

## SENATE BILL NO. 462

INTRODUCED BY S. KITZENBERG

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4 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING SCHOOL DISTRICTS TO PARTICIPATE IN THE  
5 STATE EMPLOYEE GROUP BENEFITS PROGRAM; DEFINING "SCHOOL DISTRICT EMPLOYEE";  
6 PROVIDING FOR A PROPERTY TAX LEVY TO MAKE EMPLOYER CONTRIBUTIONS; PROVIDING  
7 PROCEDURES FOR ENROLLING SCHOOL DISTRICT EMPLOYEES IN THE STATE EMPLOYEE GROUP  
8 BENEFITS PROGRAM; PROVIDING A TRANSITION PROCESS; SUPERSEDING THE UNFUNDED MANDATE  
9 LAW; AMENDING SECTIONS 2-9-212, 2-15-1016, 2-18-618, 2-18-701, 2-18-702, 2-18-703, 2-18-711, 2-18-808,  
10 2-18-809, 2-18-810, 2-18-811, 2-18-812, 2-18-813, 2-18-814, 2-18-816, 10-1-1007, 20-3-331, 20-15-403, AND  
11 39-31-305, MCA; AND PROVIDING EFFECTIVE DATES."

12

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

14

15 **Section 1.** Section 2-9-212, MCA, is amended to read:

16 **"2-9-212. ~~Political subdivision tax~~ Tax levy to pay premiums.** (1) Subject to 15-10-420 and  
17 ~~subsection subsections~~ (2) and (3) of this section, a political subdivision, ~~except for a school district,~~ may levy  
18 an annual property tax in the amount necessary to fund the premium for insurance, deductible reserve fund, and  
19 self-insurance reserve fund as authorized in this section and to pay the principal and interest on bonds or notes  
20 issued pursuant to 2-9-211(5).

21 (2) (a) If a political subdivision, other than a school district, made contributions for group benefits under  
22 2-18-703 on or before July 1, 2001, the increase in the political subdivision's property tax levy for the political  
23 subdivision's premium contributions for group benefits under 2-18-703 beyond the amount of contributions in  
24 effect at the beginning of the last fiscal year is not subject to the mill levy calculation limitation provided for in  
25 15-10-420. Levies implemented under this section must be calculated separately from the mill levies calculated  
26 under 15-10-420 and are not subject to the inflation factor described in 15-10-420(1)(a). If tax-billing software is  
27 capable, the county treasurer shall list separately the cumulative mill levy or dollar amount on the tax notice sent  
28 to each taxpayer under 15-16-101(2). The amount must also be reported to the department of administration  
29 pursuant to 7-6-4003. The mill levy must be described as the permissive medical levy.

30 (b) Each year prior to implementing a levy under subsection (2)(a), after notice of the hearing given under

1 7-1-2121 or 7-1-4127, a public hearing must be held regarding any proposed increases.

2 (c) A levy under this ~~section~~ subsection (2) in the previous year may not be included in the amount of  
3 property taxes that a governmental entity is authorized to levy for the purposes of determining the amount that  
4 the governmental entity may assess under the provisions of 15-10-420(1)(a). When a levy under this ~~section~~  
5 subsection (2) decreases or is no longer levied, the revenue may not be combined with the revenue determined  
6 in 15-10-420(1)(a).

7 (3) A school district may levy an annual property tax to provide for the employer contribution to the state  
8 employee and school district employee group benefit plans provided for in Title 2, chapter 18, parts 7 and 8."

9

10 **Section 2.** Section 2-15-1016, MCA, is amended to read:

11 **"2-15-1016. State employee and school district employee group benefits advisory council --**  
12 **composition.** (1) The department shall create a state employee and school district employee group benefits  
13 advisory council under 2-15-122.

14 (2) The members of the advisory council must be selected from a diverse group in order to adequately  
15 represent the interests of state employees, school district employees, and retirees.

16 (3) One member of the advisory council must be a retired state employee.

17 (4) Each labor organization, as defined in 39-31-103, representing more than 1,000 employees of the  
18 state of Montana is entitled to one representative on the advisory council."

19

20 **Section 3.** Section 2-18-618, MCA, is amended to read:

21 **"2-18-618. Sick leave.** (1) A permanent full-time employee earns sick leave credits from the first day  
22 of employment. For calculating sick leave credits, 2,080 hours (52 weeks x 40 hours) equals 1 year. Sick leave  
23 credits must be credited at the end of each pay period. Sick leave credits are earned at the rate of 12 working  
24 days for each year of service without restriction as to the number of working days that may be accumulated.  
25 Employees are not entitled to be paid sick leave until they have been continuously employed 90 days.

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

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

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

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

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

12 (7) An employee who receives a lump-sum payment pursuant to this section or who, pursuant to  
13 2-18-1311, converts unused sick leave to employer contributions to a health care expense trust account and who  
14 is again employed by any agency may not be credited with sick leave for which the employee has previously been  
15 compensated or for which the employee has received an employer contribution to the health care expense trust  
16 account.

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

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

26 (10) A local government may establish and administer through local rule a sick leave fund into which its  
27 employees may contribute a portion of their accumulated sick leave."  
28

29 **Section 4.** Section 2-18-701, MCA, is amended to read:

30 **"2-18-701. Definition Definitions.** ~~In~~ As used in this part, as it applies to a person employed in the

1 ~~executive, judicial, or legislative branches of state government~~ the following definitions apply:

2 (1) "School district employee" means a person employed by a public elementary or high school district,  
 3 as defined in 20-6-101, a K-12 school district, as defined in 20-6-701, or an education cooperative, as described  
 4 in 20-7-451, who is regularly employed for 30 or more hours a week during the school year or employed for fewer  
 5 hours, but not less than 18 hours a week, as specified in a collective bargaining agreement or by employer policy  
 6 or education cooperative policy in a nonbargaining school district or education cooperative.

7 ~~(1)(2)~~ (a) "employee" "State employee" means:

8 ~~(a)~~(i) a permanent full-time employee, as provided in 2-18-601;

9 ~~(b)~~(ii) a permanent part-time employee, as provided in 2-18-601, who is regularly scheduled to work 20  
 10 hours or more a week;

11 ~~(c)~~(iii) a seasonal full-time employee, as provided in 2-18-601, who is regularly scheduled to work 6  
 12 months or more a year or who works for a continuous period of more than 6 months a year although not regularly  
 13 scheduled to do so;

14 ~~(d)~~(iv) a seasonal part-time employee, as provided in 2-18-601, who is regularly scheduled to work 20  
 15 hours or more a week for 6 months or more a year or who works 20 hours or more a week for a continuous period  
 16 of more than 6 months a year although not regularly scheduled to do so;

17 ~~(e)~~(v) elected officials;

18 ~~(f)~~(vi) officers and permanent employees of the legislative branch;

19 ~~(g)~~(vii) judges and permanent employees of the judicial branch;

20 ~~(h)~~(viii) academic, professional, and administrative personnel having individual contracts under the  
 21 authority of the board of regents of higher education or the state board of public education;

22 ~~(i)~~(ix) a temporary full-time employee, as provided in 2-18-601:

23 ~~(i)~~(A) who is regularly scheduled to work more than 6 months a year;

24 ~~(i)~~(B) who works for a continuous period of more than 6 months a year although not regularly scheduled  
 25 to do so; or

26 ~~(i)~~(C) whose temporary status is defined through collective bargaining;

27 ~~(j)~~(x) a temporary part-time employee, as provided in 2-18-601:

28 ~~(j)~~(A) who is regularly scheduled to work 20 hours or more a week for 6 months or more a year;

29 ~~(j)~~(B) who works 20 hours or more a week for a continuous period of more than 6 months a year although  
 30 not regularly scheduled to do so; or

1           ~~(iii)(C)~~ whose temporary status is defined through collective bargaining; and  
 2           ~~(k)(xi)~~ a part-time or full-time employee of the state compensation insurance fund. As used in this  
 3 subsection, "part-time or full-time employee of the state compensation insurance fund" means an employee  
 4 eligible for inclusion in the state employee and school district employee group benefit plans under the rules of  
 5 the department of administration.

6           ~~(2)(b)~~ "employee" "State employee" does not include a student intern, as defined in 2-18-101."  
 7

8           **Section 5.** Section 2-18-702, MCA, is amended to read:

9           **"2-18-702. Group insurance for public state employees and officers school district employees.**

10 (1) (a) Except as provided in subsection (1)(c), all counties, cities, and towns, ~~school districts~~, and the board of  
 11 regents shall upon approval by two-thirds vote of their respective officers and employees enter into group  
 12 hospitalization, medical, health, including long-term disability, accident, or group life insurance contracts or plans  
 13 for the benefit of their officers and employees and their dependents. The laws prohibiting discrimination on the  
 14 basis of marital status in Title 49 do not prohibit bona fide group insurance plans from providing greater or  
 15 additional contributions for insurance benefits to employees with dependents than to employees without  
 16 dependents or with fewer dependents.

17           (b) The governing body of a county, city, or town may, at its discretion, consider the employees of  
 18 private, nonprofit economic development organizations to be employees of the county, city, or town solely for the  
 19 purpose of participation in group hospitalization, medical, health, including long-term disability, accident, or group  
 20 life insurance contracts or plans as provided in subsection (1)(a). The governing body of the county, city, or town  
 21 may require an employee or organization to pay the actual cost of coverage required for participation or may, at  
 22 its discretion and subject to any restriction on who may be a member of a group, pay all or part of the cost of  
 23 coverage of the employee of the organization.

24           (c) The governing body of a county of the third, fourth, fifth, sixth, or seventh class ~~county~~ or the board  
 25 of trustees of a hospital district may, at its discretion, exempt employees of a county hospital, county rest home,  
 26 or hospital district from participation in group hospitalization, medical, health, including long-term disability,  
 27 accident, or group life insurance contracts or plans provided pursuant to subsection (1)(a) or (1)(b).

28           (2) State employees and ~~elected officials~~ school district employees, as defined in 2-18-701, may  
 29 participate in state employee and school district employee group benefit plans as ~~are~~ provided for under part 8  
 30 of this chapter.

1           (3) (a) For state ~~officers and~~ employees, the premiums required from time to time to maintain the  
 2 insurance in force must be paid by the insured ~~officers and~~ state employees, and the state treasurer shall deduct  
 3 the premiums from the salary or wages of each ~~officer or~~ state employee who elects to become insured, on the  
 4 ~~officer's or~~ state employee's written order, and issue a warrant for the premiums to the insurer.

5           (b) For school district employees, the premiums required from time to time to maintain the insurance in  
 6 force must be paid by the insured school district employees, and the school district shall deduct the premiums  
 7 from the salary or wages of each school district employee who elects to become insured, on the school district  
 8 employee's written order, and pay the total for the premiums to the insurer.

9           (4) For ~~the purpose~~ purposes of this section, the plans of health service corporations for defraying or  
 10 assuming the cost of professional services of ~~licentiates~~ licensees in the field of health or the services of  
 11 hospitals, clinics, or sanitariums or both professional and hospital services must be construed as group insurance  
 12 and the dues payable under the plans must be construed as premiums for group insurance.

13           (5) ~~If the board of trustees of a school district implements a self-insured group health plan or if the board~~  
 14 ~~of regents implements an alternative to conventional insurance to provide group benefits to its employees, the~~  
 15 ~~board shall maintain the alternative plan on an actuarially sound basis."~~

16

17           **Section 6.** Section 2-18-703, MCA, is amended to read:

18           **"2-18-703. Contributions.** (1) Each agency, as defined in 2-18-601, and the state compensation  
 19 insurance fund shall contribute the amount specified in this section toward the group benefits cost.

20           (2) (a) For state employees ~~defined in 2-18-701~~ and for members of the legislature, the employer  
 21 contribution for group benefits is ~~\$460 a month for the period from July 2005 through December 2005, \$506 a~~  
 22 ~~month for the period from January 2006 through December 2006, and \$557 a month for January 2007 and for~~  
 23 ~~each succeeding month. For school district employees, the employer contribution is \$557 a month for July 2008~~  
 24 ~~and for each succeeding month. For employees of the Montana university system, the employer contribution for~~  
 25 ~~group benefits is \$506 a month for the period from July 2005 through June 2006 and \$557 a month for July 2006~~  
 26 ~~and for each succeeding month.~~

27           (b) If a state employee or school district employee is terminated to achieve a reduction in force, the  
 28 continuation of contributions for group benefits beyond the termination date is subject to negotiation under  
 29 39-31-305.

30           (c) Permanent part-time, seasonal part-time, and temporary part-time employees who are regularly

1 scheduled to work less than 20 hours a week are not eligible for the group ~~benefit~~ benefits contribution.

2 (d) An employee who elects not to be covered by a state-sponsored group benefit plan may not receive  
3 the state contribution or school district contribution. A portion of the employer contribution for group benefits may  
4 be applied to an employee's costs for participation in Part B of medicare under Title XVIII of the Social Security  
5 Act, as amended, if the state group benefit plan is the secondary payer and medicare is the primary payer.

6 (3) For employees of ~~elementary and high school~~ community college districts and of local government  
7 units, the employer's premium contributions may exceed but may not be less than \$10 a month. Subject to the  
8 public hearing requirement provided in 2-9-212(2)(b), the increase in a local government's property tax levy for  
9 premium contributions for group benefits beyond the amount of contributions in effect on the first day of the last  
10 fiscal year is not subject to the mill levy calculation limitation provided for in 15-10-420.

11 (4) Unused employer contributions for any state employee or school district employee must be  
12 transferred to an account established for this purpose by the department of administration and upon transfer may  
13 be used to offset losses occurring to the group of which the employee is eligible to be a member.

14 (5) Unused employer contributions for any government employee may be transferred to an account  
15 established for this purpose by a self-insured government and upon transfer may be used to offset losses  
16 occurring to the group of which the employee is eligible to be a member or to increase the reserves of the group.

17 (6) The laws prohibiting discrimination on the basis of marital status in Title 49 do not prohibit bona fide  
18 group insurance plans from providing greater or additional contributions for insurance benefits to employees with  
19 dependents than to employees without dependents or with fewer dependents."

20

21 **Section 7.** Section 2-18-711, MCA, is amended to read:

22 **"2-18-711. Cooperative purchasing of employee benefit services and insurance products --**  
23 **procedures.** (1) To provide employee group benefits, an agency, as defined in 2-18-601, and the state  
24 compensation insurance fund may participate with other agencies, nonprofit organizations, or business entities  
25 and in voluntary disability insurance purchasing pools provided for under 33-22-1815 if the agency or the state  
26 fund determines that cooperative purchasing is in the agency's or the state fund's best interest.

27 (2) Cooperative purchases under this section may be conducted according to purchasing procedures  
28 developed by the participating parties if, for contracts valued at \$20,000 a year or more, purchasing procedures,  
29 at a minimum, include:

30 (a) public notice in three major Montana newspapers of requirements for submitting bids or offers; and

1 (b) consideration of all submitted bids or offers.

2 ~~(3) For purposes of this section, "employee" also means a schoolteacher."~~

3

4 **Section 8.** Section 2-18-808, MCA, is amended to read:

5 **"2-18-808. Purpose.** The purpose of this part is to establish a program under which the state may  
6 provide state employees and school district employees with adequate group hospitalization, health, medical,  
7 disability, life, and other related group benefits in an efficient manner and at an affordable cost."

8

9 **Section 9.** Section 2-18-809, MCA, is amended to read:

10 **"2-18-809. Definitions.** As used in this part, the following definitions apply:

11 (1) "Advisory council" means the state employee and school district employee group benefits advisory  
12 council provided for in 2-15-1016.

13 (2) "Department" means the department of administration provided for in 2-15-1001.

14 (3) "Flexible spending account" means a funding and accounting arrangement allowed by federal law  
15 that:

16 (a) gives a state employee or a school district employee a choice between receiving taxable salary or  
17 having a part of the employee's salary withheld; and

18 (b) provides for depositing any portion of the state employee's or school district employee's salary  
19 withheld and any employer contribution designated by the employee into an account and receiving from that  
20 account nontaxable reimbursement for certain out-of-pocket medical expenses of the ~~state~~ employee or a  
21 dependent of the employee.

22 (4) (a) "Group benefits" means group hospitalization, health, medical, surgical, disability, life, and other  
23 similar and related group benefits provided to state officers, and state employees, of the state and school district  
24 employees, including flexible spending account benefits.

25 (b) The term "group benefits" does not include:

26 (i) casualty insurance, defined in 33-1-206;

27 (ii) marine insurance, authorized in 33-1-209 and 33-1-221 through 33-1-229;

28 (iii) property insurance, defined in 33-1-210;

29 (iv) surety insurance, defined in 33-1-211; and

30 (v) title insurance, defined in 33-1-212.



1           (5) "School district employee" means a person employed by a public elementary or high school district,  
 2 as defined in 20-6-101, a K-12 school district, as defined in 20-6-701, or an education cooperative, as described  
 3 in 20-7-451, who is regularly employed for 30 or more hours a week during the school year or employed for fewer  
 4 hours, but not less than 18 hours a week, as specified in a collective bargaining agreement or by employer policy  
 5 or education cooperative policy in a nonbargaining school district or education cooperative.

6           ~~(5)(6)~~ (a) "State employee" means an employee of the state, specifically including a member or  
 7 employee of the legislative branch of state government.

8           (b) The term "state employee" does not include employees of counties, cities, towns, school districts,  
 9 or the Montana university system or a student intern, as defined in 2-18-101."

10  
 11           **Section 10.** Section 2-18-810, MCA, is amended to read:

12           **"2-18-810. Functions of advisory council.** (1) The department shall meet and consult with the advisory  
 13 council before negotiating, contracting, or otherwise modifying state employee and school district employee group  
 14 benefit plans.

15           (2) The advisory council shall meet quarterly to review the existing state employee and school district  
 16 employee group benefit plans, to review claims problems, and to advise the department on state employee and  
 17 school district employee group benefit matters."

18  
 19           **Section 11.** Section 2-18-811, MCA, is amended to read:

20           **"2-18-811. General duties of the department.** The department shall:

21           (1) adopt rules for the conduct of its business under this part and to carry out the purposes of this part;

22           (2) negotiate and administer contracts for state employee and school district employee group benefit  
 23 plans;

24           (3) design state employee and school district employee group benefit plans, establish specifications for  
 25 bids, and make recommendations for acceptance or rejection of bids;

26           (4) prepare an annual report ~~which that~~ describes the state employee and school district employee group  
 27 benefit plans being administered, details the historical and projected program costs and the status of reserve  
 28 funds, and makes recommendations, if any, for change in existing state employee and school district employee  
 29 group benefit plans;

30           (5) prior to each legislative session, perform or obtain an analysis of rate adequacy of all state employee

1 and school district employee group benefit plans administered under this part; ~~and~~  
 2 (6) submit the report required in this section to the office of budget and program planning as a part of  
 3 the information required by 17-7-111; and  
 4 (7) in consultation with the office of public instruction, adopt procedures for enrolling school district  
 5 employees in the plans provided for in this part and for the payment and collection of employer and employee  
 6 contributions required under this part. The collection of employer and employee contributions must be  
 7 accomplished through the withholding of direct state aid or guaranteed tax base payments."  
 8

9 **Section 12.** Section 2-18-812, MCA, is amended to read:

10 **"2-18-812. Alternatives to conventional insurance for providing state employee and school district**  
 11 **employee group benefits authorized -- requirements.** The department may establish alternatives to  
 12 conventional insurance for providing state employee and school district employee group benefits. The  
 13 requirements for providing alternatives to conventional insurance are as follows:

14 (1) The department shall maintain state employee and school district employee group benefit plans on  
 15 an actuarially sound basis.

16 (2) The department shall maintain reserves sufficient to liquidate the unrevealed claims liability and other  
 17 liabilities of state employee and school district employee group benefit plans.

18 (3) The department shall deposit all reserve funds and premiums paid to a state employee and school  
 19 district employee group benefit plan account within the state self-insurance reserve fund, and the deposits must  
 20 be expended for claims under the plan.

21 (4) The department shall deposit income earned from the investment of a state employee and school  
 22 district employee group benefit plan's reserve fund into the account established under subsection (3) in order to  
 23 offset the costs of administering the plan. Expenditures for actual and necessary expenses required for the  
 24 efficient administration of ~~the a~~ plan must be made from temporary appropriations, as described in 17-7-501(1)  
 25 or (2), made for that purpose.

26 (5) The department shall deposit into the account provided for in subsection (3) all portions of a state  
 27 employee's or school district employee's salary designated by the employee to be withheld for the purposes of  
 28 flexible spending account benefits as well as any employee-designated portion of the employer contribution for  
 29 group benefits provided for in 2-18-703 that is not required to be used for mandatory or elected benefits. Income  
 30 earned on the deposits must be retained within the account and used for the purposes provided in this

1 subsection. The money deposited and income earned on the deposits must be used for:

2 (a) payment of claims made by the employee;

3 (b) payment of reasonable costs of administration of the flexible spending account program;

4 (c) offsetting losses of the flexible spending account program; and

5 (d) reducing administration fees collected from participants in the program.

6 (6) The department shall, prior to implementation of any alternative to conventional insurance, present  
7 to the advisory council the evidence upon which the department has concluded that the alternative method will  
8 be more efficient, less costly, or otherwise superior to contracting for conventional insurance.

9 (7) Except as otherwise provided in Title 33, chapter 18, part 9, the provisions of Title 33 do not apply  
10 to the department when exercising the powers and duties provided for in this section."  
11

12 **Section 13.** Section 2-18-813, MCA, is amended to read:

13 **"2-18-813. Combining existing employee groups authorized.** The department may combine existing  
14 state employee and school district employee groups into larger groups for the purpose of establishing state  
15 employee and school district employee group benefit plans on behalf of the combined groups. The department  
16 may also combine state employees and school district employees into a single group for purposes of state  
17 employee and school district employee group benefits under this part."  
18

19 **Section 14.** Section 2-18-814, MCA, is amended to read:

20 **"2-18-814. Administrative costs.** The department shall include the costs of administering and  
21 negotiating state employee and school district employee group benefit plans established under this part, as well  
22 as the costs of hiring necessary consultants, actuaries, and auditors under this part, as part of the cost for state  
23 employee and school district employee group benefits."  
24

25 **Section 15.** Section 2-18-816, MCA, is amended to read:

26 **"2-18-816. Biennial audit of group benefit plans required.** The state employee and school district  
27 employee group benefit plans established under this part, whether established on a self-funded basis or not, must  
28 be audited every 2 years. The audit must cover the 2-year period since the last audit and be conducted by or at  
29 the direction of the legislative auditor."  
30

1           **Section 16.** Section 10-1-1007, MCA, is amended to read:

2           **"10-1-1007. Right to return to employment without loss of benefits -- exceptions -- definition.** (1)

3           Subject to the provisions of this section, after a leave of absence for state active duty, a member is entitled to  
4           return to employment with the same seniority, status, pay, health insurance, pension, and other benefits as the  
5           member would have accrued if the member had not been absent for the state active duty.

6           (2) (a) If a member was a probationary employee when ordered to state active duty, the employer may  
7           require the member to resume the member's probationary period from the date when the member's leave of  
8           absence for state active duty began.

9           (b) An employer may decide whether or not to authorize the member to accrue sick leave, vacation  
10          leave, military leave, or other leave benefits during the member's leave of absence for state active duty. However,  
11          the member may not be provided with lesser leave accrual benefits than are provided to all other employees of  
12          the employer in a similar but nonmilitary leave status.

13          (c) (i) An employer's health plan must provide that:

14                (A) a member may elect to not remain covered under the employer's health plan while the member is  
15                on state active duty but that when the member returns, the member may resume coverage under the plan without  
16                the plan considering the employee to have incurred a break in service; and

17                (B) a member may elect to remain on the employer's health plan while the member is on state active duty  
18                without being required to pay more than the regular employee share of the premium, except as provided in  
19                subsection (2)(c)(ii).

20                (ii) If a member's state active duty qualifies the member for coverage under the state of Montana's health  
21                insurance plan as an employee of the department of military affairs, the employer's health plan may require the  
22                member to pay up to 102% of the full premium for continued coverage.

23                (iii) A health insurance plan covering an employee who is a member serving on state active duty is not  
24                required to cover any illness or injury caused or aggravated by state active duty.

25                (iv) If the member is a state employee or school district employee prior to being ordered to state active  
26                duty, the member does not become qualified as an employee of the department of military affairs for the purposes  
27                of health plan coverage until the member's state active duty qualifies the member to be considered an employee  
28                of the department of military affairs pursuant to 2-18-701.

29                (d) An employer's pension plan must provide that when a member returns to employment from state  
30                active duty:

1 (i) the member's period of state active duty may constitute service with the employer or employers  
 2 maintaining the plan for the purposes of determining the nonforfeitability of the member's accrued benefits and  
 3 for the purposes of determining the accrual of benefits under the plan; and

4 (ii) if the member elects to receive credit and makes the contributions required to accrue the pension  
 5 benefits that the member would have accrued if the member had not been absent for the state active duty, then  
 6 the employer shall pay the amount of the employer contribution that would have been made for the member if  
 7 the member had not been absent.

8 (e) An employer is not obligated to allow the member to return to employment after the member's  
 9 absence for state active duty if:

10 (i) the member is no longer qualified to perform the duties of the position, subject to the provisions of  
 11 49-2-303 prohibiting employment discrimination because of a physical or mental disability;

12 (ii) the member's position was temporary and the temporary employment period has expired;

13 (iii) the member's request to return to employment was not done in a timely manner;

14 (iv) the employer's circumstances have changed so significantly that the member's continued employment  
 15 with the employer cannot reasonably be expected; or

16 (v) the member's return to employment would cause the employer an undue hardship.

17 (3) (a) For the purposes of this section and except as provided in subsection (3)(b), "timely manner"  
 18 means:

19 (i) for state active duty of up to 30 days, the member returned to employment for the next regular work  
 20 shift following safe travel time plus 8 hours;

21 (ii) for state active duty of 30 days to 180 days, the member returned to employment within 14 days of  
 22 termination of state active duty; and

23 (iii) for state active duty of more than 180 days, the member returned to employment within 90 days of  
 24 termination of the state active duty.

25 (b) If there are extenuating circumstances that preclude the member from returning to employment within  
 26 the time period provided in subsection (3)(a) through no fault of the member, then for the purposes of this section  
 27 "timely manner" means within the time period specified by the adjutant general provided for in 2-15-1202."  
 28

29 **Section 17.** Section 20-3-331, MCA, is amended to read:

30 **"20-3-331. Purchase of insurance -- self-insurance plan.** (1) The board of trustees of a district may

1 purchase insurance coverage or establish a self-insurance plan for the district, trustees, and employees for  
 2 liability as provided in 2-9-211, ~~and for~~ The board of trustees of a district shall participate in the state employee  
 3 and school district employee group health and life insurance benefit plans as provided in ~~2-18-702~~ Title 2, chapter  
 4 18, parts 7 and 8. The board of trustees shall include the cost of coverage in the ~~general fund~~ budget of the  
 5 district ~~and as authorized for the district transportation program in 20-10-143(1)(d).~~

6 (2) Whenever the board of trustees of a district ~~establish~~ establishes a self-insurance plan for liability  
 7 as provided in 2-9-211, the board of trustees shall establish an internal service fund to account for the activities  
 8 of the self-insurance plan."

9

10 **Section 18.** Section 20-15-403, MCA, is amended to read:

11 **"20-15-403. Applications of other school district provisions.** (1) When the term "school district"  
 12 appears in the following sections outside of Title 20, the term includes community college districts and the  
 13 provisions of those sections applicable to school districts apply to community college districts: 2-9-101, 2-9-111,  
 14 2-9-316, 2-16-114, 2-16-602, 2-16-614, ~~2-18-703~~, 7-3-1101, 7-6-2604, 7-6-2801, 7-7-123, 7-8-2214, 7-8-2216,  
 15 7-11-103, 7-12-4106, 7-13-110, 7-13-210, 7-15-4206, 10-1-703, 15-1-101, 15-6-204, 15-16-101, 15-16-605,  
 16 15-70-301, 17-5-101, 17-5-202, 17-6-103, 17-6-204, 17-6-213, 17-7-201, 18-1-201, 18-2-101, 18-2-103,  
 17 18-2-113, 18-2-114, 18-2-401, 18-2-404, 18-2-432, 18-5-205, 19-1-102, 19-1-811, 22-1-309, 25-1-402,  
 18 27-18-406, 33-20-1104, 39-3-104, 39-4-107, 39-31-103, 39-31-304, 39-71-116, 39-71-117, 39-71-2106, 40-6-237,  
 19 49-3-101, 49-3-102, 52-2-617, 53-20-304, 82-10-201 through 82-10-203, 85-7-2158, and 90-6-208 and Rules  
 20 4D(2)(g) and 15(c), M.R.Civ.P., as amended.

21 (2) When the term "school district" appears in a section outside of Title 20 but the section is not listed  
 22 in subsection (1), the school district provision does not apply to a community college district."

23

24 **Section 19.** Section 39-31-305, MCA, is amended to read:

25 **"39-31-305. Duty to bargain collectively -- good faith.** (1) The public employer and the exclusive  
 26 representative, through appropriate officials or their representatives, ~~shall~~ have the authority and the duty to  
 27 bargain collectively. This duty extends to the obligation to bargain collectively in good faith as set forth in  
 28 subsection (2) ~~of this section.~~

29 (2) (a) For the purpose of this chapter, to bargain collectively is the performance of the mutual obligation  
 30 of the public employer or ~~his~~ the public employer's designated representatives and the representatives of the

1 exclusive representative to meet at reasonable times and negotiate in good faith with respect to wages, hours,  
 2 fringe benefits, and other conditions of employment or the negotiation of an agreement or any question arising  
 3 ~~thereunder~~ under an agreement and the execution of a written contract incorporating any agreement reached.

4 (b) Because school district employees, as defined in 2-18-701, are required to participate in the state  
 5 employee and school district employee group benefit plans under Title 2, chapter 18, parts 7 and 8, those group  
 6 insurance benefits are not negotiable for school districts except as provided in 2-18-703. ~~Such~~ The obligation  
 7 in subsection (2)(a) does not compel either party to agree to a proposal or require the making of a concession.

8 (3) For purposes of state government only, the requirement of negotiating in good faith may be met by  
 9 the submission of a negotiated settlement to the legislature in the executive budget or by bill or joint resolution.  
 10 The failure to reach a negotiated settlement for submission is not, by itself, prima facie evidence of a failure to  
 11 negotiate in good faith."  
 12

13 NEW SECTION. Section 20. Unfunded mandate law superseded. Although the legislature has  
 14 appropriated money that may be used for insurance benefits, the provisions of [this act] expressly supersede and  
 15 modify the requirements of 1-2-113.  
 16

17 NEW SECTION. Section 21. Transition. (1) The department of administration shall develop  
 18 procedures for enrolling school district employees in the state employee and school district employee group  
 19 benefit plans provided for in Title 2, chapter 18, parts 7 and 8. The procedures must include phasing in of the  
 20 enrollment of school district employees as existing contracts for insurance benefits expire or are terminated.

21 (2) A school district may not enter into a new contract or extend an existing contract for health insurance  
 22 coverage or for third-party administration related to health insurance coverage for any period that extends beyond  
 23 July 1, 2008.

24 (3) A school district with a self-funded health benefit plan or employee group health plan holding rate  
 25 stabilization or other local health benefit reserve funds is required to use the funds of the health benefit plan to  
 26 pay claims and other liabilities of the district's health benefit plan. Upon enrollment in the state employee and  
 27 school district employee group benefit plan, the remaining reserves must be maintained by the district under the  
 28 provisions of 20-3-331 and must be used to pay for employee benefit costs as determined by a collective  
 29 bargaining agreement or an employer policy or as required by applicable state or federal law.  
 30

