

HOUSE BILL NO. 639
INTRODUCED BY B. BERGREN

A BILL FOR AN ACT ENTITLED: "AN ACT CREATING A SYSTEM FOR PROVIDING DEATH, DISABILITY, AND RETIREMENT BENEFITS TO VOLUNTEER EMERGENCY MEDICAL TECHNICIANS; GENERALLY PROVIDING FOR THE ADMINISTRATION OF THE BENEFITS; CREATING A VOLUNTEER EMERGENCY MEDICAL TECHNICIANS' TRUST FUND FROM WHICH DEATH, DISABILITY, AND RETIREMENT BENEFITS MUST BE PAID; ESTABLISHING ELIGIBILITY CRITERIA, THE BENEFIT STRUCTURE, AND VARIOUS PROCESSES REGARDING DEATH, DISABILITY, AND RETIREMENT BENEFITS FOR VOLUNTEER EMERGENCY MEDICAL TECHNICIANS; IMPOSING A HOSPITAL FACILITY SUPPLEMENTAL UTILIZATION FEE TO FUND THE BENEFITS; STATUTORILY APPROPRIATING THE HOSPITAL FACILITY SUPPLEMENTAL UTILIZATION FEE FOR THE PURPOSES OF PROVIDING THE BENEFITS; AMENDING SECTIONS 15-66-101, 15-66-102, 15-66-103, 15-66-201, 15-66-202, 15-66-203, 15-66-204, 15-66-208, 15-66-209, 17-7-502, 37-3-203, 37-3-401, AND 53-6-149, MCA; REPEALING SECTION 20, CHAPTER 390, LAWS OF 2003, AND SECTIONS 4 AND 7, CHAPTER 606, LAWS OF 2005; AND PROVIDING AN EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

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

NEW SECTION. **Section 1. Short title.** [Sections 1 through 31] must be known and may be cited as the "Volunteer Emergency Medical Technicians' Compensation Act".

NEW SECTION. **Section 2. Definitions.** Unless the context requires otherwise, as used in [sections 1 through 31], the following definitions apply:

(1) "Active member" means a volunteer emergency medical technician credited with service under [sections 1 through 31] during the most recently reportable fiscal year.

(2) "Benefit" means the pension, disability, or survivorship benefit provided under [sections 1 through 31].

(3) "Board" means the public employees' retirement board provided for in 2-15-1009.

(4) "Claim" means a request from a member, surviving spouse, or dependent child for payment of medical or funeral expenses.

(5) "Department" means the department of administration.

(6) "Dependent child" means a child who is unmarried, who is under 18 years of age, and who is the child of a deceased member.

(7) "Disability" or "permanent total disability" means permanent total disability as defined in 39-71-116.

(8) "Emergency services organization" has the meaning provided in 50-16-701.

(9) "Fiscal year" means the 12-month period that begins on July 1 and ends on June 30 of the following year.

(10) "Member" means a volunteer emergency medical technician who has service credited under [sections 1 through 31].

(11) "Pension trust fund" means the volunteer emergency medical technicians' pension trust fund established to pay claims and benefits under [sections 1 through 31].

(12) "Retiree" or "retired member" means a member who is receiving full or partial participation benefits or disability benefits from the pension trust fund.

(13) "Service" means cumulative periods of active membership that are credited only in full fiscal year increments.

(14) "Supplemental insurance" means insurance that is carried by an emergency services organization for the purposes of providing disability or death benefits and that is in addition to any insurance required by law, including workers' compensation insurance.

(15) "Surviving spouse" means the spouse married to a member when the member dies.

(16) "Survivorship benefit" means the monthly benefit paid to the surviving spouse or dependent child of a deceased member.

(17) "Volunteer emergency medical technician" means an individual trained and certified as an emergency medical technician, as defined in 50-6-202, who regularly responds as a volunteer to emergencies that are typically responded to by any emergency services organization and who is not compensated by an emergency services organization while volunteering as an emergency medical technician.

NEW SECTION. Section 3. Payments to emergency services organizations maintaining supplemental insurance. To encourage and aid emergency services organizations in maintaining supplemental insurance to provide benefits when members are injured or killed while performing duties as volunteer emergency medical technicians, the board shall authorize payment of \$75 a year for each ambulance, as defined in 50-6-302, operated by the emergency service organization not to exceed \$150 for each emergency services organization

each year. Payment must be a charge against the pension trust fund and must be paid to each emergency services organization that maintains supplemental insurance or to the organization or agency that maintains supplemental insurance for an emergency services organization.

NEW SECTION. Section 4. Penalty. A person required by [sections 1 through 31] to make a statement or affidavit who knowingly falsifies the statement or affidavit or a person who files a false claim under [sections 1 through 31] is guilty of a misdemeanor and upon conviction shall be punished by a fine in an amount not exceeding \$1,000 or by imprisonment for a term not exceeding 1 year, or both.

NEW SECTION. Section 5. Duties of volunteer emergency medical technicians. (1) The duties of a volunteer emergency medical technician include providing prompt and efficient emergency medical care to the sick and injured at the scene of an emergency responded to by an emergency services organization or during transport to a health care facility.

(2) The duties include travel to, participation in, and return from calls for emergencies described in subsection (1), emergency medical technician training, search and rescue assistance, calls for assistance to protect individual or public health, and safety and public service activities, such as parades.

NEW SECTION. Section 6. Pension trust fund established -- restrictions on use. (1) A pension trust fund is established and maintained for payment of claims and benefits provided under [sections 1 through 31] and the volunteer emergency medical technicians' pension plan.

(2) The pension trust fund must be funded on an actuarially sound basis. For purposes of this subsection, "actuarially sound basis" means that contributions must be sufficient to pay the full actuarial cost of the fund. The full actuarial cost includes both the normal cost of providing benefits as they accrue in the future and the cost of amortizing unfunded liabilities over a scheduled period of no more than 30 years.

(3) Except as provided in this section, a member or an employee of the department or the board of investments may not:

(a) have any interest, direct or indirect, in the making of any investment or in the gains or profits accruing from the pension trust fund;

(b) directly or indirectly, for the member or employee or as an agent or partner of others, borrow from the pension trust fund or deposits;

(c) in any manner use the pension trust fund, except to make current and necessary payments that are

authorized by the board; or

(d) become an endorser or surety as to or in any manner an obligor for investments for the pension trust fund.

(4) The assets of the pension trust fund may not be used for or diverted to any purpose other than for the exclusive benefit of members, their surviving spouses, and their dependent children and for paying the reasonable administrative expenses of administering [sections 1 through 31].

(5) Upon the termination of the pension trust fund, the substantial reduction in the number of members that would constitute a partial termination of the pension trust fund, or the complete discontinuance of contributions to the pension trust fund, the pension benefit accrued to each member directly affected by the occurrence becomes fully vested and nonforfeitable to the extent that the benefit is funded.

NEW SECTION. Section 7. Employment of actuary -- biennial investigation. (1) The board shall retain a competent actuary who is an enrolled member of the American academy of actuaries and who is familiar with public pension systems. The actuary is the technical adviser to the board on matters regarding the actuarial funding of the pension trust fund.

(2) The board shall require the actuary to make a biennial actuarial valuation of the assets and liabilities of the pension trust fund. The actuarial valuation must include the sufficiency of the fund to pay full and partial benefits to members and benefit recipients and must include recommendations for any changes that should be made to those benefits or the contributions to the pension trust fund to ensure the actuarial soundness of the pension trust fund.

(3) The board shall require the actuary to conduct periodic actuarial experience studies of the pension trust fund and to recommend any changes in actuarial assumptions or tables based upon the studies.

NEW SECTION. Section 8. Credit for service as volunteer emergency medical technician. (1) The annual period of service that may be credited under [sections 1 through 31] is the fiscal year. A fractional part of a year may not count toward the service required for participation in this system. To be eligible to receive credit for any particular year, a volunteer emergency medical technician shall serve throughout the entire fiscal year. The first fiscal year for which a volunteer emergency medical technician may earn credit for service is the fiscal year beginning July 1, 2002.

(2) The years of service are cumulative and need not be continuous. Separate periods of service properly credited with different emergency services organizations in the same or among different political

jurisdictions within this state must be credited toward a member's eligibility for full or partial benefits.

(3) A volunteer emergency medical technician must receive credit for service of 1 full year during any fiscal year if:

(a) during the fiscal year, the volunteer emergency medical technician completes a minimum of 16 hours of instruction in matters pertaining to emergency medical service, as defined in 50-6-302, under a formal program that has been formulated, supervised, and certified to the board by the board of medical examiners, provided for in 2-15-1731;

(b) the volunteer emergency medical technician's participation in the program is documented in the board's or the board of medical examiner's records; and

(c) the emergency services organization with which the volunteer emergency medical technician volunteered for the majority of the fiscal year:

(i) maintained emergency medical vehicles and equipment in serviceable condition; and

(ii) owned, rented, or used one or more buildings for the storage of the vehicles and equipment and the total value of the vehicles, equipment, and buildings was at least \$12,000.

NEW SECTION. Section 9. Administration of [sections 1 through 31]. (1) The board is the trustee of all money collected under [sections 1 through 31] and has exclusive control of the administration of the pension trust fund except as otherwise provided by law.

(2) The department shall deposit in the state treasury all amounts received by it as provided in [sections 1 through 31].

(3) The state treasurer is the custodian of the pension trust fund, subject to the control of the board for the administration of the fund and the board of investments for the investment of the fund.

(4) The board shall review the sufficiency of benefits provided under [sections 1 through 31] and recommend to the legislature any changes in benefits that may be necessary to allow retired members and their beneficiaries to maintain a stable standard of living.

NEW SECTION. Section 10. Reports of board. (1) As soon as practicable after the close of each fiscal year, the board shall file with the governor a report covering administration of [sections 1 through 31] for that fiscal year.

(2) The report must include:

(a) a statement of the accumulated cash and securities in the pension trust fund as certified by the state

treasurer and the board of investments; and

(b) the most recent published report of the actuary of the actuarial valuation of the assets and liabilities of the plan.

NEW SECTION. Section 11. Rules to be made by board. The board shall make rules that it considers necessary and advisable in its administration of [sections 1 through 31] and the volunteer emergency medical technicians' pension plan.

NEW SECTION. Section 12. Administrative expenses. Necessary expenses for the administration of [sections 1 through 31] and the volunteer emergency medical technicians' pension plan are a charge against the pension trust fund. The necessary administrative expenses attributable to [sections 1 through 31] must be paid from the investment earnings on the public employees' pension trust fund. Before fiscal yearend closing, the board shall compute the expenses directly or proportionally attributable to [sections 1 through 31] over the past fiscal year and transfer that amount from the pension trust fund to the public employees' pension trust fund.

NEW SECTION. Section 13. Hospital facility utilization supplemental fee to be paid into pension trust fund. (1)(a) The department of revenue shall annually pay from the general fund to the pension trust fund a sum equivalent to the amount of facility utilization supplemental fees collected from hospitals under 15-66-102(3).

(b) The money paid from the general fund to the pension trust fund under subsection (1) is statutorily appropriated, as provided in 17-7-502.

(2) Money in the pension trust fund and must be used for the payment of claims, benefits, and administrative costs as provided in [sections 1 through 31].

NEW SECTION. Section 14. Investment of pension trust fund.(1) The pension trust fund must be invested by the board of investments as part of the unified investment program described in Title 17, chapter 6, part 2.

(2) All income earned on any assets constituting a part of the pension trust fund must be paid into the pension trust fund as received.

(3) For investment purposes, the pension trust fund may be commingled with other pension funds administered by the board, but a separate account must be maintained for each system.

NEW SECTION. Section 15. Eligibility for pension and disability benefits. (1) To qualify for a full pension, partial pension, or disability benefit under [sections 1 through 31], a member must meet the requirements of subsections (2) through (4).

(2) (a) For a full pension benefit, a member must have completed 20 years of service and must have attained 55 years of age, but need not be an active volunteer emergency medical technician when 55 years of age is reached.

(b) A member who is prevented from completing at least 20 years of service may qualify for a partial pension benefit if the member has completed at least 10 years of service and has attained 60 years of age, but need not be an active volunteer emergency medical technician when 60 years of age is reached.

(3) An active volunteer emergency medical technician whose duty-related injury results in permanent total disability as determined pursuant to [section 24] is eligible, regardless of age or service, to receive a disability benefit.

(4) Except as provided in subsection (5):

(a) to receive a pension or disability benefit, a volunteer emergency medical technician may not be an active volunteer emergency medical technician; and

(b) a volunteer emergency medical technician who receives a pension or disability benefit under [sections 1 through 31] may not become an active volunteer emergency medical technician.

(5) (a) In the event of a declared national, state, or local emergency affecting Montana, a retired volunteer emergency medical technician who is not receiving a disability benefit under [sections 1 through 31] may return to active volunteer service with an emergency services organization for the duration of the declared emergency without becoming an active member under [sections 1 through 31] and the volunteer emergency medical technicians' pension plan and without loss of previously earned benefits. Only a person authorized to issue the declaration or the person's designee may determine if a retired volunteer emergency medical technician may return to active service. The authorized person or the authorized person's designee shall prescribe the duties of any retired volunteer emergency medical technician returning to active volunteer service.

(b) A member who is receiving a full pension benefit as provided in [section 18] may return to voluntary emergency medical service with an emergency services organization without loss of benefits. A member returning to service under this subsection (5) is not considered an active member earning service credit.

NEW SECTION. Section 16. Certificate of eligibility. (1) A volunteer emergency medical technician who claims eligibility under [sections 1 through 31] shall, on or before September 1 of each year, file a certificate

on a form to be provided by the board, subscribed and verified under oath before a notary, stating that the volunteer emergency medical technician qualified under [section 8(3)] during the preceding fiscal year. The certificate must list the volunteer emergency medical technician's full name, social security number, and date of birth, state that the member was a volunteer emergency medical technician for the majority of the fiscal year, and state that the volunteer emergency medical technician satisfactorily completed 16 hours of instruction during the preceding fiscal year as required by [section 8(3)]. The certificate must be maintained by the board for the purpose of establishing service credits for the member and eligibility for benefits.

(2) (a) The board shall adopt rules that establish forms and procedures that a volunteer emergency medical technician is required to follow to certify and claim service earned after June 30, 2002, and prior to July 1, 2007.

(b) A volunteer emergency medical technician may not claim service earned prior to July 1, 2002.

(c) A claim for service earned after June 30, 2002, and prior to July 1, 2007, must be filed with the board before July 1, 2008. The board may not accept a claim filed under this subsection (2) after June 30, 2008.

NEW SECTION. Section 17. Application for benefits. (1) Benefits for which members are eligible under [sections 1 through 31] are first payable beginning July 1, 2017.

(2) A member may apply for retirement benefits as provided in this section before terminating service, but commencement of the benefits must be as provided in [section 25].

(3) A member, surviving spouse, or dependent child shall apply for benefits on a form provided by the board.

(4) The application must contain:

(a) the name, address, and date of birth of the member, surviving spouse, or dependent child;

(b) the date of birth of the member;

(c) the date of the member's death, if applicable; and

(d) the fiscal years during which service as an active member is claimed.

(5) The board may require any proof of age, death, and service that it may consider proper, but it shall accept a certificate properly completed and timely filed under [section 16] as prima facie proof of service.

NEW SECTION. Section 18. Amount of pension and disability benefits. (1) Each eligible member must receive a pension or disability benefit as provided in this section.

(2) (a) Except as provided in subsection (2)(c), the full pension benefit paid to eligible members is \$150

a month.

(b) A partial pension benefit is calculated by multiplying the full pension benefit in subsection (2)(a) by a fraction, the numerator of which is the eligible member's years of service and the denominator of which is 20.

(c) The full pension benefit of a member who continued to be an active member after completing 20 years of service must be increased by \$7.50 a month for each additional year of active service that the member completed after 20 years of service, up to 30 total years of service.

(3) The disability benefit paid to an eligible member is calculated in the same manner as partial pension benefits described in subsection (2)(b), except that the numerator may not be less than 10.

(4) If any fraudulent change or any inadvertent mistake in records results in any member, surviving spouse, or dependent child receiving more or less than entitled to, then on the discovery of the error, the board shall correct the error and adjust the payments to the member, surviving spouse, or dependent child in an equitable manner.

NEW SECTION. Section 19. Survivorship benefits to surviving spouse or dependent children.

(1) Subject to subsection (2) and the limitation in subsection (4), survivorship benefits equal to the full or partial pension benefits otherwise payable to the deceased member must be paid or continue to be paid to:

(a) the surviving spouse, unless the spouse is convicted of knowingly, purposely, or intentionally causing a member's death or disability;

(b) the dependent children upon the spouse's death; or

(c) if the deceased member left no surviving spouse but left a dependent child, to the guardian or other person having custody of the dependent child.

(2) Benefits payable to a dependent child must be paid pursuant to 19-2-803.

(3) The survivorship benefit must be paid in each of the following circumstances:

(a) the death on or after July 1, 2017, of a member who had at least 10 years of service and who was not receiving pension benefits; or

(b) the death on or after July 1, 2017, of a retired member who was receiving pension benefits but who had not received benefits for a total of 40 months.

(4) Survivorship benefits under this section terminate when benefits have been paid for a total of 40 months, including any pension or disability benefits paid to the retiree before death. At the request of the recipient of the survivorship benefit, a lump-sum payment may be made in lieu of up to 40 months of survivorship benefits.

NEW SECTION. Section 20. Termination of pension when no surviving spouse or child. If a deceased volunteer emergency medical technician does not leave a surviving spouse or a child under 18 years of age, the deceased volunteer emergency medical technician's pension terminates at the end of the month prior to the month in which the volunteer emergency medical technician's death occurs.

NEW SECTION. Section 21. Exemption from taxation and legal process. (1) The first \$3,600 or the amount of benefits, as determined pursuant to 15-30-111(2)(c)(ii), that are received under [sections 15 through 25] is exempt from state, county, and municipal taxation.

(2) Benefits received under [sections 15 through 25] are not subject to execution, garnishment, attachment, or any other process.

NEW SECTION. Section 22. Medical review of certain disability retirees. The board may require a member who receives a disability benefit to undergo periodic medical examinations. The examinations must be made by a physician or surgeon at the member's residence or a place mutually agreeable to the board and the member. Upon the basis of these examinations and the advice of the board's consulting physician, the board shall determine, by reason of physical or mental capacity, whether the member remains eligible to receive a disability benefit.

NEW SECTION. Section 23. Cancellation and reinstatement of disability benefits. (1) The board may cancel a member's disability benefit if:

- (a) the board determines, as provided in [section 22], that the member is no longer disabled;
- (b) the member refuses to submit to a medical examination under [section 22]; or
- (c) the member engages in a gainful occupation during the previous year and earns compensation exceeding \$5,500.

(2) The cancellation of a disability benefit under this section does not prejudice any right of a member to other pension benefits payable under [sections 1 through 31].

(3) If the member's earnings in any year after the cancellation of disability benefits under subsection (1)(c) are less than \$5,500, the disability benefit must be reinstated.

NEW SECTION. Section 24. Determination of disability. (1) The board shall determine whether a member has become disabled. In the discharge of its duty regarding determinations, the board, any member of

the board, or any authorized representative of the board may order medical examinations, conduct contested case hearings, administer oaths and affirmations, take depositions, certify to official acts and records, and issue subpoenas to compel the attendance of witnesses and the production of books, papers, correspondence, memoranda, and other records considered necessary as evidence in connection with a claim for disability benefits.

(2) The board shall retain medical personnel to advise it in initially determining the nature and extent of disabling conditions.

NEW SECTION. Section 25. Time benefits commence. (1) (a) Benefits for which a member or a member's beneficiary is eligible under [sections 1 through 31]:

(i) are first payable beginning July 1, 2017; and

(ii) may not be paid retroactively, regardless of when a member may have first become eligible to retire.

(b) Expenses incurred prior to July 1, 2017, that are related to a disability that occurred prior to July 1, 2017, are not reimbursable. Expenses incurred after June 30, 2017, for a disability that would be reimbursable under [sections 1 through 31] if the injury or illness causing the disability had occurred after June 30, 2017, are reimbursable beginning July 1, 2017, regardless of when the injury or illness actually occurred.

(c) Funeral expenses incurred prior to July 1, 2017, that are related to the death of an active member who died in the line of duty prior to July 1, 2017, are not reimbursable under [sections 1 through 31].

(2) Beginning July 1, 2017:

(a) the pension benefit payable pursuant to [sections 15 through 25] may commence on the first day of the month following the eligible member's last day of service or on the first day of a later month following filing of the written application;

(b) the disability retirement benefit payable pursuant to [sections 15 through 25] must commence on the day following the member's termination from service; and

(c) monthly survivorship benefits payable pursuant to [sections 15 through 25] must commence on the day following the death of the member.

NEW SECTION. Section 26. Eligibility for medical and funeral expenses. (1) To qualify for medical expenses under [section 29], a volunteer emergency medical technician must be an active volunteer for an emergency services organization that is not covered by workers' compensation insurance for the volunteer emergency medical technician's injury or illness when the injury or illness occurs.

(2) To qualify for funeral expenses under [section 30], a volunteer emergency medical technician must, at the time of death, be an active volunteer emergency medical technician.

NEW SECTION. Section 27. Procedure for claiming medical expenses. (1) A member who claims medical expenses under [section 29] shall submit a claim on a form provided by the board. The claim must be verified by the member and by a competent medical authority. The claim must be submitted within 1 year from the date of incurring the injury or illness.

(2) The claim must contain:

- (a) the name and address of the member;
- (b) the date, place, and manner of incurring the injury or illness;
- (c) the name and address of the attending physician, surgeon, or nurse, if any;
- (d) the dates of hospitalization, if hospitalized;
- (e) an affidavit from the attending physician, surgeon, or nurse that describes the nature of the injury or illness, the number and dates of visits, and the expenses;
- (f) if hospitalized, an affidavit from a competent medical authority stating the nature of the injury or illness, the dates of hospitalization, and the expenses;
- (g) an affidavit signed by the member that the member was, at the time of the injury or illness, an active volunteer emergency medical technician and that the injury or illness was incurred in the line of duty as described in [section 5].

NEW SECTION. Section 28. Procedure for claiming medical expenses. A person claiming the funeral expenses provided for in [section 30] shall submit the claim on a form provided by the board, in accordance with the board's rules.

NEW SECTION. Section 29. Medical expenses. (1) The board shall authorize payment of some or all medical expenses resulting from an injury or illness that was incurred in the line of duty, as described in [section 5], and that required the services of a physician, surgeon, or nurse, whether or not the member was hospitalized. The payments must equal the amount of the member's necessary and reasonable out-of-pocket medical expenses that resulted directly from the injury or illness and that were billed within 36 months following the date of the injury or illness. The total of reimbursements for claims submitted by the member may not exceed \$25,000.

(2) If an injury incurred in the line of duty results in the loss by amputation of an arm, hand, leg, or foot, the enucleation of an eye, or the loss of any natural teeth, the board shall authorize either a payment for the cost of a prosthesis or a payment of \$1,500 to help defray the cost of a prosthesis, whichever is less. The prosthesis may be replaced when necessary, but not more often than once every 5 years. The board shall authorize payment of not more than \$1,500 of the replacement costs.

NEW SECTION. **Section 30. Funeral expenses.** The board shall authorize payment of reasonable expenses or \$1,500, whichever is less, to aid in defraying the funeral expenses of an active member whose death occurs in the line of duty.

NEW SECTION. **Section 31. Payment of medical and funeral expenses.** Whenever a claim under [section 29 or 30] is received and approved by the board, payment must be made directly to the appropriate provider of the medical care or funeral services.

Section 32. Section 15-66-101, MCA, is amended to read:

"15-66-101. (Temporary) Definitions. For purposes of this chapter, the following definitions apply:

(1) (a) "Hospital" means a facility licensed as a hospital pursuant to Title 50, chapter 5, and includes a critical access hospital.

(b) The term does not include Montana state hospital.

(2) (a) "Inpatient bed day" means a day of inpatient care provided to a patient in a hospital. A day begins at midnight and ends 24 hours later. A part of a day, including the day of admission, counts as a full day. The day of discharge or death is not counted as a day. If admission and discharge or death occur on the same day, the day is considered a day of admission and is counted as one inpatient bed day. Inpatient bed days include all inpatient hospital benefit days as defined for medicare reporting purposes in section 216 of the centers for medicaid and medicare services publication 10, the Hospital Manual. Inpatient bed days also include all nursery days during which a newborn infant receives care in a nursery.

(b) The term does not include observation days or days of care in a swing bed, as defined in 50-5-101.

(3) "Patient" means an individual obtaining skilled medical and nursing services in a hospital. The term includes newborn infants.

(4) "Report" means the report of inpatient bed days required in 15-66-201.

(5) "Supplemental utilization fee" means the fee required to be paid for each inpatient bed day, as

provided in 15-66-102(3).

~~(5)(6)~~ "Utilization fee" ~~or "fee"~~ means the fee required to be paid for each inpatient bed day, as provided in 15-66-102(1). (Void on occurrence of contingency--sec. 18, Ch. 390, L. 2003. ~~Terminates June 30, 2007--secs. 4, 7, Ch. 606, L. 2005.~~)"

Section 33. Section 15-66-102, MCA, is amended to read:

"15-66-102. (Temporary) Utilization fee for inpatient bed days -- supplemental utilization fee. (1)

Each hospital in the state shall pay to the department a utilization fee:

- ~~— (a) in the amount of \$19.43 for each inpatient bed day between January 1, 2004, and June 30, 2005;~~
- ~~— (b) in the amount of \$29.75 for each inpatient bed day between July 1, 2005, and December 31, 2005;~~
- ~~— (c) in the amount of \$27.70 for each inpatient bed day between January 1, 2006, and December 31, 2006; and~~
- ~~— (d) after January 1, 2007, in an amount determined by rule as provided in subsection (2).~~

(2) Prior to each calendar year that will be subject to the utilization fee imposed in subsection (1), the department by rule shall determine the amount of the fee, not to exceed \$50, based upon:

- (a) an estimate of the unpaid medicaid hospital costs, total inpatient days, and the federal medical assistance percentages;
- (b) an estimate of any federal limit on federal financial participation for hospital services; and
- (c) an estimate of federal disproportionate share funds not matched by state general funds.

(3) Each hospital in the state shall also pay to the department a supplemental utilization fee in the amount of \$1 for each inpatient bed day.

~~(3)(4)~~ (a) All proceeds from the collection of the utilization fees fee imposed in subsection (1), including penalties and interest, must be deposited to the credit of the department of public health and human services in a state special revenue account as provided in 53-6-149.

(b) All proceeds from the collection of the supplemental utilization fee imposed in subsection (3), including penalties and interest, must be deposited to the credit of the volunteer emergency medical technicians' pension trust fund established in [section 6].

~~(b)(c)~~ A hospital may not place a fee created in this chapter on a patient's bill. (Void on occurrence of contingency--sec. 18, Ch. 390, L. 2003. ~~Terminates June 30, 2007--secs. 4, 7, Ch. 606, L. 2005.~~)"

Section 34. Section 15-66-103, MCA, is amended to read:

"15-66-103. (Temporary) Relation to other taxes and fees. The ~~utilization fee~~ fees imposed under 15-66-102 ~~is~~ are in addition to any other taxes and fees required to be paid by hospitals. (Void on occurrence of contingency--sec. 18, Ch. 390, L. 2003. ~~Terminates June 30, 2007--sec. 4, Ch. 606, L. 2005.~~)"

Section 35. Section 15-66-201, MCA, is amended to read:

"15-66-201. (Temporary) Reporting and ~~collection~~ payment of fee fees. (1) On or before January 31, 2006, a hospital shall file with the department an annual report of the number of inpatient bed days in the hospital during each of the 6-month periods beginning January 1, 2005, and ending June 30, 2005, and beginning July 1, 2005, and ending December 31, 2005. The report must be in the form prescribed by the department. The report must be accompanied by a payment in an amount equal to the ~~appropriate fee~~ fees required to be paid under 15-66-102.

(2) (a) Except as provided in subsection (1), on or before January 31 of each year, a hospital shall file with the department an annual report of the number of inpatient bed days during the preceding year beginning January 1 and ending December 31. The report must be in the form prescribed by the department. The report must be accompanied by a payment in an amount equal to the fee fees required to be paid under 15-66-102.

(b) On or before January 31 of each year, the department of public health and human services shall provide the department with a list of hospitals licensed and operating in the state during the preceding year beginning January 1 and ending December 31. (Void on occurrence of contingency--sec. 18, Ch. 390, L. 2003. ~~Terminates June 30, 2007--secs. 4, 7, Ch. 606, L. 2005.~~)"

Section 36. Section 15-66-202, MCA, is amended to read:

"15-66-202. (Temporary) Audit -- records. (1) The department may audit the records and other documents of any hospital to ensure that the proper ~~utilization fee~~ has fees have been collected.

(2) The department may require the hospital to provide records and other documentation, including books, ledgers, and registers, necessary for the department to verify the proper amount of the ~~utilization fee~~ fees paid.

(3) A hospital shall maintain and make available for inspection by the department sufficient records and other documentation to demonstrate the number of inpatient bed days in the facility subject to the ~~utilization fee~~ fees. The facility shall maintain these records for a period of at least 5 years from the date the report is due. (Void on occurrence of contingency--sec. 18, Ch. 390, L. 2003. ~~Terminates June 30, 2007--sec. 4, Ch. 606, L. 2005.~~)"

Section 37. Section 15-66-203, MCA, is amended to read:

"15-66-203. (Temporary) Periods of limitation. (1) Except as otherwise provided in this section, a deficiency may not be assessed or collected with respect to the year for which a report is filed unless the notice of additional fees proposed to be assessed is mailed within 5 years from the date the report was filed. For the purposes of this section, a report filed before the last day prescribed for filing is considered filed on the last day. If, before the expiration of the period prescribed for assessment of the ~~fee fees~~, the hospital consents in writing to an assessment after the 5-year period, the ~~fee fees~~ may be assessed at any time prior to the expiration of the period agreed upon.

(2) A refund or credit may not be paid or allowed with respect to the year for which a report is filed after 5 years from the last day prescribed for filing the report or after 1 year from the date of the overpayment, whichever period expires later, unless before the expiration of the period, the hospital files a claim or the department has determined the existence of the overpayment and has approved the refund or credit. If the hospital has agreed in writing under the provisions of subsection (1) to extend the time within which the department may propose an additional assessment, the period within which a claim for refund or credit is filed or a credit or refund is allowed if a claim is not filed is automatically extended. (Void on occurrence of contingency--sec. 18, Ch. 390, L. 2003. ~~Terminates June 30, 2007--sec. 4, Ch. 606, L. 2005:~~)"

Section 38. Section 15-66-204, MCA, is amended to read:

"15-66-204. (Temporary) Penalty and interest for delinquent fees -- waiver. If the ~~fee fees~~ for any hospital ~~is~~ are not paid on or before the due date of the report as provided in 15-66-201, penalty and interest, as provided in 15-1-216, must be added to the ~~fee fees~~. (Void on occurrence of contingency--sec. 18, Ch. 390, L. 2003. ~~Terminates June 30, 2007--sec. 4, Ch. 606, L. 2005:~~)"

Section 39. Section 15-66-208, MCA, is amended to read:

"15-66-208. (Temporary) Credit for overpayment -- interest on overpayment. (1) If the department determines that the amount of fees, penalty, or interest due for any period is less than the amount paid, the amount of the overpayment must be credited against any fees, penalty, or interest due from the hospital at that time and the balance must be refunded to the hospital or its successor through reorganization, merger, or consolidation or to its shareholders upon dissolution.

(2) Except as provided in subsection (3), interest is allowed on overpayments at the same rate as is charged on unpaid taxes, as provided in 15-1-216, from the due date of the report or from the date of

overpayment, whichever date is later, to the date the department approves refunding or crediting of the overpayment. Interest does not accrue during any period during which the processing of a claim for refund is delayed more than 30 days by reason of failure of the hospital to furnish information requested by the department for the purpose of verifying the amount of the overpayment.

(3) Interest is not allowed:

(a) if the overpayment is refunded within 6 months from the date the report is due or from the date the return is filed, whichever is later; or

(b) if the amount of interest is less than \$1.

(4) A payment not made incident to a discharge of actual liability for utilization fee fees or supplemental utilization fees liability or a payment reasonably assumed to be imposed by this chapter is not considered an overpayment with respect to which interest is allowable. (Void on occurrence of contingency--sec. 18, Ch. 390, L. 2003. ~~Terminates June 30, 2007--sec. 4, Ch. 606, L. 2005.~~)"

Section 40. Section 15-66-209, MCA, is amended to read:

"15-66-209. (Temporary) Warrant for distraint. If the ~~utilization fee is~~ fees imposed in 15-66-102 are not paid when due, the department may issue a warrant for distraint as provided in Title 15, chapter 1, part 7. (Void on occurrence of contingency--sec. 18, Ch. 390, L. 2003. ~~Terminates June 30, 2007--sec. 4, Ch. 606, L. 2005.~~)"

Section 41. 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; 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; [section 13]; 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.)"

Section 42. Section 37-3-203, MCA, is amended to read:

"37-3-203. Powers and duties. (1) The board may:

(+)(a) adopt rules necessary or proper to carry out parts 1 through 3 of this chapter. The rules must be fair, impartial, and nondiscriminatory.

(2)(b) hold hearings and take evidence in matters relating to the exercise and performance of the powers and duties vested in the board;

(3)(c) aid the county attorneys of this state in the enforcement of parts 1 through 3 of this chapter and the prosecution of persons, firms, associations, or corporations charged with violations of parts 1 through 3 of this chapter;

(4)(d) establish a program to assist and rehabilitate licensees who are subject to the jurisdiction of the

board and who are found to be physically or mentally impaired by habitual intemperance or the excessive use of addictive drugs, alcohol, or any other drug or substance or by mental or chronic physical illness; and

(5)(e) fund additional staff, hired by the department, to administer the provisions of this chapter, by increasing license fees as necessary.

(2) The board shall, by rule, formulate and supervise a formal program of instruction in matters pertaining to emergency medical service, as defined in 50-6-302. Upon establishing the program, the board shall certify the program to the public employees' retirement board, provided for in 2-15-1009, for the purposes of administering [sections 1 through 31]."

Section 43. Section 37-3-401, MCA, is amended to read:

"37-3-401. Report of incompetence or unprofessional conduct. (1) Notwithstanding any provision of state law dealing with confidentiality, each licensed physician, professional standards review organization, and the Montana medical association or any component society of the association shall and any other person may report to the board any information that the physician, organization, association, society, or person has that appears to show that a physician is:

- (a) medically incompetent;
- (b) mentally or physically unable to safely engage in the practice of medicine; or
- (c) guilty of unprofessional conduct.

(2) (a) Information that relates to possible physical or mental impairment connected to habitual intemperance or excessive use of addictive drugs, alcohol, or any other drug or substance by a licensee or to other mental or chronic physical illness of a licensee may be reported to the appropriate personnel of the program established by the board under ~~37-3-203(4)~~ 37-3-203(1)(d), in lieu of reporting directly to the board.

(b) The program personnel referred to in subsection (2)(a) shall report to the board the identity of a licensee and all facts and documentation in their possession if:

- (i) the licensee fails or refuses to comply with a reasonable request that the licensee undergo a mental, physical, or chemical dependency evaluation or a combination of evaluations;
- (ii) the licensee fails or refuses to undergo a reasonable course of treatment that they recommend, including reasonable aftercare;
- (iii) the licensee fails or refuses to satisfactorily complete a reasonable evaluation, a course of treatment, or aftercare;
- (iv) the licensee's condition creates a risk of harm to the licensee, a patient, or others; or

(v) they are in possession of information that appears to show that the licensee has or is otherwise engaged in unprofessional conduct.

(3) This section applies to professional standards review organizations only to the extent that the organizations are not prohibited from disclosing information under federal law."

Section 44. Section 53-6-149, MCA, is amended to read:

"53-6-149. (Temporary) State special revenue fund account -- administration. (1) There is a hospital medicaid reimbursement account in the state special revenue fund provided for in 17-2-102.

(2) All money collected under ~~15-66-102~~ 15-66-102(1) must be deposited in the account.

(3) Money in the account must be used by the department of public health and human services to provide funding for increases in medicaid payments to hospitals and for the costs of collection of the fee and other administrative activities associated with the implementation of increases in the medicaid payments to hospitals. (~~Terminates June 30, 2007--sec. 4, Ch. 606, L. 2005.~~)"

NEW SECTION. **Section 45. Repealer.** Section 20, Chapter 390, Laws of 2003, and sections 4 and 7, Chapter 606, Laws of 2005, are repealed.

NEW SECTION. **Section 46. Codification instruction.** [Sections 1 through 31] are intended to be codified as an integral part of Title 19, and the provisions of Title 19 apply to [sections 1 through 31].

NEW SECTION. **Section 47. Effective date.** [This act] is effective July 1, 2007.

NEW SECTION. **Section 48. Retroactive applicability.** [Sections 1 through 31] apply retroactively, within the meaning of 1-2-109, for the purpose of determining service credit earned after June 30, 2002.

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