

HOUSE BILL NO. 136
INTRODUCED BY M. MILBURN
BY REQUEST OF THE DEPARTMENT OF MILITARY AFFAIRS

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR PAYMENT OF A STATE DEATH BENEFIT TO BENEFICIARIES OF MEMBERS OF THE MONTANA NATIONAL GUARD KILLED AS A RESULT OF STATE ACTIVE DUTY; PROVIDING ~~AN~~ A STATUTORY APPROPRIATION; AMENDING ~~SECTION~~ SECTIONS 15-30-116 AND 17-7-502, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

NEW SECTION. **Section 1. Death while on state duty -- death benefit payment -- certification -- rules.** (1) The department of administration shall, upon certification by the department as provided in subsection (2), make a death benefit payment by state warrant in the amount of ~~\$12,000~~ \$100,000 to the ~~designated~~ beneficiary, AS PROVIDED IN SUBSECTION (3), of a member of the national guard killed in the line of duty performed pursuant to Article VI, section 13, of the Montana constitution.

(2) Upon the death of the member, the department shall certify to the department of administration:

(a) the name and other identifying information of the member killed;

(b) that the member was killed in the line of duty performed pursuant to Article VI, section 13, of the Montana constitution;

(c) that, at the time of the death of the member, the member was being paid or was to be paid for the member's military service from state and not federal military funds; and

(d) the name and address of the beneficiary, AS PROVIDED IN SUBSECTION (3), to whom payment must be made.

(3) ~~If the member failed to designate a beneficiary prior to the death of the member, the~~ THE department of administration shall pay the death benefit to the member's SURVIVING SPOUSE. IF THERE IS NO SURVIVING SPOUSE, THE DEPARTMENT OF ADMINISTRATION SHALL PAY THE DEATH BENEFIT TO THE MEMBER'S SURVIVING CHILDREN IN EQUAL SHARES. IF THERE ARE NO SURVIVING CHILDREN, THE DEPARTMENT OF ADMINISTRATION SHALL PAY THE DEATH BENEFIT TO THE MEMBER'S survivors pursuant to Title 72 as if the member had died intestate.

(4) The department and the department of administration may adopt rules to implement this section.

Section 2. Section 15-30-116, MCA, is amended to read:

"15-30-116. (Temporary) Veterans' bonus, ~~or~~ military salary, or death benefit -- exemptions. (1)

All payments made under the World War I bonus law, the Korean bonus law, and the veterans' bonus law are exempt from taxation under this chapter. Any income tax that has been or may be paid on income received from the World War I bonus law, the Korean bonus law, and the veterans' bonus law is considered an overpayment and must be refunded upon the filing of an amended return and a verified claim for refund on forms prescribed by the department in the same manner as other income tax refund claims are paid.

(2) The salary received from the armed forces by residents of Montana who are serving on active duty in the regular armed forces and who entered into active duty from Montana is exempt from state income tax.

(3) The amount received pursuant to 10-1-1104 or from the federal government by a service member, as defined in 10-1-1102, as reimbursement for group life insurance premiums paid is considered to be a bonus and is exempt from taxation under this chapter.

(4) The amount received by ~~the designated~~ A beneficiary pursuant to [section 1] is exempt from taxation under this chapter. (Terminates on occurrence of contingency--sec. 9, Ch. 604, L. 2005.)

15-30-116. (Effective on occurrence of contingency) Veterans' bonus, ~~or~~ military salary, or death benefit -- exemptions. (1) All payments made under the World War I bonus law, the Korean bonus law, and the veterans' bonus law are hereby exempt from taxation under the income tax laws of the state of Montana, and any income tax which has been or may hereafter be paid on income received from this source shall be considered an overpayment and shall be refunded upon the filing of an amended return and a verified claim for refund on forms prescribed by the department in the same manner as other income tax refund claims are paid.

(2) The salary received from the armed forces by residents of Montana who are serving on active duty in the regular armed forces and who entered into active duty from Montana is exempt from state income tax.

(3) The amount received by ~~the designated~~ A beneficiary pursuant to [section 1] is exempt from taxation under this chapter."

SECTION 3. SECTION 17-7-502, MCA, IS AMENDED TO READ:

"17-7-502. Statutory appropriations -- definition -- requisites for validity. (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.

(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:

(a) The law containing the statutory authority must be listed in subsection (3).

(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section.

(3) The following laws are the only laws containing statutory appropriations: 2-17-105; 5-11-407; 5-13-403; [section 4]; 10-2-603; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-4-301; 15-1-111; 15-1-113; 15-1-121; 15-23-706; 15-31-906; 15-35-108; 15-36-332; 15-37-117; 15-38-202; 15-65-121; 15-70-101; 15-70-369; 15-70-601; 16-11-509; 17-3-106; 17-3-212; 17-3-222; 17-3-241; 17-6-101; 17-7-304; 18-11-112; 19-3-319; 19-6-404; 19-6-410; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506; 19-20-604; 20-8-107; 20-9-534; 20-9-622; 20-26-1503; 22-3-1004; 23-4-105; 23-4-202; 23-4-204; 23-4-302; 23-4-304; 23-5-306; 23-5-409; 23-5-612; 23-7-301; 23-7-402; 37-43-204; 37-51-501; 39-71-503; 41-5-2011; 42-2-105; 44-1-504; 44-12-206; 44-13-102; 50-4-623; 53-1-109; 53-6-703; 53-24-108; 53-24-206; 60-11-115; 61-3-415; 69-3-870; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 77-2-362; 80-2-222; 80-4-416; 80-5-510; 80-11-518; 82-11-161; 87-1-513; 90-1-115; 90-1-205; 90-3-1003; and 90-9-306.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to Ch. 422, L. 1997, the inclusion of 15-1-111 terminates on July 1, 2008, which is the date that section is repealed; pursuant to sec. 10, Ch. 360, L. 1999, the inclusion of 19-20-604 terminates when the amortization period for the teachers' retirement system's unfunded liability is 10 years or less; pursuant to sec. 4, Ch. 497, L. 1999, the inclusion of 15-38-202 terminates July 1, 2014; pursuant to sec. 10(2), Ch. 10, Sp. L. May 2000, and secs. 3 and 6, Ch. 481, L. 2003, the inclusion of 15-35-108 terminates June 30, 2010; pursuant to sec. 7, Ch. 314, L. 2005, the inclusion of 23-4-105, 23-4-202, 23-4-204, 23-4-302, and 23-4-304 becomes effective July 1, 2007; and pursuant to sec. 17, Ch. 593, L. 2005, the inclusion of 15-31-906 terminates January 1, 2010.)"

~~NEW SECTION. **Section 3. Appropriation.** There is appropriated from the general fund to the department of administration for the purposes of [section 1], \$50,000 for the biennium ending June 30, 2009.~~

NEW SECTION. **SECTION 4. STATUTORY APPROPRIATION.** THE PAYMENT TO A BENEFICIARY CERTIFIED

PURSUANT TO [SECTION 1] IS STATUTORILY APPROPRIATED, AS PROVIDED IN 17-7-502, FROM THE GENERAL FUND TO THE DEPARTMENT OF ADMINISTRATION.

NEW SECTION. Section 5. Codification instruction. ~~[Section 1]~~ is [SECTIONS 1 AND 4] ARE intended to be codified as an integral part of Title 10, chapter 1, and the provisions of Title 10, chapter 1, apply to ~~[section 4]~~ [SECTIONS 1 AND 4].

NEW SECTION. Section 6. Effective date. [This act] is effective July 1, 2007.

- END -