
17 year. Proportionate vacation leave credits shall be earned  
18 and credited at the end of each pay period. However,  
19 employees are not entitled to any vacation leave with pay  
20 until they have been continuously employed for a period of  
21 six (6) calendar months. Persons regularly employed nine (9)  
22 or more months each year, but whose continuous employment is  
23 interrupted by the seasonal nature of the position, shall  
24 earn vacation credits. However, such persons must be  
25 employed six (6) qualifying months before they can use the

1 vacation credits. In order to qualify, such employees must  
2 immediately report back for work when operations resume in  
3 order to avoid a break in service. Vacation leave credits  
4 shall be earned in accordance with the following schedule:

5 (a) from one (1) full pay period through ten (10)  
6 years of employment at the rate of fifteen (15) working days  
7 for each year of service;

8 (b) after ten (10) years through fifteen (15) years of  
9 employment at the rate of eighteen (18) working days for  
10 each year of service;

11 (c) after fifteen (15) years through twenty (20) years  
12 of employment at the rate of twenty-one (21) working days  
13 for each year of service;

14 (d) after twenty (20) years of employment at the rate  
15 of twenty-four (24) working days for each year of service.

16 Permanent part-time employees are entitled to prorated  
17 annual vacation benefits if they have regularly scheduled  
18 work assignments and normally work at least ~~twenty--(20)~~ 16  
19 hours each week of the pay period and have worked the  
20 qualifying period.

21 (2) It shall be unlawful for an employer to terminate  
22 or separate an employee from his employment in an attempt to  
23 circumvent the provisions of this law. Should a question  
24 arise under this paragraph, it shall be submitted to  
25 arbitration as provided in chapter 201, Title 93, R.C.M.,

1 1947 unless there is a collective bargaining agreement  
2 applicable."

3 Section 11. Section 59-1008, R.C.M. 1947, is amended  
4 to read as follows:

5 "59-1008. Sick leave. (1) Each full-time employee of  
6 the state, or of any county or city thereof, is entitled to  
7 and shall earn sick leave credits from the first full pay  
8 period of employment. For calculating sick leave credits two  
9 thousand eighty (2,080) hours (52 weeks x 40 hours) shall  
10 equal one (1) year. Proportionate sick leave credits shall  
11 be earned and credited at the end of each pay period. Sick  
12 leave credits shall be earned at the rate of twelve (12)  
13 working days for each year of service without restriction as  
14 to the number of working days he may accumulate.

15 (2) An employee may not accrue sick leave credits  
16 during a continuous leave of absence without pay, which  
17 exceeds fifteen (15) calendar days. Employees are not  
18 entitled to be paid for sick leave under the provisions of  
19 this act until they have been continuously employed for  
20 ninety (90) days. Upon completion of the qualifying period,  
21 the employee is entitled to the sick leave credits he has  
22 earned.

23 (3) Permanent part-time employees are entitled to  
24 prorated leave benefits if they have a regularly scheduled  
25 work assignment, and normally work at least ~~twenty--(20)~~ 16

1 hours each week of the pay period, and have worked the  
2 qualifying 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) An employee who terminates employment with the  
7 state or of any county or city thereof, is entitled to a  
8 lump-sum payment equal to one-fourth (1/4) of the pay  
9 attributed to the accumulated sick leave. The pay  
10 attributed to the accumulated sick leave shall be computed  
11 on the basis of the employee's salary or wage at the time  
12 he terminates his employment with the state, county, or  
13 city. Accrual of sick leave credits for calculating the  
14 lump-sum payment provided for in this subsection begins July  
15 1, 1971, and the payment therefor, shall be the  
16 responsibility of the state, or any county or city thereof,  
17 wherein the sick leave accrues. However, no employee  
18 forfeits any sick leave rights or benefits he had accrued  
19 prior to July 1, 1971. However, where an employee transfers  
20 between agencies within the same state, county or city  
21 jurisdiction he shall not be entitled to a lump-sum payment.  
22 In such a transfer the receiving agency shall assume the  
23 liability for the accrued sick leave credits earned after  
24 July 1, 1971, and transferred with the employee.

25 (6) An employee of the state or any county or city

1    thereof who receives a lump-sum payment pursuant to this act  
2    and who is again employed by the state or a county or city  
3    thereof shall not be credited with any sick leave for which  
4    he has previously been compensated.

5           (7) The department of administration of the state of  
6    Montana or the administrative office of any county or city  
7    thereof shall be responsible for the proper administration  
8    of sick leave and shall promulgate such rules and  
9    regulations as it deems necessary to achieve the uniform  
10   administration of sick leave and to prevent the abuse  
11   thereof. When promulgated these rules and regulations are  
12   effective as to all employees of the state of Montana or any  
13   county or city thereof.

14           (8) Abuse of sick leave is cause for dismissal and  
15   forfeiture of the lump-sum payments provided for in this  
16   act."

-End-

Approved by Comm. on  
Appropriation

HOUSE BILL NO. 296

INTRODUCED BY BRADLEY, ESTENSON, HOLMES,

DUSSAULT, MELOY, QUILICI, LYNCH, E. GUNDERSON

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE PART-TIME  
CAREER EMPLOYMENT; AMENDING SECTIONS 59-1001 AND 59-1008,  
R.C.M. 1947."

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

Section 1. Short title. This act may be cited as the  
"Part-Time Career Employment Act".

Section 2. Purpose. The purpose of this act is to  
provide employment opportunities in state government for  
individuals who are unable or who do not desire to work on a  
full-time basis.

Section 3. Definitions. As used in this act, the  
following definitions apply:

(1) "Part-time career employment" means permanent  
part-time employment between 16 and 30 hours a week,  
including 4 hours each workday, 5 hours each workday, a  
different number of hours each workday, or 2, 3, or 4 days a  
week, job-sharing arrangements, or such other arrangements  
as may be established by the department of administration.  
Part-time career employment does not include an employee who  
is employed on a temporary or intermittent basis.

(2) "Grade" means any grade in the state  
classification and pay plan except grade 16 and above.

(3) "Department" means any department provided for in  
Article VI, section 7, of the Montana constitution.

Section 4. Part-time career employment minimums. (1)  
Within ~~1-year~~ 2 YEARS of the effective date of this act, at  
least 2% of all positions in each grade of each department  
shall be restructured for part-time employment and made  
available to individuals on a part-time career employment  
basis.

(2) Within ~~2 1/2~~ years of the effective date of this  
act, at least ~~4 3%~~ of all positions in each grade of each  
department shall be restructured and made available on a  
part-time career employment basis.

~~(3) Within 3 years of the effective date of this act,~~  
~~at least 6% of all positions in each grade of each~~  
~~department shall be restructured and made available on a~~  
~~part-time career employment basis.~~

~~(4) Within 4 years of the effective date of this act,~~  
~~at least 8% of all positions in each grade of each~~  
~~department shall be restructured and made available on a~~  
~~part-time career employment basis.~~

~~(5) Within 5 years of the effective date of this act,~~  
~~at least 10% of all positions in each grade of each~~  
~~department shall be restructured and made available on a~~

SECOND READING  
*Second Printing*

1 ~~part-time-career-employment-basis~~

2 Section 5. Waiver of minimums. (1) Upon the request of  
3 a department, the department of administration may waive or  
4 reduce the part-time career employment minimums not yet  
5 achieved and applicable to any year for positions in a grade  
6 of a department.

7 (2) In considering whether to grant a waiver or  
8 reduction in the minimums, the department of administration  
9 must establish that compliance with the minimum for those  
10 positions in that grade for that year by the department  
11 would substantially impair the ability of the department to  
12 perform its function. The department of administration may  
13 find that compliance would substantially impair the ability  
14 of the department to perform its function when:

15 (a) compliance would severely disrupt the department's  
16 efficiency; or

17 (b) the department is undergoing a substantial  
18 reduction in work force or a freeze on new hiring that would  
19 make it impossible to comply with the minimums not yet  
20 achieved without seriously jeopardizing the employment  
21 rights of department employees.

22 (3) The department of administration must publicize  
23 the request for a waiver or a reduction and the reasons for  
24 the request and must afford interested parties adequate time  
25 to submit comments regarding the request.

1 (4) A decision of the department of administration on  
2 a request for a waiver or reduction of a minimum must  
3 include the reasons for the decision. Copies of each  
4 decision are to be available to the public without charge.

5 (5) The department of administration may not grant a  
6 waiver or reduction on any single occasion for more than 1  
7 year.

8 Section 6. Implementation. (1) The department of  
9 administration may make rules in accordance with the Montana  
10 Administrative Procedure Act to implement this act.

11 (2) The department of administration shall develop a  
12 program to assist departments in implementing this act and  
13 shall report to the legislature during each session on the  
14 progress of the program.

15 Section 7. Limitations. (1) This act does not affect  
16 rights and duties that matured or proceedings that were  
17 begun prior to the effective date of this act.

18 (2) This act does not apply to positions occupied by  
19 employees who are under a collective bargaining agreement in  
20 effect on the effective date of this act. However, this act  
21 does apply to positions in a collective bargaining agreement  
22 that is negotiated subsequent to the effective date of this  
23 act.

24 (3) Persons employed in positions on a temporary  
25 part-time, intermittent, or consultant basis may not be

1 counted in determining whether a department has complied  
2 with this act.

3 Section 8. Benefits. An employee employed on a  
4 part-time career employment basis is entitled to receive the  
5 same benefits accorded a full-time employee on a prorated  
6 basis ~~or--as--otherwise--provided--by--law.~~ NOTWITHSTANDING  
7 11-1024(2)(B), A PERSON EMPLOYED UNDER THIS ACT IS ENTITLED  
8 TO ONLY A PRORATED HEALTH INSURANCE PREMIUM CONTRIBUTION  
9 FROM THE EMPLOYER.

10 Section 9. Legislative agencies. Legislative agencies  
11 are encouraged to develop a part-time career employment  
12 program and to seek any necessary assistance from the  
13 department of administration.

14 Section 10. Section 59-1001, R.C.M. 1947, is amended  
15 to read as follows:

16 "59-1001. Annual vacation leave. (1) Each full-time  
17 employee of the state, or any county or city thereof is  
18 entitled to and shall earn annual vacation leave credits  
19 from the first full pay period of employment. For  
20 calculating vacation leave credits two thousand eighty  
21 (2,080) hours (52 weeks x 40 hours) shall equal one (1)  
22 year. Proportionate vacation leave credits shall be earned  
23 and credited at the end of each pay period. However,  
24 employees are not entitled to any vacation leave with pay  
25 until they have been continuously employed for a period of

1 six (6) calendar months. Persons regularly employed nine (9)  
2 or more months each year, but whose continuous employment is  
3 interrupted by the seasonal nature of the position, shall  
4 earn vacation credits. However, such persons must be  
5 employed six (6) qualifying months before they can use the  
6 vacation credits. In order to qualify, such employees must  
7 immediately report back for work when operations resume in  
8 order to avoid a break in service. Vacation leave credits  
9 shall be earned in accordance with the following schedule:

10 (a) from one (1) full pay period through ten (10)  
11 years of employment at the rate of fifteen (15) working days  
12 for each year of service;

13 (b) after ten (10) years through fifteen (15) years of  
14 employment at the rate of eighteen (18) working days for  
15 each year of service;

16 (c) after fifteen (15) years through twenty (20) years  
17 of employment at the rate of twenty-one (21) working days  
18 for each year of service;

19 (d) after twenty (20) years of employment at the rate  
20 of twenty-four (24) working days for each year of service.

21 Permanent part-time employees are entitled to prorated  
22 annual vacation benefits if they have regularly scheduled  
23 work assignments and normally work at least ~~twenty--(20)~~ 16  
24 hours each week of the pay period and have worked the  
25 qualifying period.

1 (2) It shall be unlawful for an employer to terminate  
 2 or separate an employee from his employment in an attempt to  
 3 circumvent the provisions of this law. Should a question  
 4 arise under this paragraph, it shall be submitted to  
 5 arbitration as provided in chapter 201, Title 93, R.C.M.,  
 6 1947 unless there is a collective bargaining agreement  
 7 applicable."

8 Section 11. Section 59-1008, R.C.M. 1947, is amended  
 9 to read as follows:

10 "59-1008. Sick leave. (1) Each full-time employee of  
 11 the state, or of any county or city thereof, is entitled to  
 12 and shall earn sick leave credits from the first full pay  
 13 period of employment. For calculating sick leave credits two  
 14 thousand eighty (2,080) hours (52 weeks x 40 hours) shall  
 15 equal one (1) year. Proportionate sick leave credits shall  
 16 be earned and credited at the end of each pay period. Sick  
 17 leave credits shall be earned at the rate of twelve (12)  
 18 working days for each year of service without restriction as  
 19 to the number of working days he may accumulate.

20 (2) An employee may not accrue sick leave credits  
 21 during a continuous leave of absence without pay, which  
 22 exceeds fifteen (15) calendar days. Employees are not  
 23 entitled to be paid for sick leave under the provisions of  
 24 this act until they have been continuously employed for  
 25 ninety (90) days. Upon completion of the qualifying period,

1 the employee is entitled to the sick leave credits he has  
 2 earned.

3 (3) Permanent part-time employees are entitled to  
 4 prorated leave benefits if they have a regularly scheduled  
 5 work assignment, and normally work at least ~~twenty~~ 16  
 6 hours each week of the pay period, and have worked the  
 7 qualifying period.

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

11 (5) An employee who terminates employment with the  
 12 state or of any county or city thereof, is entitled to a  
 13 lump-sum payment equal to one-fourth (1/4) of the pay  
 14 attributed to the accumulated sick leave. The pay  
 15 attributed to the accumulated sick leave shall be computed  
 16 on the basis of the employee's salary or wage at the time  
 17 he terminates his employment with the state, county, or  
 18 city. Accrual of sick leave credits for calculating the  
 19 lump-sum payment provided for in this subsection begins July  
 20 1, 1971, and the payment therefor, shall be the  
 21 responsibility of the state, or any county or city thereof,  
 22 wherein the sick leave accrues. However, no employee  
 23 forfeits any sick leave rights or benefits he had accrued  
 24 prior to July 1, 1971. However, where an employee transfers  
 25 between agencies within the same state, county or city



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

5 (6) An employee of the state or any county or city  
6 thereof who receives a lump-sum payment pursuant to this act  
7 and who is again employed by the state or a county or city  
8 thereof shall not be credited with any sick leave for which  
9 he has previously been compensated.

10 (7) The department of administration of the state of  
11 Montana or the administrative office of any county or city  
12 thereof shall be responsible for the proper administration  
13 of sick leave and shall promulgate such rules and  
14 regulations as it deems necessary to achieve the uniform  
15 administration of sick leave and to prevent the abuse  
16 thereof. When promulgated these rules and regulations are  
17 effective as to all employees of the state of Montana or any  
18 county or city thereof.

19 (8) Abuse of sick leave is cause for dismissal and  
20 forfeiture of the lump-sum payments provided for in this  
21 act."

-End-

1 HOUSE BILL NO. 296  
 2 INTRODUCED BY BRADLEY, ESTENSON, HOLMES,  
 3 DUSSAULT, MELOY, QUILICI, LYNCH, E. GUNDERSON  
 4  
 5 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE PART-TIME  
 6 CAREER EMPLOYMENT; AMENDING SECTIONS 59-1001 AND 59-1008,  
 7 R.C.M. 1947."  
 8  
 9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
 10 Section 1. Short title. This act may be cited as the  
 11 "Part-Time Career Employment Act".  
 12 Section 2. Purpose. The purpose of this act is to  
 13 provide employment opportunities in state government for  
 14 individuals who are unable or who do not desire to work on a  
 15 full-time basis.  
 16 Section 3. Definitions. As used in this act, the  
 17 following definitions apply:  
 18 (1) "Part-time career employment" means permanent  
 19 part-time employment between 16 and 30 hours a week,  
 20 including 4 hours each workday, 5 hours each workday, a  
 21 different number of hours each workday, or 2, 3, or 4 days a  
 22 week, job-sharing arrangements, or such other arrangements  
 23 as may be established by the department of administration.  
 24 Part-time career employment does not include an employee who  
 25 is employed on a temporary or intermittent basis.

1 (2) "Grade" means any grade in the state  
 2 classification and pay plan except grade 16 and above.  
 3 (3) "Department" means any department provided for in  
 4 Article VI, section 7, of the Montana constitution.  
 5 Section 4. Part-time career employment minimums. (1)  
 6 Within ~~1-year~~ 2\_YEARS of the effective date of this act, at  
 7 least 2% of all positions in each grade of each department  
 8 shall be restructured for part-time employment and made  
 9 available to individuals on a part-time career employment  
 10 basis.  
 11 (2) Within ~~2 1/2~~ years of the effective date of this  
 12 act, at least 4 ~~3%~~ of all positions in each grade of each  
 13 department shall be restructured and made available on a  
 14 part-time career employment basis.  
 15 ~~(3) Within 3 years of the effective date of this act~~  
 16 ~~at least 6% of all positions in each grade of each~~  
 17 ~~department shall be restructured and made available on a~~  
 18 ~~part-time career employment basis.~~  
 19 ~~(4) Within 4 years of the effective date of this act~~  
 20 ~~at least 8% of all positions in each grade of each~~  
 21 ~~department shall be restructured and made available on a~~  
 22 ~~part-time career employment basis.~~  
 23 ~~(5) Within 5 years of the effective date of this act~~  
 24 ~~at least 10% of all positions in each grade of each~~  
 25 ~~department shall be restructured and made available on a~~

1 ~~part-time-career-employment-basis~~

2 Section 5. Waiver of minimums. (1) Upon the request of  
3 a department, the department of administration may waive or  
4 reduce the part-time career employment minimums not yet  
5 achieved and applicable to any year for positions in a grade  
6 of a department.

7 (2) In considering whether to grant a waiver or  
8 reduction in the minimums, the department of administration  
9 must establish that compliance with the minimum for those  
10 positions in that grade for that year by the department  
11 would substantially impair the ability of the department to  
12 perform its function. The department of administration may  
13 find that compliance would substantially impair the ability  
14 of the department to perform its function when:

15 (a) compliance would severely disrupt the department's  
16 efficiency; or

17 (b) the department is undergoing a substantial  
18 reduction in work force or a freeze on new hiring that would  
19 make it impossible to comply with the minimums not yet  
20 achieved without seriously jeopardizing the employment  
21 rights of department employees.

22 (3) The department of administration must publicize  
23 the request for a waiver or a reduction and the reasons for  
24 the request and must afford interested parties adequate time  
25 to submit comments regarding the request.

1 (4) A decision of the department of administration on  
2 a request for a waiver or reduction of a minimum must  
3 include the reasons for the decision. Copies of each  
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12 program to assist departments in implementing this act and  
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17 begun prior to the effective date of this act.

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25 part-time, intermittent, or consultant basis may not be

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5 same benefits accorded a full-time employee on a prorated  
6 basis or as otherwise provided by law.

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18 {2,080} hours {52 weeks x 40 hours} shall equal one (1)  
19 year. Proportionate vacation leave credits shall be earned  
20 and credited at the end of each pay period. However,  
21 employees are not entitled to any vacation leave with pay  
22 until they have been continuously employed for a period of  
23 six (6) calendar months. Persons regularly employed nine (9)  
24 or more months each year, but whose continuous employment is  
25 interrupted by the seasonal nature of the position, shall

1 earn vacation credits. However, such persons must be  
2 employed six (6) qualifying months before they can use the  
3 vacation credits. In order to qualify, such employees must  
4 immediately report back for work when operations resume in  
5 order to avoid a break in service. Vacation leave credits  
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8 years of employment at the rate of fifteen (15) working days  
9 for each year of service;

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11 employment at the rate of eighteen (18) working days for  
12 each year of service;

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19 annual vacation benefits if they have regularly scheduled  
20 work assignments and normally work at least ~~twenty-(20)~~ 16  
21 hours each week of the pay period and have worked the  
22 qualifying period.

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24 or separate an employee from his employment in an attempt to  
25 circumvent the provisions of this law. Should a question

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 18 responsibility of the state, or any county or city thereof,  
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 20 forfeits any sick leave rights or benefits he had accrued  
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 22 between agencies within the same state, county or city  
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 24 In such a transfer the receiving agency shall assume the  
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16 (8) Abuse of sick leave is cause for dismissal and  
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18 act."

-End-