

**COLLECTIVE BARGAINING AGREEMENT**

**BETWEEN**

**A F S C M E LOCAL 441**

**MONTANA STATE UNIVERSITY**

**LIVESTOCK AND RANGE RESEARCH LABORATORY**

**AT**

**MILES CITY, MONTANA**

**AND THE**

**MONTANA UNIVERSITY SYSTEM**

**JULY 1, 2009, THROUGH JUNE 30, 2011**

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## **PREAMBLE**

This agreement is made and entered by and between the Montana University System with a unit at Bozeman, Montana, and a Research Laboratory at Miles City, Montana, hereinafter referred to as the Employer, and Local 441, American Federation of State, County, and Municipal Employees, AFL-CIO, hereinafter referred to as the Union, and is for the purpose of mutually establishing the rights of the parties and the terms and conditions of employment of all those employees covered by this agreement, and the parties hereto mutually agree as follows:

## **ARTICLE I. RECOGNITION**

### **A. Exclusive Representative**

The Employer recognizes the Union as the exclusive representative of those non-exempt classified employees of the Research Laboratory in Addendum C of this contract, hereinafter referred to as employees.

### **B. Student Employees**

In keeping with the federal and state policies of providing employment for students to provide economic opportunity to obtain further education, and in order to make available to students the benefits of state and federal work study and financial aid programs, the Employer shall continue to employ students. Any person who regularly registers for credit in an academic or technical program shall be regarded as a student during the summer when not registered as well as during those regular quarters during which registered so long as the student remains academically qualified to register and has not withdrawn from student status. Students shall not be hired into any position which would result in the displacement of any full-time, permanent, classified employee. Any student who is employed in a "permanent" position shall be regarded as an employee rather than as a student, regardless of the number of courses or credits for which registered. Any student who is employed as a "temporary" employee on a "full-time" basis for seven hundred (700) or more hours, and is doing work within the position description of a classified position within a bargaining unit, or doing work which is within the described scope of work of a bargaining unit, shall be required, as a condition of continued

employment, to pay the equivalent of initiation fees and/or monthly dues to the Union in accordance with Article II, Section A of this agreement.

**C. 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.

- 1. Permanent Employee:** A permanent employee is one who has completed the initial six (6) month probationary period in a permanent position.
  
- 2. 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. No temporary employee will be hired into any position which would result in the displacement of any bargaining unit employee. After ninety (90) calendar days, temporary employees shall be paid in accordance with rates established by this agreement. Temporary employees will be notified by the Union after sixty (60) calendar days of employment that they will be required to pay monthly Union dues and the initiation fee within the next thirty (30) days of employment. The Employer (Livestock & Range Research Laboratory) shall monthly furnish the Union secretary the name, date of hire, and place/location of work of any new temporary employee.

3. **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.
4. **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 II. UNION SECURITY

### A. **Initiation Fees, Dues, and Representation/Service Fee**

1. **Payment Required:** All present employees covered by this agreement who do not make application for membership in the Union within thirty (30) calendar days of the effective date of the agreement, shall, as a condition of employment, pay to the Union a representation/service fee for administration of this agreement. New employees subject to this agreement shall be allowed thirty (30) days after the employment in which to comply with this requirement. Employees who fail to comply with this requirement shall be discharged by the Employer within seven (7) calendar days after receipt of written notice from the Union.
2. **Exemption From Membership or Support of a Labor Organization:** An employee has the right of non-association and non-support 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, Mont. Code Ann.

### B. **Upholding Union 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.

**ARTICLE III. DUES AND REPRESENTATION/SERVICE FEE CHECKOFF**

**A. Deduction of Dues or Representation/Service Fee**

The Employer agrees, upon receipt of written authority from the employee, to deduct from the pay of the employee an initiation fee and the monthly amount of dues or representation/service fee as certified by the treasurer of the exclusive representative and shall deliver such sums to the exclusive representative.

**B. Remittance to Union**

The amounts to be deducted shall be certified to the Employer by the treasurer of the Union, and the aggregate deductions of all employees shall be remitted, together with an itemized statement, to the treasurer by the fifteenth (15th) of the succeeding month, after such deductions are made.

**ARTICLE IV. NEW HIRES - INFORMATION**

**A. New Hires**

The Employer shall monthly furnish the Union the name, date of hire, and place/location of work of any new employee within the bargaining unit.

**ARTICLE V. NONDISCRIMINATION**

**A. Mutual Obligation**

The Employer and the Union agree that they will work cooperatively to assure that all employees have equal employment opportunities.

**B. Employer Obligation**

The Employer agrees that it will not refuse employment to any person, or bar such person from employment, or discriminate against such person in compensation, or in a term, condition, or privilege of employment because of such person's political beliefs, race, religion, color, or national origin, or because of age, physical or mental disabilities or sex

when the reasonable demands of the position do not require an age, physical or mental disability or sex distinction.

**C. Union Obligation**

The Union agrees that it will not exclude or expel any persons from its membership, apprenticeship, or training program because of such person's sex, age, physical or mental disability, race, religion, color, or national origin, nor will the Union discriminate in any way against any member of or applicant to the Union or applicant to or employee of the Employer.

**ARTICLE VI. SENIORITY AND PROBATION**

**A. Seniority Defined**

Seniority means an employee's length of continuous service with the Employer since last date of hire. An employee's seniority shall be broken only by termination of employment or a layoff which exceeds twelve (12) calendar months. To be absent from the job due to layoffs will be considered lost time for purposes of seniority; however, previous service upon reemployment shall count towards seniority. Employees who are laid off may request payment of unused annual leave, sick leave, and their P.E.R.S. contributions. Seniority is not transferable between Unions.

**B. Seniority Rights**

Layoffs caused by a reduction in force shall be in order of seniority within a classification and department. The employee last hired within a classification and department will be the first released. There shall be two departments for layoff purposes. An employee's department shall be identified on the seniority list and does not change as a result of temporary, seasonal or other non-permanent reassignments to another department.

In the event an employee who is scheduled for layoff has previous service in another classification in the same department, that employee may replace the least senior employee in the previous classification, provided that employee has greater seniority than

the employee being displaced. In the event an employee who is scheduled for layoff has previous service in another department in the same classification, that employee may replace the least senior employee in the previous department in the same classification, provided that employee has greater seniority than the employee being displaced. An employee who returns to a previous department or classification shall serve a thirty (30) day probationary period upon return to the previous department or classification.

Permanent employees who are indefinitely laid off shall be given at least thirty (30) calendar days' notice. All recalls to employment shall be likewise in order of seniority within a department. That is, the last employee released within a department as a result of reduction in force shall be the first rehired when the Employer needs additional employees. The Employer shall notify such employees to return to work and furnish the Union a copy of such notifications; and if the employee fails to notify the Employer within ten (10) working days of his/her intention to return to work, such employee shall be considered as having forfeited his/her right to reemployment.

**C. Posting Vacancies - Seniority**

The Employer shall post and publish all job vacancy notices for newly-created or vacated positions sufficiently in advance of the position opening to permit all employees an equal opportunity to make application for the position. Posting and publication of notice of vacancy shall be accomplished in a manner consistent with the requirements of the Employer's non-discriminatory recruitment procedure. The Employer shall post announcements of newly-created or vacant positions that occur at the Livestock and Range Research Laboratory in each work area. Should the qualifications of applicants be equal, the applicant having the greatest seniority shall prevail. Should any disagreement arise regarding qualifications of applicants, the affected employee(s) may proceed with the grievance procedure.

**D. Seniority List**

The Employer shall maintain and make available to the Union as well as the employees in the Union a seniority roster by classification.

**E. 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 formal education or training. The first six (6) months of employment of any newly-hired employee shall be a period of probation. Once the probationary period has been served, the employee may not be discharged without cause.

**ARTICLE VII. HOLIDAYS**

**A. Holiday Exchanges**

Holiday exchanges are authorized in § 20-25-306, Mont. Code Ann., and Regent policy may be implemented by mutual agreement of the employee and the Employer.

Employees shall be granted the following paid holidays:

1. New Year's Day - January 1
2. Martin Luther King Jr. Day - Third Monday in January
3. Lincoln's and Washington's Birthdays - Third Monday in February
4. Memorial Day - Last Monday in May
5. Independence Day - July 4
6. Labor Day - First Monday in September
7. Columbus Day - Second Monday in October
8. Veteran's Day - November 11
9. Thanksgiving Day - Fourth Thursday in November
10. Christmas Day - December 25
11. State General Election Day - In even numbered years

**B. Alternate Day Off**

Any full-time employee who is scheduled for a day off on a day which is observed as a legal holiday, except Sundays, shall be entitled to receive a day off with pay either on the day preceding the holiday or another day following the holiday in the same pay period or as scheduled by the employee and his/her supervisor, whichever allows a day off in addition to the employee's regularly scheduled days off, provided the employee is in a pay status on his/her last regularly scheduled working day immediately before the holiday or on his/her first regularly scheduled working day immediately after the holiday. (§ 2-18-603, Mont. Code Ann.)

**C. Holidays Prorated**

Part-time permanent employees shall be granted holidays on a prorated basis provided they normally work at least twenty (20) hours per week.

**D. During Terminal Leave**

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

**E. Holiday Pay**

Employees required to work on a holiday will be paid at one and one-half (1-1/2) times their regular rate of pay in addition to their regular day's pay.

**ARTICLE VIII. VACATIONS**

**A. Calculating Leave Credits**

Each full-time employee is entitled to and shall earn annual vacation leave credits from the first full pay period of employment. For calculating vacation leave credits, two thousand eighty (2,080) hours (52 weeks by 40 hours) shall equal one (1) year. Proportionate vacation leave credits shall be earned and 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 six (6) calendar months. Persons regularly employed nine (9) or more months each year, but whose continuous employment is interrupted by the seasonal nature of the position, shall earn vacation credits. However, such persons must be employed six (6) qualifying months before they can use the vacation credits. In order to qualify, such employees must immediately report back to work when operations resume in order to avoid a break in service. Vacation leave credit shall be earned in accordance with the following schedule:

<u>Years of Employment</u>	<u>Working Days Credit Per Year</u>
1 day through 10 years	15
10 years through 15 years	18
15 years through 20 years	21
20 years or more	24

**B. Prorated Vacation**

Permanent part-time employees who have worked the qualifying period are entitled to prorated annual vacation benefits based on the number of hours in a pay status during the pay period.

**C. Cash Payment for Unused Vacation**

An employee who terminates employment with the Employer for reason not reflecting discredit on the employee shall be entitled upon the date of such termination to cash compensation for unused vacation leave, assuming that the employee has worked the qualifying period. However, if the employee transfers to any other position under the jurisdiction of the State of Montana, there shall be no cash compensation paid for unused vacation leave. In such a transfer, the receiving Employer assumes the liability for the accrued vacation credits transferred with the employee.

**D. Accumulation of Leave**

"Annual leave" may be accumulated to a total not to exceed two (2) times the maximum number of days earned annually as of the last day of any calendar year. Any such excess

must be used by March 31 or it will be forfeited unless the Employer agrees to extend the deadline for forfeiture in accordance with state law.

**E. Nonaccrual During Leave Without Pay**

Vacation leave shall not accrue during a leave of absence without pay.

**F. Compensation for Unused Leave**

Unused earned vacation time shall be paid to the employee at his/her regular rate of pay at the time of separation from service.

**G. Time Vacation Taken**

The dates when employees' annual vacation leave shall be granted shall be determined by agreement between each employee and the Employer with regard to the best interest of the Employer as well as the best interest of each employee. In the event of simultaneous conflicting requests for vacation, the employee with seniority shall prevail.

**H. Holidays Not Sick Leave or Vacation**

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.

**I. Split Vacations**

Vacation time may be taken on a split-vacation basis with the approval of the supervisor.

**J. Charges by the Half Hour**

Vacation charges shall be recorded in increments of one-half (1/2) hour. Any employee taking from one (1) to thirty (30) minutes of vacation shall be charged one-half (1/2) hour, and any employee taking from thirty-one (31) to sixty (60) minutes shall be charged one (1) hour.

**K. Vacation Extended by Leave Without Pay**

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

**L. Rights Protected**

It shall be unlawful for the Employer to terminate or separate an employee from his/her employment in an attempt to circumvent the provisions of this Article.

**ARTICLE IX. SICK LEAVE**

**A. Sick Leave**

Sick leave is provided in accordance with § 2-18-618, Mont. Code Ann., which is attached as Addendum B.

**B. Sick Leave Defined**

Sick leave is the necessary absence from duty caused when an employee has suffered illness, injury, or pregnancy related illness or disability, exposure to contagious disease that requires quarantine, or the necessary absence from duty to receive a medical or dental examination or treatment. Sick leave usage is also appropriate for 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 includes: spouse, parents, grandparents, brothers, sisters, children, household dependents, grandchildren, or any other individual, though not related by blood, who has been a permanent member of the employee's household and the same relatives of the employee's spouse in like degree.

**C. Emergency Sick Leave Defined**

Emergency sick leave is defined as 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.

**D. Emergency Sick Leave Usage**

Emergency sick leave will be charged against an employee's sick leave credits. The use of emergency sick leave must be approved by the employee's supervisor.

**E. Immediate Family Defined**

The employee's immediate family shall consist of: spouse, parents, grandparents, brothers, sisters, children, household dependents, grandchildren, or any other individual, though not related by blood, who has been a permanent member of the employee's household and the same relatives of the employee's spouse in like degree.

**F. General Policy**

Accumulated sick leave credit 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.

**G. 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.

**H. Other Sick Leave Provisions**

1. **Excess Charges:** 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.

2. **Charges by Half Hour:** Sick leave charges shall be recorded in increments of one-half (1/2) hour. Any employee taking from one (1) to thirty (30) minutes of sick leave shall be charged one-half (1/2) hour, and any employee taking from thirty-one (31) to sixty (60) minutes shall be charged one (1) hour.
3. **Physician's Certificate:** A physician's certificate may be required by the Employer if a question of abuse exists or to verify an employee's readiness to return to work.
4. **Medical Appointments:** Medical appointments may be charged to sick leave provided the minimum time charged is not less than one-half (1/2) hour. Each absence shall be reported separately and authorized in advance by the employee's immediate supervisor.
5. **Pregnancy-Related Disability:** 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.
6. **Holiday Not Sick Leave:** 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.
7. **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.
8. **Substantiation of Charges:** 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.

9. **Occupational Illness or Accident:** 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.

## **ARTICLE X. OTHER LEAVE WITH PAY**

### **A. Military Training Leave**

Any 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 six (6) months, shall be given leave of absence with pay for a period of time not to exceed fifteen (15) working days in a calendar year for attending regular encampments, training cruises, and similar training programs of the organized militia of the military forces of the United States. Such leave of absence shall not be charged against any other leave credit earned by the employee. (§ 10-1-604, Mont. Code Ann.)

### **B. Jury Duty or Subpoena**

Each employee summoned as a juror or subpoenaed as a witness may elect to take annual leave and retain all fees payable as a result of this service, or not to take annual leave and forward such fees and allowances to the business office to be applied against wages due for the period of service. In no instance is an employee required to remit to his/her Employer any expense or mileage allowance paid the employee by the court. Employees shall not lose cumulative benefit because of juror service. Employer may request the court to excuse its employees from duty if they are needed for the proper operation of the Employer.

**ARTICLE XI. LEAVES OF ABSENCE WITHOUT PAY**

**A. Written Approval Required**

An employee desiring leave of absence without pay shall secure advance approval from the Employer. In the event of an emergency where advance approval is not possible, the employee shall secure approval as soon as possible. The maximum leave of absence shall not exceed one (1) year. None of the time while on a leave of absence without pay shall count towards fulfilling the probationary period. Seniority shall cease to accrue during a leave of absence in excess of 30 calendar days unless the leave of absence is because the employee was called into active military service.

**B. Public Service Leave**

Any employee subject to this agreement elected or appointed to public office shall be entitled to a leave of absence not to exceed one hundred eighty (180) days per year, while such employee is performing public service. Any employee granted such leave shall make arrangements to return to work within ten (10) days following the completion of the service for which the leave was granted unless such employee is unable to do so because of illness or disabling injury certified to by a licensed physician.

**C. Union Representative Leave**

The Employer may grant reasonable leave of absence without pay to employees whenever required in the performance of duties as "duly authorized representatives of the Union." "Duly authorized representatives" means members of regularly constituted committees and/or officers of the Union, a list to be supplied to the Personnel Director.

**D. Unauthorized Absence**

Unauthorized absence shall be treated as absence without pay and is grounds for dismissal or disciplinary action.

**E. Maternity Leave**

No employee may be terminated because of pregnancy or pregnancy-related disabilities. A reasonable leave of absence without pay will be granted to any employee not able to perform employment duties due to pregnancy or to post-pregnancy complications. The period of the leave of absence shall be agreed upon by the Employer and the employee in accordance with Section A above. Prior to the granting of the maternity leave, the Employer may require a physician's certification of the need therefor. The employee must notify the Employer fifteen (15) days before returning to work and upon return shall be employed at the same salary in the same or similar position held prior to maternity leave. (§ 49-2-310, Mont. Code Ann.)

**F. Educational Leave**

Any employee may request annual leave, leave without pay, or request to schedule make-up time away from work to attend courses. When attendance at courses or workshops is required by the Employer, the cost of the course or workshop shall be borne by the Employer, and the employee shall be entitled to leave with pay to attend the course or workshop.

**ARTICLE XII. EMPLOYEE BENEFITS**

**A. Health Insurance - Employer's Contribution**

The Employer contribution to group insurance for eligible employees shall be in accordance with state statute. All permanent full-time employees and permanent employees working half-time or more 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. Permanent employees working full-time for six (6) or more months each year, but whose continuous employment is interrupted by the seasonal nature of the position, shall be eligible to receive the Employer's contribution to group insurance. The Employer will continue to make insurance contributions on behalf of employees 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 by the

University System. Once an employee has received four (4) months of the Employer contribution to health insurance while on a Workers' Compensation leave of absence, the employee must wait an additional two (2) years before becoming eligible to receive this benefit for a second time.

**B. Unemployment Insurance**

Employees are covered by unemployment insurance in accordance with state statutes (Title 39, Chapter 59, Mont. Code Ann.).

**C. Workers' Compensation**

Workers' Compensation payments are for the purpose of offsetting the loss of income suffered by an employee who is injured on the job. Inasmuch as an employee's pay continues while he/she is on sick leave, he/she is not entitled to both paid sick leave and Workers' Compensation payments. An employee who is injured on the job has the option of taking either sick leave or Workers' Compensation payments, and if his/her sick leave runs out, may receive Workers' Compensation payments. (Title 39, Chapter 71, Mont. Code Ann.)

**D. 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, Mont. Code Ann.) 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, Mont. Code Ann.) Employees shall notify the supervisor of any safety hazards incident to their employment. (§ 50-71-322, Mont. Code Ann.)

**E. General Liability**

In any action brought against any employee by any person other than the Employer for negligence, error or omission, or other actionable conduct of the employee committed while acting in the course and scope of employment, the Employer shall be made a party defendant in the action, and recovery against the Employer shall constitute a complete bar to any recovery against the employee unless the claim is based upon an intentional tort or felonious act of the employee. (§ 2-9-313, Mont. Code Ann.)

**F. Indemnification**

In any action in which an employee is a party defendant, the employee shall be indemnified by the Employer for any money, judgments, or legal expenses to which the employee may be subject as a result of the suit unless the conduct upon which the claim is brought did not arise out of the course and scope of employment or is an intentional tort or felonious act of the employee. (§ 2-9-305, Mont. Code Ann.)

**G. Employee Assistance Program**

The Employer recognizes that behavioral health problems (e.g., drug and alcohol dependency and emotional problems) may be correctable through treatment or counseling. When employee performance is adversely affected by such problems, the Employer will help the employee in identifying local community resources which can provide professional assistance.

In such situations the Employer will recognize that:

1. Self-referral to services is most desirable.
2. Employees who seek assistance should not have job security or promotional opportunity jeopardized by the request for assistance.
3. Confidentiality must be maintained and privileged information will be directed only to those who must perform official capacities in such situations.

4. Rehabilitation will be given priority and pursued with the employee before any formal discharge or disciplinary action is contemplated.

In such situations, the employee will recognize that:

1. The Employer must assume responsibility for bringing to the attention of the employee, those work deficiencies which are observed and thought to be a result of the health problems.
2. The Employer is receptive to and encourages employees to indicate their problems and desire for assistance.
3. The nature of these problems often requires the creation of a crisis before an affected individual will pursue professional help.

As long as job performance and/or work attendance improves and continues to meet requirements, no further action will be taken and no permanent records of the situation will be maintained.

Should job and attendance requirements not be met and/or the employee fails to seek assistance, the Employer may pursue disciplinary or discharge action according to Article XIV.

#### **H. Dependent Partial Tuition Waiver**

1. Permanent employees must be employed at least three-quarter ( $\frac{3}{4}$ ) time for five or more consecutive years before being eligible for a dependent tuition waiver benefit. Employees who utilize the faculty and staff tuition waiver are not eligible for a dependent tuition waiver during the same academic term. Only one dependent may utilize the dependent tuition waiver in an academic term. A

dependent includes the employee’s spouse, and financially-dependent children as defined by the Internal Revenue Code who are unmarried and under age 24.

2. 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.

**ARTICLE XIII. COMPENSATION**

**A. Employee Wages**

Employees’ wages shall be in accordance with Addendum A.

**B. Longevity Increment**

Longevity pay shall be in accordance with state statutes for each contiguous five-year period of uninterrupted state service. Each employee who has completed five (5) years of uninterrupted service shall receive 1.5% of their base salary multiplied by the number of completed, contiguous five-year periods of uninterrupted service for the first, second, fifth and sixth increments, and shall receive 2% for the third and fourth increments.

<b>Increment</b>	<b>0</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>
<b>Years</b>	0	5	10	15	20	25	30
<b>Longevity Rate Of Base Pay</b>	0	1.5%	3%	5%	7%	8.5%	10%

**C. Paydays**

The Employer shall establish regular paydays which may be modified in the event a shortened pay cycle is implemented or in other exceptional circumstances. If employees

are paid on a monthly basis, paydays shall be on or before the eleventh (11<sup>th</sup>) of each month. A wage statement showing the time period covered, name of employee, straight time and overtime hours worked, total wages paid and itemized deductions shall be provided with each paycheck.

**D. Premium Pay**

Employees are entitled to overtime pay and other forms of premium pay under the terms and conditions specified below:

1. **Overtime for Nonexempt Employees:** Any amount of time a non-exempt employee is required to work in excess of eight (8) hours per work shift or in excess of forty (40) hours in a work 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.
2. **Overtime for Agricultural Workers:** When an agricultural worker is required to work in excess of forty (40) hours in any work week, the employee will receive overtime pay at the rate of one and one-half (1-1/2) times the normal rate of pay for all time worked in excess of forty (40) hours. When an agricultural worker voluntarily agrees to work in excess of forty (40) hours in any week, the employee will be compensated at the regular rate of pay for all time worked voluntarily in excess of forty (40) hours.
3. **Compensatory Time Option in Lieu of Overtime:** Upon agreement of the Employer and the employee, an employee may receive compensatory time in lieu of overtime in accordance with the following provisions of this agreement.
  - a. **Accrual Rate:** Compensatory time will accrue at the rate of one and one-half (1-1/2) hours for each one (1) hour of overtime worked.
  - b. The maximum amount of time which may be accumulated is 40 hours of

overtime worked or 60 hours of compensatory time.

- c. Use of Compensatory Time: An employee must have the appropriate supervisor's prior approval to use accumulated compensatory time.
  - d. Payment on Termination: If employment is terminated, any unused compensatory time (accumulated at the rate of one and one-half (1-1/2) hours for each one (1) hour of overtime worked) 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.
4. **Callout**: Any callout to work in excess of an eight (8) hour day or a forty (40) hour week shall be paid at the rate of time and one-half (1-1/2) the employee's regular rate of pay for a minimum of two (2) hours.
5. **Weekends**: Any employee who works both days of a weekend shall be entitled to time and one-half (1-1/2) for all hours worked on the following weekend.

**E. Work Day**

The Employer and the Union recognize and acknowledge that certain operations in the care and management of livestock and in the operation of the Livestock and Range Research Laboratory, do not lend themselves to consecutive eight (8) hour work day schedules. However, it is agreed that the basic work day shall be eight (8) continuous hours. The workday is defined as starting at 0001 hours and ending at 2400 hours. When an employee and Employer agree to an alternate work schedule, such as ten hours per day, four days per week, only those hours in excess of the scheduled work day or in excess of forty (40) hours per week shall be considered overtime and paid at one and one-half (1-1/2) times the normal rate. Daily shifts of alternate work schedules shall be continuous hours.

**F. Workweek**

The workweek will consist of forty (40) hours of work within each seven (7) day period.

**G. Work Schedules**

Tentative work schedules will be posted at the beginning of each month. Employees shall be informed of any change in the posted work schedule not mutually agreed to prior to the beginning of the work week. Employees who are required to work or are scheduled to work on a holiday shall be given at least five (5) working days notice of any change.

**ARTICLE XIV. WORKING CONDITIONS**

**A. Employee Protection**

1. **Wages of Discharged Employee:** When an employee is discharged for cause, all unpaid wages are due and payable on the next regularly scheduled pay day for the pay period during which the employee was discharged or within fifteen (15) calendar days from the date of the discharge, whichever occurs first.
2. **Discharge Subject to Grievance Procedure:** Any controversy between the parties regarding discharge or disciplinary action may be pursued through the regular grievance procedure provided in Article XV of this agreement.
3. **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. (§ 39-2-801, Mont. Code Ann.)
4. **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.

5. **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, Mont. Code Ann.)

**B. Bulletin Boards**

The Employer agrees to permit the use of existing bulletin boards in regular posting areas for Union purposes.

**C. Rest Periods**

Employees shall be allowed a fifteen (15) minute rest break in both the first and second half of each eight (8) hour shift. Part-time employees will be allowed a fifteen (15) minute rest break within each four (4) consecutive hour work period. 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.

**D. Meal Periods**

No employee shall be required to work more than five (5) consecutive hours without being allowed a meal period, except where necessitated by unique job requirements. Any employee who is not granted an unpaid meal period, shall be granted an opportunity to consume a meal during working hours.

**E. Shop Stewards**

The Union shall have the right to appoint a shop steward in designated departments. The

shop steward shall be recognized by the Employer as having authority to report any irregularities concerning the interpretation or application of the provisions of this agreement to the Union office and to assist officers of the Union in the adjustment of grievances when called upon by said offices to do so. The shop steward shall not be discriminated against for discharging duties assigned to him/her by the Union, it being understood that the discharge of such duties shall not interfere with the normal performance of his/her work for the Employer.

**F. Tools**

The present policy regarding tool replacement shall be continued, and in the event existing tool requirements change, the Employer shall bear the cost of additional or different tools required.

**G. Protective Clothing or Uniforms**

If any employee is required to wear a uniform, protective clothing, or any type of protective device, the Employer shall furnish 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.

**H. Commercial Drivers License**

If an employee is required to maintain a commercial drivers license, the Employer will pay for the commercial drivers license physical and the additional cost of the commercial drivers license. The provider of the physical shall be determined by the Employer. Any endorsement not required by the Employer will be at the employee's expense.

**I. Prescription Safety Glasses**

Any employee who is required to operate equipment or tools that could cause eye injury, i.e., graders, saws, drills, chainsaws, hydraulic chutes, fencing pliers, hammers, fence stretchers, post drivers, punches, chisels; and is required to wear corrective lenses to perform required duties shall be eligible for the safety prescription glasses program.

This program will follow the same guidelines as set forth by the federal program at Ft. Keogh.

**J. Policy Manual**

Upon request, the Union shall have the right to a copy of any official policy manual of the Employer relating to the terms or conditions of employment of employees in the bargaining unit.

**K. Meeting Rooms**

When available and upon receipt of adequate notice and request, the Employer shall provide meeting room space for Union meetings with bargaining unit personnel.

**L. Copies of Contract**

Upon final ratification and approval of this agreement, the Employer shall prepare and make available to the Union and each of the employees in the bargaining unit a copy thereof.

**M. Employment Records**

Any employee shall be entitled, upon request, to see his/her official employee records in the possession of the Employer.

**N. Unauthorized Use of Services, Property, or Facilities**

No services, property, or facilities of the Employer may be used by any employee for other than official purposes incident to and in the course of their regular employment.

**ARTICLE XV. GRIEVANCE AND ARBITRATION PROCEDURE**

**A. Grievance Defined**

A grievance shall be any condition that exists which causes any employee to feel that his/her rights have been violated.

**B. Union Grievance Committee**

Employees selected by the Union representatives shall be known as "stewards." The names of at least three (3) employees selected as stewards and the names of other Union representatives who may represent employees shall be certified in writing to the Employer by the local Union, and the individuals so certified shall constitute the Union Grievance Committee. A Grievance Committee Chairperson shall be elected or selected by the Union members. Grievance Committee Chairperson and members may process grievances during working hours without loss of pay.

**C. Substitute for Titled Position**

It is understood by both parties to this agreement that an appointed authority shall replace any titled position mentioned in the grievance and arbitration procedure should the person filling the titled position be unavailable.

**D. Grievance Procedure**

Any grievance or dispute which may arise between the parties, including the application, meaning or interpretation of this agreement, shall be settled in the following manner:

1. Any employee who feels that his/her rights have been violated shall report the fact within five (5) working days of becoming knowledgeable of the alleged grievance to his/her immediate supervisor. The immediate supervisor shall have five (5) working days to adjust or reply to the grievance, then
2. the aggrieved employee shall report the fact to the Grievance Committee Chairperson within five (5) working days after receiving a reply from the immediate supervisor. If a majority of the members of the Grievance Committee consider the grievance justified, the Grievance Committee Chairperson shall file the grievance in writing with the Assistant Superintendent within five (5) working days after receiving notification of the fact from the employee. The Assistant Superintendent shall have five (5) working days to adjust or reply in writing to the grievance. If the reply of the Assistant Superintendent is unsatisfactory, then

3. the Grievance Committee Chairperson shall present the written grievance within five (5) working days after receipt of the written grievance to the Superintendent. The Superintendent shall have five (5) days to respond to the grievance in writing. If the reply of the Superintendent is unsatisfactory, then
4. the written grievance shall be submitted within five (5) working days after receipt of the Superintendent's reply to the Director, Personnel Services or his/her designee of Montana State University. The Director or his/her designee shall respond to the grievance in writing within ten (10) working days.
5. Should the employee and the Union consider the reply of the Director, Personnel Services unsatisfactory, the employee and the Union may submit the written grievance along with all written responses to the grievance to the Commissioner of Higher Education within five (5) working days after receipt of the response of the Director, Personnel Services. The Commissioner shall respond to the grievance in writing within ten (10) working days of receipt of the grievance.
6. Should the allegedly aggrieved employee consider the reply of the Commissioner of Higher Education or his/her designee to be unsatisfactory, the employee shall present the grievance to the Union within five (5) working days after receipt of the reply. Should the Union consider the reply unsatisfactory they shall within five (5) working days of the employee presentation, notify the Commissioner of Higher Education or his/her designee in writing of its intention to refer the grievance to arbitration. Within ten (10) working days after such notice is delivered to the Commissioner of Higher Education or his/her designee, the Commissioner or his/her designee and the Union shall select an arbitrator by the use of the following method:
  - a. The parties to this agreement shall attempt to mutually select a person to act as arbitrator. If no such person can be found who is

acceptable, then

b. the parties to this agreement shall request the Executive Secretary of the Board of Personnel Appeals, Department of Labor and Industry, State of Montana, to submit a list of seven (7) names of individuals who are available to act as an arbitrator. The parties hereto shall select the arbitrator by the method of alternately striking names with the grieving party striking the first name. The final name left on the list shall be the arbitrator.

7. The arbitrator chosen will be contacted immediately and asked to start proceedings at the earliest possible date. The decision of the arbitrator shall be final and binding to both parties of this agreement, provided however, the arbitrator shall have no power to alter in any way the terms of this agreement. Costs incurred by the arbitrator shall be borne equally between the Union and the Employer. If either party desires a verbatim record of the proceedings, it may cause such a record to be made providing it pays for the record and makes copies available without charge to the other party and to the arbitrator.

8. Rules of Grievance Processing

a. Reference to days regarding time periods in this procedure shall refer to working days. A working day is defined as all week days (Monday through Friday) which are not designated as holidays.

b. Time limits specified herein may be extended by mutual agreement of the parties involved at that step of the procedure.

c. Any grievance which is not filed or advanced within the time limits provided for herein shall be invalid and without further recourse.

d. Grievances concerning the Montana University System Staff Compensation Plan are excluded from the contractual grievance process. The sole and exclusive appeals process for grievances related to the Staff Compensation Plan is that contained in the Performance Development and Compensation Programs Guide.

e. Grievances presented in writing shall include all of the following:

1. a complete statement of the grievance and facts upon which it is based;
2. the contractual provisions which have been allegedly violated;
3. the remedy or correction requested;
4. names of witnesses having knowledge of facts; and
5. copies of all relevant documents.

#### **ARTICLE XVI. SAVINGS CLAUSE**

Should any portion of this agreement be determined invalid or unenforceable by any court or other 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.

#### **ARTICLE XVII. NO STRIKE - NO LOCKOUT**

There shall be no strikes, slowdowns, or other work stoppages on the part of the Union, and there shall be no lockouts by the Employer during the term of this agreement. However, the Union shall have the right to strike during the legislative session if the legislature denies funds for an agreement on salary increases resulting from pre-budgetary negotiations.

## **ARTICLE XVIII. MANAGEMENT RIGHTS**

A. The Union recognizes 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 non-productive;
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 performed.

B. The retention of these rights does not preclude any employees of the Union from filing a grievance or seeking a review of the exercise of these rights in a particular case.

C. Contracting for Services

It is the intent of the parties to preserve the work and job opportunities of the employees covered by this agreement. It is also, however, an obligation as well as a management prerogative of the Employer to maintain the efficiency of the Employer's operations and to determine methods and means by which those operations are to be conducted. The Employer shall make every reasonable effort to retain the employees covered by this agreement and will not make any arrangements to contract with any outside firm for any of the services ordinarily rendered by said employees which would jeopardize their continued employment without disclosure to the Union sufficiently in advance to

accommodate discussion between the parties of the contemplated action. The Employer shall not enter into any such contract for services unless it can be proven that said contract would result in increased efficiency of operations by way of obtaining the same services at less cost or additional services for the same cost, or unless it can be proven that such action is necessitated by financial exigency. The provisions of this paragraph are subject to the grievance procedures and no work which would result in displacement of any employee within the bargaining unit shall be contracted prior to a final decision on any grievance filed under the terms of this paragraph.

#### **ARTICLE XIX. RETIREMENT**

Retirement shall be governed by applicable state and federal statutes.

#### **ARTICLE XX. TRAVEL EXPENSES**

Travel expenses for employees required to travel by the Employer shall be paid according to state statutes.

#### **ARTICLE XXI. TERM OF AGREEMENT AND NEGOTIATION SCHEDULE**

##### **A. Term**

This contract shall be in full force and effect from the date of July 1, 2009, to and including June 30, 2011. This entire agreement 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 their desire to modify or terminate the agreement.

##### **B. Negotiation Schedule**

Negotiations for a subsequent agreement should be commenced by either party giving written notice no later than March 31, 2011.

**C. Legislative Contingencies**

In the event the University System budget request is appropriated by the legislature in the amount requested, this agreement should 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.

**D. References to Statutes in the Contract**

Throughout this contract, benefits provided to all state employees by statutes 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.

## **ADDENDUM A - WAGES**

1. Employees shall continue their participation in the Montana University System Staff Compensation Plan.
2. Any full-time employee whose base wage is less than \$45,000 per year shall receive a one-time, non-base payment of \$450 upon ratification. Any part-time employee who is regularly scheduled to work at least half-time and whose hourly wage is \$21.63 or less shall receive a one-time, non-base payment of \$225 upon ratification.

## ADDENDUM B - SICK LEAVE STATUTE

**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) 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 and who is again employed by any agency may not be credited with any sick leave for which the employee has previously been compensated.

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

(9) An employee may contribute any portion of the employee's accumulated sick leave to a non-refundable 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. 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.

(9) 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.

## **ADDENDUM C - CLASSIFICATIONS**

The following classifications and/or their modifications are presently included in the bargaining unit.

Livestock Research Technician

Farm Mechanic

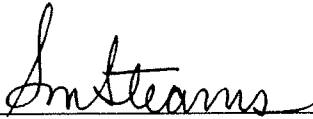
Equipment Operator

Maintenance Worker

Administrative Associate

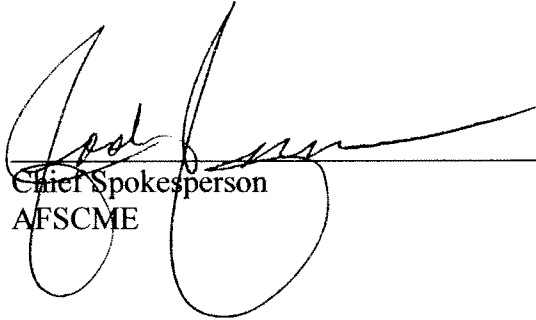
DATED this 8<sup>th</sup> day of January, 2010.

FOR THE MONTANA UNIVERSITY  
SYSTEM:

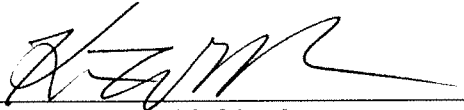


\_\_\_\_\_  
Sheila M. Stearns  
Commissioner of Higher Education

FOR THE UNION:



\_\_\_\_\_  
Chief Spokesperson  
AFSCME



\_\_\_\_\_  
Kevin McRae, Chief Spokesperson

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