_____ BILL NO. _____

INTRODUCED BY _____

BY REQUEST OF THE DEPARTMENT OF TRANSPORTATION

A BILL FOR AN ACT ENTITLED: “AN ACT PROVIDING FOR THE CONVERSION OF ANNUAL VACATION LEAVE, SICK LEAVE, AND COMPENSATORY TIME TO A PAYABLE OBLIGATION AT THE FULL AMOUNT OF TIME ACCRUED AS OF THE DATE OF DEATH IF A PUBLIC EMPLOYEE DIES IN AN ACCIDENT WHILE ON THE JOB; PROVIDING DEFINITIONS; AMENDING SECTIONS 2-18-412, 2-18-601, 2-18-617, AND 2-18-618, MCA; AND PROVIDING AN EFFECTIVE DATE.”

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

Section 1. Section 2-18-412, MCA, is amended to read:

"**2-18-412. Designation of person to receive decedent's warrants -- reissuance.** (1) A person employed by the state may file with the person's appointing power a designation of a person who, notwithstanding any other provision of law, shall, on the death of the employee, be entitled to receive all warrants that would have been payable to the decedent had the employee survived. The employee may change the designation from time to time. A person designated shall claim the warrants from the state treasurer and on sufficient proof of identity, the treasurer shall reissue the warrant in the name of the designated person and deliver the warrant to the designated person.

(2) As used in subsection (1), "warrant" includes but is not limited to accumulated vacation leave as provided in 2-18-617, accumulated sick leave as provided in 2-18-618, and accumulated compensatory time as provided in [section 5]."

Section 2. 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) "Accident" means an unexpected or sudden traumatic incident or unusual strain that is:

(i) identifiable by time and place of occurrence; and

(ii) caused by a specific event or circumstances during a single work shift, irrespective of whether the accident was the result of purposeful or intentional conduct.

(b) The term does not include an employee's suicide.

~~(1)~~ (2) (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)~~ (3) "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)~~ (4) "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)~~ (5) "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)~~ (6) "Contracting employer" means an employer who, pursuant to 2-18-1310, has contracted with the department of administration to participate in the plan.

~~(6)~~ (7) "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.

~~(7)~~ (8) "Floating holiday" means an annual scheduled day off with pay as provided for in 2-18-603 for an employee of an agency specified in 2-18-101(1) or for an employee of an entity of the legislative branch consolidated as provided for in 5-2-504.

~~(8)~~ (9) "Full-time employee" means an employee who normally works 40 hours a week.

~~(9)~~ (10) "Holiday" means:

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

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

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

~~(11)~~ (12) "Part-time employee" means an employee who normally works less than 40 hours a week.

~~(12)~~ (13) "Permanent employee" means a permanent employee as defined in 2-18-101.

~~(13)~~ (14) "Plan" means the employee welfare benefit plan established under Internal Revenue Code section 501(c)(9) pursuant to 2-18-1304.

~~(14)~~ (15) "Seasonal employee" means a seasonal employee as defined in 2-18-101.

~~(15)~~ (16) "Short-term worker" means:

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

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

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

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

(iii) is not eligible for permanent status;

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

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

(vi) may be discharged without cause.

~~(16)~~ (17) "Sick leave" means a leave of absence with pay for:

(a) a sickness suffered by an employee or a member of the employee's immediate family; or

(b) the time that an employee is unable to perform job duties because of:

(i) a physical or mental illness, injury, or disability;

(ii) maternity or pregnancy-related disability or treatment, including prenatal care, birth, or medical care for the employee or the employee's child;

(iii) parental leave for a permanent employee as provided in 2-18-606;

(iv) quarantine resulting from exposure to a contagious disease;

(v) examination or treatment by a licensed health care provider;

(vi) short-term attendance, in an agency's discretion, to care for a relative or household member not covered by subsection ~~(16)(a)~~ (17)(a) until other care can reasonably be obtained;

(vii) necessary care for a spouse, child, or parent with a serious health condition, as defined in the Family and Medical Leave Act of 1993; or

(viii) death or funeral attendance of an immediate family member or, at an agency's discretion, another person.

~~(17)~~ (18) "Student intern" means a student intern as defined in 2-18-101.

~~(18)~~ (19) "Temporary employee" means a temporary employee as defined in 2-18-101.

~~(19)~~ (20) "Transfer" means a change of employment from one agency to another agency in the same jurisdiction without a break in service.

~~(20)~~ (21) "Vacation leave" means a leave of absence with pay for the purpose of rest, relaxation, or personal business at the request of the employee and with the concurrence of the employer."

Section 3. Section 2-18-617, MCA, is amended to read:

"**2-18-617. Accumulation of leave -- cash for unused -- transfer -- death benefit.** (1) (a) Except as provided in subsection (1)(b), annual vacation leave may be accumulated to a total not to exceed two times the maximum number of days earned annually as of the end of the first pay period of the next calendar year. Excess vacation time is not forfeited if taken within 90 calendar days from the last day of the calendar year in which the excess was accrued.

(b) It is the responsibility of the head of an employing agency to provide reasonable opportunity for an employee to use rather than forfeit accumulated vacation leave. If an employee makes a reasonable written request to use excess vacation leave before the excess vacation leave must be forfeited under subsection (1)(a) and the employing agency denies the request, the excess vacation leave is not forfeited and the employing agency shall ensure that the employee may use the excess vacation leave before the end of the calendar year in which the leave would have been forfeited under subsection (1)(a).

(2) (a) An employee who terminates employment for a reason not reflecting discredit on the employee and who has worked the qualifying period set forth in 2-18-611 is entitled upon the date of termination to either:

(i) cash compensation for unused vacation leave if the employee is not subject to subsection (2)(a)(ii); or

(ii) conversion of the employee's unused vacation leave balance to an employer contribution to an employee welfare benefit plan health care expense trust account established pursuant to 2-18-1304 if:

(A) the employee is a member who belongs to a voluntary employees' beneficiary association established under 2-18-1310; and

(B) the contracting employer has entered into an agreement with members of the common association for an employer contribution based on unused vacation leave provided for in 2-18-611.

(b) Vacation leave contributed to the sick leave fund, provided for in 2-18-618, is nonrefundable and is not eligible for cash compensation upon termination.

(c) For an employee who dies from an accident while on the job, all accumulated vacation leave available for cash compensation under subsection (2)(a)(i) must be paid out as a death benefit to the employee's beneficiary or estate.

(3) If an employee transfers between agencies of the same jurisdiction, cash compensation may not be paid for unused vacation leave. In a transfer, the receiving agency assumes the liability for the accrued vacation credits transferred with the employee.

(4) An employee may contribute accumulated vacation leave to a nonrefundable sick leave fund provided for in 2-18-618. The department of administration shall, in consultation with the state employee group benefits advisory council, provided for in 2-15-1016, adopt rules to implement this subsection.

(5) This section does not prohibit a school district from providing cash compensation for unused vacation leave in lieu of the accumulation of the leave, either through a collective bargaining agreement or, in the absence of a collective bargaining agreement, through a policy."

Section 4. Section 2-18-618, MCA, is amended to read:

"**2-18-618. Sick leave -- death benefit.** (1) A permanent full-time employee earns sick leave credits from the first day of employment. For calculating sick leave credits, 2,080 hours (52 weeks x 40 hours) equals 1 year. Sick leave credits must be credited at the end of each pay period. Sick leave credits are earned at the rate of 12 working days for each year of service without restriction as to the number of working days that may

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

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

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

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

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

(6) (a) Except as otherwise provided in 2-18-1311 or in subsection (6)(c) of this section, an employee who terminates employment with the agency is entitled to a lump-sum payment equal to one-fourth of the pay attributed to the accumulated sick leave. The pay attributed to the accumulated sick leave must be computed on the basis of the employee's salary or wage at the time the employee terminates employment with the state, county, or city. Accrual of sick leave credits for calculating the lump-sum payment provided for in this subsection (6)(a) begins July 1, 1971. The payment is the responsibility of the agency in which the sick leave accrues. However, an employee does not forfeit any sick leave rights or benefits accrued prior to July 1, 1971.

(b) Except as otherwise provided in 2-18-1311 or in subsection (6)(c) of this section, ~~However,~~ when an employee transfers between agencies within the same jurisdiction, the employee is not entitled to a lump-sum payment. In a transfer between agencies, the receiving agency shall assume the liability for the accrued sick leave credits earned after July 1, 1971, and transferred with the employee.

(c) For an employee who dies from an accident while on the job, all accumulated sick leave time must be paid out to the employee's beneficiary or estate.

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

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

(9) An employee of a state agency may contribute any portion of the employee's accumulated sick leave or accumulated vacation leave to a nonrefundable sick leave fund for state employees and becomes eligible to draw upon the fund if an extensive illness or accident exhausts the employee's accumulated sick leave, irrespective of the employee's membership or nonmembership in the employee welfare benefit plan established pursuant to 2-18-1304. The department of administration shall, in consultation with the state employee group benefits advisory council, provided for in 2-15-1016, administer the sick leave fund and adopt rules to implement this subsection.

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

NEW SECTION. **Section 5. Compensatory time -- death benefit.** If an employee dies from an accident while on the job, all compensatory time earned in compliance with the rules or policies of the employing agency must be paid to the employee's beneficiary or estate.

NEW SECTION. **Section 6. Codification instruction.** [Section 5] is intended to be codified as an integral part of Title 2, chapter 18, part 6, and the provisions of Title 2, chapter 18, part 6, apply to [section 5].

NEW SECTION. **Section 7. Effective date.** [This act] is effective July 1, 2027.

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