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\*\*\*\* BILL NO. \*\*\*\*

INTRODUCED BY \*\*\*\*

BY REQUEST OF THE \*\*\*\*

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE LAWS GOVERNING SICK LEAVE; REVISING THE DEFINITION OF "SICK LEAVE" TO INCLUDE COVERAGE FOR AN EMPLOYEE'S NEED FOR PREVENTATIVE MEDICAL OR MENTAL HEALTH CARE; AND AMENDING SECTIONS 2-18-601 AND 2-18-618, MCA."

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

**Section 1.** Section 2-18-601, MCA, is amended to read:

**"2-18-601. Definitions.** For the purpose of this part, the following definitions apply:

(1) (a) "Agency" means any legally constituted department, board, or commission of state, county, or city government or any political subdivision of the state.

(b) The term does not mean the state compensation insurance fund.

(2) "Break in service" means a period of time in excess of 5 working days when the person is not employed and that severs continuous employment.

(3) "Common association" means an association of employees established pursuant to 2-18-1310 for the purposes of employer and employee participation in the plan.

(4) "Continuous employment" means working within the same jurisdiction without a break in service of more than 5 working days or without a continuous absence without pay of more than 15 working days.

(5) "Contracting employer" means an employer who, pursuant to 2-18-1310, has contracted with the department of administration to participate in the plan.

(6) "Employee" means any person employed by an agency except elected state, county, and city officials, schoolteachers, members of the instructional or scientific staff of a community college, persons contracted as independent contractors or hired under personal services contracts, and student interns.

1 (7) "Floating holiday" means an annual scheduled day off with pay as provided for in 2-18-603 for  
2 an employee of an agency specified in 2-18-101(1) or for an employee of an entity of the legislative branch  
3 consolidated as provided for in 5-2-504.

4 (8) "Full-time employee" means an employee who normally works 40 hours a week.

5 (9) "Holiday" means:

6 (a) for employees of an agency specified in 2-18-101(1) and employees of an entity of the  
7 legislative branch consolidated, as provided in 5-2-504, a scheduled day off with pay to observe a legal holiday,  
8 as specified in 1-1-216(1)(a) through (1)(k), except Sundays; or

9 (b) for all other employees, a scheduled day off with pay to observe a legal holiday, as specified in  
10 1-1-216 or 20-1-305, except Sundays.

11 (10) "Member" means an employee who belongs to a voluntary employees' beneficiary association  
12 established under 2-18-1310.

13 (11) "Part-time employee" means an employee who normally works less than 40 hours a week.

14 (12) "Permanent employee" means a permanent employee as defined in 2-18-101.

15 (13) "Plan" means the employee welfare benefit plan established under Internal Revenue Code  
16 section 501(c)(9) pursuant to 2-18-1304.

17 (14) "Seasonal employee" means a seasonal employee as defined in 2-18-101.

18 (15) "Short-term worker" means:

19 (a) for the executive and judicial branches, a short-term worker as defined in 2-18-101; or

20 (b) for the legislative branch, an individual who:

21 (i) may be hired by a legislative agency without using a competitive process for an hourly wage  
22 established by the agency;

23 (ii) may not work for the agency for more than 6 months in a continuous 12-month period;

24 (iii) is not eligible for permanent status;

25 (iv) may not be hired into a permanent position by the agency without a competitive selection  
26 process;

27 (v) is not eligible to earn the leave and holiday benefits provided in this part; and

28 (vi) may be discharged without cause.

- 1 (16) "Sick leave" means a leave of absence with pay for:
- 2 (a) a sickness suffered by an employee or a member of the employee's immediate family; or
- 3 (b) the time that an employee is unable to perform job duties because of:
- 4 (i) a physical or mental illness, injury, or disability;
- 5 (ii) maternity or pregnancy-related disability or treatment, including prenatal care, birth, or medical
- 6 care for the employee or the employee's child;
- 7 (iii) parental leave for a permanent employee as provided in 2-18-606;
- 8 (iv) quarantine resulting from exposure to a contagious disease;
- 9 (v) examination or treatment by a licensed health care provider;
- 10 (vi) short-term attendance, in an agency's discretion, to care for a relative or household member
- 11 not covered by subsection (16)(a) until other care can reasonably be obtained;
- 12 (vii) necessary care for a spouse, child, or parent with a serious health condition, as defined in the
- 13 Family and Medical Leave Act of 1993;~~or~~
- 14 (viii) death or funeral attendance of an immediate family member or, at an agency's discretion,
- 15 another person;or
- 16 (ix) an employee's need for preventive medical or mental health care.
- 17 (17) "Student intern" means a student intern as defined in 2-18-101.
- 18 (18) "Temporary employee" means a temporary employee as defined in 2-18-101.
- 19 (19) "Transfer" means a change of employment from one agency to another agency in the same
- 20 jurisdiction without a break in service.
- 21 (20) "Vacation leave" means a leave of absence with pay for the purpose of rest, relaxation, or
- 22 personal business at the request of the employee and with the concurrence of the employer."
- 23

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

25 **"2-18-618. Sick leave.** (1) A permanent full-time employee earns sick leave credits from the first day

26 of employment. For calculating sick leave credits, 2,080 hours (52 weeks x 40 hours) equals 1 year. Sick leave

27 credits must be credited at the end of each pay period. Sick leave credits are earned at the rate of 12 working

28 days for each year of service without restriction as to the number of working days that may be accumulated.

1 Employees are not entitled to be paid sick leave until they have been continuously employed 90 days.

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

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

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

7 (5) A short-term worker may not earn sick leave credits.

8 (6) Except as otherwise provided in 2-18-1311, an employee who terminates employment with the  
9 agency is entitled to a lump-sum payment equal to one-fourth of the pay attributed to the accumulated sick  
10 leave. The pay attributed to the accumulated sick leave must be computed on the basis of the employee's  
11 salary or wage at the time the employee terminates employment with the state, county, or city. Accrual of sick  
12 leave credits for calculating the lump-sum payment provided for in this subsection begins July 1, 1971. The  
13 payment is the responsibility of the agency in which the sick leave accrues. However, an employee does not  
14 forfeit any sick leave rights or benefits accrued prior to July 1, 1971. However, when an employee transfers  
15 between agencies within the same jurisdiction, the employee is not entitled to a lump-sum payment. In a  
16 transfer between agencies, the receiving agency shall assume the liability for the accrued sick leave credits  
17 earned after July 1, 1971, and transferred with the employee.

18 (7) An employee who receives a lump-sum payment pursuant to this section or who, pursuant to 2-  
19 18-1311, converts unused sick leave to employer contributions to a health care expense trust account and who  
20 is again employed by any agency may not be credited with sick leave for which the employee has previously  
21 been compensated or for which the employee has received an employer contribution to the health care  
22 expense trust account.

23 (8) Abuse of sick leave is cause for dismissal and forfeiture of the lump-sum payments provided for  
24 in this section.

25 (9) An employee of a state agency may contribute any portion of the employee's accumulated sick  
26 leave or accumulated vacation leave to a nonrefundable sick leave fund for state employees and becomes  
27 eligible to draw upon the fund if an extensive illness or accident exhausts the employee's accumulated sick  
28 leave, irrespective of the employee's membership or nonmembership in the employee welfare benefit plan

1 established pursuant to 2-18-1304. The department of administration shall, in consultation with the state  
2 employee group benefits advisory council, provided for in 2-15-1016, administer the sick leave fund and adopt  
3 rules to implement this subsection.

4 (10) A local government may establish and administer through local rule a sick leave fund into which  
5 its employees may contribute a portion of their accumulated sick leave or vacation leave.

6 (11) Nothing in this chapter may be construed to preempt, prohibit, or otherwise limit a political  
7 subdivision of the state from adopting or enforcing, pursuant to 2-18-604, any ordinance, resolution, policy, or  
8 standard that provides:

9 (a) greater accrual of sick leave;

10 (b) broader permissible uses of sick leave;

11 (c) more generous carryover or reinstatement provisions of sick leave; or

12 (d) any other right, benefit, or protection to employees that exceeds the minimum standards of sick  
13 leave established under this chapter.

14 (12) A local government may not adopt a policy that provides less than the minimum requirements  
15 of sick leave established in this chapter.

16 (13) In the event of a conflict between this chapter and a local sick leave policy, the provision that  
17 provides the greater rights, benefits, or protections to the employee controls."

18 - END -