

SENATE BILL NO. 136

INTRODUCED BY MAZUREK, LYNCH, HARPER, ECK,  
WALKER, DONALDSON, RASMUSSEN, MANNING, HAFFEY,  
CAMPBELL, GRADY, MILLER, NELSON, KADAS, J. BROWN,  
DRISCOLL, PISTORIA, B. BROWN, B. WILLIAMS, KITSELMAN,  
DARKO, MILES, REAM, KEENAN, SCHYE, O'CONNELL, HANSEN,  
BACHINI, SPAETH, MENAHAN, EUDAILY, LORY

IN THE SENATE

JANUARY 19, 1987                   INTRODUCED AND REFERRED TO COMMITTEE  
ON LABOR & EMPLOYMENT RELATIONS.

FEBRUARY 18, 1987                   COMMITTEE RECOMMEND BILL  
DO PASS AS AMENDED. REPORT ADOPTED.

FEBRUARY 19, 1987                   PRINTING REPORT.

FEBRUARY 20, 1987                   SECOND READING, DO PASS.

FEBRUARY 21, 1987                   ENGROSSING REPORT.

FEBRUARY 23, 1987                   THIRD READING, PASSED.  
AYES, 49; NOES, 0.

TRANSMITTED TO HOUSE.

IN THE HOUSE

FEBRUARY 24, 1987                   INTRODUCED AND REFERRED TO COMMITTEE  
ON STATE ADMINISTRATION.

MARCH 17, 1987                   COMMITTEE RECOMMEND BILL BE  
CONCURRED IN AS AMENDED. REPORT  
ADOPTED.

MARCH 20, 1987                   SECOND READING, CONCURRED IN.

MARCH 21, 1987                   THIRD READING, CONCURRED IN.  
AYES, 92; NOES, 4.

RETURNED TO SENATE WITH AMENDMENTS.

IN THE SENATE

MARCH 24, 1987

RECEIVED FROM HOUSE.

SECOND READING, AMENDMENTS  
CONCURRED IN.

MARCH 25, 1987

THIRD READING, AMENDMENTS  
CONCURRED IN.

SENT TO ENROLLING.

*William Donaldson*

*Senate* BILL NO. *136* *Rasmussen*

1  
 2 INTRODUCED BY *Richard Flamminger* *Jeffrey Campbell* *Gregory Miller* *Netson*  
 3 *Richard Flamminger* *Jeffrey Campbell* *Gregory Miller* *Netson*  
 4 *Bob Brown* *Bill Williams* *Kitampon Sarks* *Spaul*  
 5 *William Donaldson* *John P. Berman* *John P. Berman* *John P. Berman*  
 6 *John P. Berman* *John P. Berman* *John P. Berman* *John P. Berman*

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT STATE EMPLOYEES WHOSE HOURS ARE REDUCED AS A RESULT OF A BUDGET DEFICIT MUST RECEIVE VACATION, SICK LEAVE, AND RETIREMENT CREDITS AS IF THE REDUCTION HAD NOT OCCURRED; AMENDING SECTIONS 2-18-611, 2-18-612, 2-18-618, AND 19-3-501, MCA; AND PROVIDING A RETROACTIVE APPLICABILITY DATE AND AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. Section 2-18-611, MCA, is amended to read:  
 "2-18-611. Annual vacation leave. (1) Each permanent full-time employee shall earn annual vacation leave credits from the first day of employment. Vacation leave credits earned shall be credited at the end of each pay period. However, employees are not entitled to any vacation leave with pay until they have been continuously employed for a period of 6 calendar months.

(2) Seasonal employees shall earn vacation credits. However, such persons must be employed 6 qualifying months before they may use the vacation credits. In order to qualify, such employees must immediately report back for work when operations resume in order to avoid a break in

1 service.

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

5 (4) An employee may not accrue annual vacation leave  
6 credits while in a leave-without-pay status.

7 (5) Temporary employees do not earn vacation leave  
8 credits, except that a temporary employee who is  
9 subsequently hired into a permanent position within the same  
10 jurisdiction without a break in service and temporary  
11 employees who are employed continuously longer than 6 months  
12 may count as earned leave credits for the immediate term of  
13 temporary employment.

14 (6) An employee whose hours have been reduced from 40  
 15 hours a week to less than 40 hours a week as a result of a  
 16 budget deficit accrues annual vacation leave credits as if  
 17 he were a full-time employee."

18 Section 2. Section 2-18-612, MCA, is amended to read:

19 "2-18-612. Rate earned. (1) Vacation leave credits are  
 20 earned at a yearly rate calculated in accordance with the  
 21 following schedule, which applies to the total years of an  
 22 employee's employment with any agency whether the employment  
 23 is continuous or not:

24	Years of employment	Working days credit
25	1 day through 10 years	15



1	10 years through 15 years	18
2	15 years through 20 years	21
3	20 years on	24

4 (2) (a) For the purpose of determining years of  
5 employment under this section, an employee eligible to earn  
6 vacation credits under 2-18-611 must be credited with 1 year  
7 of employment for each period of:

8 (i) 2,080 hours of service following his date of  
9 employment; an employee must be credited with 80 hours of  
10 service for each biweekly pay period in which he is in a pay  
11 status or on an authorized leave of absence without pay,  
12 regardless of the number of hours of service in the pay  
13 period; and an employee whose hours have been reduced from  
14 40 hours a week to less than 40 hours a week as a result of  
15 a budget deficit must be credited with 80 hours of service  
16 for each biweekly pay period regardless of the number of  
17 hours of service in the pay period; or

18 (ii) 12 calendar months in which he was in a pay status  
19 or on an authorized leave of absence without pay, regardless  
20 of the number of hours of service in any one month. An  
21 employee of a school district, a school at a state  
22 institution, or the university system must be credited with  
23 1 year of service if he is employed for an entire academic  
24 year.

25 (b) State agencies, other than the university system

1 and a school at a state institution, must use the method  
2 provided in subsection (2)(a)(i) to calculate years of  
3 service under this section."

4 Section 3. Section 2-18-618, MCA, is amended to read:  
5 "2-18-618. Sick leave. (1) Each permanent full-time  
6 employee shall earn sick leave credits from the first day of  
7 employment. For calculating sick leave credits, 2,080 hours  
8 (52 weeks x 40 hours) shall equal 1 year. Sick leave credits  
9 shall be credited at the end of each pay period. Sick leave  
10 credits shall be earned at the rate of 12 working days for  
11 each year of service without restriction as to the number of  
12 working days that may be accumulated. Employees are not  
13 entitled to be paid sick leave until they have been  
14 continuously employed 90 days.

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

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

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

23 (5) An employee who terminates employment with the  
24 agency is entitled to a lump-sum payment equal to one-fourth  
25 of the pay attributed to the accumulated sick leave. The pay

1 attributed to the accumulated sick leave shall be computed  
 2 on the basis of the employee's salary or wage at the time  
 3 he terminates his employment with the state, county, or  
 4 city. Accrual of sick leave credits for calculating the  
 5 lump-sum payment provided for in this subsection begins July  
 6 1, 1971. The payment therefor shall be the responsibility of  
 7 the agency wherein the sick leave accrues. However, no  
 8 employee forfeits any sick leave rights or benefits he had  
 9 accrued prior to July 1, 1971. However, where an employee  
 10 transfers between agencies within the same jurisdiction, he  
 11 shall not be entitled to a lump-sum payment. In such a  
 12 transfer the receiving agency shall assume the liability for  
 13 the accrued sick leave credits earned after July 1, 1971,  
 14 and transferred with the employee.

15 (6) An employee who receives a lump-sum payment  
 16 pursuant to this section and who is again employed by any  
 17 agency shall not be credited with any sick leave for which  
 18 the employee has previously been compensated.

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

22 (8) An employee may contribute any portion of his  
 23 accumulated sick leave to a nonrefundable sick leave fund  
 24 for state employees and thereby become eligible to draw upon  
 25 the fund if an extensive illness or accident exhausts his

1 accumulated sick leave. The department of administration  
 2 shall, in consultation with the sick leave advisory council  
 3 provided for in 2-15-216, administer the sick leave fund and  
 4 adopt rules to implement this subsection.

5 (9) An employee whose hours have been reduced from 40  
 6 hours a week to less than 40 hours a week as a result of a  
 7 budget deficit shall accrue annual sick leave credits as if  
 8 he were a full-time employee. (Subsection (8) terminates  
 9 July 1, 1989--sec. 3, Ch. 707, L. 1985.)"

10 Section 4. Section 19-3-501, MCA, is amended to read:  
 11 "19-3-501. Absence not included in time of service.  
 12 Except as provided in 19-3-502, 19-3-503, and 19-3-504, and  
 13 [section 5], time during which a member is absent from  
 14 compensated employment with an employer may not be allowed  
 15 in computing service."

16 NEW SECTION. Section 5. Hours reduced as a result of  
 17 budget deficit. An employee whose hours have been reduced  
 18 from 40 hours a week to less than 40 hours a week as a  
 19 result of a budget deficit is considered a full-time  
 20 employee for the purpose of qualification for service  
 21 retirement benefits under Title 19, chapter 3, part 9, or  
 22 survivorship allowances under Title 19, chapter 3, part 12.

23 NEW SECTION. Section 6. Extension of authority. Any  
 24 existing authority of the department of administration and  
 25 the public employees' retirement board to make rules on the

1 subject of the provisions of this act is extended to the  
2 provisions of this act.

3 NEW SECTION. Section 7. Codification instruction.  
4 Section 5 is intended to be codified as an integral part of  
5 Title 19, chapter 3, part 5, and the provisions of Title 19,  
6 chapter 3, apply to section 5.

7 NEW SECTION. Section 8. Applicability. This act  
8 applies retroactively, within the meaning of 1-2-109, to  
9 employees as defined in 2-18-601 whose hours were reduced  
10 from 40 hours a week to less than 40 hours a week as a  
11 result of a budget deficit on or after January 1, 1986, and  
12 who were employees of state agencies on the effective date  
13 of this act.

14 NEW SECTION. Section 9. Effective date. This act is  
15 effective on passage and approval.

-End-

STATE OF MONTANA - FISCAL NOTE  
Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB136, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

The act provides that full-time state employees whose hours are reduced as a result of a budget deficit on or after January 1, 1986, must receive vacation, sick leave and retirement credits as if the reduction had not occurred.

ASSUMPTIONS:

1. The additional sick leave earned will be used rather than cashed out.
2. Annual leave will be accrued at the lowest rate (employees with 0-10 years of service).
3. The cost of additional longevity credit and leave accelerator credit will be negligible.
4. The average hourly salary of employees with reduced hours is \$9.48.
5. Annual leave and sick leave will be used each year and the estimated cost will occur at the time of use.
6. Fiscal impact is assessed for state government employees only and not for local government employees covered by the same statutes.
7. The estimated total number of hours reduced as the result of budget deficit from January 1, 1986, to January 12, 1987, is 15,388.
8. The total number of hours reduced and the associated sick, annual and retirement benefit levels to be maintained will remain the same throughout the 1989 biennium.
9. There will be a one-time central payroll computer program update to accommodate an additional benefit coding for affected employees. This will cost \$1,000 in FY88.

FISCAL IMPACT:

Expenditures:

	<u>FY88</u>		<u>FY89</u>		<u>89 Biennium</u>
	<u>Current</u>	<u>Proposed</u>	<u>Current</u>	<u>Proposed</u>	
	<u>Law</u>	<u>Law</u>	<u>Law</u>	<u>Law</u>	
Increased Costs	\$ 0	\$ 16,234	\$ 0	\$ 15,234	

There will not be an additional increase in employers' contribution for retirement. If the number of hours remain small, there will be a minimal increase in the unfunded liability of the respective retirement system.

Revenues:

Will not increase.

David L. Hunter DATE 1/27/87  
DAVID L. HUNTER, BUDGET DIRECTOR  
Office of Budget and Program Planning

Joseph P. Mazurek DATE 2/5/87  
JOSEPH P. MAZUREK, PRIMARY SPONSOR  
Fiscal Note for SB136, as introduced.

Fiscal Note Request, SB136, as introduced.

Form BD-15

Page 2

EFFECT ON COUNTY OR OTHER LOCAL REVENUE OR EXPENDITURES:

Unclear.

TECHNICAL OR MECHANICAL DEFECTS IN PROPOSED LEGISLATION OR CONFLICTS WITH EXISTING LEGISLATION:

State statutes on sick and annual leave apply to state, county and city employees. The proposed legislation is not clear as to whether it applies to local government employees.

*SB 136*



APPROVED BY COMMITTEE  
ON LABOR & EMPLOYMENT  
RELATIONS

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3 WALKER, DONALDSON, RASMUSSEN, MANNING, HAFPEY,  
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9 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT STATE  
10 EMPLOYEES WHOSE HOURS ARE TEMPORARILY REDUCED AS A RESULT OF  
11 A BUDGET DEFICIT MUST RECEIVE VACATION, SICK LEAVE, AND  
12 RETIREMENT CREDITS AS IF THE REDUCTION HAD NOT OCCURRED;  
13 AMENDING SECTIONS 2-18-611, 2-18-612, 2-18-618, AND  
14 19-3-501, MCA; AND PROVIDING A RETROACTIVE APPLICABILITY  
15 DATE AND AN IMMEDIATE EFFECTIVE DATE."  
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20 full-time employee shall earn annual vacation leave credits  
21 from the first day of employment. Vacation leave credits  
22 earned shall be credited at the end of each pay period.  
23 However, employees are not entitled to any vacation leave  
24 with pay until they have been continuously employed for a  
25 period of 6 calendar months.

1 (2) Seasonal employees shall earn vacation credits.  
2 However, such persons must be employed 6 qualifying months  
3 before they may use the vacation credits. In order to  
4 qualify, such employees must immediately report back for  
5 work when operations resume in order to avoid a break in  
6 service.

7 (3) Permanent part-time employees are entitled to  
8 prorated annual vacation benefits if they have worked the  
9 qualifying period.

10 (4) An employee may not accrue annual vacation leave  
11 credits while in a leave-without-pay status.

12 (5) Temporary employees do not earn vacation leave  
13 credits, except that a temporary employee who is  
14 subsequently hired into a permanent position within the same  
15 jurisdiction without a break in service and temporary  
16 employees who are employed continuously longer than 6 months  
17 may count as earned leave credits for the immediate term of  
18 temporary employment.

19 (6) An A STATE employee whose hours have been reduced  
20 TEMPORARILY from 40 hours a week to less than 40 hours a  
21 week as a result of a budget deficit accrues annual vacation  
22 leave credits as if he were a full-time employee. A  
23 REDUCTION IN HOURS RESULTING FROM A BUDGET DEFICIT IS  
24 TEMPORARY IF IT ENDS ON OR BEFORE THE LAST DAY OF THE  
25 CURRENT FISCAL YEAR."



1 Section 2. Section 2-18-612, MCA, is amended to read:

2 "2-18-612. Rate earned. (1) Vacation leave credits are  
3 earned at a yearly rate calculated in accordance with the  
4 following schedule, which applies to the total years of an  
5 employee's employment with any agency whether the employment  
6 is continuous or not:

7 Years of employment	Working days credit
8 1 day through 10 years	15
9 10 years through 15 years	18
10 15 years through 20 years	21
11 20 years on	24

12 (2) (a) For the purpose of determining years of  
13 employment under this section, an employee eligible to earn  
14 vacation credits under 2-18-611 must be credited with 1 year  
15 of employment for each period of:

16 (i) 2,080 hours of service following his date of  
17 employment; an employee must be credited with 80 hours of  
18 service for each biweekly pay period in which he is in a pay  
19 status or on an authorized leave of absence without pay,  
20 regardless of the number of hours of service in the pay  
21 period; and an A STATE employee whose hours have been  
22 reduced TEMPORARILY from 40 hours a week to less than 40  
23 hours a week as a result of a budget deficit must be  
24 credited with 80 hours of service for each biweekly pay  
25 period regardless of the number of hours of service in the

1 pay period; or

2 (ii) 12 calendar months in which he was in a pay status  
3 or on an authorized leave of absence without pay, regardless  
4 of the number of hours of service in any one month. An  
5 employee of a school district, a school at a state  
6 institution, or the university system must be credited with  
7 1 year of service if he is employed for an entire academic  
8 year.

9 (b) State agencies, other than the university system  
10 and a school at a state institution, must use the method  
11 provided in subsection (2)(a)(i) to calculate years of  
12 service under this section."

13 Section 3. 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  
25 while 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) An employee who terminates employment with the  
8 agency is entitled to a lump-sum payment equal to one-fourth  
9 of the pay 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. The payment therefor shall be the responsibility of  
16 the agency wherein the sick leave accrues. However, no  
17 employee forfeits any sick leave rights or benefits he had  
18 accrued prior to July 1, 1971. However, where an employee  
19 transfers between agencies within the same jurisdiction, he  
20 shall not be entitled to a lump-sum payment. In such a  
21 transfer the receiving agency shall assume the liability for  
22 the accrued sick leave credits earned after July 1, 1971,  
23 and transferred with the employee.

24 (6) An employee who receives a lump-sum payment  
25 pursuant to this section and who is again employed by any

1 agency shall not be credited with any sick leave for which  
2 the employee has previously been compensated.

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

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

14 (9) An A STATE employee whose hours have been reduced  
15 TEMPORARILY from 40 hours a week to less than 40 hours a  
16 week as a result of a budget deficit shall accrue annual  
17 sick leave credits as if he were a full-time employee. A  
18 REDUCTION IN HOURS RESULTING FROM A BUDGET DEFICIT IS  
19 TEMPORARY IF IT ENDS ON OR BEFORE THE LAST DAY OF THE  
20 CURRENT FISCAL YEAR. (Subsection (8) terminates July 1,  
21 1989--sec. 3, Ch. 707, L. 1985.)"

22 Section 4. Section 19-3-501, MCA, is amended to read:  
23 "19-3-501. Absence not included in time of service.  
24 Except as provided in 19-3-502, 19-3-503, and 19-3-504, and  
25 [section 5], time during which a member is absent from

1 compensated employment with an employer may not be allowed  
2 in computing service."

3 NEW SECTION. Section 5. Hours reduced as a result of  
4 budget deficit. ~~An employee whose hours have been reduced~~  
5 ~~from 40 hours a week to less than 40 hours a week as a~~  
6 ~~result of a budget deficit is considered a full-time~~  
7 ~~employee for the purpose of qualification for service~~  
8 ~~retirement benefits under Title 19, chapter 37, part 9 or~~  
9 ~~survivorship allowances under Title 19, chapter 37, part 12.~~  
10 IF A STATE EMPLOYEE'S HOURS HAVE BEEN REDUCED TEMPORARILY AS  
11 A RESULT OF A BUDGET DEFICIT DURING 1 OR MORE OF THE 3  
12 CONSECUTIVE YEARS IN WHICH HE WOULD OTHERWISE HAVE RECEIVED  
13 HIS HIGHEST AVERAGE ANNUAL COMPENSATION, UPON MAKING  
14 APPLICATION AND MEETING THE REQUIREMENTS ESTABLISHED BY THE  
15 BOARD, HIS FINAL COMPENSATION OR SALARY FOR PURPOSES OF  
16 DETERMINING HIS RETIREMENT ALLOWANCE UNDER THIS CHAPTER MUST  
17 BE CALCULATED AS IF HE HAD BEEN A FULL-TIME EMPLOYEE DURING  
18 THE ENTIRE 3-YEAR PERIOD. A REDUCTION IN HOURS RESULTING  
19 FROM A BUDGET DEFICIT IS TEMPORARY IF IT ENDS ON OR BEFORE  
20 THE LAST DAY OF THE CURRENT FISCAL YEAR.

21 NEW SECTION. Section 6. Extension of authority. Any  
22 existing authority of the department of administration and  
23 the public employees' retirement board to make rules on the  
24 subject of the provisions of this act is extended to the  
25 provisions of this act.

1 NEW SECTION. Section 7. Codification instruction.  
2 Section 5 is intended to be codified as an integral part of  
3 Title 19, ~~chapter 37, part 5~~ CHAPTERS 3, 4, 6, AND 8, and the  
4 provisions of Title 19, ~~chapter 3~~ CHAPTERS 3, 4, 6, AND 8,  
5 apply to section 5.

6 NEW SECTION. Section 8. Applicability. This act  
7 applies retroactively, within the meaning of 1-2-109, to  
8 employees ~~as defined in 2-10-601~~ OF STATE GOVERNMENT  
9 AGENCIES whose hours were reduced from 40 hours a week to  
10 less than 40 hours a week as a result of a budget deficit on  
11 or after January 1, 1986, and who were employees of state  
12 agencies on the effective date of this act.

13 NEW SECTION. Section 9. Effective date. This act is  
14 effective on passage and approval.

-End-

## 1 SENATE BILL NO. 136

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3 WALKER, DONALDSON, RASMUSSEN, MANNING, HAFFEY,

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 23 However, employees are not entitled to any vacation leave  
 24 with pay until they have been continuously employed for a  
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1 (2) Seasonal employees shall earn vacation credits.

2 However, such persons must be employed 6 qualifying months  
 3 before they may use the vacation credits. In order to  
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13 employment under this section, an employee eligible to earn  
14 vacation credits under 2-18-611 must be credited with 1 year  
15 of employment for each period of:

16 (i) 2,080 hours of service following his date of  
17 employment; an employee must be credited with 80 hours of  
18 service for each biweekly pay period in which he is in a pay  
19 status or on an authorized leave of absence without pay,  
20 regardless of the number of hours of service in the pay  
21 period; and an A STATE employee whose hours have been  
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24 credited with 80 hours of service for each biweekly pay  
25 period regardless of the number of hours of service in the

1 pay period; or

2 (ii) 12 calendar months in which he was in a pay status  
3 or on an authorized leave of absence without pay, regardless  
4 of the number of hours of service in any one month. An  
5 employee of a school district, a school at a state  
6 institution, or the university system must be credited with  
7 1 year of service if he is employed for an entire academic  
8 year.

9 (b) State agencies, other than the university system  
10 and a school at a state institution, must use the method  
11 provided in subsection (2)(a)(i) to calculate years of  
12 service under this section."

13 Section 3. 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  
25 while 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) An employee who terminates employment with the  
8 agency is entitled to a lump-sum payment equal to one-fourth  
9 of the pay 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. The payment therefor shall be the responsibility of  
16 the agency wherein the sick leave accrues. However, no  
17 employee forfeits any sick leave rights or benefits he had  
18 accrued prior to July 1, 1971. However, where an employee  
19 transfers between agencies within the same jurisdiction, he  
20 shall not be entitled to a lump-sum payment. In such a  
21 transfer the receiving agency shall assume the liability for  
22 the accrued sick leave credits earned after July 1, 1971,  
23 and transferred with the employee.

24 (6) An employee who receives a lump-sum payment  
25 pursuant to this section and who is again employed by any

1 agency shall not be credited with any sick leave for which  
2 the employee has previously been compensated.

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

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

14 (9) An A STATE employee whose hours have been reduced  
15 TEMPORARILY from 40 hours a week to less than 40 hours a  
16 week as a result of a budget deficit shall accrue annual  
17 sick leave credits as if he were a full-time employee. A  
18 REDUCTION IN HOURS RESULTING FROM A BUDGET DEFICIT IS  
19 TEMPORARY IF IT ENDS ON OR BEFORE THE LAST DAY OF THE  
20 CURRENT FISCAL YEAR. (Subsection (8) terminates July 1,  
21 1989--sec. 3, Ch. 707, L. 1985.)"

22 Section 4. Section 19-3-501, MCA, is amended to read:  
23 "19-3-501. Absence not included in time of service.  
24 Except as provided in 19-3-502, 19-3-503, and 19-3-504, and  
25 [section 5], time during which a member is absent from

1 compensated employment with an employer may not be allowed  
2 in computing service."

3 NEW SECTION. Section 5. Hours reduced as a result of  
4 budget deficit. ~~An employee whose hours have been reduced~~  
5 ~~from 40 hours a week to less than 40 hours a week as a~~  
6 ~~result of a budget deficit is considered a full-time~~  
7 ~~employee for the purpose of qualification for service~~  
8 ~~retirement benefits under Title 19, chapter 37, part 9, or~~  
9 ~~survivorship allowances under Title 19, chapter 37, part 12.~~  
10 IF A STATE EMPLOYEE'S HOURS HAVE BEEN REDUCED TEMPORARILY AS  
11 A RESULT OF A BUDGET DEFICIT DURING 1 OR MORE OF THE 3  
12 CONSECUTIVE YEARS IN WHICH HE WOULD OTHERWISE HAVE RECEIVED  
13 HIS HIGHEST AVERAGE ANNUAL COMPENSATION, UPON MAKING  
14 APPLICATION AND MEETING THE REQUIREMENTS ESTABLISHED BY THE  
15 BOARD, HIS FINAL COMPENSATION OR SALARY FOR PURPOSES OF  
16 DETERMINING HIS RETIREMENT ALLOWANCE UNDER THIS CHAPTER MUST  
17 BE CALCULATED AS IF HE HAD BEEN A FULL-TIME EMPLOYEE DURING  
18 THE ENTIRE 3-YEAR PERIOD. A REDUCTION IN HOURS RESULTING  
19 FROM A BUDGET DEFICIT IS TEMPORARY IF IT ENDS ON OR BEFORE  
20 THE LAST DAY OF THE CURRENT FISCAL YEAR.

21 NEW SECTION. Section 6. Extension of authority. Any  
22 existing authority of the department of administration and  
23 the public employees' retirement board to make rules on the  
24 subject of the provisions of this act is extended to the  
25 provisions of this act.

1 NEW SECTION. Section 7. Codification instruction.  
2 Section 5 is intended to be codified as an integral part of  
3 Title 19, chapter ~~37~~ part 5 CHAPTERS 3, 4, 6, AND 8, and the  
4 provisions of Title 19, chapter ~~3~~ CHAPTERS 3, 4, 6, AND 8,  
5 apply to section 5.

6 NEW SECTION. Section 8. Applicability. This act  
7 applies retroactively, within the meaning of 1-2-109, to  
8 employees ~~as defined in 2-18-601~~ OF STATE GOVERNMENT  
9 AGENCIES whose hours were reduced from 40 hours a week to  
10 less than 40 hours a week as a result of a budget deficit on  
11 or after January 1, 1986, and who were employees of state  
12 agencies on the effective date of this act.

13 NEW SECTION. Section 9. Effective date. This act is  
14 effective on passage and approval.

-End-



1 STATEMENT OF INTENT

2 SENATE BILL 136

3 House State Administration Committee

4

5 A statement of intent is required for this bill because  
6 it authorizes the public employees' retirement board to  
7 adopt rules providing that a retirement system member whose  
8 hours have been temporarily reduced as a result of a budget  
9 deficit receives the same retirement benefits as if the  
10 reduction had not occurred. The legislature intends that  
11 public employees suffer no loss of retirement benefits  
12 because reduced work hours are instituted to avoid employee  
13 layoffs. The legislature directs the board to develop  
14 equitable procedures for protecting retirement benefits for  
15 members of the public employees', Montana highway  
16 patrolmen's, sheriffs', Montana state game wardens',  
17 municipal police officers', and Montana unified  
18 firefighters' retirement systems.

REFERENCE BILL

SB-136

## 1 SENATE BILL NO. 136

2 INTRODUCED BY MAZUREK, LYNCH, HARPER, ECK,

3 WALKER, DONALDSON, RASMUSSEN, MANNING, HAFPEY,

4 CAMPBELL, GRADY, MILLER, NELSON, KADAS, J. BROWN,

5 DRISCOLL, PISTORIA, B. BROWN, B. WILLIAMS, KITSELMAN,

6 DARKO, MILES, REAM, KEENAN, SCHYE, O'CONNELL, HANSEN,

7 BACHINI, SPAETH, MENAHAN, EUDAILY, LORY

8  
 9 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT STATE  
 10 PUBLIC EMPLOYEES WHOSE HOURS ARE TEMPORARILY REDUCED AS A  
 11 RESULT OF A BUDGET DEFICIT MUST RECEIVE VACATION, SICK  
 12 LEAVE, AND RETIREMENT CREDITS AS IF THE REDUCTION HAD NOT  
 13 OCCURRED; AMENDING SECTIONS 2-18-611, ---2-18-612, AND  
 14 2-18-618, AND--19-3-501, MCA; AND PROVIDING A RETROACTIVE  
 15 APPLICABILITY DATE AND, AN IMMEDIATE EFFECTIVE DATE, AND A  
 16 TERMINATION DATE."  
 17

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

19 Section 1. Section 2-18-611, MCA, is amended to read:

20 "2-18-611. Annual vacation leave. (1) Each permanent  
 21 full-time employee shall earn annual vacation leave credits  
 22 from the first day of employment. Vacation leave credits  
 23 earned shall be credited at the end of each pay period.  
 24 However, employees are not entitled to any vacation leave  
 25 with pay until they have been continuously employed for a

1 period of 6 calendar months.

2 (2) Seasonal employees shall earn vacation credits.  
 3 However, such persons must be employed 6 qualifying months  
 4 before they may use the vacation credits. In order to  
 5 qualify, such employees must immediately report back for  
 6 work when operations resume in order to avoid a break in  
 7 service.

8 (3) Permanent part-time employees are entitled to  
 9 prorated annual vacation benefits if they have worked the  
 10 qualifying period.

11 (4) An employee may not accrue annual vacation leave  
 12 credits while in a leave-without-pay status.

13 (5) Temporary employees do not earn vacation leave  
 14 credits, except that a temporary employee who is  
 15 subsequently hired into a permanent position within the same  
 16 jurisdiction without a break in service and temporary  
 17 employees who are employed continuously longer than 6 months  
 18 may count as earned leave credits for the immediate term of  
 19 temporary employment.

20 (6) An A-STATE AN employee whose hours have been  
 21 reduced TEMPORARILY from 40 hours a week to less than 40  
 22 hours a week as a result of a budget deficit accrues annual  
 23 vacation leave credits as if he were a full-time employee. A  
 24 REDUCTION IN HOURS RESULTING FROM A BUDGET DEFICIT IS  
 25 TEMPORARY IF IT ENDS ON OR BEFORE THE LAST DAY OF THE

1 CURRENT FISCAL YEAR."

2 Section 2. Section 2-18-612, MCA, is amended to read:  
 3 "2-18-612. Rate earned. (1) Vacation leave credits  
 4 are earned at a yearly rate calculated in accordance with  
 5 the following schedule, which applies to the total years of  
 6 an employee's employment with any agency, whether the  
 7 employment is continuous or not:

Years of employment	Working days credit
1 -1 day through 10 years	15
10 -10 years through 15 years	18
11 -15 years through 20 years	21
12 -20 years on	24

13 (2) (a) For the purpose of determining years of  
 14 employment under this section, an employee eligible to earn  
 15 vacation credits under 2-18-611 must be credited with 1 year  
 16 of employment for each period of:

17 (i) 2,080 hours of service following his date of  
 18 employment; an employee must be credited with 80 hours of  
 19 service for each biweekly pay period in which he is in a pay  
 20 status or on an authorized leave of absence without pay,  
 21 regardless of the number of hours of service in the pay  
 22 period; and an A-STAFF employee whose hours have been  
 23 reduced TEMPORARILY from 40 hours a week to less than 40  
 24 hours a week as a result of a budget deficit must be  
 25 credited with 80 hours of service for each biweekly pay

1 period regardless of the number of hours of service in the  
 2 pay period, or

3 (ii) 12 calendar months in which he was in a pay status  
 4 or on an authorized leave of absence without pay, regardless  
 5 of the number of hours of service in any one month. An  
 6 employee of a school district, a school at a state  
 7 institution, or the university system must be credited with  
 8 1 year of service if he is employed for an entire academic  
 9 year.

10 (b) State agencies, other than the university system  
 11 and a school at a state institution, must use the method  
 12 provided in subsection (2)(a)(i) to calculate years of  
 13 service under this section."

14 Section 2. Section 2-18-618, MCA, is amended to read:

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

25 (2) An employee may not accrue sick leave credits

1 while in a leave-without-pay status.

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

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

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

25 (6) An employee who receives a lump-sum payment

1 pursuant to this section and who is again employed by any  
2 agency shall not be credited with any sick leave for which  
3 the employee has previously been compensated.

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

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

15 (9) An A--STATE AN employee whose hours have been  
16 reduced TEMPORARILY from 40 hours a week to less than 40  
17 hours a week as a result of a budget deficit shall accrue  
18 annual sick leave credits as if he were a full-time  
19 employee. A REDUCTION IN HOURS RESULTING FROM A BUDGET  
20 DEFICIT IS TEMPORARY IF IT ENDS ON OR BEFORE THE LAST DAY OF  
21 THE CURRENT FISCAL YEAR. (Subsection (8) terminates July 1,  
22 1989--sec. 3, Ch. 707, L. 1985.)"

23 ~~Section 4--Section--19-3-501, MEA, is amended to read:~~  
24 ~~"19-3-501--Absence not included in time of service.~~  
25 ~~Except--as provided in 19-3-502, 19-3-503, and 19-3-504, and~~

1 [section 5] time during which a member is absent from  
2 compensated employment with an employer may not be allowed  
3 in computing service."

4 NEW SECTION. Section 5. Hours reduced as a result of  
5 budget deficit. An employee whose hours have been reduced  
6 from 40 hours a week to less than 40 hours a week as a  
7 result of a budget deficit is considered a full-time  
8 employee for the purpose of qualification for service  
9 retirement benefits under Title 19, chapter 37, part 9, or  
10 survivorship allowances under Title 19, chapter 37, part 12.  
11 IF A STATE EMPLOYER'S HOURS HAVE BEEN REDUCED TEMPORARILY AS  
12 A RESULT OF A BUDGET DEFICIT DURING 1 OR MORE OF THE 3  
13 CONSECUTIVE YEARS IN WHICH HE WOULD OTHERWISE HAVE RECEIVED  
14 HIS HIGHEST AVERAGE ANNUAL COMPENSATION UPON MAKING  
15 APPLICATION AND MEETING THE REQUIREMENTS ESTABLISHED BY THE  
16 BOARD, HIS FINAL COMPENSATION OR SALARY FOR PURPOSES OF  
17 DETERMINING HIS RETIREMENT ALLOWANCE UNDER THIS CHAPTER MUST  
18 BE CALCULATED AS IF HE HAD BEEN A FULL-TIME EMPLOYEE DURING  
19 THE ENTIRE 3-YEAR PERIOD. A REDUCTION IN HOURS RESULTING  
20 FROM A BUDGET DEFICIT IS TEMPORARY IF IT ENDS ON OR BEFORE  
21 THE LAST DAY OF THE CURRENT FISCAL YEAR.

22 NEW SECTION. SECTION 3. RULES ON REDUCTION IN HOURS  
23 RESULTING FROM BUDGET DEFICIT. (1) NOTWITHSTANDING THE  
24 PROVISIONS OF THIS CHAPTER, THE BOARD SHALL ADOPT RULES  
25 PROVIDING THAT A MEMBER WHOSE HOURS HAVE BEEN TEMPORARILY

1 REDUCED AS A RESULT OF A BUDGET DEFICIT RECEIVES THE SAME  
2 RETIREMENT ALLOWANCE AS IF THE REDUCTION HAD NOT OCCURRED.

3 (2) RULES ADOPTED UNDER THIS SECTION APPLY  
4 RETROACTIVELY TO MEMBERS WHOSE HOURS WERE REDUCED FROM 40  
5 HOURS A WEEK TO LESS THAN 40 HOURS A WEEK ON OR AFTER JULY  
6 1, 1986, BUT WHOSE HOURS WERE RESTORED TO 40 HOURS A WEEK  
7 BEFORE JULY 1, 1989.

8 NEW SECTION. Section 4. Extension of authority. Any  
9 existing authority of the department of administration and  
10 the public employees' retirement board to make rules on the  
11 subject of the provisions of this act is extended to the  
12 provisions of this act.

13 NEW SECTION. Section 5. Codification instruction.  
14 Section 5 3 is intended to be codified as an integral part  
15 of Title 19, chapter 37, part 5 CHAPTERS 3, 4, 6 AND 8  
16 THROUGH 9, AND 13, and the provisions of Title 19, chapter 3  
17 CHAPTERS 3, 4, 6 AND 8 THROUGH 9, AND 13, apply to section  
18 5 3.

19 NEW SECTION. Section 6. Applicability. This act  
20 applies retroactively, within the meaning of 1-2-109, to  
21 employees as defined in 2-18-601 OF STATE GOVERNMENT  
22 AGENCIES AS DEFINED IN 2-18-601 whose hours were reduced  
23 from 40 hours a week to less than 40 hours a week as a  
24 result of a budget deficit on or after January 1, 1986, and  
25 who were employees of state agencies on the effective date

1 of this act.

2 NEW SECTION. Section 7. Effective date --

3 TERMINATION. This act is effective on passage and approval

4 AND TERMINATES JUNE 30, 1989.

-End-

STANDING COMMITTEE REPORT

HOUSE

March 17 19 87

Mr. Speaker: We, the committee on STATE ADMINISTRATION

report SB 136

- do pass, do not pass, be concurred in, be not concurred in, as amended, statement of intent attached

PAGE 1 OF 3

Walter R. Sales Chairman

FULL BENEFITS FOR EMPLOYEES WITH HOURS REDUCED DUE TO BUDGET DEFICIT.

- 1. Title, line 9. Strike: "STATE" Insert: "PUBLIC"
2. Title, line 13. Strike: ", 2-18-612," Insert: "AND"
3. Title, lines 13 and 14. Strike: "AND" on line 13 and "19-3-501," on line 14
4. Title, line 15. Strike: "AND" Insert: ", " Following: "EFFECTIVE DATE" Insert: ", AND A TERMINATION DATE"
5. Page 2, line 19. Strike: "A STATE" Insert: "An"
6. Page 3, line 1 through line 12, page 4. Strike: section 2 in its entirety Renumber: subsequent sections
7. Page 6, line 14. Strike: "A STATE" Insert: "An"
8. Page 6, line 22 through line 20, page 7. Strike: sections 4 and 5 in their entirety Insert: "NEW SECTION. Section 3. Rules on reduction in hours resulting from Budget deficit. (1) Notwithstanding the provisions of this chapter, the board shall adopt rules providing that a member whose hours have been temporarily reduced as a result of a budget deficit receives the same retirement allowance as if the reduction had not occurred. (2) Rules adopted under this section apply retroactively to members whose hours were reduced from 40

SB 136 PAGE 2 OF 3

hours a week to less than 40 hours a week on or after July 1, 1986, but whose hours were restored to 40 hours a week before July 1, 1989."

Renumber: subsequent sections

- 9. Page 8, line 2. Strike: "5" Insert: "3"
10. Page 8, line 3. Strike: "4," Strike: ", AND 8" Insert: "through 9, and 13"
11. Page 8, line 4. Strike: "4," Strike: ", AND 8" Insert: "through 9, and 13"
12. Page 8, line 5. Strike: "5" Insert: "3"
13. Page 8, lines 8 and 9. Strike: "OF" on line 8 through "AGENCIES" on line 9 Insert: "as defined in 2-18-601"
14. Page 8, lines 11 and 12. Strike: "of" on line 11 through "agencies" on line 12
15. Page 8, line 13. Following: "date" Insert: "-- termination"
16. Page 8, line 14. Following: "approval" Insert: "and terminates June 30, 1989"

MS

B

Statement of Intent

Senate Bill No. 136

A statement of intent is required for this bill because it authorizes the public employees' retirement board to adopt rules providing that a retirement system member whose hours have been temporarily reduced as a result of a budget deficit receives the same retirement benefits as if the reduction had not occurred. The legislature intends that public employees suffer no loss of retirement benefits because reduced work hours are instituted to avoid employee layoffs. The legislature directs the board to develop equitable procedures for protecting retirement benefits for members of the public employees', Montana highway patrolmen's, sheriffs', Montana state game wardens', municipal police officers', and Montana unified firefighters' retirement systems.

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