

1 HOUSE BILL NO. 358

2 INTRODUCED BY B. BERGREN

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4 A BILL FOR AN ACT ENTITLED: "AN ACT PROHIBITING A STATEWIDE ELECTED OFFICIAL FROM PAYING
5 PERSONAL STAFF BONUSES OR OTHER SPECIAL COMPENSATION WITHIN A CERTAIN TIME PERIOD
6 BEFORE THE EXPIRATION OF THE OFFICIAL'S TERM; AMENDING SECTION 2-18-621, MCA; AND
7 PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."
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9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
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11 **Section 1.** Section 2-18-621, MCA, is amended to read:

12 **"2-18-621. Unlawful termination -- unlawful payments.** (1) (a) It is unlawful for an employer to
13 terminate or separate an employee from employment in an attempt to circumvent the provisions of 2-18-611,
14 2-18-612, and 2-18-614. If a question arises under this subsection, it must be submitted to arbitration as provided
15 in Title 27, chapter 5, as if an agreement described in 27-5-114 is in effect, unless there is an applicable collective
16 bargaining agreement to the contrary.

17 (b) It is unlawful for a statewide elected official to pay the official's personal staff, as defined in 2-18-101,
18 any type of bonus, termination pay, performance pay, or other special compensation between the date of the
19 general election immediately preceding the expiration of the official's term and the date that the official's term
20 expires.

21 (2) (a) An employee who terminates employment is entitled to receive only:

22 (i) payments for accumulated wages, vacation leave as provided in 2-18-617, sick leave as provided in
23 2-18-618, and compensatory time earned as provided in the rules or policies of the employer; and

24 (ii) if the termination is the result of a reduction in force, severance pay and a retraining allowance as
25 provided for in 2-18-622.

26 (b) An employee who terminates employment may not receive severance pay, a bonus, or any other type
27 of monetary payment not described in subsection (2)(a)(i) or (2)(a)(ii).

28 (3) Subsection (2) does not apply to:

29 (a) retirement benefits;

30 (b) a payment, settlement, award, or judgment that involves a potential or actual cause of action, legal

1 dispute, claim, grievance, contested case, or lawsuit; or

2 (c) any other payment authorized by law."

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4 NEW SECTION. **Section 2. Effective date.** [This act] is effective on passage and approval.

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6 NEW SECTION. **Section 3. Retroactive applicability.** [This act] applies retroactively, within the
7 meaning of 1-2-109, to payments made by a statewide elected official to personal staff after November 4, 2008,
8 that were not made pursuant to the pay plan, pay schedule, or administrative procedures governing compensation
9 determination for personal staff and in effect on November 4, 2008.

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11 NEW SECTION. **Section 4. Saving clause.** [This act] does not affect rights and duties that matured,
12 penalties that were incurred, or proceedings that were begun before [the effective date of this act].

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