

1 _____ BILL NO. _____

2 INTRODUCED BY _____
3 (Primary Sponsor)

4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING MANDATORY HOLIDAY PAY REGARDLESS OF
5 TERM OF EMPLOYMENT AND PROVIDING EXCEPTIONS; PROVIDING RULEMAKING AUTHORITY;
6 REVISING ELIGIBILITY AMONG STATE WORKERS FOR HOLIDAY PAY REGARDLESS OF TERM OF
7 EMPLOYMENT; AMENDING SECTIONS 2-18-101 AND 2-18-603, MCA; AND PROVIDING AN EFFECTIVE
8 DATE."

9
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11
12 **NEW SECTION. Section 1. Holiday pay mandatory -- exceptions.** (1) Subject to subsection (2), for
13 legal holidays recognized by the state of Montana in 1-1-216, except Sundays, regardless of the tenure of the
14 employee on the job, an employee who:

15 (a) receives the holiday off is entitled to holiday pay based on the employee's regularly scheduled shift
16 for that day and, if the employee works, as required or permitted by the employee's supervisor, is entitled to:

17 (i) pay at no less than the person's average hourly wage for hours worked on the holiday; or

18 (ii) additional compensatory time off for hours worked:

19 (A) under the provisions of 29 CFR 553, if the employee is covered by 29 U.S.C. 213, et seq.; or

20 (B) at no less than actual time worked if exempt from 29 U.S.C. 213, et seq.; or

21 (b) is scheduled for a day off on a day that is observed as a legal holiday, except Sundays, is entitled
22 to an alternate day off with pay either on the day preceding the holiday or on another day following the holiday
23 in the same pay period or as scheduled by the employee and the employee's supervisor under the following
24 conditions:

25 (i) the employee must be in a pay status on the employee's last regularly scheduled working day
26 immediately before the holiday or immediately after the holiday; and

27 (ii) a part-time employee must be paid on a prorated basis for holiday time off according to rules adopted
28 by the department of labor and industry, provided for in 2-15-1701.

29 (2) (a) Employment covered by a collective bargaining agreement is subject to the terms of the collective
30 bargaining agreement whenever the terms differ from the provisions of subsection (1).



1 (b) Employees in employment covered by 7-4-2509, 7-32-115, 7-32-2111, 7-32-4118, or 39-3-406(1)
2 and legislators compensated under 5-2-301 while in session are not subject to this section, except that an
3 employee subject to 7-4-2509, 7-32-115, 7-32-2111, 7-32-4118, and 39-3-406(1) and a legislator while in
4 session must be paid for the hours worked on a holiday.

5 (c) An employee whose employment is otherwise regulated under federal law, including 49 U.S.C.
6 10501, 49 U.S.C. 31502, and 49 U.S.C. 60501, is not covered by this section, except that the employee must
7 be paid for the hours worked on a holiday.

8 (d) Except as otherwise provided by a collective bargaining agreement, an employee of a school district
9 is covered by this section for holidays provided under 20-1-305.

10
11 **NEW SECTION. Section 2. Rulemaking.** The department of labor and industry shall adopt rules to
12 implement [section 1].

13
14 **Section 3.** Section 2-18-101, MCA, is amended to read:

15 **"2-18-101. Definitions.** As used in parts 1 through 3 and part 10 of this chapter, the following definitions
16 apply:

17 (1) "Agency" means a department, board, commission, office, bureau, institution, or unit of state
18 government recognized in the state budget.

19 (2) "Anniversary date", except as modified in part 3 of this chapter, means the month and day on which
20 an employee began the most recent period of uninterrupted state service.

21 (3) "Base salary" means the amount of compensation paid to an employee, excluding:

22 (a) state contributions to group benefits provided in 2-18-703;

23 (b) overtime;

24 (c) fringe benefits as defined in 39-2-903; and

25 (d) the longevity allowance provided in 2-18-304.

26 (4) "Board" means the board of personnel appeals established in 2-15-1705.

27 (5) "Class" means one or more positions substantially similar with respect to the kind or nature of duties
28 performed, responsibility assumed, and level of difficulty so that the same descriptive title may be used to
29 designate each position allocated to the class, similar qualifications may be required of persons appointed to
30 the positions in the class, and the same pay rate or pay grade may be applied with equity.

1 (6) "Class series benchmark" means a representative position within a class series that is used to
2 illustrate the application of the job evaluation factors that are used to classify positions in the classification plan.
3 A benchmark description describes the duties and responsibilities assigned and the factors applied to the class
4 series benchmark.

5 (7) "Class specification" means a written descriptive statement of the duties and responsibilities
6 characteristic of a class of positions and includes the education, experience, knowledge, skills, abilities, and
7 qualifications necessary to perform the work of the class.

8 (8) "Compensation" means the annual or hourly wage or salary and includes the state contribution to
9 group benefits under the provisions of 2-18-703.

10 (9) "Competencies" means sets of measurable and observable knowledge, skills, abilities, and
11 behaviors that contribute to success in a job.

12 (10) "Department" means the department of administration created in 2-15-1001.

13 (11) Except in 2-18-306, "employee" means any state employee other than an employee excepted under
14 2-18-103 or 2-18-104 from the statewide classification system.

15 (12) "Entry salary" means the entry-level base salary for each grade provided in 2-18-312.

16 (13) "Grade" means the number assigned to a pay range within a pay schedule in part 3 of this chapter.

17 (14) "Job sharing" means the sharing by two or more persons of a position.

18 (15) "Market ratio" means an employee's base salary divided by the market salary for the employee's
19 pay grade.

20 (16) "Market salary" means the midpoint in a pay grade provided in 2-18-312, based on the average
21 base salary that other employers pay to employees in comparable occupations as determined by the
22 department's salary survey of the relevant labor market.

23 (17) "Permanent employee" means an employee who is designated by an agency as permanent and
24 who has attained or is eligible to attain permanent status.

25 (18) "Permanent status" means the state an employee attains after satisfactorily completing an
26 appropriate probationary period.

27 (19) "Personal staff" means those positions occupied by employees appointed by the elected officials
28 enumerated in Article VI, section 1, of the Montana constitution or by the public service commission as a whole.

29 (20) "Position" means a collection of duties and responsibilities currently assigned or delegated by
30 competent authority, requiring the full-time, part-time, or intermittent employment of one person.

1 (21) "Program" means a combination of planned efforts to provide a service.

2 (22) "Seasonal employee" means a permanent employee who is designated by an agency as seasonal,
3 who performs duties interrupted by the seasons, and who may be recalled without the loss of rights or benefits
4 accrued during the preceding season.

5 (23) "Short-term worker" means a person who:

6 (a) is hired by an agency for an hourly wage established by the agency;

7 (b) may not work for the agency for more than 90 days in a continuous 12-month period;

8 (c) is not eligible for permanent status;

9 (d) may not be hired into another position by the agency without a competitive selection process; and

10 (e) is eligible to earn holiday benefits provided in part 6 of this chapter, but is not eligible to earn the
11 other leave and holiday benefits provided in part 6 of this chapter or the group insurance benefits provided in
12 part 7 of this chapter.

13 (24) "Temporary employee" means an employee who:

14 (a) is designated as temporary by an agency for a definite period of time not to exceed 12 months;

15 (b) performs temporary duties or permanent duties on a temporary basis;

16 (c) is not eligible for permanent status;

17 (d) is terminated at the end of the employment period; and

18 (e) is not eligible to become a permanent employee without a competitive selection process."
19

20 **Section 4.** Section 2-18-603, MCA, is amended to read:

21 **"2-18-603. Holidays -- observance when falling on employee's day off.** (1) (a) A full-time employee,
22 temporary employee, or short-term worker who is scheduled for a day off on a day that is observed as a legal
23 holiday, except Sundays, is entitled to receive a day off with pay either on the day preceding the holiday or on
24 another day following the holiday in the same pay period or as scheduled by the employee and the employee's
25 supervisor, whichever allows a day off in addition to the employee's or worker's regularly scheduled days off,
26 provided the employee or worker is in a pay status on the employee's or worker's last regularly scheduled
27 working day immediately before the holiday or on the employee's or worker's first regularly scheduled working
28 day immediately after the holiday.

29 (b) Part-time employees receive pay for the holiday on a prorated basis according to rules adopted by
30 the department of administration or appropriate administrative officer under 2-18-604.

