

**COLLECTIVE BARGAINING AGREEMENT**

**BETWEEN**

**THE MONTANA UNIVERSITY SYSTEM**

**AND**

**THE INTERNATIONAL UNION OF OPERATING ENGINEERS  
LOCAL #400**

**FOR MECHANIC SHOP EMPLOYEES**

**AT**

**MONTANA STATE UNIVERSITY**

**JULY 1, 2017 TO JUNE 30, 2019**

**Table of Contents**

PREAMBLE ..... page 1

ARTICLE 1 – RECOGNITION ..... page 1

ARTICLE 2 - UNION RIGHTS ..... pages 1-2

ARTICLE 3 - MANAGEMENT RIGHTS ..... page 3

ARTICLE 4 - NO WORK STOPPAGES / NO LOCKOUT ..... page 3

ARTICLE 5 - TYPES OF AVAILABLE EMPLOYMENT ..... pages 4-5

ARTICLE 6 - PAY AND HOURS ..... pages 5-8

ARTICLE 7 – LEAVES ..... pages 8-12

ARTICLE 8 - HOLIDAYS ..... pages 13-15

ARTICLE 9 - PROBATION AND DISCHARGE ..... page 15

ARTICLE 10 - GRIEVANCE AND ARBITRATION ..... pages 16-18

ARTICLE 11 - TERMS AND CONDITIONS OF EMPLOYMENT ..... pages 19-29

ARTICLE 12 - BARGAINING AGENT SECURITY ..... pages 29-31

ARTICLE 13 - EFFECT OF ENTIRE AGREEMENT ..... page 31-32

ARTICLE 14 - TERM OF AGREEMENT ..... page 32

ADDENDUM A - BASE WAGES ..... page 33

ADDENDUM B – STATE STATUTES ..... pages 34-36

## **PREAMBLE**

This agreement is made and entered into by and between the International Union of Operating Engineers Local No. 400 (hereinafter referred to as “the union”) and the Commissioner of Higher Education (as agent for the Board of Regents and on behalf of Montana State University, hereinafter referred to as “the employer”).

## **ARTICLE I RECOGNITION**

### **1.1 RECOGNITION**

The employer recognizes the bargaining agent as the sole and exclusive representative of those employed in classifications within the bargaining unit for purposes of bargaining with the employer regarding terms and conditions of employment and representing the interests of those employees consistent with the terms of this agreement. Classifications and job titles mutually agreed to be within the bargaining unit are in the attached addendum designated by the appropriate university unit. The term employee as it is used in this agreement shall mean a bargaining unit employee.

### **1.2 EXCLUDED EMPLOYEES**

Temporary employees, part-time employees who are not regularly scheduled to work 20 or more hours per week, and employees otherwise ineligible under the provisions of 39-31-103 MCA (Montana’s public employee collective bargaining act) are not eligible for inclusion in the bargaining unit. The term “employee” for the remainder of this Agreement means an employee who is in the collective bargaining unit and is covered by the Agreement.

## **ARTICLE 2 UNION RIGHTS**

### **2.1 UNION ACTIVITIES PROTECTED**

No employee shall be discharged or discriminated against for engaging in union activities which are protected under the state collective bargaining act.

## 2.2 REPRESENTATION BY UNION REPRESENTATIVE

Employees have the right to have a union representative present during investigatory interviews that may result in disciplinary action. It is the obligation of the employee to request such representation and ensure that the union representative is notified and present at any such meetings.

## 2.3 BARGAINING UNIT LIST

Upon request, the employer shall furnish the union with an updated list of the names and seniority dates of employees in the bargaining unit. The union shall inform the employer of the union official who is to receive such information.

## 2.4 MEETING ROOMS

When available, and upon receipt of adequate notice and request, the employer shall provide meeting room space for bargaining agent meetings with bargaining unit personnel in accordance with campus regulations.

## 2.5 COPIES OF AGREEMENT

Upon final ratification and approval of this agreement, the employer shall prepare and make available to the union a copy of the agreement. The union shall be responsible for providing copies of the agreement for employees and the employer shall be responsible for providing copies for supervisors.

## 2.6 VISITING WORK AREAS

The authorized representative of the bargaining agent shall have access to the job during working hours for official business after notifying the appropriate available supervisor of the anticipated time of the visit. Any such visit may not unduly disrupt work in progress.

**ARTICLE 3**  
**MANAGEMENT RIGHTS**

3.1 MANAGEMENT RIGHTS

Employees and the bargaining agent recognize the prerogative of the employer to operate and manage its affairs in such areas as, but not limited to:

1. directing employees;
2. hiring, promoting, transferring, assigning, and retaining employees;
3. relieving employees from duties because of lack of work or funds or under conditions where continuation of such work would be inefficient or nonproductive;
4. maintaining the efficiency of the employer's operations;
5. determining the methods, means, job classification, and personnel by which the employer's operations are to be conducted;
6. taking whatever actions may be necessary to carry out the missions of the employer in situations of emergency; and
7. establishing the methods and processes by which work is to be performed.

**ARTICLE 4**  
**NO WORK STOPPAGES**

4.1 WORK STOPPAGE

There shall be no strikes of any kind, slowdowns, or other work stoppages on the part of employees or the union during the term of this agreement. There shall be no lockouts by the employer during the term of this agreement.

**ARTICLE 5**  
**TYPES OF AVAILABLE EMPLOYMENT**

5.1 POSSIBLE DURATION AND EXTENT OF EMPLOYMENT

The anticipated "duration" of employment or expectation of continued employment is determined by whether the position is "permanent" or "temporary." The number of hours of scheduled work or "extent" of employment is determined by whether the position is "full-time" or "part-time." The following define the types of available positions regarding "duration" and "extent" of employment.

5.2 PERMANENT EMPLOYEE

A permanent employee is one who has completed the probationary period in a permanent position. The employment of the permanent employee is of unlimited duration and once the probationary period has been served may not be discharged without cause.

5.3 TEMPORARY EMPLOYEE

A temporary employee is one whose employment is not intended to be permanent and is limited by an appointment for a specified time period or on a daily, weekly or monthly basis with no expectation of employment beyond the period specified. No temporary employee may be changed to the status of a permanent employee but any temporary employee may apply for any permanent position for which a recruitment is being conducted. Temporary employment may be discontinued without cause, but at least five (5) working days of notice of discontinuance shall be given those employed for a specified term or on a monthly basis. Temporary positions are subject to all collective bargaining requirements after three (3) months of employment.

5.4 FULL-TIME EMPLOYEE

Any employee regularly scheduled to work at least forty (40) hours per week is a full-time employee. Full-time employees may be either permanent or temporary.

5.5 PART-TIME EMPLOYEE

Any employee who works less than a regular forty (40) hour week is a part-time employee. Part-time employees may be either permanent or temporary.

**ARTICLE 6**  
**PAY AND HOURS**

6.1 RATES SPECIFIED

Employees covered by this agreement shall be compensated for hours worked at the appropriate hourly rate specified in Addendum A.

6.2 LONGEVITY PAY

Employees shall receive longevity pay in accordance with state statutes. Present law grants each employee who has completed five (5) years of uninterrupted service 1.5% of their base salary multiplied by the number of completed, contiguous five (5) year periods of uninterrupted service. The longevity increment for the second (10-year), third (15-year) and fourth (20-year) increments shall be 2 percent.

6.3 PREMIUM PAY

Nonexempt employees, defined as those employees covered by the minimum wage and overtime provisions of state and federal law, are entitled to pay in excess of their normal hourly rate under the circumstances specified below.

A. Overtime

Any amount of time an hourly employee is required to work in excess of eight (8) hours in any twenty-four (24) hour period or in excess of forty (40) hours in any week will be regarded as overtime and the employee will be compensated at the rate of one and one-half (1-1/2) times the normal rate of pay for all overtime worked. In order to constitute overtime for which an hourly employee is entitled to be paid, the employee must have obtained the approval of the supervisor either prior or subsequent to working the additional time. It shall be the responsibility of the supervisor to

ascertain that employees do not work any overtime for which the supervisor does not desire that the employer be charged and the responsibility of the employee to limit overtime to that which is requested by the supervisor or is essential under the circumstances, and to obtain the approval of the supervisor for any overtime worked.

**B. Compensatory Time Option for Employees**

Upon agreement of the employer and the affected employee(s), an employee may receive compensatory time in lieu of overtime in accordance with the provisions of the Fair Labor Standards Act. The following conditions will prevail concerning compensatory time:

1. Compensatory time for nonexempt employees will accrue at the rate of one and one-half (1-1/2) hours for each one (1) hour of overtime worked.
2. An employee must have the appropriate supervisor's prior approval to use accumulated compensatory time.
3. If employment is terminated, any unused compensatory time will be paid to the employee at the regular rate of pay at the time of termination or the average regular rate received by the employee during the last three (3) years of the employee's employment, whichever is higher. The employing campus may establish other timeframes in which compensatory time for nonexempt employees must be used or will be cashed out.

**C. Callouts**

Any hourly employee called out to work early shall receive overtime pay for all time worked prior to the regularly scheduled work period. Any hourly employee called out to work after an eight (8) hour day or forty (40) hour week shall be guaranteed a minimum of two (2) hours overtime pay.

**D. Show Up Guarantee**

It shall be the responsibility of the supervisor to notify any permanent full-time employee whose services will not be required for any scheduled shift. Any such



employee who shows up for work at the regularly scheduled time because the supervisor failed to give such notice shall be guaranteed four (4) hours of work. If no work is available, the employee shall receive four (4) hours of regular pay in lieu of work.

#### 6.4 WAGE WITHHOLDING

The employer has the right to withhold from wages or any other payment due an employee, any amount the employee owes the employer or which the employee unjustly received from the employer.

#### 6.5 INSURANCE COVERAGE

##### Group Insurance

The employer contribution to health insurance for eligible employees shall be \$1,054.00 per month effective July 2017 and \$1,054.00 per month effective July 2018 in accordance with state statute. All permanent half-time or more employees who regularly work more than six (6) months in any twelve (12) month period are eligible for coverage under the Montana University system Group Health Insurance Program. The employer will continue to make group insurance contributions for up to four (4) months while an employee is on a workers' compensation leave of absence as a result of an injury sustained while employed at a unit of the university system.

##### Employee assistance program

The employer encourages employees in need to use the Employee Assistance Program available through the university system group benefits insurance plan wherever and whenever appropriate.

##### Unemployment and Workers' Compensation

Employees are eligible for unemployment compensation and workers' compensation in accordance with state law.

## 6.6 RETIREMENT

Employees shall participate in the applicable public employees retirement system in accordance with state law.

## **ARTICLE 7**

### **LEAVES**

## 7.1 ANNUAL VACATION LEAVE

Employees shall be eligible for annual vacation leave in accordance with state statute, a copy of which is attached in Addendum B.

### Holidays Not Leave Time

Holidays, including those allowed in lieu of the actual holiday, occurring while an employee is on paid sick leave or paid vacation shall be earned by the employee and not charged as sick leave or vacation.

### Vacation Scheduling

The dates when employees' annual vacation leaves shall be granted shall be determined by agreement between each employee and his/her supervisor with regard to the best interest of the employer as well as the best interest of the employee.

### Charges by Quarter Hour

Vacation charges shall be recorded in increments of one-quarter (1/4) hour.

### Extension by Leave Without Pay

Leave of absence without pay may be used to extend regular vacation with prior approval of the supervisor.

## 7.2 SICK LEAVE

Employees shall be eligible for sick leave in accordance with state statute, a copy of which is attached in Addendum B.

### Definitions

Sick leave is the necessary absence from duty caused when an employee has suffered illness, injury, pregnancy, or pregnancy-related illness; exposure to contagious disease that requires quarantine; the necessary absence from duty to receive a medical or dental examination or treatment; a necessary absence due to the illness of a member of the employee's immediate family requiring the attendance of the employee, until professional or other attendance can be obtained; or the death of a member of the employee's immediate family. The employee's immediate family shall consist of: spouse, parents, grandparents, brothers, sisters, children, household dependents, and the same relatives of the employee's spouse in like degree.

### Policy

Accumulated sick leave credits should be regarded by employees as valuable free health insurance that maintains the employee's income during a period of personal illness or family emergencies. Sick leave benefits should be carefully guarded and not dissipated or abused.

### Reporting

Any illness, medical appointment or emergency which will necessitate use of sick leave shall be reported by the employee to the employer as soon as possible, and it shall be the responsibility of the employee to assure proper reporting of use of sick leave for record keeping purposes.

### Charges in Excess of Credits

Sick leave charges in excess of earned sick leave credits may be charged to earned and available annual leave or leave without pay at the employee's option.

### Charges by Quarter Hour

Sick leave charges shall be recorded in increments of one-quarter (1/4) hour.

### Physician's Certificate

A physician's certificate or other evidence to substantiate a sick leave charge may be required by an employee's immediate supervisor or appointing authority if a question of abuse exists. Notice of this requirement must be made known to the employee when the employee reports back to work. A physician's certificate may also be requested to verify an employee's readiness to return to work.

### Medical Appointments

Medical appointments may be charged to sick leave provided the minimum time charged is not less than one-half (1/2) hour. The employee must notify the supervisor of a medical appointment at least twenty-four (24) hours in advance except in case of emergency.

### Pregnancy as Illness

Disabilities caused or contributed by pregnancy, miscarriage, abortion, childbirth and recovery therefrom are, for all job-related purposes, temporary disabilities and should be treated as such under any health or temporary disability insurance or sick leave plan available in connection with employment.

### Holidays Not Charged

Any holidays that fall during a period that an employee is on sick leave will be charged as a holiday and not taken off the total accumulated sick leave.

### Abuse Defined

Abuse of sick leave occurs when an employee misrepresents the actual reason for charging an absence to sick leave or when an employee uses sick leave for unauthorized purposes.

### Employer Substantiation of Abuse

The employer must be able to substantiate any charges of sick leave abuse that result in an employee's dismissal and forfeiture of the lump sum payment.

### Alternative Assignment

In the event that an employee becomes incapable of performing the duties of his/her regular classification through occupational illness or industrial accident, the employer may transfer the employee without loss of pay to a position for which he/she is qualified provided the change can be accomplished without displacing another employee.

### Workers' Compensation Not Charged

Because an employee's pay continues while on sick leave, no employee is entitled to be paid both sick leave and workers' compensation payments. An employee injured on the job has the option of taking either sick leave or workers' compensation payments and if sick leave runs out, may receive workers' compensation payments.

## 7.3 JURY DUTY OR SUBPOENA

Any employee summoned as a juror or subpoenaed as a witness shall be granted leave in accordance with state law, a copy of which is attached in Addendum B.

## 7.4 MILITARY TRAINING

Military training leave shall be granted in accordance with state law, a copy of which is attached in Addendum B.

## 7.5 LEAVES OF ABSENCE WITHOUT PAY

### Discretionary Leave

Any employee desiring leave of absence without pay shall secure approval from the employer. Approval of any leave without pay for five (5) or more days shall be obtained in writing from the supervisor. The maximum leave of absence shall not exceed six (6) months and may be extended at the discretion of the employer, total not to exceed one (1) calendar year. As a general policy, unless other arrangements are approved, annual leave or sick leave, if applicable, must have been exhausted before leave without pay may be taken.

### Public Service Leave

An employee who is elected or appointed to public office shall be entitled to leave of absence without pay not to exceed one hundred eighty (180) days per year in accordance with state law, a copy of which is attached in Addendum B.

### Bargaining Agent Representative Leave

The employer may grant reasonable leaves of absence without pay to one or two employees whenever required in the performance of duties as "duly authorized representatives of the bargaining agent." "Duly authorized representatives" means members of regularly constituted committees and/or officers of the bargaining agent, and a list of such representatives will be supplied to the Personnel Director or other appropriate official by the bargaining agent.

### Maternity Leave

Eligible employees shall be granted maternity leave in accordance with state law, a copy of which is attached in Addendum B.

### Effect of Leave Without Pay

When on a leave without pay, an employee retains none of the benefits or burdens of employment except a right to return to employment. If the leave exceeds fifteen (15) days, the employer's contribution to medical insurance may be discontinued.

However, an employee may remain on group medical insurance by personally paying the amount of the employee's contribution plus the regular monthly premium. None of the time on leave without pay may be considered for holidays which fall during leaves without pay; nor is a person a state employee during such leave for purposes of state insurance coverage or use of state property or facilities, including state vehicles. Seniority will cease to accrue during leaves without pay in excess of fifteen (15) days.

**ARTICLE 8**  
**HOLIDAYS**

8.1 HOLIDAYS LISTED

For pay purposes, the following shall be recognized holidays except where the employer exchanges a holiday in accordance with this agreement.

Employees shall be granted the following paid holidays:

- A. New Year's Day - January 1
- B. Martin Luther King Jr. Day - Third Monday in January
- C. Lincoln's and Washington's Birthdays - Third Monday in February
- D. Memorial Day - Last Monday in May
- E. Independence Day - July 4
- F. Labor Day - First Monday in September
- G. Columbus Day - Second Monday in October
- H. Veteran's Day - November 11
- I. Thanksgiving Day - Fourth Thursday in November
- J. Christmas Day - December 25
- K. State General Election Day - On even numbered years

8.2 HOLIDAY EXCHANGES AUTHORIZED

The Board of Regents of Higher Education may designate the following business days as holidays for campus employees in exchange for the same number of legal holidays enumerated above in accordance with 20-25-306, M.C.A.

- A. the Friday following Thanksgiving;
- B. the Monday before Christmas Day or New Year's Day if either holiday falls on Tuesday; and
- C. the Friday after Christmas Day or New Year's Day if either holiday falls on Thursday.

### 8.3 HOLIDAY PAY

Employees shall receive regular pay for all holidays, and all time worked on any holidays shall be compensated at the rate of time and one-half (1-1/2) in addition to regular holiday pay. Holiday pay is paid for the actual designated holiday.

### 8.4 ELIGIBILITY FOR HOLIDAY PAY

In order to be eligible for holiday pay, an employee must be in a pay status on the last regularly scheduled working day immediately before or on the first regularly scheduled day immediately after the holiday (2-18-603, M.C.A.). If a new employee or an employee returning from inactive status, or layoff reports to work on a day following the holiday, the employee will not receive compensation for the holiday except as provided for herein.

### 8.5 ADDITIONAL DAY OFF

Any full-time employee who is scheduled for a day off on a day which is observed as a holiday shall be entitled to receive a day off either on the day preceding or following the holiday, whichever allows a day off in addition to the employee's regularly scheduled day off or an alternate day off which is agreeable to the employee and employer. (2-18-603, M.C.A.)

### 8.6 PART-TIME - PRORATED

Part-time employees shall receive holiday pay on a pro-rata basis.

### 8.7 DURING TERMINAL LEAVE

Any employee who elects to take leave in lieu of a lump sum payment for accrued annual vacation upon termination of employment shall receive an extra day's pay for each holiday that falls during the leave time taken.



8.8 HOLIDAY LAYOFF

Employees temporarily laid off due to Christmas vacation shall be entitled to holiday pay for Christmas and New Year's Day. Any employee indefinitely laid off or terminated five (5) calendar days or less prior to Christmas or New Year's shall receive pay for that holiday.

8.9 HOLIDAYS NOT CHARGED TO SICK LEAVE

Holidays, including those allowed in lieu of the actual holiday, occurring while an employee is on a paid sick leave or a paid vacation shall be earned by the employee and not charged as sick leave or vacation.

**ARTICLE 9**  
**PROBATION AND DISCHARGE**

9.1 PROBATIONARY PERIOD

It is the policy of the employer to employ qualified personnel whose ability to perform the services for which they are hired is not contingent upon additional education or training. The first six (6) months of employment of any employee newly hired into a position covered by this agreement shall be a period of probation. An employee's probationary period may be extended at the discretion of the employer for an additional three (3) months after giving written notice to the employee and the union. At any time during the period of probation, the employee may be discharged without any showing of cause.

9.2 DISCHARGE FOR CAUSE

A regular employee is one who has completed the probationary period. No regular employee may be discharged without just cause.

## **ARTICLE 10**

### **GRIEVANCE AND ARBITRATION**

#### **10.1 DEFINITION OF GRIEVANCE**

A grievance is any controversy between the parties to this agreement which pertains to (1) any matter involving interpretation of this agreement, and (2) any matter involving a violation of any of the provisions of this agreement.

#### **10.2 TIME LIMIT ON PRESENTATION**

Any grievance must be presented to the bargaining agent within twenty (20) days of occurrence. Within ten (10) days of notification of the grievance, the bargaining agent shall present the grievance to the appropriate supervisor.

#### **10.3 INFORMAL PROCEDURE**

Within five (5) working days of receipt of the grievance by the supervisor, the supervisor and the employee grievant shall discuss the grievance in an effort to informally resolve the grievance. If the grievance is not resolved informally, it may be presented in writing by the bargaining agent (IUOE staff member) to the head of the department within five (5) days of the informal grievance discussion. The head of the department shall have ten (10) days from receipt of the grievance to respond in writing.

#### **10.4 FORMAL PROCEDURE**

If the grievance is still unresolved, it may be presented in writing, within five (5) days from receipt of the department head's response, to the personnel office. The personnel office shall have ten (10) days from receipt of the grievance to respond in writing.

#### **10.5 GRIEVANCE COMMITTEE**

If the grievance is not resolved by means of the formal procedure, the bargaining agent and the employer may agree to refer the grievance to a grievance committee for resolution prior to arbitration. A request to use a grievance committee may be initiated by the employer within ten (10) days from the bargaining agent's request to arbitrate or by the bargaining agent within ten (10) days from receipt of the step 2 decision of the personnel office. If the parties agree to the use of a grievance committee, the

Commissioner of Higher Education shall appoint two (2) committee members and the bargaining agent shall appoint two (2) committee members. No employee of the unit from which the grievance originated may be selected by the employer or the bargaining agent to serve on the committee. The grievance committee shall conduct the hearing at the unit from which the grievance originated and shall arrive at a decision within five (5) days following the date the grievance was heard by the committee. Any decision concurred in by a majority of the members of the grievance committee is final and binding and may not be appealed to arbitration. In the event the grievance committee is unable to arrive at a decision which is concurred in by a majority of committee members, the bargaining agent may submit the matter to arbitration by giving written notice of their intention to arbitrate to the Commissioner of Higher Education and the campus personnel office within five (5) days from the date the committee decision was due.

#### 10.6 ARBITRATION

##### Request for Arbitration

In the event the grievance committee is unable to arrive at an agreement within the time specified, the bargaining agent and the grievant may submit the matter to arbitration by giving written notice of their intention to arbitrate to the campus personnel office with a copy to the Commissioner of Higher Education within ten (10) days from the date the committee decision was due. Upon the written request of the Commissioner or the bargaining agent, a fifteen (15) day postponement in the selection of an arbitrator shall be granted to allow the Commissioner a final opportunity to attempt to resolve the matter prior to arbitration. If no settlement is reached within the fifteen (15) days, the parties shall proceed to arbitration.

##### Selection of Arbitrator

Upon a request for arbitration or upon the expiration of the fifteen (15) day extension granted the Commissioner, the parties shall attempt to mutually agree to an acceptable impartial arbitrator. If the parties are unable to agree upon an arbitrator, the Federal Mediation and Conciliation Service shall be requested to provide a list of names of seven

(7) potential arbitrators from the northwest region. Each party shall alternatively strike names and the remaining name shall be the arbitrator.

#### Authority of Arbitrator

The decision of the arbitrator shall be final and binding except that no arbitrator shall have the authority to add to, subtract from, or modify the terms of this agreement.

#### Costs of Arbitration

Each party shall be responsible for the fees and expenses of presenting its own case. The cost of the arbitrator shall be shared equally between the parties. If one of the parties wants a transcript of the arbitration proceedings, the party requesting the transcript shall pay the cost of such transcript. If both parties want a transcript, the cost of said transcript will be borne equally by both parties.

### 10.7 RULES OF GRIEVANCE PROCESSING

#### Timeframes

Reference to days regarding time period in this procedure shall refer to working days. A working day is defined as all week days which are not designated as holidays. In computing any period of time prescribed herein, the date of the act, event, or default for which the designated period of time begins to run shall not be included. Time limits specified herein may be extended by mutual agreement of the parties involved at that step of the procedures. Any grievance which is not filed or advanced within the time limits provided for herein shall be invalid and without further recourse.

#### Written Grievances

Grievances presented in writing shall include all of the following:

1. a complete statement of the grievance and the facts upon which it is based;
2. the contractual provisions which have been allegedly violated and the remedy or correction requested; and
3. The signature of the aggrieved employee and union representative.

**ARTICLE 11**  
**TERMS AND CONDITIONS OF EMPLOYMENT**

11.1 SENIORITY

Seniority Defined

Seniority means a permanent employee's length of continuous service with the employing campus in a position covered by this agreement. The seniority date for all permanent employees shall typically be the most recent date of hire in a bargaining unit position. However, a permanent employee's service in a temporary position in a classification listed in Addendum A shall count towards the employee's seniority date if there was no break in service between employment in a temporary position and in a permanent bargaining unit position.

A. Seniority Revoked

Seniority shall be revoked upon resignation, discharge, transfer or promotion out of the bargaining unit exceeding one (1) year.

B. Seniority in Hiring or Promotion

When filling a vacant position in the bargaining unit where the qualifications of applicants are equal in all other respects, an employee with seniority shall prevail.

C. Selection of Employees for Layoff

Seniority shall be the controlling factor in selection of employees for layoff within each classification. Whenever possible, the employer shall give affected employees and the bargaining agent at least thirty (30) calendar days notice of anticipated layoffs.

D. Recall

Employees will be eligible for recall for one (1) year from the date of any layoff. Recall from layoffs shall be in reverse order of layoff. The employee shall be notified by certified mail of any recall to employment. If the employee fails to communicate acceptance of the offer of recall within ten (10) working days from the date of the mailing of the written notice, the employee shall be considered as having forfeited

any right to recall. Recall from layoff shall constitute reinstatement under the terms of this agreement.

#### 11.2 OUTSIDE EMPLOYMENT

Any employee may engage in outside employment which does not interfere with the employee's performance or the employment covered by this contract or which does not involve use of the employer's property, facilities, authority or name.

#### 11.3 VEHICLE REGISTRATION AND PARKING

All employees covered by this agreement shall be provided staff parking in existing parking areas, provided however, that each employee shall register any vehicle parked on campus in accordance with applicable regulations. The employer may charge a registration fee per vehicle and may assess fines for violations of motor vehicle and parking regulations, or order the removal of vehicles parked in violation of regulations at the expense of the violator, and withhold the amount of any unpaid fines from wages. (20-25-312, M.C.A.)

#### 11.4 EMPLOYMENT RECORDS

Any employee shall be entitled, upon request, to see any of his/her own employment records in the possession of the employer.

#### 11.5 EDUCATIONAL LEAVE AND FEE WAIVERS

All employees are encouraged to pursue self-improvement or self-enrichment courses of study. Any employee may take any number of courses for which the employee is academically qualified.

##### A. Time-Off to Attend Class

When a course which an employee desires to take is only offered during the employee's regular work schedule, the course may only be taken with the advance written approval of the supervisor. This approval may not be arbitrarily or capriciously withheld, but may be withheld if attendance would interfere with the employee's job performance or with the effective operation of the work unit. The

time off may be taken as either vacation leave, leave without pay or with the prior written consent of the supervisor, may be made up within the same working day.

#### B. Fee Waivers

Any employee who has successfully completed the probationary period and who is regularly scheduled for at least three-quarter time (.75 FTE) during the entire period of enrollment, may be entitled to a waiver of all fees except registration and building fees in accordance with the individual unit's current policy. Application for this fee waiver must be made in advance in accordance with the procedures published by the Registrar. If an employee is laid off after the first day of enrollment, the waiver shall continue for that quarter/semester.

Permanent employees employed at least three-quarter time for five (5) or more consecutive years are eligible to use a dependent tuition waiver benefit in accordance with Board of Regents policy. Employees who utilize the faculty and staff tuition waiver are not eligible for a dependent tuition waiver during the same academic term. Only one (1) dependent may utilize the dependent tuition waiver in an academic term. A dependent includes the employee's spouse or adult dependent, as defined in the MUS Employee Benefits Plan, and financially dependent children as defined by the Internal Revenue Code who are unmarried and under age 25. The tuition waiver benefit for dependents shall be for 50 percent of the residential tuition. In no case may registration, course fees or any other mandatory or miscellaneous fees be waived. Dependents may utilize the tuition waiver benefit to take courses at a college of technology or in any other two-year or certificate programs and to obtain a first baccalaureate degree at any unit of the university system. Dependents may not use the tuition waiver benefit to attend law school or obtain a graduate degree. The tuition waiver does not apply to non-credit, continuing education or other self-supporting courses.

#### C. Required Courses

When a supervisor requires an employee to take a course to update his/her knowledge in a field directly related to the employee's assigned duties, all costs associated with the course shall be paid by the department and the employee shall not be required to

"make up" the time spent attending class. Each situation of this nature shall require the advance written approval of the college Dean or appropriate Vice President.

D. Training

Employees may request to attend training to update their job knowledge or to obtain new job related skills. Such requests will be approved or denied on job relatedness, the cost of the training, benefit to the employer and employee, and the dollars available to fund such training. If such training is held during regular working hours, employees shall be released from their regular assignments without any loss of pay. It is understood, however, that employees may not earn overtime pay because of attendance at employee requested training.

11.6 ETHICAL CONDUCT

Public employees have a special obligation to carry out their duties for the benefit of the people of the state and to avoid taking actions that cause them to violate the public's trust. State law at 2-2-101 through 2-2-304 MCA includes several specific prohibitions and provides for significant penalties including fines and imprisonment for violators. Employees may also be subject to discipline for violation of public trust. Examples of prohibitions include but are not limited to: 1) using work time, facilities, equipment supplies, personnel or funds for private business purposes including any campaign activity persuading or affecting a political decision; 2) engaging in any activity, including lobbying on behalf of an organization of which the employee is a member while performing job duties 3) receiving two salaries as a public employee for work during overlapping hours; 4) accepting a substantial gift or economic benefit, or reward for an official action; 5) disclosing or using confidential information acquired in the course of official duties in order to further the employee's personal economic interests; 6) assisting any person for a fee or other compensation in obtaining any service, claim, license, or other economic benefit from the employer; 7) performing any official act directly and substantially affecting a business or other undertaking in which the employee has a substantial interest or is engaged as a consultant, representative or agent; 8) soliciting or accepting employment or engaging in meetings or negotiations to consider employment



with a person who the employee regulates in their official duties without first giving notice to their supervisor, or 9) engaging in a substantial transaction for private business purposes with a person the employee inspects or supervises.

#### 11.7 MEAL PERIODS

No employee shall be scheduled to work more than five (5) consecutive hours without being allowed a meal period, except in cases of emergency. No meal period shall be for less than one-half (1/2) hour.

#### 11.8 SAFETY OF WORKING CONDITIONS

The employer shall furnish a place of employment which is safe for employees therein, and shall furnish and use and require the use of such safety devices and safeguards, and shall adopt and use such practices or methods as are adequate to render the place of employment safe, and shall do everything reasonably necessary to protect the life and safety of employees. (50-71-201, M.C.A.) No person shall remove, damage or refuse to use any safety device or safeguard or interfere in any way with the use thereof or of any practice or method adopted for protection of employees. (50-71-203, M.C.A.) Employees shall notify the supervisor of any safety hazards incident to their employment. (50-71-322, M.C.A.)

#### 11.9 EMERGENCY USE OF HEALTH SERVICE

Any employee shall be allowed to use the Health Service, if available at the unit, for emergency treatment. The Health Service will be allowed reasonable charges for such service which shall be billed to the employee.

#### 11.10 REST PERIODS

Each employee shall be allowed a fifteen (15) minute rest break in both the first and second half of each shift. It shall be the supervisor's responsibility to make time available to ensure each employee receives such rest break. Such break shall be taken without loss of pay and the employee shall not be required to make up such time.

#### 11.11 RETIREMENT

Retirement shall be governed by applicable state and federal statutes. The amount of the employee and employer contribution to the Public Employees Retirement System and retirement benefits are governed by the provisions of Title 19 of the Montana statutes.

#### 11.12 PROTECTIVE CLOTHING OR UNIFORMS

If any employee is required to wear a uniform, protective clothing (including coveralls) or any type of protective device, the employer shall furnish two (2) pair per year of said items. The selection of the type and determination of the number as well as the means of maintenance of said items to be provided by the employer shall be the prerogative of the employer.

#### 11.13 TOOLS PROVIDED

Except for items personalized by size or custom of usage (e.g., tack or livery) the employer shall provide tools required for the performance of duties within the scope of employment.

#### 11.14 UNION PENSION PLAN

Any unit of the university system at which all employees covered by this agreement sign a petition indicating a desire to participate in the union pension plan shall sign the required trust documents and make the designated contributions to the pension plan in lieu of wages. Subsequent increases in the amount of the contribution may be implemented in the same manner. It is understood that the employer's participation in the union pension plan must be consistent with state and federal law and may be discontinued if it is determined to be unlawful.

#### 11.15 PRESCRIPTION SAFETY GLASSES

Prescription safety glasses will be furnished by the employer. The employer retains the authority to establish reasonable rules and procedures regarding frequency of issue,

replacement of damaged glasses, limits on reimbursement costs and coordination with the employer's vision plan.

#### 11.16 TRAVEL

Travel expenses will be paid in accordance with state statute.

#### 11.17 RESIGNATION

Any employee may resign any position at any time. Resignations should be in writing, dated, specify the date on which the resignation is to be effective, state the reasons for resigning, and be given to the supervisor far enough in advance of the effective date of intended departure to facilitate recruitment of a replacement. No employee may be summarily discharged for tendering a letter of resignation to the employer.

#### 11.18 DISCHARGE

Discharge of an employee results in permanent discontinuance of employment and any rights of the employee incident to the employment relationship.

##### A. Discharge Without Cause

Temporary employees and employees who have not completed the period of probation herein provided may be discharged by the employer without cause consistent with the terms of their employment agreement.

##### B. Discharge With Cause

No permanent employee who has completed the probationary period may be discharged without cause.

##### C. Protection of Discharged Employee

The employer may not prevent or attempt to prevent, by word or writing of any kind, any discharged employee from obtaining any other employment. The employer may,

however, inform by word or writing any other employer to whom a discharged employee has applied for employment with a truthful statement of the reason for such discharge. (39-2-802, M.C.A.)

D. Employer to Furnish Reason for Discharge

The employer shall furnish, upon demand by any discharged employee, a statement of the reasons for discharge in accordance with 39-2-801 MCA.

E. Discharge for Attachment or Garnishment Prohibited

The employer shall not discharge or lay off any employee because of attachment or garnishment served on the employer against the wages of the employee. (39-2-302, M.C.A.)

F. Statutory Causes for Discharge

Any employee who misrepresents the actual reason for charging an absence to sick leave or uses sick leave for unauthorized purposes may, upon substantiation of the charge by the employer, be discharged for sick leave abuse. (2-18-618, M.C.A.) Any employee who uses or authorizes the use of any state owned or leased vehicle for personal or private use or for other than official purposes shall be summarily discharged from employment.

G. Loss of Benefits Due to Discharge

Any employee who is discharged or terminated from employment for reasons reflecting discredit on the employee shall be denied cash compensation for unused vacation leave. (2-18-617, M.C.A.) Any employee discharged for abuse of sick leave shall forfeit the lump sum payment equal to one-quarter of the pay attributed to the employee's accumulated sick leave. (2-18-618, M.C.A.)

H. Right to Warning Letter

Prior to a discharge or suspension of a permanent employee, such employee shall normally be given at least one (1) written warning notice. However, the parties agree there are certain types of misconduct which may appropriately result in immediate discharge or suspension and no warning letter will be required in such instances.

I. Duration of Warning Letter Limited

Employees have the right to have a warning letter removed from their personnel file if after a reasonable period of time the reason for the warning letter has been corrected. The first warning letter that an employee receives will not remain in the personnel file for longer than 18 months unless there are repeated offenses or insufficient progress. Warning letters may be removed earlier than 18 months by agreement of the Human Resources Director and the bargaining agent. If the first warning letter is to remain in the file for longer than nine months, the employee will be provided an interim written progress report by the supervisor within nine months from the issuance of the warning letter. The bargaining agent shall receive copies of all warning letters. Warning letters are subject to the grievance procedure.

J. Means of Effecting Discharge

The discharge of an employee shall be effected by giving written notice of discharge to the employee. A copy of such notice shall also be provided to the bargaining agent.

K. Wages of Discharged Employee

When an employee separates from employment, all the unpaid wages of the employee are due and payable on the next regular payday for the pay period during which the employee was separated from employment or fifteen (15) days from the date of separation from employment, whichever occurs first, either through the regular pay channels or by mail if requested by the employee.

L. Discharge Subject to Grievance Procedure

Any controversy between the parties regarding discharge or disciplinary action may be pursued through the regular grievance procedure in Article XIII of this agreement.

11.19 PAY DAYS AND DEDUCTIONS

The employer shall establish regular pay days and shall furnish each employee an itemized statement of the purpose and amount of every deduction from wages. (39-3-101, M.C.A.)

11.20 PUBLIC EMPLOYEE RETIREMENT SYSTEM

Employees shall participate in the Public Employees Retirement System in accordance with state law. Employees who have questions concerning retirement should write or call:  
The Public Employees Retirement Division  
1712 Ninth Avenue  
Helena, MT 59601  
Phone: 444-3154

11.21 DESIGNATION OF PERSON AUTHORIZED TO RECEIVE DECEDENT'S WARRANTS

Any employee, by completing the standard form, may designate a person to receive the warrant for any wages, benefits or allowance due and payable to the employee by the employer at the time of the employee's demise. The employee may thereby be assured warrants for monies due will be promptly forwarded to the designated person without recourse to the procedures ordinarily required for the administration of the estate of a decedent. (2-18-412, M.C.A.) (Management Memo 1-75-5)

11.22 PRESCRIPTION SAFETY GLASSES

Prescription safety glasses will be furnished by the employer. The employer retains the authority to establish reasonable rules and procedures regarding frequency of issue, replacement of damaged glasses, limits on reimbursement costs and coordination with the employer's vision plan.

### 11.23 DISABILITY

The employer will comply with all provisions and employee protections required by the Americans with Disabilities Act, the Montana Human Rights Act, and the Family and Medical Leave Act.

### 11.24 SUBCONTRACTING

The Employer shall not reduce the wages or work hours of bargaining unit members in a material or significant manner through the contracting out of bargaining unit work without providing the union sufficient notice and opportunity to bargain the subject in good faith. The Employer shall comply with all bargaining obligations required by Montana's collective bargaining act for public employees.

### 11.25 BARGAINING UNIT WORK

The scope of this agreement covers mechanical maintenance of the Motor Pool fleet, and major mechanical work on vehicles, trucks, trailers, implements, large and small maintenance equipment, and tools. Washing and cleaning of the Motor Pool fleet is primarily the responsibility of this bargaining unit, except when bargaining unit members are unavailable.

## **ARTICLE 12**

### **BARGAINING AGENT SECURITY**

#### 12.1 PAYMENT OF DUES OR AN EQUIVALENT CONTRIBUTION

##### A. Condition of Continued Employment

All present employees covered by this agreement who are not members of the bargaining agent's labor organization who do not make application for membership therein within the thirty (30) calendar days of the effective date of this agreement shall, as a condition of continued employment, pay to the bargaining agent a representation fee to be established by the union in lieu of initiation fees and monthly dues as a contribution toward the administration of this agreement. New employees shall be allowed thirty (30) calendar days after employment in which to comply with

this requirement. Any person who fails to comply with this requirement shall be discharged by the employer within seven (7) calendar days after receipt of written notice from the bargaining agent.

**B. Employee's Right to Dues Checkoff**

The employer agrees, upon receipt of written authority from the employee, to deduct from the pay of the employee the monthly amount of dues, or service fee in lieu of dues, as certified by the appropriate office of the bargaining agent. The aggregate deductions of all employees shall be remitted, together with an itemized statement, to the appropriate office of the bargaining agent by the 15th of the succeeding month.

(39-31-203, M.C.A.)

**C. Exemption from Membership or Support of a Labor Organization**

An employee has the right of non-association and nonsupport of a labor organization based on religious grounds. The requirements and procedure for assertion of this right shall be in accordance with 39-31-204, M.C.A.

**D. Indemnify / Hold Harmless**

The bargaining agent will indemnify and hold the employer harmless against any and all liability including but not limited to such items as wages, damages, awards, court costs, and attorney fees which arise by reason of or result from the operation of this article.

**12.2 APPOINTMENT OF EMPLOYEE REPRESENTATIVE OF BARGAINING AGENT**

The bargaining agent shall have the right to appoint an employee representative in designated departments who shall be recognized by the employer as having authority to report irregularities in interpretation or application of this agreement to the bargaining agent and to assist the staff of the bargaining agent in the adjustment of grievances. Said representative shall not be discriminated against for discharging duties assigned by the



bargaining agent, it being understood that performance of such duties shall not materially interfere with performance of the employee's normal duties.

### 12.3 UPHOLDING BARGAINING AGENT PRINCIPLES

No employee shall be discharged or discriminated against for upholding union principles that constitute protected activity under the Collective Bargaining Act. No member working under the instructions of the union, or who serves on a committee, shall be discontinued from employment or be discriminated against for that reason, it being understood that such activities may not materially interfere with the performance of the employee's normal duties.

### 12.4 REPRESENTATION BY BARGAINING AGENT

Each employee covered by this agreement shall have the right to have a representative of the bargaining agent present when disciplinary action is contemplated. It shall be the responsibility of the employee to ensure that the bargaining agent representative is notified and is present at any such discussion.

## **ARTICLE 13**

### **EFFECT OF ENTIRE AGREEMENT**

#### 13.1 FINANCIAL AND LEGISLATIVE CONTINGENCIES

In the event the University System budget request is appropriated by the legislature in the amount requested, this agreement shall remain in full force and effect. Should the appropriation be less than the request, this agreement may be opened for renegotiation by the employer as to any portion thereof, the performance of which is contingent upon availability of financial resources. Should the legislature alter or amend a statutory provision contained in this agreement, the agreement may be opened for renegotiation by either party as to those clauses of the agreement affected by the legislative action.

### 13.2 SAVING CLAUSE

Should any portion of this agreement be determined invalid or unenforceable by any court or other judicial or quasi judicial body with authority to make such a determination, the rest of the agreement shall remain in full force and effect and either of the parties may request immediate negotiations to seek agreement on a mutually satisfactory replacement for that invalidated or unenforceable portion. Throughout this contract, benefits provided to all state employees by statute are summarized. These benefits are changed from time to time by the legislature. The intent of the parties is that employees will receive benefits in accordance with current state statutes.

### 13.3 ENTIRE AGREEMENT

It is mutually agreed that this Agreement is the master agreement for all employees in the bargaining unit and that it constitutes the entire agreement between the parties on all bargainable matters. This Agreement also terminates all prior contracts, agreements and understandings, verbal or written, with any employee(s) in the bargaining unit and concludes all collective bargaining negotiations on any item whether contained herein or not during this term.

## **ARTICLE 14**

### **TERM OF AGREEMENT**

#### 14.1 TERM

This contract shall be in full force and effect from the date of ratification to and including June 30, 2019, and shall be considered as renewed from year to year thereafter unless either party to this agreement notifies the other party, in writing, in accordance with the following negotiation schedule, of its desire to modify or terminate this agreement.

#### 14.2 NEGOTIATIONS SCHEDULE

Either party desiring to modify or terminate the agreement must notify the other in writing by April 30, 2019. Negotiations may commence prior to the legislative session upon agreement of the parties.

**ADDENDUM A**

**BASE WAGES  
EXCLUSIVE OF STATUTORY LONGEVITY  
for the contract term that expires June 30, 2019**

Bargaining unit members shall receive a base wage increase of 2.0% effective on the first day of the pay period that includes February 1, 2019.

Effective	<u>Current</u>	<u>2/1/19</u>
Service Technician I	14.115	14.397
Service Technician II	18.577	18.949
Mechanic I	20.060	20.461
Mechanic II	24.477	24.967

Permanent, non-probationary employees are eligible for lump sum bonuses in accordance with the Montana University System Staff Compensation Plan Guidelines.

**ADDENDUM B**  
**State statutes**

**2-18-611. Annual vacation leave.** (1) Each permanent full-time employee shall earn annual vacation leave credits from the first day of employment. Vacation leave credits earned must be credited at the end of each pay period. However, employees are not entitled to any vacation leave with pay until they have been continuously employed for a period of 6 calendar months.

(2) Seasonal employees earn vacation credits. However, seasonal employees must be employed for 6 qualifying months before they may use the vacation credits. In order to qualify, seasonal employees shall immediately report back for work when operations resume in order to avoid a break in service.

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

(4) An employee may not accrue annual vacation leave credits while in a leave-without-pay status.

(5) Temporary employees earn vacation leave credits but may not use the credits until after working for 6 qualifying months.

(6) A short-term worker or a student intern, as both terms are defined in 2-18-601, may not earn vacation leave credits, and time worked as a short-term worker or as a student intern does not apply toward the person's rate of earning vacation leave credits.

**2-18-612. Rate earned.** (1) Vacation leave credits are earned at a yearly rate calculated in accordance with the following schedule, which applies to the total years of an employee's employment with any agency whether the employment is continuous or not:

Years of employment	Working days credit
1 day through 10 years	15
10 years through 15 years	18
15 years through 20 years	21
20 years on	24

(2) (a) For the purpose of determining years of employment under this section, an employee eligible to earn vacation credits under 2-18-611 must be credited with 1 year of employment for each period of:

(i) 2,080 hours of service following his date of employment; an employee must be credited with 80 hours of service for each biweekly pay period in which he is in a pay status or on an authorized leave of absence without pay, regardless of the number of hours of service in the pay period; or

(ii) 12 calendar months in which he was in a pay status or on an authorized leave of absence without pay, regardless of the number of hours of service in any one month. An employee of a school district, a school at a state institution, or the university system must be credited with 1 year of service if he is employed for an entire academic year.

(b) State agencies, other than the university system and a school at a state institution, must use the method provided in subsection (2)(a)(i) to calculate years of service under this section.

**2-18-614. Military leave considered service.** A period of absence from employment with the state, county, or city occurring either during a war involving the United States or in any other national emergency and for 90 days thereafter for one of the following reasons is considered as service for the purpose of determining the number of years of employment used in calculating vacation leave credits under this section:

(1) having been ordered on active duty with the armed forces of the United States;

(2) voluntary service on active duty in the armed forces or on ships operated by or for the United States government; or

(3) direct assignment to the United States department of defense for duties related to national defense efforts if a leave of absence has been granted by the employer.

**2-18-616. Determination of vacation dates.** The dates when employees' annual vacation leaves shall be granted shall be determined by agreement between each employee and his employing agency with regard to the best interest of the state, any county or city thereof as well as the best interests of each employee.

**2-18-617. Accumulation of leave -- cash for unused -- transfer.** (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) An employee who terminates employment for a reason not reflecting discredit on the employee is entitled upon the date of termination to cash compensation for unused vacation leave, assuming that the employee has worked the qualifying period set forth in 2-18-611.

(3) However, 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) 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.

**2-18-618. Sick leave.** (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) Except as otherwise provided in 2-18-1311, 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 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. 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.

(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 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.

**2-18-619. Jury duty -- service as witness.** (1) Each employee who is under proper summons as a juror shall collect all fees and allowances payable as a result of the service and forward the fees to the appropriate accounting office. Juror fees shall be applied against the amount due the employee from his employer. However, if an employee elects to charge his juror time off against his annual leave, he shall not be required to remit his juror fees to his employer. In no instance is an employee required to remit to his employer any expense or mileage allowance paid him by the court.

(2) An employee subpoenaed to serve as a witness shall collect all fees and allowances payable as a result of the service and forward the fees to the appropriate accounting office. Witness fees shall be applied against the amount due the employee from his employer. However, if an employee elects to charge his witness time off against his annual leave, he shall not be required to remit his witness fees to his employer. In no instance is an employee required to remit to his employer any expense or mileage allowances paid him by the court.

(3) Employers may request the court to excuse their employees from jury duty if they are needed for the proper operation of a unit of state or local government.

**2-18-620. Mandatory leave of absence for employees holding public office -- return requirements.** (1) Employers of employees elected or appointed to a public office in the city, county, or state shall grant such employees leaves of absence, not to exceed 180 days per year, while they are performing public service. Employees of an employer who employs 10 or more persons must, upon complying with the requirements of subsection (2), be restored to their positions, with the same seniority, status, compensation, hours, locality, and benefits as existed immediately prior to their leaves of absence for public service under this section.

(2) Employees granted a leave shall make arrangements to return to work within 10 days following the completion of the service for which the leave was granted unless they are unable to do so because of illness or disabling injury certified to by a licensed physician.

(3) Any unemployment benefits paid to any person by application of this section shall not be charged against any employer under the unemployment insurance law.

**10-1-1009. Paid military leave for public employees.** (1) A state, city, town, or county employee who is a member of the organized militia of this state or who is a member of the organized or unorganized reserve corps or military forces of the United States and who has been an employee for a period of at least 6 months must be given leave of absence with pay accruing at a rate of 15 working days in a calendar year for performing military service.

(2) Military leave may not be charged against the employee's annual vacation time.

(3) Unused military leave must be carried over to the next calendar year, but may not exceed a total of 30 days in any calendar year.

**49-2-310. Maternity leave -- unlawful acts of employers.** It shall be unlawful for an employer or his agent to:

(1) terminate a woman's employment because of her pregnancy;

(2) refuse to grant to the employee a reasonable leave of absence for such pregnancy;

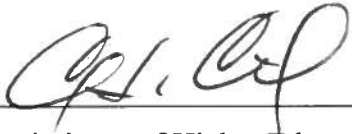
(3) deny to the employee who is disabled as a result of pregnancy any compensation to which she is entitled as a result of the accumulation of disability or leave benefits accrued pursuant to plans maintained by her employer, provided that the employer may require disability as a result of pregnancy to be verified by medical certification that the employee is not able to perform her employment duties; or

(4) require that an employee take a mandatory maternity leave for an unreasonable length of time.

DATED this 25<sup>th</sup> day of April, 2019.

FOR THE MONTANA  
UNIVERSITY SYSTEM:

FOR THE INTERNATIONAL  
UNION OF OPERATING ENGINEERS:



Commissioner of Higher Education



Chief Negotiator, Local 400

---



Deputy Commissioner for  
Human Resources