### HOUSE BILL NO. 289

## INTRODUCED BY HIBBARD, J. RICE, COCCHIARELLA, BARTLETT, WATERMAN

#### IN THE HOUSE

JANUARY 20, 1993 INTRODUCED AND REFERRED TO COMMITTEE ON STATE ADMINISTRATION.

FIRST READING.

- FEBRUARY 3, 1993 COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
- FEBRUARY 4, 1993 PRINTING REPORT.
- FEBRUARY 5, 1993 SECOND READING, DO PASS.
- FEBRUARY 6, 1993 ENGROSSING REPORT.
  - THIRD READING, PASSED. AYES, 93; NOES, 3.
    - TRANSMITTED TO SENATE.

ON STATE ADMINISTRATION.

IN THE SENATE

FEBRUARY 9, 1993

FEBRUARY 8, 1993

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MARCH 3, 1993

MARCH 4, 1993

MARCH 5, 1993

FIRST READING.

INTRODUCED AND REFERRED TO COMMITTEE

- COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
- SECOND READING, CONCURRED IN.
  - THIRD READING, CONCURRED IN. AYES, 49; NOES, 0.

RETURNED TO HOUSE.

IN THE HOUSE

MARCH 6, 1993

RECEIVED FROM SENATE.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

LC 0808/01

House BILL NO. 289 1 INTRODUCED BY 2 3 Instit A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING PUBLIC AGENCY 4

5 HEADS TO ACTIVELY MANAGE VACATION LEAVE FOR AGENCY 6 EMPLOYEES; PROVIDING THAT A PUBLIC EMPLOYEE MUST RECEIVE 7 CASH COMPENSATION FOR UNUSED, EXCESS VACATION LEAVE IF THE 8 EMPLOYEE IS DENIED REASONABLE OPPORTUNITY TO USE EXCESS 9 LEAVE; AND AMENDING SECTION 2-18-617, MCA."

10

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

12 Section 1. Section 2-18-617, MCA, is amended to read:

"2-18-617. Accumulation of leave -- cash for unused --13 14 transfer. (1) Annual vacation leave may be accumulated to a total not to exceed two times the maximum number of days 15 earned annually as of the end of the first pay period of the 16 next calendar year. Excess vacation time is not forfeited if 17 18 taken within 90 calendar days from the last day of the 19 calendar year in which the excess was accrued. It is the 20 responsibility of the head of an employing agency to provide 21 reasonable opportunity for an employee to use rather than 22 forfeit accumulated vacation leave. If an employee makes a 23 written request to use excess vacation leave before the 24 excess vacation leave must be forfeited and the employing 25 agency denies the employee the use of the excess vacation

Montana Logistative Council

leave, the employee is entitled to cash compensation for the
unused, excess vacation leave. The cash compensation must be
credited on the date the unused, excess vacation leave is
forfeited under the provisions of this section.

5 (2) An employee who terminates his employment for <u>a</u> 6 reason not reflecting discredit on himself--shall--be the 7 <u>employee is entitled upon the date of such termination to</u> 8 cash compensation for unused vacation leave, assuming that 9 the employee has worked the qualifying period set forth in 10 2-18-611.

11 (3) However, if an employee transfers between agencies 12 of the same jurisdiction, there--shall--be--no cash 13 compensation <u>may not be</u> paid for unused vacation leave. In 14 such a transfer, the receiving agency assumes the liability 15 for the accrued vacation credits transferred with the 16 employee."

-End-

-2- HB 289 INTRODUCED BILL

#### STATE OF MONTANA - FISCAL NOTE

#### Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0289, as introduced.

#### DESCRIPTION OF PROPOSED LEGISLATION:

An act requiring public agency heads to actively manage vacation leave for agency employees; providing that a public employee must receive cash compensation for unused, excess vacation leave if the employee is denied reasonable opportunity to use excess leave; and amending section 2-18-617, MCA.

#### ASSUMPTIONS:

- 1. Annual vacation leave is an unfunded liability. Cash compensation for unused vacation leave is not currently budgeted.
- In the pay period in April, 1992 in which leave balances were adjusted to forfeit unused excess credits, 19,000 hours of leave were affected. An estimated 2000 hours represent other technical adjustments, leaving a balance of 17,000 hours of leave forfeited.
- 3. The average hourly wage for a state employee was \$11.62 as of October, 1992. Employees who typically forfeit leave earn above the state average hourly wage, assumed to be \$15 per hour.
- 5. Excess leave would be forfeited without cash compensation whenever reasonable opportunity has been provided. Agency heads would provide reasonable opportunity for employees to use excess leave insofar as agency priorities are not compromised. The extent to which agency heads would not provide reasonable opportunity for employees to use excess leave is anticipated to be infrequent and only under exceptional circumstances.
- 6. Cash compensation for forfeited leave would generally be paid out of current level budgets by holding positions vacant.
- 7. Agencies are assumed to have adequate staffing for high priority functions.
- 8. Local governments are governed by the requirements of 2-18-617, MCA, and its leave forfeiture provision.

#### FISCAL IMPACT:

If all forfeited leave in FY92 were compensated, total cash compensation would have been \$255,000. Insufficient information exists to determine which state accounts would have been affected. If affected agencies are not adequately staffed for high priority functions, HB0289 may tend to marginally increase supplemental requests.

#### EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

The fiscal impact on local governments would be similar to the impact on the state. Insufficient data exists to characterize the impact on local governments.

DAVID LEWIS, BUDGET DIRECTOR DATE Office of Budget and Program Planning

CHASE HIBBARD, PRIMARY SPONSOR

DATE

Fiscal Note for <u>HB0289</u>, as introduced **HB 28**  STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for <u>HB0289, <del>as introduce</del>e</u>

#### DESCRIPTION OF PROPOSED LEGISLATION:

An act requiring public agency heads to actively manage vacation leave for agency employees; providing that a public employee is entitled to use excess vacation leave if the employee is denied reasonable opportunity to use excess leave; and amending section 2-18-617, MCA.

#### ASSUMPTIONS:

- 1. Annual vacation leave is accounted for as a liability in the state's financial report.
- In the pay period in April, 1992 in which leave balances were adjusted to forfeit unused excess credits, 19,000 hours of leave were affected. An estimated 2000 hours represent other technical adjustments, leaving a balance of 17,000 hours of leave forfeited.
- 3. Excess leave would be forfeited whenever reasonable opportunity has been provided. It is assumed that agency heads would provide reasonable opportunity for employees to use excess leave insofar as agency priorities are not compromised. The extent to which agency heads would not provide reasonable opportunity for employees to use excess leave is anticipated to be infrequent and only under exceptional circumstances.
- 4. It is assumed that excess leave not forfeited in one year would be subject to excess leave restrictions in subsequent years.
- 5. Local governments are governed by the requirements of 2-18-617, MCA, and its leave forfeiture provision.

#### FISCAL IMPACT:

To the extent that reasonable opportunity to use excess leave is not provided, recorded liabilities may tend to increase by negligible amounts.

#### EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

The fiscal impact on local governments would be similar to the impact on the state. Insufficient data exists to characterize the impact on local governments.

DAVID LEWIS, BUDGET DIRECTOR DATE Office of Budget and Program Planning

CHASE HIBBARD, PRIMARY SPONSOR DATE Fiscal Note for <u>HB0289</u>, <u>scintroduced</u> **Rev. HB289**\_#

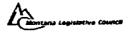
#### 53rd Legislature

HB 0289/02

# APPROVED BY COMMITTEE ON STATE ADMINISTRATION

1	HOUSE BILL NO. 289
2	INTRODUCED BY HIBBARD, J. RICE,
3	COCCHIARELLA, BARTLETT, WATERMAN
4	
5	A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING PUBLIC AGENCY
6	HEADS TO ACTIVELY MANAGE VACATION LEAVE FOR AGENCY
7	EMPLOYEES; PROVIDING THAT A PUBLIC EMPLOYEE MUST-RECRIVE
8	CASH-COMPENSATION-FOR-UNUSED7 IS ENTITLED TO USE EXCESS
9	VACATION LEAVE IF THE EMPLOYEE IS DENIED REASONABLE
10	OPPORTUNITY TO USE EXCESS LEAVE; AND AMENDING SECTION
11	2-18-617, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."
12	
13	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
14	Section 1. Section 2-18-617, MCA, is amended to read:
15	"2-18-617. Accumulation of leave cash for unused
16	transfer. (1) Annual (A) EXCEPT AS PROVIDED IN SUBSECTION
17	(1)(B), ANNUAL vacation leave may be accumulated to a total
18	not to exceed two times the maximum number of days earned
19	annually as of the end of the first pay period of the next
20	calendar year. Excess vacation time is not forfeited if
21	taken within 90 calendar days from the last day of the
22	calendar year in which the excess was accrued.
23	(B) It is the responsibility of the head of an

employing agency to provide reasonable opportunity for an 24 25 employee to use rather than forfeit accumulated vacation



1	leave. If an employee makes a REASONABLE written request to
2	use excess vacation leave before the excess vacation leave
3	must be forfeited UNDER SUBSECTION (1)(A) and the employing
4	agency denies the employee-the-use-of-the-excess-vacation
5	<u>leaver-the-employee-is-entitled-to-cash-compensation-for-the</u>
6	unused,-excess-vacation-leaveThe-cash-compensation-must-be
7	credited-on-the-date-the-unused;-excessvacationleaveis
8	forfeitedunder-the-provisions-of-this-section REQUEST, THE
9	EXCESS VACATION LEAVE IS NOT FORFEITED AND THE EMPLOYING
10	AGENCY SHALL ENSURE THAT THE EMPLOYEE MAY USE THE EXCESS
11	VACATION LEAVE BEFORE THE END OF THE CALENDAR YEAR IN WHICH
12	THE LEAVE WOULD HAVE BEEN FORFEITED UNDER SUBSECTION (1)(A).
13	(2) An employee who terminates his employment for <u>a</u>
14	reason not reflecting discredit on himselfshallbe the
15	employee is entitled upon the date of such termination to
16	cash compensation for unused vacation leave, assuming that
17	the employee has worked the qualifying period set forth in
18	2-18-611.
19	(3) However, if an employee transfers between agencies
20	of the same jurisdiction, thereshallbeno cash
21	compensation may not be paid for unused vacation leave. In
22	such a transfer the receiving agency assumes the liability
23	for the accrued vacation credits transferred with the
24	employee."

NEW SECTION. SECTION 2. EFFECTIVE DATE. (THIS ACT) IS 25

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HB 289 SECOND READING

# 1 EFFECTIVE ON PASSAGE AND APPROVAL.

-End-

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HB 289

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MB 0289/02

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HOUSE BILL NO. 289 1 INTRODUCED BY HIBBARD, J. RICE, 2 3 COCCHIARELLA, BARTLETT, WATERMAN 4 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING PUBLIC AGENCY 5 6 HEADS TO ACTIVELY MANAGE VACATION LEAVE POR AGENCY EMPLOYEES; PROVIDING THAT A PUBLIC EMPLOYEE MUST-RECEIVE 7 CASH-COMPENSATION-POR-UNUSED, IS ENTITLED TO USE EXCESS 8 VACATION LEAVE IF THE EMPLOYEE IS DENIED REASONABLE 9 OPPORTUNITY TO USE EXCESS LEAVE: AND AMENDING SECTION 10 2-18-617, MCA; AND PROVIDING AN IMMEDIATE EPPECTIVE DATE." 11 12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 13 Section 1. Section 2-18-617, MCA, is amended to read: 14 "2-18-617. Accumulation of leave -- cash for unused --15 transfer. (1) Annual (A) EXCEPT AS PROVIDED IN SUBSECTION 16 (1)(B), ANNUAL vacation leave may be accumulated to a total 17 not to exceed two times the maximum number of days earned 18 annually as of the end of the first pay period of the next 19 calendar year. Excess vacation time is not forfaited if 20 21 taken within 90 calendar days from the last day of the 22 calendar year in which the excess was accrued. (B) It is the responsibility of the head of an 23

employing agency to provide reasonable opportunity for an 24 employee to use rather than forfeit accumulated vacation 25

leave. If an employee makes a REASONABLE written request to 2 use excess vacation leave before the excess vacation leave 3 must be forfeited UNDER SUBSECTION (1)(A) and the employing agency denies the employee-the-use-of-the-excess-vacation 4 5 teavey-the-employee-is-entitled-to-cash-compensation-for-the Б unusedy-excess-vacation-leave--The-cash-compensation-must-be 7 credited-on-the-date-the-unusedy-excess--vecation--leave--is 8 forfeited--under-the-provisions-of-this-section REQUEST, THE 9 EXCESS VACATION LEAVE IS NOT PORFEITED AND THE ENPLOYING 10 AGENCY SHALL ENSURE THAT THE EMPLOYEE MAY USE THE EXCESS 11 VACATION LEAVE BEFORE THE END OF THE CALENDAR YEAR IN WHICH 12 THE LEAVE WOULD HAVE BEEN FORFEITED UNDER SUBSECTION (1)(A). 13 (2) An employee who terminates his employment for a 14 reason not reflecting discredit on himself--shall--be the 15 employee is entitled upon the date of such termination to 16 cash compensation for unused vacation leave, assuming that the employee has worked the qualifying period set forth in 17 2-18-611. 18 19 (3) However, if an employee transfers between agencies

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-2-

THIRD READING

HB 289

#### 1 EFFECTIVE ON PASSAGE AND APPROVAL.

-End-

-3-

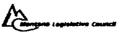
HB 289

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25 NEW SECTION. SECTION 2. EFFECTIVE DATE. [THIS ACT] IS

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HB 289

REFERENCE BILL

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### 1 EFFECTIVE ON PASSAGE AND APPROVAL.

-End-

-3- HB 289