

HOUSE BILL NO. 179

INTRODUCED BY J. FRENCH, ANKNEY, ARNTZEN, AUGARE, BARRETT, BECK, BECKER, BERGREN, BIXBY, BLASDEL, BOGGIO, BRANAE, BUTCHER, CALLAHAN, CAMPBELL, COHENOUR, CORDIER, DICKENSON, DRISCOLL, DUTTON, EBINGER, ERICKSON, EVERETT, FRANKLIN, FUREY, GALLIK, GLASER, GRINDE, GROESBECK, HAMILTON, HANDS, HAWK, HENDRICK, HENRY, HILBERT, HINER, HOLLENBAUGH, INGRAHAM, JACOBSON, JAYNE, L. JONES, W. JONES, JOPEK, KASTEN, KEANE, KERNS, KLOCK, KOOPMAN, KOTTEL, LAKE, LAMBERT, LANGE, MACLAREN, MALCOLM, MCALPIN, MCCHESENEY, MCNUTT, MENDENHALL, MILBURN, MORGAN, MUSGROVE, NOONAN, NOONEY, O'HARA, OLSON, PARKER, K. PETERSON, PHILLIPS, POMNICHOWSKI, RASER, REINHART, RICE, RIPLEY, ROSS, SALES, SANDS, SESSO, SINRUD, SMALL-EASTMAN, SONJU, STAHL, STOKER, TAYLOR, THOMAS, VAN DYK, VILLA, VINCENT, WARD, WELLS, WILMER, WILSON, WINDY BOY, WISEMAN, WITTE

BY REQUEST OF THE GOVERNOR

ABILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING THE MONTANA MILITARY FAMILY RELIEF FUND; CREATING AN ACCOUNT IN THE STATE SPECIAL REVENUE FUND FOR USE BY THE FUND; AUTHORIZING THE AWARD OF STATUS-BASED, NEEDS-BASED, AND CASUALTY-BASED GRANTS; ESTABLISHING INELIGIBILITY CRITERIA FOR GRANTS; REQUIRING THE DEPARTMENT OF MILITARY AFFAIRS TO ADOPT RULES TO IMPLEMENT AND ADMINISTER THE FUND; PROVIDING FOR A VOLUNTARY INCOME TAX CHECKOFF FOR THE FUND; PROVIDING A STATUTORY APPROPRIATION; PROVIDING A TRANSFER OF FUNDS TO THE FUND; AMENDING SECTION 17-7-502, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE."

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

NEW SECTION. **Section 1. Short title.** [Sections 1 through 10] may be cited as the "Montana Military Family Relief Fund".

NEW SECTION. **Section 2. Montana military family relief fund -- purpose -- administration.** (1) There is a Montana military family relief fund.

(2) The purpose of the fund is to aid members of the Montana national guard OR RESERVE COMPONENT

who have been activated for federal service in a contingency operation and the families of members.

(3) The department shall administer the fund as provided in [sections 1 through 10].

NEW SECTION. Section 3. Fund account -- statutory appropriation. (1) There is a Montana military family relief fund account in the state special revenue fund provided for in 17-2-102. All money transferred to the fund by the legislature, all monetary contributions, gifts, and grants donated to the fund, all contributions made to the fund pursuant to [section 11], and all interest and income earned on money in the account must be deposited into the account.

(2) Money in the account is statutorily appropriated, as provided in 17-7-502, to the department for the purposes of [sections 1 through 10].

NEW SECTION. Section 4. Definitions. As used in [sections 1 through 10] the following definitions apply:

(1) "Account" means the Montana military family relief fund account established in [section 3].

(2) "Contingency operation" means an assignment within the provisions of 10 U.S.C. 101(a)(13).

(3) "Family member" means a person who has been approved as a dependent of a member and is enrolled as a dependent of the member in the defense enrollment eligibility reporting system of the United States department of defense.

(4) "Fund" means the Montana military family relief fund established in [section 2].

(5) "Member" means a MONTANA RESIDENT WHO IS A member of the Montana national guard OR RESERVE COMPONENT, AS DEFINED IN 38 U.S.C. 101, AND who on or after [the effective date of this act] is in active duty for federal service in a contingency operation.

NEW SECTION. Section 5. Allowable uses of account. Subject to the availability of money in the account and [section 6], the department shall use the money in the account to make the following grants to members and to family members:

(1) a status-based grant of \$250 to each family member of a member who is activated for federal service in a contingency operation for a period of more than 30 days;

(2) a needs-based grant of not more than \$2,000 to a member or to a family member of a member who is activated for federal service in a contingency operation for a period of more than 30 days and; ~~whose~~

(A) THE MEMBER'S monthly military pay and allowances, combined, are at least 30% less than the

member's monthly civilian wages or salary; OR

(B) THE MEMBER OR A FAMILY MEMBER IS EXPERIENCING A SIGNIFICANT EMERGENCY THAT WARRANTS FINANCIAL ASSISTANCE; and

(3) a casualty-based grant of \$2,000 to a member who at any time after activation for federal service in a contingency operation sustained a nonfatal injury in the course of or related to combat as a direct result of hostile action. A member may receive only one casualty-based grant for injuries sustained during or arising out of the same contingency operation.

NEW SECTION. Section 6. Ineligibility for grants. (1) (a) A member of the Montana national guard who, at any time prior to the disbursement of grant money, receives a punitive discharge pursuant to the federal Manual for Courts-Martial or an administrative discharge with service characterized as other than honorable conditions is ineligible for any grant under [section 5].

(b) A family member of a member described in subsection (1)(a) is ineligible for any grant under [section 5].

(2) (a) A member and a family member of the member are ineligible for status-based and needs-based grants under [section 5] if the member holds a rank or pay grade, as those terms are used in Titles 10 and 37 of the United States Code, of:

(i) O-4 (major or lieutenant commander) or higher, if a commissioned officer; or

(ii) W-4 (chief warrant officer, W-4) or higher, if a warrant officer.

(b) The determination of the member's pay grade must be made at the time of application for the grant.

(3) A member is ineligible for a casualty-based grant under [section 5] if:

(a) the member's injury is the result of a self-inflicted wound, willful negligence by the member, or other misconduct by the member; or

(b) the injury occurs when the member is not in an authorized duty status.

NEW SECTION. Section 7. Rules. The department shall adopt rules pursuant to 10-1-105 to implement and administer the provisions of [sections 1 through 10]. The rules must ensure that all similarly situated members and family members are treated equitably and must include but are not limited to provisions regarding:

(1) applications;

(2) timelines;

(3) eligibility, including proof of eligibility of members and family members;

- (4) the procedure for establishing priority of grant awards if the amount of money available in the account is insufficient to support an award of grants to the maximum authority allowed under [section 5];
- (5) the appeal process for grant applications that are denied; and
- (6) disbursement of grant money to members and family members.

NEW SECTION. Section 8. Grant application -- review -- approval or denial. (1) A member or a family member may apply for a grant authorized under [section 5] on forms provided by and in the manner prescribed by the department.

(2) (a) A committee of three members shall review all applications for needs-based grants and shall recommend to the adjutant general approval or denial of each application.

(b) The committee is composed of the director of the department of public health and human services provided for in 2-15-2201 or the director's designee, the commissioner of labor and industry provided for in 2-15-1701 or the commissioner's designee, and the budget director provided for in 17-7-103 or the budget director's designee.

(3) The adjutant general shall review all grant applications and the recommendations of the committee made under subsection (2) and shall either approve or deny each application pursuant to the rules adopted under [section 7].

(4) The department shall notify the applicant in writing whether the applicant's application for a grant is approved or denied.

NEW SECTION. Section 9. Review if application denied. (1) If the adjutant general denies an application for a grant, the adjutant general shall explain the basis for the denial to the applicant in writing.

(2) An applicant whose application is denied may appeal the decision in writing to the adjutant general in the manner prescribed by rule. After considering the applicant's appeal, the adjutant general shall affirm or deny the appeal in writing.

(3) There is no further appeal if the adjutant general denies the appeal.

NEW SECTION. Section 10. Contributions to the fund. The department may accept monetary contributions, gifts, or grants to the fund. Upon receipt, monetary contributions, gifts, and grants must be deposited into the account.

NEW SECTION. Section 11. Voluntary checkoff for Montana military relief fund. (1) Each individual taxpayer who is required to file an income tax return under Title 15, chapter 30, may contribute to the Montana military family relief fund established in [section 2] by marking the appropriate box on the state income tax return.

(2) The department shall include on each Montana state individual income tax return form a clear and conspicuous provision by which the taxpayer may indicate a contribution to the Montana military family relief fund. The contribution may be made from the amount to be refunded to the taxpayer or, if no refund is due, must be in addition to the amount of tax required to be paid. The provision must be in substantially the following form:

Montana military family relief fund. Check the appropriate blank if you wish to contribute, in addition to your existing tax liability, ___\$5, ___\$10, or ___(specify an amount) to support the Montana military family relief fund. If a joint return, check the appropriate blank if your spouse wishes to contribute, in addition to your existing tax liability, ___\$5, ___\$10, or ___(specify an amount) for the same purpose.

(3) Money received under this section must be deposited into the account established in [section 3], after the department has deducted the administrative charge provided for in 15-30-153.

Section 12. 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 3]; 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 13. Fund transfer. On July 1, 2007, there is transferred \$1 million from the general fund to the Montana military family relief fund account established in [section 3].

NEW SECTION. Section 14. Codification instruction. (1) [Sections 1 through 10] are intended to be codified as an integral part of Title 10, chapter 1, and the provisions of Title 10, chapter 1, apply to [sections 1 through 10].

(2) [Section 11] is intended to be codified as an integral part of Title 15, chapter 30, part 1, and the provisions of Title 15, chapter 30, part 1, apply to [section 11].

NEW SECTION. Section 15. Effective date. [This act] is effective July 1, 2007.

NEW SECTION. Section 16. Applicability. [Section 11] applies to tax years beginning after December 31, 2007.

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