

## SENATE BILL NO. 268

INTRODUCED BY S. FITZPATRICK, M. BLASDEL, S. SALES, F. THOMAS

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4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS REGARDING TRANSPARENCY IN  
5 SETTLEMENTS; ALLOWING A STATE PUBLIC EMPLOYEE OR RETIREE WHO IS A PARTY TO A  
6 SETTLEMENT TO WAIVE THE INDIVIDUAL RIGHT OF PRIVACY AND PERMIT OTHERWISE CONFIDENTIAL  
7 SETTLEMENT DOCUMENTS RELATED SOLELY TO THE EMPLOYEE TO BE RELEASED TO THE PUBLIC;  
8 AMENDING SECTIONS 2-9-303 AND 2-9-304, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE  
9 AND APPLICABILITY DATES."

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

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13 **Section 1.** Section 2-9-303, MCA, is amended to read:

14 **"2-9-303. Compromise or settlement of claim against state.** (1) The department of administration may  
15 compromise and settle any claim allowed by parts 1 through 3 of this chapter, subject to the terms of insurance,  
16 if any. A settlement from the self-insurance reserve fund or deductible reserve fund exceeding \$10,000 must be  
17 approved by the district court of the first judicial district except when suit has been filed in another judicial district,  
18 in which case the presiding judge shall approve the compromise settlement.

19 (2) All terms, conditions, and details of the governmental portion of a compromise or settlement  
20 agreement entered into or approved pursuant to subsection (1) are public records available for public inspection  
21 unless a right of individual privacy clearly exceeds the merits of public disclosure.

22 (3) An employee who is a party to a compromise or settlement entered into or approved pursuant to  
23 subsection (1) may waive the right of individual privacy and allow the state to release all records or details of the  
24 compromise or settlement, such as personnel records, that pertain to the employee personally and that would  
25 otherwise be protected by the right of individual privacy subject to the merits of public disclosure."

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27 **Section 2.** Section 2-9-304, MCA, is amended to read:

28 **"2-9-304. Compromise or settlement of claim against political subdivision.** (1) The governing body  
29 of each political subdivision, after conferring with its legal officer or counsel, may compromise and settle any claim  
30 allowed by parts 1 through 3 of this chapter, subject to the terms of insurance, if any.

1 (2) All terms, conditions, and details of the governmental portion of a compromise or settlement  
 2 agreement entered into pursuant to subsection (1) are public records available for public inspection unless a right  
 3 of individual privacy clearly exceeds the merits of public disclosure.

4 (3) An employee who is a party to a compromise or settlement entered into or approved pursuant to  
 5 subsection (1) may waive the right of individual privacy and allow the state to release all records or details of the  
 6 compromise or settlement, such as personnel records, that pertain to the employee personally and that would  
 7 otherwise be protected by the right of individual privacy subject to the merits of public disclosure."

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 9 **NEW SECTION. SECTION 3. COMPROMISE OR SETTLEMENT OF CLAIMS BY PUBLIC EMPLOYEES REGARDING**  
 10 **RETIREMENT SERVICE CREDITS. A RETIREE FROM A PUBLIC EMPLOYER WHO IS A PARTY TO A COMPROMISE OR SETTLEMENT**  
 11 **REGARDING RETIREMENT SERVICE CREDITS OR BENEFITS MAY WAIVE THE RIGHT OF INDIVIDUAL PRIVACY AND ALLOW A**  
 12 **GOVERNMENTAL ENTITY TO RELEASE ANY OR ALL RECORDS OR DETAILS OF THE COMPROMISE OR SETTLEMENT, SUCH AS**  
 13 **PERSONNEL RECORDS, THAT PERTAIN TO THE EMPLOYEE PERSONALLY AND THAT WOULD OTHERWISE BE PROTECTED BY**  
 14 **THE RIGHT OF INDIVIDUAL PRIVACY SUBJECT TO THE MERITS OF PUBLIC DISCLOSURE.**

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 16 **NEW SECTION. SECTION 4. CODIFICATION INSTRUCTION. [SECTION 3] IS INTENDED TO BE CODIFIED AS AN**  
 17 **INTEGRAL PART OF TITLE 19, CHAPTER 2, PART 7, AND THE PROVISIONS OF TITLE 19, CHAPTER 2, PART 7, APPLY TO**  
 18 **[SECTION 3].**

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 20 **NEW SECTION. Section 5. Effective date.** [This act] is effective on passage and approval.

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 22 **NEW SECTION. Section 6. Retroactive applicability -- applicability.** (1) For compromise or  
 23 settlements entered into on or after July 1, ~~2015~~ 2010, until [the effective date of this act], [this act] applies  
 24 retroactively, within the meaning of 1-2-109, unless the compromise or settlement contract provides that the  
 25 records or details of the compromise or settlement, such as personnel records, that pertain to the employee  
 26 personally may not be released.

27 (2) [This act] applies without limitation to compromise or settlements entered into on or after [the effective  
 28 date of this act].

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