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FISCAL IMPACT REPORT

ORIGINAL DATE 02/09/11
LAST UPDATED 02/15/11 **HB** 333

SPONSOR James _____

SHORT TITLE No Payment for Accumulated Sick Leave **SB** _____

_____ **ANALYST** Soderquist

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY11	FY12	FY13	3 Year Total Cost	Recurring or Non-Rec	Funds Affected
Total	\$1,500.0	\$1,500.0	\$1,500.0	\$4,500.0	Recurring	General Fund, Other State Funds, Internal/Inter-Agency Transfer Funds, Federal Funds

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

State Personnel Office (SPO)

Department of Transportation (NMDOT)

SUMMARY

Synopsis of Bill

House Bill 333 repeals Sections 10-7-10 NMSA 1978 and Section 10-7-11 NMSA 1978 to prohibit the payment for any accumulated sick leave, either while employed or upon retirement or other termination of state employment.

FISCAL IMPLICATIONS

There is no appropriation contained in this legislation. According to the State Personnel Office (SPO), between January 1, 2010 and December 31, 2010, 1,269 Executive and Judicial Branch employees cashed out sick leave in January or July or upon retirement as allowed under Sections 10-7-10 NMSA 1978 and Section 10-7-11 NMSA 1978. The following data was provided by SPO for the last four years:

- During 2010 112,304 hours were cashed out at 50% of each employee's hourly rate, which resulted in a cost of \$1,508,296.

- During 2009 105,446 hours were cashed out at 50% of each employee’s hourly rate, which resulted in a cost of \$1,455,335.
- During 2008 108,248 hours were cashed out at 50% of each employee’s hourly rate, which resulted in a cost of \$1,441,042.
- During 2007 110,745 hours were cashed out at 50% of each employee’s hourly rate, which resulted in a cost of \$1,438,297.

Note: Only time reporting codes relating to Sick Leave Buyback (SBK) and Retirement Sick Buyback (RSK) were included in this calculation. Legislative Branch employees do not track accrued leave hours in the PeopleSoft (SHARE) ERP system and were not included in this calculation. The actual cost and fund affected are dependent upon which eligible employees choose to cash out unused sick leave.

A fund to pay employees for unused sick leave that is cashed out is not specifically included in an agency’s annual budget appropriation in the General Appropriations Act. It is paid out of an agency’s unspent budget each fiscal year resulting from vacancy savings or other means of agency budget management.

SIGNIFICANT ISSUES

The statutory provision for sick leave buyback was initially passed in 1983. An amendment in 1984 changed the language to allow payment each fiscal year in either January or July, versus the 1983 version that allowed payment in both July and January. The 1984 amendment also added language requiring that the employee notify the agency of his desired payment date and the number of unused sick leave hours he wishes to convert pursuant to this section before payment can be authorized.

Sick leave is a benefit to employees to allow paid time-off to either care for themselves or a sick dependent (i.e. child, spouse, death of family member, etc.) Many organizations have shifted their emphasis to reward employees who do not use their accrued sick leave by offering them “well-pay” – extra pay for not taking sick leave. Sick leave buyback can act as a retention incentive for long-term employees who are generally healthy to remain with state government. Existing policies and practices within the human resource community suggest that without an incentive to accrue sick leave, employees are encouraged to call in sick more often, which has a negative impact on productivity, customer service, employee morale, employee turnover and increased operating costs such as additional overtime.

Since HB333 would affect current as well as future employees. The removal of a benefit of employment such as this would potentially be received negatively by current employees. HB333 could also have an impact on future recruitment and employee retention efforts in the state of New Mexico.

The table below was provided by the State Personnel Office (SPO) and is extracted from the *2010 Central States Compensation Association* benefits survey and summarizes the practices of participating state governments. Most states do provide payment for unused sick leave at retirement and as well as other times throughout the year. States with blank responses across the entire row (Illinois, Oregon and Texas) do not necessarily indicate that a state does not have an unused sick leave payment program, but only that they did not respond to this section of the survey.

State	Payment for Unused Balance									Condition / Amount of Payment
	None	Upon Resignation	Upon Retirement	Upon Layoff	Upon Dismissal	Pay to Beneficiary	At Fiscal Year End	Upon Demand	Converted to fund benefit options	
New Mexico			x				x			50% For hours > 600 in either July or Jan 120 Hr. Max (400 Hr. Max at retirement)
North Dakota		x	x	x	x	x			x	10% of balance w/ 10 yrs continuous service; unused SL may be converted to service credit for retirement
Oklahoma	x									
Oregon										
South Dakota*		x	x	x		x				25% (60 day maximum)
Texas										
Utah			x						Upon Retirement	25% placed in 401(k) upon retirement. The remaining balance is converted to cash and placed in a Health Reimbursement Account and/or used to purchase insurance
Washington			x			x	x			.25 on the dollar. May sell off excess above 480 hrs.
Wisconsin									Upon Retirement/ Layoff/ Death	Creditable toward retiree health insurance, 100% converted at highest pay rate.
Wyoming		x	x	x	x	x				50% (60 day maximum)

Alaska*: Not applicable. Personal leave is used for vacation and sick leave in the GP (General Government-Personal Leave) bargaining unit.

Iowa:** 18 days per year for employees with a sick leave balance of 750 hours or less; 12 days for employees with a balance of 751 to 1,499 hours & 6 days for employees with a balance 1500 or more. Upon retirement employees with a sick leave balance of 750 hours or less can cash out at 60% of value; 12 days for employees with a balance of 751 to 1,499 hours @ 80% of value &

6 days for employees with a balance 1500 or more at 100% of value.

South Dakota*: sick leave only for employee's personal illness with noted exceptions.

TECHNICAL ISSUES

The response from the Department of Transportation (NMDOT) showed concern that the legislation, as written, prohibits compensation for “accumulated sick leave” to any officer or employee of the executive, legislative or judicial branches either while employed or upon retirement or termination. The bill does not specify that it is for accumulated sick leave *in excess of 600 hours*. Accordingly, as written, no officer or employee could be paid for *any* accrued sick leave, even during their employment.

The SPO response to this concern is that the legislation repeals Sections 10-7-10 NMSA 1978 and Section 10-7-11 NMSA 1978 and that both sections focus on accumulated sick leave of over 600 hours. State employees cannot receive compensation for less than 600 hours. As such SPO feels the NMDOT concern is unwarranted.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Employees will continue to be able to receive cash payment for accumulated sick leave as permitted in the existing Chapter 10, Article 7, NMSA 1978.

AMENDMENTS

Consistent with their stated concerns under Technical Issues, NMDOT states that the legislation should be amended to prohibit compensation for accumulated sick leave *in excess of 600 hours* to any officer or employee of the executive, legislative or judicial branches either while employed or upon retirement or termination of employment.

RS/mew:svb