House BILL NO. 565

INTRODUCED BY Menahan, Lynch, Hagan, Harrington, [illegible]

[illegible] McCarthy(?) Smith [illegible]

A BILL FOR AN ACT ENTITLED: "AN ACT REESTABLISHING THE RETIREMENT INCENTIVE PROGRAM BY MAKING THE PROGRAM AVAILABLE TO MEMBERS OF THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM WHO ARE ELIGIBLE ON FEBRUARY 1, 1997; ESTABLISHING A WINDOW OF ELIGIBILITY FOR MEMBERS WHO VOLUNTARILY OR INVOLUNTARILY TERMINATE EMPLOYMENT DURING THAT TIMEFRAME; MAKING PARTICIPATION IN THE PROGRAM OPTIONAL FOR LOCAL PUBLIC EMPLOYERS; ALLOWING EMPLOYERS TO PAY COSTS IN INSTALLMENTS; ALLOWING THE PUBLIC EMPLOYEES' RETIREMENT BOARD TO ADOPT RULES; LIMITING THE HOURS PERSONS MAY WORK FOR THE SAME JURISDICTION AFTER HAVING RETIRED UNDER THE INCENTIVE PROGRAM; PROVIDING A TERMINATION INCENTIVE TO CERTAIN STATE EMPLOYEES IN THE TEACHERS' RETIREMENT SYSTEM WHO ARE ELIGIBLE TO RETIRE AND WHO TERMINATE EMPLOYMENT WITHIN A PRESCRIBED WINDOW OF ELIGIBILITY; AMENDING SECTION 19-3-908, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A TERMINATION DATE."

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

Section 1. Section 19-3-908, MCA, is amended to read:

"**19-3-908. Retirement incentive program -- window of eligibility.** (1) Except as provided in subsection ~~(4)~~(3), a person who is an active member on February 1, ~~1993~~ 1997, and who voluntarily terminates service or whose service is involuntarily terminated because of a reduction in force on or after June 25, ~~1993~~ 1997, but before January 1, ~~1994~~ 1998, and who is eligible for a normal service retirement under 19-3-901 or early retirement under 19-3-902 is entitled to the retirement incentive provided in subsection (2).

(2) (a) The employer of an eligible member under subsection (1) shall pay the total cost of purchasing up to 3 years of additional service that the member is qualified to purchase under 19-3-513.

(b) ~~The department of revenue shall pay the cost of purchasing up to 3 years of additional service for qualifying county assessors and deputy assessors eligible under subsection (1) whose employing county has not elected for participation in the incentive program as provided in subsection (4).~~

~~(c)~~ A member is entitled to a refund for that portion of previously purchased additional service that would otherwise cause the member to be unqualified to receive all or part of the additional service provided in this section.

(3) ~~An active member who is involuntarily terminated because of a reduction in force on or after March 1, 1993, but before June 25, 1993, and who, if the member had not been terminated, would have been eligible under subsection (1) for the retirement incentive is entitled to the retirement incentive under subsection (2) if the member was, at the time of termination, eligible for normal service retirement under 19-3-901 or early retirement under 19-3-902 and retires on or after June 25, 1993.~~

~~(4) Subject to subsection (2)(b), a~~ A contracting employer's participation in the incentive program described in this section is optional. A contracting employer may elect to provide the incentive by filing with the board a written notice of election on or before June 1, ~~1993~~ 1997, and complying with rules adopted pursuant to subsection ~~(6)~~ (4).

~~(5) County assessors and deputy assessors are eligible for the incentive program even if the employing county has not elected to participate in the incentive program.~~

~~(6)~~(4) The board may allow an employer to pay the contributions required under subsection (2)(a) in installments for up to 10 years and may charge interest at a rate set by the board pursuant to 19-2-403. The board shall adopt rules to implement the provisions of this section.

~~(7)~~(5) A member who has received additional service under this section and who returns to employment for the same jurisdiction for 600 or more hours in a calendar year shall forfeit the additional service. The employer's contributions to purchase that member's additional service, minus any retirement benefits already paid, must be refunded to the employer. For purposes of this subsection, all agencies of the state, including the university system, are considered the same jurisdiction and other public employers contracting with the retirement system are each considered separate jurisdictions."

NEW SECTION. **Section 2. Termination incentives for teachers' retirement system members -- exceptions.** (1) Except as provided in subsection (5), a person who is a full-time, active member of the teachers' retirement system on February 1, 1997, and who is employed by the state is entitled to the voluntary termination incentive provided in subsection (2) if:

(a) the employee is eligible for retirement under 19-20-801 or 19-20-802; and

(b) the employee:

(i) voluntarily terminates on or after June 25, 1997, but on or before July 5, 1998; or

(ii) is involuntarily terminated because of a reduction in force on or after [the effective date of this act] but before June 25, 1997.

(2) The termination incentive paid to a terminating eligible employee must be an amount equal to 1 year of the combined member and employer contributions established in 19-20-602 and 19-20-605 for each 5 years of creditable service within the teachers' retirement system, not to exceed the amount of combined contributions for 3 years. An employer shall use the employee's final year contract or salary to calculate the incentive amount.

(3) A member who terminates employment under the provisions of subsection (1) and who returns to employment in a position in the teachers' retirement system, except as provided in 19-20-804, shall refund the voluntary termination incentive to the terminating state agency.

(4) To qualify for the termination incentive authorized in this section, the participant shall notify the state in writing of an intent to terminate employment no later than 30 days prior to termination or December 31, 1997, whichever is earlier.

(5) An employee of the university system or of the commissioner of higher education is excluded from [section 3] and this section.

NEW SECTION. **Section 3. Use of termination incentive -- installment payments authorized.** (1) If the eligible employee elects to use the termination incentive paid under [section 2], in whole or in part, to enhance retirement benefits, the employer contributions to the teachers' retirement system required under 19-20-101(5)(d) are included in the total amount of termination incentive paid to the employee.

(2) The provisions of this section apply only to a termination incentive and do not relieve an employer from making any contributions defined in 19-20-101(5)(d).

(3) The termination incentive may be paid, upon request of the employee, in 12 equal installments as long as the final installment payment occurs on or before June 30, 1999.

NEW SECTION. **Section 4. Codification instruction.** [Sections 2 and 3] are intended to be codified as an integral part of Title 2, chapter 18, part 3, and the provisions of Title 2, chapter 18, part 3, apply to [sections 2 and 3].

<u>NEW SECTION.</u> **Section 5. Saving clause.** [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

<u>NEW SECTION.</u> **Section 6. Effective date.** [This act] is effective on passage and approval.

<u>NEW SECTION.</u> **Section 7. Termination.** [This act] terminates July 6, 1998.

-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0565, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:
An act reestablishing the retirement incentive program by making the program available to members of the Public Employees' Retirement System who are eligible on February 1, 1997; establishing a window of eligibility for members who voluntarily or involuntarily terminate employment during that time frame; making participation in the program optional for local public employers; allowing employers to pay cost in installments; providing a termination incentive to certain state employees in the Teachers' Retirement System who are eligible to retire and who terminate employment within a prescribed window of eligibility.

ASSUMPTIONS:
Public Employees' Retirement System (PERS):
1. Potentially eligible state employees (not including university system employees): Of the 2,287 state employees potentially eligible, 297 have at least 25 years of service, 664 have between 20 and 25 years of service, and the remaining 1,326 have less than 20 years of service.
2. Allocation of personal service costs: approximately 31 percent of the state employees potentially eligible for the window are funded by the general fund and 69 percent are funded by non-general fund sources.
3. Actual state terminations: It is estimated that 680 potentially eligible PERS members will terminate during the retirement incentive window period. The 680 consists of 481 (50 percent x 297 + 50 percent x 664)) of those eligible with 20 or more years of service and 199 (15 percent x 1,326) of those with less than 20 years of service. Of the 680 state employees expected to retire during the window period, 252 (37 percent) will retire earlier because of this proposal. It is assumed that the university system could potentially have 136 employees retire during the window period, of which 50 would retire earlier because of this proposal.
4. Average salary of terminating state employees. The average salary of state employees potentially eligible are: General fund employees with 25+ years: $32,235, other funds employees with 25+ year: $36,775, general fund employees with 20-25 years: 30,300, Other funds employees with 20-25 years: $34,570, general fund employees with less than 20 years: $27,715, other funds employees with less than 20 years: $31,605.
5. Cost per additional termination: When a similar incentive program was offered to PERS employees in fiscal year 1994, an additional 383 state employees voluntarily terminated due to the program. (While a total of 627 voluntarily terminated, 244 would have terminated without the incentive, leaving a total of 383 additional voluntary terminations). While some data on the biennial costs and savings attributable to the incentive program has been compiled, it is not considered conclusive because it is not complete in terms of all relevant cost and savings information. However, in the absence of other data, some of the compiled information could be used for purposes of this fiscal note. For example, the compiled information reported approximately 87 percent of the service purchase costs for state agency PERS retirees was paid into the PERS in the year of termination. The other 13 percent was financed over a ten-year period. The compiled information reported total sick and annual leave termination payments and related payroll-based benefit costs for the termination benefits of $7,169,714 in fiscal year 1994 for the state agency PERS retirees. Since this total relates to all 627 employees that voluntarily terminated, the average termination payment cost per employee was $11,435. Additionally, the compiled information reported by state agencies and the university system showed that approximately 10 percent of the positions affected by the previous retirement incentive program were eliminated by the end of the year of termination and approximately 67 percent of the positions were permanently refilled.
6. Employer contributions: It is assumed that all retirement incentive terminations will occur on December 31, 1997. It is assumed that the service purchase for employees with 20 or more years of service will be three additional years and for less than 20 years of service will be two years of additional service. It is assumed that 87 percent of the service purchase costs will be paid during the fiscal year that termination occurs. The remaining 13 percent of service purchase costs will be financed over 10 years at 8 percent interest with payments beginning in the year that termination occurs.

(Continued)

Dave Lewis 2·22·97

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

WILLIAM"RED"MENAHAN, PRIMARY SPONSOR DATE

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7. The salary paid to employees filling the vacated positions will average 95 percent of the salary of the terminating employee. Also, the cost of salaries and benefits for temporary rehires will be 29 percent of the cost of salaries and benefits of the terminating employees for those positions neither eliminated nor permanently refilled. The 29 percent assumes that rehires will work an average of 599 hours per fiscal year (599/2080 = 28.8 percent).
8. Local government employees: No impact can be calculated since the window incentive is optional for local governments.
9. PERS membership profile: PERS has 27,895 active members. The fiscal year 1996 payroll totaled $608,592,099. It is estimated that payrolls will increase by 3.5 percent per year in the future. Of the total payroll, 44.5 percent are state employees; 8.7 percent are university employees; and 46.8 percent are local government/school district employees.
10. Operating expenses: The Public Employees Retirement Division (PERD) estimates additional expenditures in fiscal year 1997 of approximately $9,500 in personal services authority for staff overtime (including benefits) and additional expenditures of $40,500 in fiscal year 1998 in personal services for a temporary grade 9 position and staff overtime (including benefits) and $15,000 in operating expenses for additional paper, postage, and mailing and for computer systems development and processing to implement this bill. Funding will be provided from the PERS trust fund.

Teachers' Retirement System (TRS):

11. There are 44 state employees in the TRS who are potentially eligible for the termination incentive. It is assumed that 10 percent of all members with less than 15 years of covered service will terminate; 15 percent of those with between 15 and 20 years; 25 percent of those with between 20 and 25 years; and 50 percent of those with more than 25 years.

FISCAL IMPACT:

PERD:

Expenditures:	FY98 Difference	FY99 Difference
Personal services	40,500	0
Operating expenses	15,000	0
Total	55,500	0
Funding:		
PERS pension trust fund (09)	55,500	0
Other state agencies:		
Personal services	2,744,000	(3,063,000)
Funding:		
General fund (01)	850,000	(865,000)
Other funds	1,894,000	(2,198,000)
Total	2,744,000	(3,063,000)
University System:		
Personal services	505,000	(586,000)
Funding:		
General fund (01)	287,000	(333,000)
Other funds	218,000	(253,000)
Total	505,000	(586,000)
Net Impact on Fund Balance: (Revenue minus expense)		
General fund (01)	(1,137,000)	1,198,000
Other funds	(2,112,000)	2,451,000

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES: The fiscal impact on expenditures will depend on how many local governments choose to participate and how many eligible members terminate.

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION: Based upon the assumptions, the net savings from the retirement incentive program will be expected to increase at approximately the annual rate of increase in state payroll.

TECHNICAL NOTES: The PERD believes that HB 565, as drafted, may be unconstitutional because the amount proposed to be paid to the PERS by public employers will be less than the actuarial amount required to purchase the additional service.