

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

HOUSE BILL NO. 816

INTRODUCED BY J. KASSMIER, S. FITZPATRICK

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE DISTRIBUTION OF SURPLUS REVENUE; PROVIDING FOR A SUPPLEMENTAL INCOME TAX REBATE; PROVIDING FOR A SUPPLEMENTAL PROPERTY TAX REBATE; CREATING THE MONTANA HOUSING INFRASTRUCTURE REVOLVING LOAN ACCOUNT; CREATING A STATE SPECIAL REVENUE ACCOUNT; PROVIDING FOR DUTIES FOR THE BOARD OF INVESTMENTS; PROVIDING ELIGIBILITY REQUIREMENTS FOR THE USE OF FUNDS; PROVIDING FOR DEED RESTRICTIONS SET BY THE BOARD OF INVESTMENTS; PROVIDING FOR PLANNING GRANTS AND LOANS; ESTABLISHING REPORTING REQUIREMENTS; PROVIDING FOR GRANTS TO ELIGIBLE ENTITIES FOR INFRASTRUCTURE PROJECTS; SETTING UP A GRANT PROCESS; REQUIRING A PERCENTAGE OF MATCHING FUNDS; PROVIDING FOR OVERSIGHT; ADDRESSING COST OVERRUNS AND MISAPPROPRIATION OF FUNDS; SETTING GRANT LIMITS; PROVIDING FUNDING TO LOCAL GOVERNMENTS FOR THE MAINTENANCE OF COUNTY AND CITY ROADS; PROVIDING FOR THE DISTRIBUTION OF FUNDS ; PROVIDING A STATUTORY APPROPRIATIONS APPROPRIATION; REVISING CONTRIBUTIONS IN THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM TO PROVIDE FOR AN ACTUARIALLY DETERMINED CONTRIBUTION; CHANGING THE DEFAULT RETIREMENT PLAN TO THE PUBLIC EMPLOYEES' DEFINED CONTRIBUTION PLAN; REVISING THE EMPLOYER CONTRIBUTION TO THE DEFINED CONTRIBUTION PLAN OF THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM; PROVIDING DEFINITIONS; ESTABLISHING A CHILD TAX CREDIT FOR MONTANA RESIDENT TAXPAYERS; PROVIDING A MAXIMUM REFUNDABLE CREDIT AMOUNT FOR A CHILD 5 YEARS OF AGE OR YOUNGER ; PROVIDING FOR A SUPPLEMENTAL FUND TRANSFER FOR THE INCOME TAX REBATE THAT IS BASED ON INDIVIDUAL INCOME TAXES PAID; REVISING THE PROVIDING FOR A SUPPLEMENTAL PROPERTY TAX REBATE; **EXTENDING THE SUNSET DATE ON THE MEDIA TAX CREDIT**; PROVIDING AN APPROPRIATION ~~APPROPRIATIONS~~ **AN APPROPRIATION APPROPRIATIONS**; PROVIDING FOR TRANSFERS; PROVIDING FOR ALLOCATIONS TO COUNTIES ; AMENDING ~~SECTION- SECTIONS~~ **SECTIONS** ~~15-30-2303, 15-31-1007, 15-31-1009, AND 17-7-502, 19-2-303, 19-2-405, 19-2-409, 19-3-315, 19-3-316, 19-3-319, 19-3-1605, 19-3-2111, 19-3-2117, AND 19-21-214,~~

1 MCA; AMENDING SECTION 2, CHAPTER 44, LAWS OF 2023 AND SECTION 1, CHAPTER 47, LAWS OF
2 2023; AND PROVIDING AN IMMEDIATE AN IMMEDIATE-EFFECTIVE DATE DATE DATES, AN
3 APPLICABILITY DATE, AND A TERMINATION DATE DATES."

4
5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

6
7 NEW SECTION. Section 1. — Individual income tax rebate. (1) A qualified taxpayer that is entitled to
8 an individual income tax rebate pursuant to [section 2 of House Bill No. 192] may increase the amount of the
9 filing status limit s in [section 2(1)(b) of House Bill No. 192] by the bonus amounts provided in subsection (2). In
10 administering the income tax rebate, the department shall add the bonus to the filing status limits and update
11 any rebate forms to reflect the additional amount.

12 (2) — (a) Subject to subsection (2)(c), the amount of the bonus for a single taxpayer, a head of
13 household, or a married taxpayer filing a separate return is the quotient of the appropriation in [section 3 39]
14 divided by 3 50,000.

15 (b) — Subject to subsection (2)(c), the amount of the bonus for a married couple filing a joint return is
16 double the amount provided for in subsection (2)(a).

17 (c) — The department shall round the quotients provided for in subsections (2)(a) and (2)(b)
18 downward to the nearest \$1.

19 (3) — The bonus provided for in this section is administered as part of the individual income tax
20 rebate provided for in [House Bill No. 192]. Any income tax rebate received that is based on this section is
21 exempt from taxation under this chapter.

22
23 NEW SECTION. SECTION 1. PROPERTY TAX REBATE. (1) A TAXPAYER THAT IS ENTITLED TO A REBATE OF
24 MONTANA PROPERTY TAXES PAID PURSUANT TO [SECTIONS 1 THROUGH 3 OF HOUSE BILL NO. 222] MAY INCREASE THE
25 DOLLAR AMOUNT LIMITS OF THE REBATES IN [SECTION 2(1)(A) AND (1)(B) OF HOUSE BILL NO. 222] BY THE BONUS
26 AMOUNTS PROVIDED IN SUBSECTION (2). IN ADMINISTERING THE REBATE, THE DEPARTMENT SHALL ADD THE BONUS TO
27 THE DOLLAR AMOUNT LIMITATIONS FOR TAX YEAR 2022 AND TAX YEAR 2023 AND UPDATE ANY REBATE FORMS TO
28 REFLECT THE ADDITIONAL AMOUNT.

Amendment - 1st Reading-white - Requested by: Free Conference Committee on HB 816

- 2023

68th Legislature 2023

Drafter: Julie Johnson, 406-444-4024

HB0816.003.007

1 (2) (A) SUBJECT TO SUBSECTION (2)(D), THE AMOUNT OF THE BONUS FOR TAX YEAR 2022 IS HALF OF THE
2 AMOUNT PROVIDED FOR IN SUBSECTION (2)(C).

3 (B) SUBJECT TO SUBSECTION (2)(C), THE AMOUNT OF THE BONUS FOR TAX YEAR 2023 IS HALF OF THE
4 AMOUNT PROVIDED FOR IN SUBSECTION (2)(C).

5 (C) THE PRELIMINARY BONUS AMOUNT IS THE QUOTIENT OF THE APPROPRIATION IN [SECTION 6] DIVIDED BY
6 284,343.

7 (D) THE DEPARTMENT SHALL ROUND THE QUOTIENTS PROVIDED FOR IN SUBSECTIONS (2)(A) AND (2)(B)
8 DOWNWARD TO THE NEAREST \$1.

9 (3) THE BONUS PROVIDED FOR IN THIS SECTION IS ADMINISTERED AS PART OF THE PROPERTY TAX REBATE
10 PROVIDED FOR IN [HOUSE BILL NO. 222]. ANY PROPERTY TAX REBATE RECEIVED THAT IS BASED ON THIS SECTION IS
11 EXEMPT FROM TAXATION UNDER ~~THIS~~ CHAPTER 30.

13 NEW SECTION. SECTION 2. MONTANA HOUSING INFRASTRUCTURE REVOLVING LOAN FUND ACCOUNT. (1)
14 THERE IS A MONTANA HOUSING INFRASTRUCTURE REVOLVING LOAN FUND ACCOUNT WITHIN THE STATE SPECIAL
15 REVENUE FUND TYPE ESTABLISHED IN 17-2-102 TO THE CREDIT OF THE BOARD OF INVESTMENTS. MONEY DEPOSITED IN
16 THE ACCOUNT ESTABLISHED IN THIS SECTION MUST BE INVESTED BY THE BOARD OF INVESTMENTS AS PROVIDED BY LAW.

17 (2) THE PRINCIPAL OF THE ACCOUNT MAY ONLY BE APPROPRIATED BY A VOTE OF TWO-THIRDS OF THE
18 MEMBERS OF EACH HOUSE OF THE LEGISLATURE.

20 NEW SECTION. SECTION 3. PURPOSE. THE PURPOSE OF THE LOANS MADE AND THE BONDS OR OTHER
21 SECURITIES ISSUED AND PURCHASED PURSUANT TO [SECTIONS 2 THROUGH 6] ARE:

22 (1) TO INCREASE HOME OWNERSHIP AND PROVIDE MORE LONG-TERM RENTAL OPPORTUNITY;

23 (2) TO INCREASE HOUSING SUPPLY AND OFFER DIVERSE HOUSING TYPES TO MEET THE NEEDS OF
24 POPULATION GROWTH; AND

25 (3) TO CREATE PARTNERSHIPS BETWEEN THE STATE, LOCAL GOVERNMENTS, PRIVATE SECTOR
26 DEVELOPERS, AND APPLICANTS FOR RESIDENTIAL DEVELOPMENT TO FINANCE NECESSARY INFRASTRUCTURE FOR
27 HOUSING.

28

1 NEW SECTION. SECTION 4. — ELIGIBILITY. (1) FOR THE COSTS OF AN INFRASTRUCTURE PROJECT TO BE
 2 ELIGIBLE TO BE PAID BY THE PROCEEDS OF A LOAN OR BONDS OR OTHER SECURITIES OF AN ELIGIBLE GOVERNMENT UNIT
 3 AS DEFINED IN 17-5-1604, THE INFRASTRUCTURE PROJECT MUST PROVIDE FOR RESIDENTIAL DEVELOPMENT AT A
 4 MINIMUM GROSS DENSITY OF 10 UNITS FOR EACH ACRE.

5 (2) — LENDING OF AT LEAST \$7 MILLION OF AVAILABLE FUNDS MUST BE PRIORITIZED TO COUNTIES THAT HAVE
 6 A POPULATION OF LESS THAN 15,000 INHABITANTS THAT ARE LOCATED WITHIN A 30-MILE RADIUS OF A FACILITY THAT, ON
 7 AN ANNUAL AVERAGE, HOUSES AT LEAST 100 STATE INMATES OR BEHAVIORAL HEALTH PATIENTS, AND THE FACILITY IS
 8 LOCATED IN A COUNTY THAT HAS A POPULATION OF THAT DOES NOT EXCEED 15,000 INHABITANTS.

9
 10 NEW SECTION. SECTION 5. — FINANCING BY THE BOARD OF INVESTMENTS -- DEED RESTRICTIONS. (1) THE
 11 BOARD OF INVESTMENTS MAY MAKE LOANS FROM THE ACCOUNT ESTABLISHED IN [SECTION 2] TO AN ELIGIBLE
 12 GOVERNMENT UNIT AS DEFINED IN 17-5-1604 OR AN APPLICANT FOR RESIDENTIAL DEVELOPMENT TO COVER THE COSTS
 13 OF DEMOLITION OR EXPANDING OR EXTENDING WATER, WASTEWATER, STORM WATER, STREET, ROAD, CURB, GUTTER,
 14 AND SIDEWALK INFRASTRUCTURE TO SERVE NEW OR REHABILITATED RESIDENTIAL DEVELOPMENT.

15 (2) — THE BOARD OF INVESTMENTS MAY PURCHASE UP TO 50% OF A BOND OR OTHER SECURITY ISSUED IN
 16 ACCORDANCE WITH STATE LAW BY AN ELIGIBLE GOVERNMENT UNIT AS DEFINED IN 17-5-1604 TO COVER ALL OR A
 17 PORTION OF COSTS OF EXPANDING OR EXTENDING WATER, WASTEWATER, STORM WATER, STREET, ROAD, CURB,
 18 GUTTER, AND SIDEWALK INFRASTRUCTURE TO SERVE NEW OR REHABILITATED RESIDENTIAL DEVELOPMENT AT AN
 19 INTEREST RATE TO BE DETERMINED BY THE BOARD OF INVESTMENTS AS AN INVESTMENT OF THE ACCOUNT ESTABLISHED
 20 IN [SECTION 2].

21 (3) — THE BOARD OF INVESTMENTS SHALL:

22 (A) — ESTABLISH THE TERMS AND CONDITIONS OF THE LOAN, INCLUDING THE INTEREST RATE OF THE LOAN,
 23 WITH A TERM NOT TO EXCEED 20 YEARS;

24 (B) — IF AN ELIGIBLE GOVERNMENT UNIT IS THE ENTITY SEEKING A LOAN OR ISSUING A BOND OR OTHER
 25 SECURITY, REQUIRE THAT THE ELIGIBLE GOVERNMENT UNIT WAIVE ALL IMPACT FEES FOR THE DEVELOPER OR THE
 26 AMOUNT OF IMPACT FEES UP TO THE AMOUNT OF THE LOAN OR BOND OR OTHER SECURITY, WHICHEVER AMOUNT IS
 27 SMALLER;

28 (C) — IF AN APPLICANT FOR RESIDENTIAL DEVELOPMENT IS THE ENTITY SEEKING A LOAN, REQUIRE THAT THE

Amendment - 1st Reading-white - Requested by: Free Conference Committee on HB 816

- 2023

68th Legislature 2023

Drafter: Julie Johnson, 406-444-4024

HB0816.003.007

1 APPLICANT PAY ALL IMPACT FEES DUE TO THE LOCAL GOVERNMENT OR THE AMOUNT OF IMPACT FEES UP TO THE
2 AMOUNT OF THE LOAN, WHICHEVER AMOUNT IS SMALLER; AND
3 (D) SET POLICY REQUIRING THAT HOUSING BUILT USING INFRASTRUCTURE FUNDED IN PART BY A SECURITY
4 PURSUANT TO THIS SECTION MUST CONTAIN A DEED RESTRICTION TO PRESERVE LONG-TERM AFFORDABILITY OF THE
5 HOUSING THAT RUNS WITH THE PROPERTY FOR THE TERM OF THE SECURITY;
6 (4) THE BOARD OF INVESTMENTS SHALL INCLUDE THE AMOUNTS LOANED AND THE STATUS OF ALL LOANS IN
7 THE REPORT REQUIRED IN 17-5-1650.

8
9 **NEW SECTION. SECTION 6. WORKFORCE HOUSING APPROPRIATIONS -- ELIGIBLE USES OF FUNDS. (1)**
10 THERE IS APPROPRIATED \$12 MILLION FROM THE GENERAL FUND TO THE BOARD OF INVESTMENTS FOR THE BIENNIUM
11 BEGINNING JULY 1, 2023. THE PURPOSE OF THE FUNDS IS TO ADVANCE THE CONSTRUCTION OF WORKFORCE HOUSING
12 OF EMPLOYEES WHO WORK AT FACILITIES THAT HOUSE STATE INMATES OR BEHAVIORAL HEALTH PATIENTS.

13 (2) FUNDS MUST BE DISTRIBUTED TO THOSE LIVING IN COUNTIES THAT HAVE A POPULATION OF LESS THAN
14 15,000 INHABITANTS THAT ARE LOCATED WITHIN A 30-MILE RADIUS OF A FACILITY THAT, ON AN ANNUAL AVERAGE,
15 HOUSES AT LEAST 100 STATE INMATES OR BEHAVIORAL HEALTH PATIENTS, AND THE FACILITY IS LOCATED IN A COUNTY
16 THAT HAS A POPULATION THAT DOES NOT EXCEED 15,000 INHABITANTS. THE DISTRIBUTION MUST BE MADE PRO RATA
17 BASED ON THE ANNUAL AVERAGE FACILITY POPULATION FOR THE FISCAL YEAR BEGINNING JULY 1, 2021, AND THE
18 NUMBER OF WORKERS RESIDING IN EACH ELIGIBLE COUNTY.

19 (3) ELIGIBLE USES OF THE FUNDS INCLUDE:
20 (A) BUYING DOWN CONSTRUCTION INTEREST ON EMPLOYEE HOUSING;
21 (B) PROVIDING LOANS FOR UP TO 50% OF THE PROJECTED PROJECT COSTS OF AN ELIGIBLE
22 INFRASTRUCTURE PROJECT PURSUANT TO [SECTION 4];
23 (C) ACQUIRING THROUGH CONSTRUCTION OR PURCHASE HOUSING FOR EMPLOYEES WITH THE INTENTION
24 OF THE HOUSING TO BE PRIVATELY OWNED WITHIN 10 YEARS OF PURCHASE OR CONSTRUCTION;
25 (D) PROVIDING FUNDS TO DISCOUNT HOUSING COSTS TO EMPLOYEES WHO WORK IN FACILITIES THAT
26 HOUSE, ON AN ANNUAL AVERAGE, AT LEAST 100 STATE INMATES OR BEHAVIORAL HEALTH PATIENTS, AND THE FACILITY IS
27 LOCATED IN A COUNTY THAT HAS A POPULATION THAT DOES NOT EXCEED 15,000 INHABITANTS; OR
28 (E) ACQUIRING THROUGH CONSTRUCTION OR PURCHASE HOUSING FOR EMPLOYEES OF THOSE FACILITIES

Amendment - 1st Reading-white - Requested by: Free Conference Committee on HB 816

- 2023

68th Legislature 2023

Drafter: Julie Johnson, 406-444-4024

HB0816.003.007

1 WITH THE INTENTION OF THE HOUSING TO BE PRIVATELY OWNED WITHIN 10 YEARS OF PURCHASE OR CONSTRUCTION
2 UNLESS PRIVATE OWNERSHIP IS CONSIDERED A SECURITY RISK BY THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN
3 SERVICES OR THE DEPARTMENT OF CORRECTIONS.

4
5 NEW SECTION. SECTION 7. — PURPOSE. THE PURPOSE OF [SECTIONS 7 THROUGH 1 8] IS TO USE A
6 PORTION OF THE STATE'S GENERAL FUND SURPLUS TO FUND THE MAINTENANCE AND REPAIR OF LOCAL GOVERNMENT
7 INFRASTRUCTURE FACILITIES ON A PARTNERSHIP BASIS WITH LOCAL GOVERNMENT SUPPLYING A CASH MATCH.

8
9 NEW SECTION. SECTION 8. — APPROPRIATION. THERE IS APPROPRIATED \$ 22 7 MILLION FROM THE
10 GENERAL FUND TO THE DEPARTMENT OF COMMERCE FOR THE BIENNIUM BEGINNING JULY 1, 2023, TO DISTRIBUTE
11 FUNDS AS ALLOCATED IN [SECTION 1 7] TO GRANT RECIPIENTS AWARDED IN COMPLIANCE WITH [SECTIONS 7 THROUGH
12 18] FOR ELIGIBLE PROJECTS AS RECOMMENDED BY EACH COUNTY COMMISSION.

13
14 NEW SECTION. SECTION 9. — CALCULATION FOR ALLOCATION OF FUNDS. (1) EXCEPT AS PROVIDED IN
15 SUBSECTION (2), EACH COUNTY WILL RECEIVE AN ALLOCATION OF FUNDS BASED ON THE FOLLOWING:

16 (A) — THE COUNTY'S 2020 POPULATION;

17 (B) — THE ABILITY OF THE COUNTY'S LOCAL POPULATION TO PAY FOR SERVICES AS MEASURED BY PER CAPITA
18 INCOME; AND

19 (C) — THE COUNTY'S ABILITY TO RAISE TAX REVENUE LOCALLY AS MEASURED BY PER CAPITA TAXABLE
20 VALUATION.

21 (2) — IF A COUNTY'S ALLOCATION AS CALCULATED PURSUANT TO THE CRITERIA IN SUBSECTION (1) IS LESS
22 THAN \$300,000, THE COUNTY SHALL RECEIVE \$300,000.

23
24 NEW SECTION. SECTION 10. — ELIGIBLE USE OF FUNDS -- ELIGIBLE ENTITIES. (1) EXCEPT AS PROVIDED IN
25 SUBSECTION (2), FUNDS ALLOCATED IN [SECTION 17] MAY BE USED ONLY BY ELIGIBLE ENTITIES TO MAINTAIN OR REPAIR
26 EXISTING LOCAL GOVERNMENT INFRASTRUCTURE, INCLUDING POTABLE DRINKING WATER SYSTEMS, SEWER
27 WASTEWATER TREATMENT SYSTEMS, FIRE SUPPRESSION SYSTEMS IF INDEPENDENT OF THE POTABLE DRINKING WATER
28 SYSTEMS, STREETS, ROADS, BRIDGES, LANDFILLS, STREET LIGHTS, AIRPORTS, AND PUBLIC GROUNDS AND BUILDINGS.

Amendment - 1st Reading-white - Requested by: Free Conference Committee on HB 816

- 2023

68th Legislature 2023

Drafter: Julie Johnson, 406-444-4024

HB0816.003.007

1 ~~(2) FUNDS ALLOCATED IN [SECTION 17] MAY BE USED TO EXPAND EXISTING WATER AND WASTEWATER~~
2 ~~TREATMENT PLANTS THAT ARE BEING OPERATED AT 90% OF DESIGN CAPACITY OR GREATER.~~

3 ~~(3) ENTITIES ELIGIBLE FOR GRANTS UNDER [SECTIONS 7 THROUGH 18] INCLUDE INCORPORATED CITIES~~
4 ~~AND TOWNS, COUNTIES, SCHOOL DISTRICTS, AND SPECIAL DISTRICTS, INCLUDING WATER AND SEWER DISTRICTS.~~

6 ~~NEW SECTION. SECTION 11. GRANT PROCESS -- COMMISSION AND DEPARTMENT OF COMMERCE REVIEW --~~
7 ~~PRIORITY. (1) THE COUNTY COMMISSION SHALL SOLICIT AND ACCEPT APPLICATIONS FROM ELIGIBLE ENTITIES WITHIN~~
8 ~~THE COUNTY ON OR BEFORE DECEMBER 31, 2023.~~

9 ~~(2) WHEN ALL THE APPLICATIONS HAVE BEEN RECEIVED, THE COUNTY COMMISSION SHALL HOLD A PUBLIC~~
10 ~~HEARING AND, BASED ON THE INFORMATION CONTAINED WITHIN THE APPLICATION AND THE INFORMATION RECEIVED AT~~
11 ~~THE PUBLIC HEARING, PREPARE A RECOMMENDATION FOR FUNDING IN PRIORITY ORDER AND TRANSMIT THE~~
12 ~~RECOMMENDATION TO THE DEPARTMENT OF COMMERCE.~~

13 ~~(3) THE DEPARTMENT OF COMMERCE SHALL REVIEW THE RECOMMENDATIONS OF THE COUNTY~~
14 ~~COMMISSION AND THE CONTENT OF THE RECOMMENDED APPLICATION AND DETERMINE WHETHER THE APPLICATION~~
15 ~~COMPLIES WITH [SECTIONS 7 THROUGH 18]. IF THE APPLICATION DOES NOT COMPLY, THE DEPARTMENT SHALL ISSUE~~
16 ~~NOTICE TO THE APPLICABLE COUNTY COMMISSION.~~

17 ~~(4) THE DEPARTMENT OF COMMERCE MAY NOT SUBSTITUTE ITS JUDGMENT FOR THAT OF THE COUNTY~~
18 ~~COMMISSION AND CANNOT REVISE THE RECOMMENDED PRIORITY LIST.~~

19 ~~(5) PRIORITY IS GIVEN TO PROJECTS THAT MAINTAIN OR REPAIR PUBLICLY OWNED DRINKING WATER~~
20 ~~SYSTEMS, PUBLICLY OWNED WASTEWATER TREATMENT SYSTEMS, AND MUNICIPAL FIRE SUPPRESSION SYSTEMS THAT~~
21 ~~ARE INDEPENDENT OF A WATER SYSTEM.~~

22 ~~(6) A GRANT RECIPIENT'S ENTITLEMENT TO RECEIVE FUNDS IS DEPENDENT ON THE GRANT RECIPIENT'S~~
23 ~~COMPLIANCE WITH THE CONDITIONS DESCRIBED IN [SECTION 18].~~

24 ~~(7) THE DEPARTMENT OF COMMERCE SHALL ADMINISTER THE GRANT PROGRAM AND DISBURSE FUNDS~~
25 ~~DIRECTLY TO THE APPLICANTS PURSUANT TO THE PROVISIONS OF [SECTION 18].~~

26 ~~(8) THE DEPARTMENT OF COMMERCE IS AUTHORIZED 2 FTE ON A TEMPORARY BASIS THROUGH JUNE 30,~~
27 ~~2025. IF THE DEPARTMENT'S WORKLOAD FOR THE ADMINISTRATION OF [SECTIONS 7 THROUGH 18] REQUIRES~~
28 ~~ADDITIONAL STAFF, THE OFFICE OF BUDGET AND PROGRAM PLANNING MAY AUTHORIZE AN ADDITIONAL 2 FTE TO~~

Amendment - 1st Reading-white - Requested by: Free Conference Committee on HB 816

- 2023

68th Legislature 2023

Drafter: Julie Johnson, 406-444-4024

HB0816.003.007

1 ~~TERMINATE JUNE 30, 2025. IF PROGRAM ADMINISTRATION CONTINUES INTO THE 2027 BIENNIUM, THE DEPARTMENT~~
2 ~~SHALL SUBMIT A BUDGET MODIFICATION REQUEST WITH ITS 2027 BIENNIUM BUDGET REQUEST TO CONTINUE THE FTE ON~~
3 ~~A TEMPORARY BASIS.~~

4
5 NEW SECTION. SECTION 12. GRANT APPLICATION -- CONTENTS -- MATCHING FUNDS REQUIREMENT. EACH
6 APPLICATION FOR GRANT FUNDS MUST CONTAIN THE FOLLOWING INFORMATION:

7 (1) THE NAME OF THE APPLICANT ENTITY AND ITS ADDRESS, TELEPHONE NUMBER, E-MAIL ADDRESS, AND
8 LEGAL STATUS, SUCH AS WHETHER IT IS AN INCORPORATED CITY OR WHAT TYPE OF SPECIAL DISTRICT IT IS;

9 (2) THE NAME, ADDRESS, TELEPHONE NUMBER, E-MAIL ADDRESS, AND TITLE OF THE INDIVIDUAL PERSON
10 WHO WILL BE DIRECTLY RESPONSIBLE FOR THE MANAGEMENT OF THE PROJECT OR PROJECTS TO BE FUNDED BY THE
11 APPLICATION, SUCH AS A PUBLIC WORKS DIRECTOR OR A CONSULTING ENGINEER, AND A COPY OF THE INDIVIDUAL'S
12 RESUME ATTESTING TO THE INDIVIDUAL'S QUALIFICATIONS AND ABILITY TO MANAGE THE PROJECT;

13 (3) A NARRATIVE DESCRIPTION OF THE PROSPECTIVE PROJECT, INCLUDING A DESCRIPTION OF THE
14 PROBLEMS TO BE ADDRESSED AND THE NEED TO UNDERTAKE THE REPAIRS. THE APPLICANT SHALL EXPLAIN WHY THE
15 PROPOSED PROJECT IS APPROPRIATE, COST-EFFECTIVE, AND A LONG-TERM SOLUTION TO THE PROBLEM. THE
16 APPLICANT SHALL ALSO SUBMIT A LIST OF TASKS TO BE UNDERTAKEN TO ADDRESS THE PROBLEM. A MAP OR DIGITAL
17 PHOTO SHOWING THE PROJECT IS ALSO REQUIRED. PHOTOGRAPHS DOCUMENTING THE NATURE OF THE PROBLEMS ARE
18 ADVISABLE BUT NOT REQUIRED.

19 (4) A PROJECT COST ESTIMATE SHOWING THE TOTAL COST OF THE PROJECT, PREPARED BY A LICENSED
20 PROFESSIONAL ENGINEER OR QUALIFIED CONTRACTOR. THE COST ESTIMATED MUST BE ITEMIZED BY THE LIST OF TASK
21 ELEMENTS AS REQUIRED IN SUBSECTION (3).

22 (5) A TIME SCHEDULE SHOWING EACH STEP IN THE REPAIR PROCESS STARTING WITH THE PREPARATION OF
23 THE BID DOCUMENTS THROUGH COMPLETION OF THE WORK. SPECIFIC CALENDAR DATES ARE RECOMMENDED.

24 (6) A STATEMENT THAT THE INFORMATION CONTAINED IN THE APPLICATION IS TRUE, WHICH MUST BE
25 SIGNED BY AN AUTHORIZED REPRESENTATIVE OF THE APPLICANT; AND

26 (7) A STATEMENT IDENTIFYING A LOCAL CASH MATCH EQUAL TO NO LESS THAN 25% OF THE TOTAL
27 PROJECT COST, WHICH MAY NOT INCLUDE IN-KIND CONTRIBUTIONS OF GOODS OR IN-KIND SERVICES.

28

1 NEW SECTION. SECTION 13. PROJECT MANAGEMENT, COST OVERRUNS, AND SUPPLEMENTAL
 2 APPROPRIATIONS. (1) THE GRANT APPLICANT ENTITY IS FULLY RESPONSIBLE FOR MANAGING THE PROJECT AND
 3 ENSURING THAT IT IS COMPLETED ON TIME AND WITHIN BUDGET. IF COST OVERRUNS OCCUR, THE COST OF THE OVERRUN
 4 IS THE FULL AND SOLE RESPONSIBILITY OF THE APPLICANT. NO SUPPLEMENTAL APPROPRIATION MAY BE AUTHORIZED BY
 5 THE STATE.

6 (2) EXCEPT AS PROVIDED IN SUBSECTION (3), THE GRANT APPLICANT MUST HAVE THE PROJECT UNDER
 7 CONTRACT BY DECEMBER 31, 2024.

8 (3) IN CASES IN WHICH AN APPLICANT HAS USED ALL REASONABLE EFFORTS TO FIND A CONTRACTOR FOR A
 9 PROJECT BUT HAS FAILED, THE APPLICANT MAY REQUEST ONE 2-YEAR EXTENSION FROM THE DEPARTMENT OF
 10 COMMERCE.

11 (4) PROJECTS FUNDED UNDER [SECTIONS 7 THROUGH 18] MUST BE COMPLETED BY DECEMBER 31, 2027.

13 NEW SECTION. SECTION 14. MISAPPROPRIATION OR DIVERSION OF FUNDS. IN THE EVENT THE GRANTEE
 14 MISAPPROPRIATES OR DIVERTS ANY PORTION OF THE STATE GRANT OR LOCAL GOVERNMENT MATCH TO ANOTHER USE,
 15 THE APPLICANT SHALL REPAY THE DEPARTMENT OF COMMERCE THE MISAPPROPRIATED OR DIVERTED FUNDS WITHIN 12
 16 MONTHS OF THE DATE OF NOTICE FROM THE STATE AND PAY A FINE EQUAL TO 20% OF THE AMOUNT MISAPPROPRIATED
 17 OR DIVERTED TO THE STATE'S GENERAL FUND.

19 NEW SECTION. SECTION 15. GRANT LIMITS. (1) EXCEPT FOR CITY-COUNTY CONSOLIDATED
 20 GOVERNMENTS AND COUNTIES RECEIVING AN ALLOCATION OF LESS THAN \$1 MILLION, A SINGLE APPLICANT MAY NOT
 21 RECEIVE MORE THAN ONE-THIRD OF THE COUNTY'S TOTAL ALLOCATION FROM THE STATE.

22 (2) CITY-COUNTY CONSOLIDATED GOVERNMENTS ARE LIMITED TO TWO-THIRDS OF THE TOTAL COUNTY
 23 ALLOCATION.

24 (3) COUNTIES WHOSE ALLOCATION IS LESS THAN \$1 MILLION ARE NOT SUBJECT TO ANY RESTRICTION
 25 REGARDING HOW MUCH AN INDIVIDUAL APPLICANT MAY RECEIVE.

26 (4) COUNTIES IN WHICH THE LOCAL GOVERNMENT INFRASTRUCTURE HAS BEEN SIGNIFICANTLY DAMAGED
 27 BY A NATURAL DISASTER ARE NOT SUBJECT TO ANY RESTRICTION REGARDING HOW MUCH AN INDIVIDUAL APPLICANT MAY
 28 RECEIVE.

1

2 NEW SECTION. SECTION 16. PROJECT REPORTS AND COMPLETION NOTICES. (1) THE APPLICANT SHALL

3 PROVIDE A PROGRESS REPORT TO THE DEPARTMENT OF COMMERCE ON A QUARTERLY BASIS IDENTIFYING THE

4 FOLLOWING:

5 (A) WORK THAT HAS BEEN UNDERTAKEN ON THE PROJECT;

6 (B) THE PERCENTAGE OF WORK COMPLETED;

7 (C) THE AMOUNT OF FUNDS EXPENDED TO DATE;

8 (D) REMAINING FUNDS;

9 (E) A DESCRIPTION OF ANY SIGNIFICANT PROBLEMS;

10 (F) WHETHER THE PROJECT ENCOUNTERED ANY MODIFICATION NECESSARY TO THE SCOPE OF WORK,

11 BUDGET, OR SCHEDULE; AND

12 (G) THE PROJECTED COMPLETION DATE.

13 (2) AT THE COMPLETION OF THE PROJECT, THE FINAL REPORT MUST INCLUDE A STATEMENT ATTESTING TO

14 THE COMPLETION OF THE PROJECT, WHICH MUST BE SIGNED BY THE PROJECT MANAGER.

15

16 NEW SECTION. SECTION 17. COUNTY ALLOCATIONS. THE FOLLOWING AMOUNTS ARE ALLOCATED TO

17 COUNTIES AS FOLLOWS:

<u>COUNTY</u>	<u>ALLOCATION</u>
<u>BEAVERHEAD</u>	<u>\$1,967,182</u>
<u>BIG HORN</u>	<u>\$3,469,237</u>
<u>BLAINE</u>	<u>\$1,815,498</u>
<u>BROADWATER</u>	<u>\$1,654,012</u>
<u>CARBON</u>	<u>\$1,770,230</u>
<u>CARTER</u>	<u>\$300,000</u>
<u>GASCADE</u>	<u>\$18,964,268</u>
<u>CHOUTEAU</u>	<u>\$1,186,750</u>

Amendment - 1st Reading-white - Requested by: Free Conference Committee on HB 816

- 2023

68th Legislature 2023

Drafter: Julie Johnson, 406-444-4024

HB0816.003.007

<u>CUSTER</u>	<u>\$2,754,979</u>
<u>DANIELS</u>	<u>\$300,000</u>
<u>DAWSON</u>	<u>\$1,839,947</u>
<u>DEER LODGE</u>	<u>\$2,350,195</u>
<u>FALLON</u>	<u>\$453,950</u>
<u>FERGUS</u>	<u>\$2,458,737</u>
<u>FLATHEAD</u>	<u>\$21,479,315</u>
<u>GALLATIN</u>	<u>\$20,339,680</u>
<u>GARFIELD</u>	<u>\$300,000</u>
<u>GLACIER</u>	<u>\$3,538,610</u>
<u>GOLDEN VALLEY</u>	<u>\$300,000</u>
<u>GRANITE</u>	<u>\$673,649</u>
<u>HILL</u>	<u>\$3,548,055</u>
<u>JEFFERSON</u>	<u>\$2,575,679</u>
<u>JUDITH BASIN</u>	<u>\$300,000</u>
<u>LAKE</u>	<u>\$7,814,450</u>
<u>LEWIS AND CLARK</u>	<u>\$15,470,167</u>
<u>LIBERTY</u>	<u>\$350,669</u>
<u>LINCOLN</u>	<u>\$5,364,722</u>
<u>MADISON</u>	<u>\$1,258,189</u>
<u>MCCONE</u>	<u>\$407,166</u>
<u>MEAGHER</u>	<u>\$390,640</u>
<u>MINERAL</u>	<u>\$1,173,204</u>
<u>MISSOULA</u>	<u>\$24,587,938</u>
<u>MUSSELSHELL</u>	<u>\$1,057,046</u>
<u>PARK</u>	<u>\$3,118,931</u>
<u>PETROLEUM</u>	<u>\$300,000</u>

Amendment - 1st Reading-white - Requested by: Free Conference Committee on HB 816

- 2023

68th Legislature 2023

Drafter: Julie Johnson, 406-444-4024

HB0816.003.007

<u>PHILLIPS</u>	<u>\$887,237</u>
<u>PONDERA</u>	<u>\$1,131,068</u>
<u>POWELL</u>	<u>\$1,600,321</u>
<u>POWDER RIVER</u>	<u>\$337,081</u>
<u>PRAIRIE</u>	<u>\$300,000</u>
<u>RAVALLI</u>	<u>\$10,547,591</u>
<u>RICHLAND</u>	<u>\$1,668,756</u>
<u>ROOSEVELT</u>	<u>\$2,529,409</u>
<u>ROSEBUD</u>	<u>\$1,419,060</u>
<u>SANDERS</u>	<u>\$2,996,121</u>
<u>SHERIDAN</u>	<u>\$572,608</u>
<u>SILVER BOW</u>	<u>\$7,916,129</u>
<u>STILLWATER</u>	<u>\$1,360,670</u>
<u>SWEETGRASS</u>	<u>\$585,442</u>
<u>TETON</u>	<u>\$1,214,932</u>
<u>TOOLE</u>	<u>\$800,758</u>
<u>TREASURE</u>	<u>\$300,000</u>
<u>VALLEY</u>	<u>\$1,345,355</u>
<u>WHEATLAND</u>	<u>\$409,535</u>
<u>WIBAUX</u>	<u>\$300,000</u>
<u>YELLOWSTONE</u>	<u>\$32,819,117</u>

1
2
3
4
5
6
7

NEW SECTION. SECTION 18. — CONDITIONS OF GRANTS -- DISBURSEMENT OF FUNDS: (1) THE

DISBURSEMENT OF GRANT FUNDS BY THE DEPARTMENT OF COMMERCE FOR THE PROJECTS AWARDED PURSUANT TO [SECTIONS 7 THROUGH 18] BY COUNTY COMMISSIONS IS SUBJECT TO COMPLETION OF THE FOLLOWING CONDITIONS:

(A) — THE GRANT RECIPIENT HAS COMPLETED A BUDGET AND IMPLEMENTATION SCHEDULE FOR THE PROJECT;

(B) — THE GRANT RECIPIENT HAS A PROJECT MANAGEMENT PLAN THAT IS APPROVED BY THE DEPARTMENT

Amendment - 1st Reading-white - Requested by: Free Conference Committee on HB 816

- 2023

68th Legislature 2023

Drafter: Julie Johnson, 406-444-4024

HB0816.003.007

1 ~~OF COMMERCE;~~

2 ~~(C) THE GRANT RECIPIENT IS IN COMPLIANCE WITH THE AUDITING AND REPORTING REQUIREMENTS~~
3 ~~PROVIDED IN 2-7-503 AND HAS ESTABLISHED A FINANCIAL ACCOUNTING SYSTEM THAT THE DEPARTMENT OF COMMERCE~~
4 ~~CAN REASONABLY ENSURE CONFORMS TO GENERALLY ACCEPTABLE ACCOUNTING PRINCIPLES; AND~~

5 ~~(D) THE GRANT RECIPIENT HAS ENTERED INTO A CONTRACT WITH THE DEPARTMENT OF COMMERCE, A~~
6 ~~PROVISION OF WHICH MUST DOCUMENT THAT THE LOCAL MATCHING FUNDS ARE AVAILABLE AND COMMITTED TO THE~~
7 ~~PROJECT.~~

8 ~~(2) PRIOR TO THE DEPARTMENT OF COMMERCE DISBURSING FUNDS FOR CONSTRUCTION EXPENSES, THE~~
9 ~~GRANT RECIPIENT SHALL IDENTIFY AND CERTIFY THAT THE RECIPIENT HAS OBTAINED LOCAL, STATE, AND FEDERAL~~
10 ~~PERMITS AND APPROVALS.~~

11 ~~(3) THE DEPARTMENT OF COMMERCE SHALL DISBURSE GRANTS ON A REIMBURSEMENT BASIS AS GRANT~~
12 ~~RECIPIENTS INCUR ELIGIBLE PROJECT EXPENSES IN ACCORDANCE WITH THE TERMS OF THE CONTRACT. IF ACTUAL~~
13 ~~PROJECT EXPENSES ARE LOWER THAN THE PROJECTED EXPENSE OF THE PROJECT, THE DEPARTMENT MAY, AT ITS~~
14 ~~DISCRETION, REDUCE THE AMOUNT OF GRANT FUNDS TO BE PROVIDED TO GRANT RECIPIENTS IN PROPORTION TO ALL OF~~
15 ~~THE PROJECT FUNDING SOURCES.~~

17 ~~NEW SECTION. SECTION 19. LOCAL GOVERNMENT ROAD MAINTENANCE ACCOUNT. THERE IS A LOCAL~~
18 ~~GOVERNMENT ROAD MAINTENANCE ACCOUNT IN THE STATE SPECIAL REVENUE FUND ESTABLISHED IN 17-2-102. ALL~~
19 ~~FUNDS RECEIVED PURSUANT TO [SECTION 38] MUST BE DEPOSITED IN THE ACCOUNT.~~

20 ~~(2) MONEY DEPOSITED IN THE ACCOUNT IS APPROPRIATED TO THE DEPARTMENT OF TRANSPORTATION AND~~
21 ~~MAY BE USED ONLY FOR FUNDING THE CONSTRUCTION, RECONSTRUCTION, MAINTENANCE, AND REPAIR OF COUNTY~~
22 ~~ROADS AND CITY OR TOWN STREETS AND ALLEYS IN THE MANNER PROVIDED IN [SECTION 20];~~

23 ~~(3) THE TOTAL AMOUNT OF MONEY DEPOSITED IN THE ACCOUNT MUST BE DISTRIBUTED PURSUANT TO~~
24 ~~[SECTION 20] BY JUNE 30, 2024.~~

26 ~~NEW SECTION. SECTION 20. DISTRIBUTION OF FUNDS FOR LOCAL GOVERNMENT ROAD MAINTENANCE. (1)~~
27 ~~THE AMOUNT OF \$ 85 MILLION DEPOSITED IN THE LOCAL GOVERNMENT ROAD MAINTENANCE ACCOUNT PROVIDED IN~~
28 ~~[SECTION 19] IS APPROPRIATED TO THE DEPARTMENT OF TRANSPORTATION AND MUST BE DISTRIBUTED BY THE~~

Amendment - 1st Reading-white - Requested by: Free Conference Committee on HB 816

- 2023

68th Legislature 2023

Drafter: Julie Johnson, 406-444-4024

HB0816.003.007

1 DEPARTMENT FOR THE FISCAL YEAR STARTING JULY 1, 2023, ON A MONTHLY BASIS TO THE COUNTIES, INCORPORATED
2 CITIES AND TOWNS, AND CONSOLIDATED CITY-COUNTY GOVERNMENTS IN THE STATE FOR THE CONSTRUCTION,
3 RECONSTRUCTION, MAINTENANCE, AND REPAIR OF RURAL ROADS AND CITY OR TOWN STREETS AND ALLEYS AS
4 FOLLOWS:

5 (A) THE AMOUNT OF \$40 MILLION MUST BE DIVIDED AMONG THE VARIOUS COUNTIES IN THE FOLLOWING
6 MANNER:

7 (i) 50% IN THE RATIO THAT THE RURAL ROAD MILEAGE IN EACH COUNTY, EXCLUSIVE OF THE NATIONAL
8 HIGHWAY SYSTEM AND THE PRIMARY SYSTEM, BEARS TO THE TOTAL RURAL ROAD MILEAGE IN THE STATE, EXCLUSIVE OF
9 THE NATIONAL HIGHWAY SYSTEM AND THE PRIMARY SYSTEM; AND

10 (ii) 50% IN THE RATIO THAT THE RURAL POPULATION IN EACH COUNTY OUTSIDE INCORPORATED CITIES AND
11 TOWNS BEARS TO THE TOTAL RURAL POPULATION IN THE STATE OUTSIDE INCORPORATED CITIES AND TOWNS.

12 (B) THE AMOUNT OF \$40 MILLION MUST BE DIVIDED AMONG THE INCORPORATED CITIES AND TOWNS WITH A
13 POPULATION OF LESS THAN 10,000 AS OF THE MOST RECENT DECENNIAL FEDERAL CENSUS IN THE FOLLOWING MANNER:

14 (i) 50% IN THE RATIO THAT THE CITY OR TOWN STREET AND ALLEY MILEAGE, EXCLUSIVE OF THE NATIONAL
15 HIGHWAY SYSTEM AND THE PRIMARY SYSTEM, WITHIN CORPORATE LIMITS BEARS TO THE TOTAL STREET AND ALLEY
16 MILEAGE, EXCLUSIVE OF THE NATIONAL HIGHWAY SYSTEM AND PRIMARY SYSTEM, WITHIN THE CORPORATE LIMITS OF ALL
17 INCORPORATED CITIES AND TOWNS IN THE STATE WITH A POPULATION OF LESS THAN 10,000; AND

18 (ii) 50% IN THE RATIO THAT THE POPULATION WITHIN THE CORPORATE LIMITS OF THE CITY OR TOWN
19 BEARS TO THE TOTAL POPULATION WITHIN CORPORATE LIMITS OF ALL THE CITIES AND TOWNS IN THE STATE WITH A
20 POPULATION OF LESS THAN 10,000 AS OF THE MOST RECENT DECENNIAL FEDERAL CENSUS.

21 (C) THE AMOUNT OF \$20 MILLION MUST BE DIVIDED AMONG THE INCORPORATED CITIES AND TOWNS WITH A
22 POPULATION OF MORE THAN 10,000 AS OF THE MOST RECENT DECENNIAL FEDERAL CENSUS IN THE FOLLOWING MANNER:

23 (i) 50% IN THE RATIO THAT THE CITY OR TOWN STREET AND ALLEY MILEAGE, EXCLUSIVE OF THE NATIONAL
24 HIGHWAY SYSTEM AND THE PRIMARY SYSTEM, WITHIN CORPORATE LIMITS BEARS TO THE TOTAL STREET AND ALLEY
25 MILEAGE, EXCLUSIVE OF THE NATIONAL HIGHWAY SYSTEM AND PRIMARY SYSTEM, WITHIN THE CORPORATE LIMITS OF ALL
26 INCORPORATED CITIES AND TOWNS IN THE STATE WITH A POPULATION OF MORE THAN 10,000 AS OF THE MOST RECENT
27 DECENNIAL CENSUS; AND

28 (ii) 50% IN THE RATIO THAT THE POPULATION WITHIN THE CORPORATE LIMITS OF THE CITY OR TOWN

Amendment - 1st Reading-white - Requested by: Free Conference Committee on HB 816

- 2023

68th Legislature 2023

Drafter: Julie Johnson, 406-444-4024

HB0816.003.007

1 BEARS TO THE TOTAL POPULATION WITHIN CORPORATE LIMITS OF ALL THE CITIES AND TOWNS IN THE STATE WITH A
2 POPULATION OF MORE THAN 10,000 AS OF THE MOST RECENT DECENNIAL CENSUS.

3 (2) (A) FOR THE PURPOSE OF ALLOCATING THE FUNDS IN SUBSECTIONS (1)(A) THROUGH (1)(C) TO A
4 CONSOLIDATED CITY-COUNTY GOVERNMENT, EACH ENTITY MUST BE CONSIDERED TO HAVE SEPARATE CITY AND COUNTY
5 BOUNDARIES. THE CITY LIMIT BOUNDARIES ARE THE LAST OFFICIAL CITY LIMIT BOUNDARIES FOR THE FORMER CITY
6 UNLESS REVISED BOUNDARIES BASED ON THE LOCATION OF THE URBAN AREA HAVE BEEN APPROVED BY THE
7 DEPARTMENT OF TRANSPORTATION AND MUST BE USED TO DETERMINE CITY AND COUNTY POPULATIONS AND ROAD
8 MILEAGES IN THE FOLLOWING MANNER:

9 (i) PERCENTAGE FACTORS MUST BE CALCULATED TO DETERMINE SEPARATE POPULATIONS FOR THE CITY
10 AND RURAL COUNTY BY USING THE LAST OFFICIAL DECENNIAL FEDERAL CENSUS POPULATION FIGURES THAT
11 RECOGNIZED AN INCORPORATED CITY AND THE RURAL COUNTY. THE FACTORS MUST BE BASED ON THE RATIO OF THE
12 CITY TO THE RURAL COUNTY POPULATION, CONSIDERING THE TOTAL POPULATION IN THE COUNTY MINUS THE
13 POPULATION OF ANY OTHER INCORPORATED CITY OR TOWN IN THE COUNTY.

14 (ii) THE CITY AND COUNTY POPULATIONS MUST BE CALCULATED BY MULTIPLYING THE TOTAL COUNTY
15 POPULATION, AS DETERMINED BY THE LATEST OFFICIAL DECENNIAL CENSUS OR THE LATEST INTERIM YEAR POPULATION
16 ESTIMATES FROM THE DEPARTMENT OF COMMERCE AS SUPPLIED BY THE UNITED STATES BUREAU OF THE CENSUS,
17 MINUS THE POPULATION OF ANY OTHER INCORPORATED CITY OR TOWN IN THAT COUNTY, BY THE FACTORS ESTABLISHED
18 IN SUBSECTION (2)(A)(i).

19 (B) THE AMOUNT ALLOCATED BY THIS METHOD FOR THE CITY AND THE COUNTY MUST BE COMBINED, AND
20 SINGLE MONTHLY PAYMENTS MUST BE MADE TO THE CONSOLIDATED CITY-COUNTY GOVERNMENT.

21 (3) (A) ALL FUNDS ALLOCATED BY THIS SECTION TO COUNTIES, CITIES, TOWNS, AND CONSOLIDATED CITY-
22 COUNTY GOVERNMENTS MUST BE USED FOR THE CONSTRUCTION, RECONSTRUCTION, MAINTENANCE, AND REPAIR OF
23 RURAL ROADS OR CITY OR TOWN STREETS AND ALLEYS.

24 (B) FUNDS ALLOCATED BY THIS SECTION MAY NOT BE USED FOR THE PURCHASE OF CAPITAL EQUIPMENT.

25 (4) ALL FUNDS ALLOCATED BY THIS SECTION TO COUNTIES, CITIES, TOWNS, AND CONSOLIDATED CITY-
26 COUNTY GOVERNMENTS MUST BE DISBURSED TO THE LOWEST RESPONSIBLE BIDDER ACCORDING TO APPLICABLE
27 BIDDING PROCEDURES FOLLOWED IN ALL CASES IN WHICH THE CONTRACT FOR CONSTRUCTION, RECONSTRUCTION,
28 MAINTENANCE, OR REPAIR IS IN EXCESS OF THE AMOUNTS PROVIDED IN 7-5-2301 AND 7-5-4302.

1 (5) FOR THE PURPOSES OF THIS SECTION IN WHICH DISTRIBUTION OF FUNDS IS MADE ON A BASIS RELATED
2 TO POPULATION, THE POPULATION MUST BE DETERMINED FOR COUNTIES AND CITIES ACCORDING TO THE LATEST
3 OFFICIAL DECENNIAL FEDERAL CENSUS.

4 (6) FOR THE PURPOSES OF THIS SECTION IN WHICH DETERMINATION OF MILEAGE IS NECESSARY FOR
5 DISTRIBUTION OF FUNDS, THE DEPARTMENT OF TRANSPORTATION SHALL UTILIZE THE YEARLY CERTIFIED STATEMENT
6 INDICATING THE TOTAL MILEAGE AS PROVIDED IN 15-70-101(7).

7

8 **NEW SECTION. SECTION 21. — PENSION SPECIAL FUND -- TRANSFER OF FUNDS -- STATUTORY**

9 **APPROPRIATION.** (1) THERE IS ESTABLISHED IN THE STATE SPECIAL REVENUE FUND AN ACCOUNT TO BE KNOWN AS THE
10 PENSION SPECIAL FUND TO PAY THE DIFFERENCE BETWEEN THE ACTUARIALLY DETERMINED CONTRIBUTION RATE AND
11 THE BASE RATE PURSUANT TO 19-3-316.

12 (2) BY JULY 1, 2023, THE STATE TREASURER SHALL TRANSFER \$300 MILLION FROM THE GENERAL FUND
13 TO THIS ACCOUNT.

14 (3) THE ACCOUNT IS STATUTORILY APPROPRIATED PURSUANT TO 17-7-502 AND MAY BE USED ONLY TO
15 COVER ANY DIFFERENCE BETWEEN THE ACTUARIALLY DETERMINED EMPLOYER CONTRIBUTION RATE AND THE BASE RATE
16 PURSUANT TO 19-3-316.

17 (4) THE ACCOUNT ESTABLISHED IN SUBSECTION (1) RETAINS INTEREST EARNED FROM THE INVESTMENT OF
18 MONEY IN THE ACCOUNT.

19 (5) THE PENSION SPECIAL FUND MUST BE CLOSED ON JUNE 30, 2033, AND ANY REMAINING FUNDS MUST
20 REVERT TO THE GENERAL FUND.

21

22 **NEW SECTION. Section 2. — Property tax rebate.** (1) A taxpayer that is entitled to a rebate of
23 Montana property taxes paid pursuant to [sections 1 through 3 of House Bill No. 222] may increase the dollar
24 amount limits of the rebates in [section 2(1)(a) and (1)(b) of House Bill No. 222] by the bonus amounts provided
25 in subsection (2). In administering the rebate, the department shall add the bonus to the dollar amount
26 limitations for tax year 2022 and tax year 2023 and update any rebate forms to reflect the additional amount.

27 (2) (a) Subject to subsection (2)(d), the amount of the bonus for tax year 2022 is half of the amount
28 provided for in subsection (2) (c).

1 (b) Subject to subsection (2)(c), the amount of the bonus for tax year 2023 is half of the amount
2 provided for in subsection (2)(c).

3 (c) The preliminary bonus amount is the quotient of the appropriation in [section 4] divided by
4 284,343.

5 (d) The department shall round the quotients provided for in subsections (2)(a) and (2)(b)
6 downward to the nearest \$1.

7 (3) The bonus provided for in this section is administered as part of the property tax rebate
8 provided for in [House Bill No. 222]. Any property tax rebate received that is based on this section is exempt
9 from taxation under this chapter.

10
11 NEW SECTION. Section 2. SUPPLEMENTAL MONTANA SURPLUS REBATE ACCOUNT FUND TRANSFER. THE
12 STATE TREASURER SHALL TRANSFER \$35 MILLION FROM THE GENERAL FUND TO THE MONTANA SURPLUS REBATE
13 ACCOUNT IN THE STATE SPECIAL REVENUE FUND CREATED BY [SECTION 1 OF HOUSE BILL NO. 192], AND PROVIDED FOR
14 IN 17-2-102, BY JULY 1, 2023. THIS TRANSFER SUPPLEMENTS THE TRANSFER PROVIDED FOR IN [SECTION 1 OF HOUSE
15 BILL NO. 192] AND MUST BE USED IN ACCORDANCE WITH CHAPTER 44, LAWS OF 2023.

16 (2) THE SUPPLEMENTAL AMOUNT PROVIDED FOR IN SUBSECTION (1) IS STATUTORILY APPROPRIATED, AS
17 PROVIDED IN 17-7-502, TO THE DEPARTMENT OF REVENUE.

18
19 NEW SECTION. SECTION 23. CHILD TAX CREDIT. (1) EXCEPT AS PROVIDED IN SUBSECTION (3), A
20 RESIDENT TAXPAYER WHO IS PERMITTED A CHILD TAX CREDIT UNDER SECTION 24 OF THE INTERNAL REVENUE CODE, 26
21 U.S.C. 24, IS ALLOWED A CREDIT AGAINST THE TAXES IMPOSED BY THIS CHAPTER FOR EACH QUALIFYING CHILD OF THE
22 TAXPAYER.

23 (2) SUBJECT TO SUBSECTION (6), THE AMOUNT OF THE CREDIT IS \$1,200 FOR EACH QUALIFYING CHILD.

24 (3) THE CREDIT IS NOT ALLOWED IF THE TAXPAYER'S FEDERAL ADJUSTED GROSS INCOME EXCEEDS THE
25 THRESHOLD AMOUNT.

26 (4) TO CLAIM THE CREDIT, A TAXPAYER MUST HAVE:

27 (A) PROOF OF EARNED INCOME;

28 (B) INVESTMENT INCOME OF LESS THAN \$10,300; AND

Amendment - 1st Reading-white - Requested by: Free Conference Committee on HB 816

- 2023

68th Legislature 2023

Drafter: Julie Johnson, 406-444-4024

HB0816.003.007

1 ~~(C) A VALID SOCIAL SECURITY NUMBER FOR EACH CHILD CLAIMED.~~

2 ~~(5) THE TAXPAYER IS ENTITLED TO A REFUND EQUAL TO THE AMOUNT BY WHICH THE CREDIT EXCEEDS THE~~
3 ~~TAXPAYER'S TAX LIABILITY OR, IF THE TAXPAYER HAS NO TAX LIABILITY UNDER THIS CHAPTER, A REFUND EQUAL TO THE~~
4 ~~AMOUNT OF THE CREDIT. THE CREDIT MAY BE CLAIMED BY FILING A MONTANA INCOME TAX RETURN.~~

5 ~~(6) THE CREDIT IN SUBSECTION (2) IS REDUCED AT A RATE OF \$90 FOR EACH \$1,000 OF THE TAXPAYER'S~~
6 ~~FEDERAL ADJUSTED GROSS INCOME IN EXCESS OF \$50,000.~~

7 ~~(7) FOR THE PURPOSES OF THIS SECTION, THE FOLLOWING DEFINITIONS APPLY:~~

8 ~~(A) "EARNED INCOME" MEANS EARNED INCOME AS DEFINED IN SECTION 32 OF THE INTERNAL REVENUE~~
9 ~~CODE, 26 U.S.C. 32.~~

10 ~~(B) "INVESTMENT INCOME" MEANS DISQUALIFIED INCOME AS DEFINED IN SECTION 32 OF THE INTERNAL~~
11 ~~REVENUE CODE, 26 U.S.C. 32.~~

12 ~~(C) "QUALIFYING CHILD" MEANS A CHILD OF THE TAXPAYER WHO IS 5 YEARS OF AGE OR YOUNGER AS OF~~
13 ~~THE CLOSE OF THE CALENDAR YEAR IN WHICH THE TAXPAYER'S TAX YEAR BEGINS.~~

14 ~~(D) "THRESHOLD AMOUNT" IS \$56,000, REGARDLESS OF THE INDIVIDUAL TAXPAYER'S FILING STATUS~~

15

16 ~~**SECTION 24.** SECTION 15-30-2303, MCA, IS AMENDED TO READ:~~

17 ~~**"15-30-2303. Tax credits subject to review by interim committee.** (1) The following tax credits~~
18 ~~must be reviewed during the biennium commencing July 1, 2019, and during each biennium commencing 10~~
19 ~~years thereafter:~~

20 ~~(a) the credit for contractor's gross receipts provided for in 15-50-207 ; and~~

21 ~~(b) the credit for elderly homeowners and renters provided for in 15-30-2337 through 15-30-2344 ;~~

22 ~~AND~~

23 ~~(c) the child tax credit provided for in [section 23].~~

24 ~~(2) The following tax credits must be reviewed during the biennium commencing July 1, 2021, and~~
25 ~~during each biennium commencing 10 years thereafter:~~

26 ~~(a) the credit for donations to an educational improvement account provided for in 15-30-2334, 15-~~
27 ~~30-3110, and 15-31-158 ; and~~

28 ~~(b) the credit for donations to a student scholarship organization provided for in 15-30-2335, 15-~~

Amendment - 1st Reading-white - Requested by: Free Conference Committee on HB 816

- 2023

68th Legislature 2023

Drafter: Julie Johnson, 406-444-4024

HB0816.003.007

1 30-3111, and 15-31-159.

2 (3) — The following tax credits must be reviewed during the biennium commencing July 1, 2023, and
3 during each biennium commencing 10 years thereafter:

4 (a) — the credit for infrastructure use fees provided for in 17-6-316 ;

5 (b) — the credit for contributions to a qualified endowment provided for in 15-30-2327 through 15-30-
6 2329, 15-31-161, and 15-31-162 ; and

7 (c) — the credit for property to recycle or manufacture using recycled material provided for in Title 15,
8 chapter 32, part 6.

9 (4) — The following tax credits must be reviewed during the biennium commencing July 1, 2025, and
10 during each biennium commencing 10 years thereafter:

11 (a) — the credit for preservation of historic buildings provided for in 15-30-2342 and 15-31-151 ;

12 (b) — the credit for unlocking state lands provided for in 15-30-2380 ;

13 (c) — the job growth incentive tax credit provided for in 15-30-2361 and 15-31-175 ; and

14 (d) — the credit for trades education and training provided for in 15-30-2359 and 15-31-174.

15 (5) — The following tax credits must be reviewed during the biennium commencing July 1, 2027, and
16 during each biennium commencing 10 years thereafter:

17 (a) — the credit for hiring a registered apprentice or veteran apprentice provided for in 15-30-2357
18 and 15-31-173 ;

19 (b) — the earned income tax credit provided for in 15-30-2318 ; and

20 (c) — the media production and postproduction credits provided for in 15-31-1007 and 15-31-1009.

21 (6) — The revenue interim committee shall review the tax credits scheduled for review and make
22 recommendations in accordance with 5-11-210 at the conclusion of the full review to the legislature about
23 whether to eliminate or revise the credits. The committee shall also review any tax credit with an expiration date
24 or termination date that is not listed in this section in the biennium before the credit is scheduled to expire or
25 terminate.

26 (7) — The revenue interim committee shall review the credits using the following criteria:

27 (a) — whether the credit changes taxpayer decisions, including whether the credit rewards decisions
28 that may have been made regardless of the existence of the tax credit;

- 1 (b) ~~to what extent the credit benefits some taxpayers at the expense of other taxpayers;~~
- 2 (c) ~~whether the credit has out-of-state beneficiaries;~~
- 3 (d) ~~the timing of costs and benefits of the credit and how long the credit is effective;~~
- 4 (e) ~~any adverse impacts of the credit or its elimination and whether the benefits of continuance or~~
- 5 ~~elimination outweigh adverse impacts; and~~
- 6 (f) ~~the extent to which benefits of the credit affect the larger economy. (Subsection (4)(d)~~
- 7 ~~terminates December 31, 2026—sec. 7, Ch. 248, L. 2021; subsection (4)(c) terminates December 31, 2028—~~
- 8 ~~sec. 24(1), Ch. 550, L. 2021.)"~~

Section 3. Section 15-31-1007, MCA, is amended to read:

"15-31-1007. (Temporary) Tax credit for media production. (1) Subject to 15-31-1010 and through the tax year ending December 31, ~~2029~~ 2033, a production company and its affiliates are allowed a credit against the taxes imposed by chapter 30 and this chapter for investments in a state-certified production approved by the department of commerce as provided in 15-31-1004 and 15-31-1005. The credit is for the base investment made up to 6 months before state certification through completion of the project. The ~~credit must be claimed for the period July 1, 2019, through December 31, 2020, in which the production expenditures were incurred or the compensation was paid unless the credit is transferred to the next tax year because the limits provided for in 15-31-1010 have been met. For periods after December 31, 2020, the~~ credit must be claimed for the year in which the production expenditures were incurred or the compensation was paid unless the credit is transferred to the next tax year because the limits provided for in 15-31-1010 have been met.

(2) To claim the credit provided for in this section:

- (a) the production company or its affiliate must have applied to the department of commerce as provided in 15-31-1005 and been approved to claim or transfer the credit; or
- (b) the taxpayer must be the entity to which a credit approved pursuant to 15-31-1005 and this section was transferred.

(3) (a) The credit is equal to 20% of the production expenditures in the state in the tax year, plus the additional amounts provided for in subsection (3)(b), but may not in the aggregate exceed 35% of the production company's base investment in the tax year.

- 1 (b) Additional amounts for which the credit may be claimed are:
- 2 (i) 25% of the compensation paid per production or season of a television series to each crew
- 3 member or production staff member who is a resident, not to exceed a \$150,000 credit per person;
- 4 (ii) 15% of the compensation paid per production or season of a television series to each crew member
- 5 or production staff member who is not a resident but for whom Montana income taxes have been withheld, not
- 6 to exceed a \$150,000 credit per person;
- 7 (iii) 20% of the first \$7.5 million of compensation paid per production or season of a television series to
- 8 each actor, director, producer, or writer for whom Montana income taxes have been withheld;
- 9 (iv) 30% of compensation paid per production or season of a television series to a student enrolled in a
- 10 Montana college or university who works on the production for college credit. The credit may not exceed
- 11 \$50,000 per student. If a credit provided for in this subsection (3)(b)(iv) is claimed for an enrolled student, the
- 12 credits provided for in subsections (3)(b)(i) through (3)(b)(iii) may not be claimed for the same enrolled student.
- 13 (v) an additional 10% of payments made to a Montana college or university for stage rentals,
- 14 equipment rentals, or location fees for filming on campus;
- 15 (vi) an additional 10% of all in-studio facility and equipment rental expenditures incurred in this state for
- 16 a production that rents a studio for 20 days or more;
- 17 (vii) an additional 5% for production expenditures made in an underserved area; and
- 18 (viii) an additional 5% of the base investment in the state if the state-certified production includes a
- 19 Montana screen credit furnished by the state as provided in 15-31-1004(7).
- 20 (4) If one production company makes a production expenditure to hire another production company to
- 21 produce a project or contribute elements of a project for pay, the hired production company is considered a
- 22 service provider for the hiring company and the hiring company is entitled to claim the credit for all expenditures
- 23 that are incurred in the state.
- 24 (5) Any unused credit may be carried forward for 5 years or may be transferred as provided in 15-31-
- 25 1008. The credit allowed by this section, including a transferred credit, may not be refunded if the taxpayer has
- 26 a tax liability less than the amount of the credit.
- 27 (6) A taxpayer claiming a credit shall include with the tax return the following information:
- 28 (a) the amount of tax credit claimed and transferred for the tax year;

1 (b) the amount of the tax credit previously claimed or transferred;

2 (c) the amount of the tax credit carried over from a previous tax year; and

3 (d) the amount of the tax credit to be carried over to a subsequent tax year.

4 (7) (a) A taxpayer claiming the credit provided for in this section must claim the credit as provided in

5 subsection (7)(b).

6 (b) (i) An entity taxed as a corporation for Montana income tax purposes shall claim the credit on its

7 corporate income tax return.

8 (ii) Individuals, estates, and trusts shall claim a credit allowed under this section on their individual

9 income tax return.

10 (iii) An entity not taxed as a corporation shall claim the credit allowed under this section on member or

11 partner returns as follows:

12 (A) corporate partners or members shall claim their share of the credit on their corporate income tax

13 returns;

14 (B) individual partners or members shall claim their share of the credit on their individual income tax

15 returns; and

16 (C) partners or members that are estates or trusts shall claim their share of the credit on their

17 fiduciary income tax returns.

18 (c) In order to prevent disguised sales of the credit provided for in this section, allocations of credits

19 through partnership and membership agreements may not be recognized unless they have a substantial

20 economic effect as that term is defined in 26 U.S.C. 704 and applicable federal regulations.

21 (8) The credit allowed under this section may not be claimed by a taxpayer if the taxpayer has

22 included the amount of the production expenditure or compensation on which the amount of the credit was

23 computed as a deduction under 15-30-2131 or 15-31-114.

24 **15-31-1007. (Effective January 1, 2024) Tax credit for media production.** (1) Subject to 15-31-

25 1010 and through the tax year ending December 31, ~~2029~~ 2033, a production company and its affiliates are

26 allowed a credit against the taxes imposed by chapter 30 and this chapter for investments in a state-certified

27 production approved by the department of commerce as provided in 15-31-1004 and 15-31-1005. The credit is

28 for the base investment made up to 6 months before state certification through completion of the project. The

~~credit must be claimed for the period July 1, 2019, through December 31, 2020, in which the production expenditures were incurred or the compensation was paid unless the credit is transferred to the next tax year because the limits provided for in 15-31-1010 have been met. For periods after December 31, 2020, the credit must be claimed for the year in which the production expenditures were incurred or the compensation was paid unless the credit is transferred to the next tax year because the limits provided for in 15-31-1010 have been met.~~

(2) To claim the credit provided for in this section:

(a) the production company or its affiliate must have applied to the department of commerce as provided in 15-31-1005 and been approved to claim or transfer the credit; or

(b) the taxpayer must be the entity to which a credit approved pursuant to 15-31-1005 and this section was transferred.

(3) (a) The credit is equal to 20% of the production expenditures in the state in the tax year, plus the additional amounts provided for in subsection (3)(b), but may not in the aggregate exceed 35% of the production company's base investment in the tax year.

(b) Additional amounts for which the credit may be claimed are:

(i) 25% of the compensation paid per production or season of a television series to each crew member or production staff member who is a resident, not to exceed a \$150,000 credit per person;

(ii) 15% of the compensation paid per production or season of a television series to each crew member or production staff member who is not a resident but for whom Montana income taxes have been withheld, not to exceed a \$150,000 credit per person;

(iii) 20% of the first \$7.5 million of compensation paid per production or season of a television series to each actor, director, producer, or writer for whom Montana income taxes have been withheld;

(iv) 30% of compensation paid per production or season of a television series to a student enrolled in a Montana college or university who works on the production for college credit. The credit may not exceed \$50,000 per student. If a credit provided for in this subsection (3)(b)(iv) is claimed for an enrolled student, the credits provided for in subsections (3)(b)(i) through (3)(b)(iii) may not be claimed for the same enrolled student.

(v) an additional 10% of payments made to a Montana college or university for stage rentals, equipment rentals, or location fees for filming on campus;

1 (vi) an additional 10% of all in-studio facility and equipment rental expenditures incurred in this state for
2 a production that rents a studio for 20 days or more;

3 (vii) an additional 5% for production expenditures made in an underserved area; and

4 (viii) an additional 5% of the base investment in the state if the state-certified production includes a
5 Montana screen credit furnished by the state as provided in 15-31-1004(7).

6 (4) If one production company makes a production expenditure to hire another production company to
7 produce a project or contribute elements of a project for pay, the hired production company is considered a
8 service provider for the hiring company and the hiring company is entitled to claim the credit for all expenditures
9 that are incurred in the state.

10 (5) Any unused credit may be carried forward for 5 years or may be transferred as provided in 15-31-
11 1008. The credit allowed by this section, including a transferred credit, may not be refunded if the taxpayer has
12 a tax liability less than the amount of the credit.

13 (6) A taxpayer claiming a credit shall include with the tax return the following information:

14 (a) the amount of tax credit claimed and transferred for the tax year;

15 (b) the amount of the tax credit previously claimed or transferred;

16 (c) the amount of the tax credit carried over from a previous tax year; and

17 (d) the amount of the tax credit to be carried over to a subsequent tax year.

18 (7) (a) A taxpayer claiming the credit provided for in this section must claim the credit as provided in
19 subsection (7)(b).

20 (b) (i) An entity taxed as a corporation for Montana income tax purposes shall claim the credit on its
21 corporate income tax return.

22 (ii) Individuals, estates, and trusts shall claim a credit allowed under this section on their individual
23 income tax return.

24 (iii) An entity not taxed as a corporation shall claim the credit allowed under this section on member or
25 partner returns as follows:

26 (A) corporate partners or members shall claim their share of the credit on their corporate income tax
27 returns;

28 (B) individual partners or members shall claim their share of the credit on their individual income tax

1 returns; and

2 (C) partners or members that are estates or trusts shall claim their share of the credit on their
3 fiduciary income tax returns.

4 (c) In order to prevent disguised sales of the credit provided for in this section, allocations of credits
5 through partnership and membership agreements may not be recognized unless they have a substantial
6 economic effect as that term is defined in 26 U.S.C. 704 and applicable federal regulations.

7 (8) The credit allowed under this section may not be claimed by a taxpayer if the taxpayer has
8 included the amount of the production expenditure or compensation on which the amount of the credit was
9 computed in determining Montana taxable income under 15-30-2120 or as a deduction under 15-31-114."

10

11 **Section 4.** Section 15-31-1009, MCA, is amended to read:

12 **"15-31-1009. Tax credit for postproduction wages.** (1) Through the tax year ending December 31,
13 ~~2029~~ 2033, a postproduction company that has incurred qualified postproduction wages in the tax year is
14 allowed a credit against the taxes imposed by chapter 30 and this chapter if the taxpayer applies to the
15 department of commerce as provided in 15-31-1004 and to the department of revenue as provided in 15-31-
16 1005 and is approved to claim the credit.

17 (2) The tax credit is equal to 25% of qualified postproduction wages incurred in the state.

18 (3) A tax credit claimed under this section may not exceed the postproduction company's total
19 compensation paid to employees working in this state for the tax year in which the credit is claimed.

20 (4) The tax credit allowed by this section may not be refunded if the taxpayer has no tax liability. Any
21 unused credit may be carried forward for 5 years.

22 (5) A taxpayer claiming a credit shall include with the tax return the following information:

23 (a) the amount of tax credit claimed for the tax year;

24 (b) the amount of the tax credit previously claimed;

25 (c) the amount of the tax credit carried over from a previous tax year; and

26 (d) the amount of the tax credit to be carried over to a subsequent tax year.

27 (6) (a) A taxpayer claiming the credit provided for in this section must claim the credit as provided in
28 subsection (6)(b).

1 (b) (i) An entity taxed as a corporation for Montana income tax purposes shall claim the credit on its
2 corporate income tax return.

3 (ii) Individuals, estates, and trusts shall claim a credit allowed under this section on their individual
4 income tax return.

5 (iii) An entity not taxed as a corporation shall claim the credit allowed under this section on member or
6 partner returns as follows:

7 (A) corporate partners or members shall claim their share of the credit on their corporate income tax
8 returns;

9 (B) individual partners or members shall claim their share of the credit on their individual income tax
10 returns; and

11 (C) partners or members that are estates or trusts shall claim their share of the credit on their
12 fiduciary income tax returns.

13 (c) In order to prevent disguised sales of the credit provided for in this section, allocations of credits
14 through partnership and membership agreements may not be recognized unless they have a substantial
15 economic effect as that term is defined in 26 U.S.C. 704 and applicable federal regulations.

16 (7) A postproduction company may not claim a credit under this section for production expenditures
17 for which the media production credit provided for in 15-31-1007 is claimed."

18
19 **Section 5.** SECTION 17-7-502, MCA, IS AMENDED TO READ:

20 **"17-7-502. Statutory appropriations -- definition -- requisites for validity.** (1) A statutory
21 appropriation is an appropriation made by permanent law that authorizes spending by a state agency without
22 the need for a biennial legislative appropriation or budget amendment.

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

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

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

28 (3) The following laws are the only laws containing statutory appropriations: 2-17-105; 5-11-120; 5-

Amendment - 1st Reading-white - Requested by: Free Conference Committee on HB 816

- 2023

68th Legislature 2023

Drafter: Julie Johnson, 406-444-4024

HB0816.003.007

1 11-407; 5-13-403; 5-13-404; 7-4-2502; 7-4-2924; 7-32-236; 10-1-108; 10-1-1202; 10-1-1303; 10-2-603; 10-2-
2 807; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-3-802; 10-3-1304; 10-4-304; 10-4-310; ~~section 22~~; 15-1-121;
3 15-1-218; 15-31-165; 15-31-1004; 15-31-1005; 15-35-108; 15-36-332; 15-37-117; 15-39-110; 15-65-121; 15-
4 70-101; 15-70-130; 15-70-433; 16-11-119; 16-11-509; 17-3-106; 17-3-212; 17-3-222; 17-3-241; 17-6-101; 17-7-
5 215; 18-11-112; 19-3-319; 19-3-320; ~~section 24 2~~; 19-6-404; 19-6-410; 19-9-702; 19-13-604; 19-17-301; 19-
6 18-512; 19-19-305; 19-19-506; 19-20-604; 19-20-607; 19-21-203; 20-8-107; 20-9-534; 20-9-622; [20-15-328];
7 20-26-617; 20-26-1503; 22-1-327; 22-3-116; 22-3-117; [22-3-1004]; 23-4-105; 23-5-306; 23-5-409; 23-5-612;
8 23-7-301; 23-7-402; 30-10-1004; 37-43-204; 37-50-209; 37-54-113; 39-71-503; 41-5-2011; 42-2-105; 44-4-
9 1101; 44-12-213; 44-13-102; 46-32-108; 50-1-115; 53-1-109; 53-6-148; 53-9-113; 53-24-108; 53-24-206; 60-5-
10 530; 60-11-115; 61-3-321; 61-3-415; 67-1-309; 69-3-870; 69-4-527; 75-1-1101; 75-5-1108; 75-6-214; 75-11-
11 313; 75-26-308; 76-13-150; 76-13-151; 76-13-417; 76-17-103; 77-1-108; 77-2-362; 80-2-222; 80-4-416; 80-11-
12 518; 80-11-1006; 81-1-112; 81-1-113; 81-7-106; 81-7-123; 81-10-103; 82-11-161; 85-2-526; 85-20-1504; 85-
13 20-1505; [85-25-102]; 87-1-603; 87-5-909; 90-1-115; 90-1-205; 90-1-504; 90-6-331; and 90-9-306.

14 (4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing,
15 paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued
16 pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of
17 Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined
18 by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have
19 statutory appropriation authority for the payments. (In subsection (3): pursuant to sec. 10, Ch. 360, L. 1999, the
20 inclusion of 19-20-604 terminates contingently when the amortization period for the teachers' retirement
21 system's unfunded liability is 10 years or less; pursuant to sec. 73, Ch. 44, L. 2007, the inclusion of 19-6-410
22 terminates contingently upon the death of the last recipient eligible under 19-6-709(2) for the supplemental
23 benefit provided by 19-6-709; pursuant to sec. 5, Ch. 383, L. 2015, the inclusion of 85-25-102 is effective on
24 occurrence of contingency; pursuant to sec. 6, Ch. 423, L. 2015, the inclusion of 22-3-116 and 22-3-117
25 terminates June 30, 2025; pursuant to sec. 12, Ch. 55, L. 2017, the inclusion of 37-54-113 terminates June 30,
26 2023; pursuant to sec. 4, Ch. 122, L. 2017, the inclusion of 10-3-1304 terminates September 30, 2025;
27 pursuant to sec. 1, Ch. 213, L. 2017, the inclusion of 90-6-331 terminates June 30, 2027; pursuant to secs. 5, 8,
28 Ch. 284, L. 2017, the inclusion of 81-1-112, 81-1-113, and 81-7-106 terminates June 30, 2023; pursuant to sec.

Amendment - 1st Reading-white - Requested by: Free Conference Committee on HB 816

- 2023

68th Legislature 2023

Drafter: Julie Johnson, 406-444-4024

HB0816.003.007

1 1, Ch. 340, L. 2017, the inclusion of 22-1-327 terminates July 1, 2023; pursuant to sec. 10, Ch. 374, L. 2017,
2 the inclusion of 76-17-103 terminates June 30, 2027; pursuant to sec. 5, Ch. 50, L. 2019, the inclusion of 37-50-
3 209 terminates September 30, 2023; pursuant to sec. 1, Ch. 408, L. 2019, the inclusion of 17-7-215 terminates
4 June 30, 2029; pursuant to secs. 11, 12, and 14, Ch. 343, L. 2019, the inclusion of 15-35-108 terminates June
5 30, 2027; pursuant to sec. 7, Ch. 465, L. 2019, the inclusion of 85-2-526 terminates July 1, 2023; pursuant to
6 sec. 5, Ch. 477, L. 2019, the inclusion of 10-3-802 terminates June 30, 2023; pursuant to secs. 1, 2, 3, Ch. 139,
7 L. 2021, the inclusion of 53-9-113 terminates June 30, 2027; pursuant to sec. 8, Ch. 200, L. 2021, the inclusion
8 of 10-4-310 terminates July 1, 2031; pursuant to secs. 3, 4, Ch. 404, L. 2021, the inclusion of 30-10-1004
9 terminates June 30, 2027; pursuant to sec. 5, Ch. 548, L. 2021, the inclusion of 50-1-115 terminates June 30,
10 2025; pursuant to secs. 5 and 12, Ch. 563, L. 2021, the inclusion of 22-3-1004 is effective July 1, 2027; and
11 pursuant to sec. 15, Ch. 574, L. 2021, the inclusion of 46-32-108 terminates June 30, 2023.)"

12

13 **SECTION 26.** ~~SECTION 19-2-303, MCA, IS AMENDED TO READ:~~

14 **~~"19-2-303. Definitions.~~** Unless the context requires otherwise, for each of the retirement systems
15 subject to this chapter, the following definitions apply:

16 (1) ~~"Accumulated contributions" means the sum of all the regular and any additional contributions~~
17 ~~made by a member in a defined benefit plan, together with the regular interest on the contributions.~~

18 (2) ~~"Active member" means a member who is a paid employee of an employer, is making the required~~
19 ~~contributions, and is properly reported to the board for the most current reporting period.~~

20 (3) ~~"Actuarial cost" means the amount determined by the board in a uniform and nondiscriminatory~~
21 ~~manner to represent the present value of the benefits to be derived from the additional service to be credited~~
22 ~~based on the most recent actuarial valuation for the system and the age, years until retirement, and current~~
23 ~~salary of the member.~~

24 (4) ~~"Actuarial equivalent" means a benefit of equal value when computed upon the basis of the~~
25 ~~mortality table and interest rate assumptions adopted by the board.~~

26 (5) ~~"Actuarial liabilities" means the excess of the present value of all benefits payable under a defined~~
27 ~~benefit retirement plan over the present value of future normal costs in that retirement plan.~~

28 (6) ~~"Actuary" means the actuary retained by the board in accordance with 19-2-405.~~

Amendment - 1st Reading-white - Requested by: Free Conference Committee on HB 816

- 2023

68th Legislature 2023

Drafter: Julie Johnson, 406-444-4024

HB0816.003.007

1 ~~(7) "Additional contributions" means contributions made by a member of a defined benefit plan to~~
2 ~~purchase various types of optional service credit as allowed by the applicable retirement plan.~~

3 ~~(8) "Annuity" means:~~

4 ~~(a) in the case of a defined benefit plan, equal and fixed payments for life that are the actuarial~~
5 ~~equivalent of a lump sum payment under a retirement plan and as such are not benefits paid by a retirement~~
6 ~~plan and are not subject to periodic or one-time increases; or~~

7 ~~(b) in the case of the defined contribution plan, a payment of a fixed sum of money at regular~~
8 ~~intervals.~~

9 ~~(9) "Banked holiday time" means the hours reported for work performed on a holiday that the~~
10 ~~employee may use for equivalent time off or that may be paid to the employee as specified by the employer's~~
11 ~~policy.~~

12 ~~(10) "Benefit" means:~~

13 ~~(a) the service retirement benefit, early retirement benefit, or disability retirement or survivorship~~
14 ~~benefit payment provided by a defined benefit retirement plan; or~~

15 ~~(b) a payment or distribution under the defined contribution retirement plan, including a disability~~
16 ~~payment under 19-3-2141, for the exclusive benefit of a plan member or the member's beneficiary or an annuity~~
17 ~~purchased under 19-3-2124.~~

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

19 ~~(12) "Contingent annuitant" means:~~

20 ~~(a) under option 2 or 3 provided for in 19-3-1501, one natural person designated to receive a~~
21 ~~continuing monthly benefit after the death of a retired member; or~~

22 ~~(b) under option 4 provided for in 19-3-1501, a natural person, charitable organization, estate, or trust~~
23 ~~that may receive a continuing monthly benefit after the death of a retired member.~~

24 ~~(13) "Covered employment" means employment in a covered position.~~

25 ~~(14) "Covered position" means a position in which the employee must be a member of the retirement~~
26 ~~system except as otherwise provided by law.~~

27 ~~(15) "Defined benefit retirement plan" or "defined benefit plan" means a plan within the retirement~~
28 ~~systems provided for pursuant to 19-2-302 that is not the defined contribution retirement plan.~~

Amendment - 1st Reading-white - Requested by: Free Conference Committee on HB 816

- 2023

68th Legislature 2023

Drafter: Julie Johnson, 406-444-4024

HB0816.003.007

1 ~~(16) "Defined contribution retirement plan" or "defined contribution plan" means the plan within the~~
2 ~~public employees' retirement system established in 19-3-103 that is provided for in chapter 3, part 21, of this~~
3 ~~title and that is not a defined benefit plan.~~

4 ~~(17) "Department" means the department of administration.~~

5 ~~(18) "Designated beneficiary" means the person, charitable organization, estate, or trust for the benefit~~
6 ~~of a natural person designated by a member or payment recipient to receive any survivorship benefits, lump-~~
7 ~~sum payments, or benefit from a retirement account upon the death of the member or payment recipient,~~
8 ~~including annuities derived from the benefits or payments.~~

9 ~~(19) "Direct rollover" means a payment by the retirement plan to the eligible retirement plan specified~~
10 ~~by the distributee or a payment from an eligible retirement plan to the retirement plan specified by the~~
11 ~~distributee.~~

12 ~~(20) "Disability" or "disabled" means a total inability of the member to perform the member's duties by~~
13 ~~reason of physical or mental incapacity. The disability must be incurred while the member is an active member~~
14 ~~and must be one of permanent duration or of extended and uncertain duration, as determined by the board on~~
15 ~~the basis of competent medical opinion.~~

16 ~~(21) "Distributee" means:~~

17 ~~(a) a member;~~

18 ~~(b) a member's surviving spouse;~~

19 ~~(c) a member's spouse or former spouse who is the alternate payee under a family law order as~~
20 ~~defined in 19-2-907 ; or~~

21 ~~(d) effective January 1, 2007, a member's nonspouse beneficiary who is a designated beneficiary as~~
22 ~~defined by section 401(a)(9)(E) of the Internal Revenue Code, 26 U.S.C. 401(a)(9)(E).~~

23 ~~(22) "Early retirement benefit" means the retirement benefit payable to a member following early~~
24 ~~retirement and is the actuarial equivalent of the accrued portion of the member's service retirement benefit.~~

25 ~~(23) "Eligible retirement plan" means any of the following that accepts the distributee's eligible rollover~~
26 ~~distribution:~~

27 ~~(a) an individual retirement account described in section 408(a) of the Internal Revenue Code, 26~~
28 ~~U.S.C. 408(a);~~

Amendment - 1st Reading-white - Requested by: Free Conference Committee on HB 816

- 2023

68th Legislature 2023

Drafter: Julie Johnson, 406-444-4024

HB0816.003.007

1 ~~(b) an individual retirement annuity described in section 408(b) of the Internal Revenue Code, 26~~

2 ~~U.S.C. 408(b);~~

3 ~~(c) an annuity plan described in section 403(a) of the Internal Revenue Code, 26 U.S.C. 403(a);~~

4 ~~(d) a qualified trust described in section 401(a) of the Internal Revenue Code, 26 U.S.C. 401(a);~~

5 ~~(e) effective January 1, 2002, an annuity contract described in section 403(b) of the Internal Revenue~~
6 ~~Code, 26 U.S.C. 403(b);~~

7 ~~(f) effective January 1, 2002, a plan eligible under section 457(b) of the Internal Revenue Code, 26~~
8 ~~U.S.C. 457(b), that is maintained by a state, a political subdivision of a state, or any agency or instrumentality of~~
9 ~~a state or a political subdivision of a state that agrees to separately account for amounts transferred into that~~
10 ~~plan from a plan under this title; or~~

11 ~~(g) effective January 1, 2008, a Roth IRA described in section 408A of the Internal Revenue Code, 26~~
12 ~~U.S.C. 408A.~~

13 ~~(24) "Eligible rollover distribution":~~

14 ~~(a) means any distribution of all or any portion of the balance from a retirement plan to the credit of~~
15 ~~the distributee, as provided in 19-2-1011 ;~~

16 ~~(b) effective January 1, 2002, includes a distribution to a surviving spouse or to a spouse or former~~
17 ~~spouse who is an alternate payee under a domestic relations order, as defined in section 414(p) of the Internal~~
18 ~~Revenue Code, 26 U.S.C. 414(p).~~

19 ~~(25) "Employee" means a person who is employed by an employer in any capacity and whose salary is~~
20 ~~being paid by the employer or a person for whom an interlocal governmental entity is responsible for paying~~
21 ~~retirement contributions pursuant to 7-11-105.~~

22 ~~(26) "Employer" means a governmental agency participating in a retirement system enumerated in 19-~~
23 ~~2-302 on behalf of its eligible employees. The term includes an interlocal governmental entity identified as~~
24 ~~responsible for paying retirement contributions pursuant to 7-11-105.~~

25 ~~(27) "Essential elements of the position" means fundamental job duties. An element may be~~
26 ~~considered essential because of but not limited to the following factors:~~

27 ~~(a) the position exists to perform the element;~~

28 ~~(b) there are a limited number of employees to perform the element; or~~

Amendment - 1st Reading-white - Requested by: Free Conference Committee on HB 816

- 2023

68th Legislature 2023

Drafter: Julie Johnson, 406-444-4024

HB0816.003.007

1 ~~(c) the element is highly specialized.~~

2 ~~(28) "Excess earnings" means the difference, if any, between reported compensation and the limits~~
3 ~~provided in 19-2-1005 (2) used to calculate a member's highest average compensation or final average~~
4 ~~compensation.~~

5 ~~(29) "Fiscal year" means a plan year, which is any year commencing with July 1 and ending the~~
6 ~~following June 30.~~

7 ~~(30) "Inactive member" means a member who terminates service and does not retire or take a refund~~
8 ~~of the member's accumulated contributions.~~

9 ~~(31) "Internal Revenue Code" has the meaning provided in 15-30-2101.~~

10 ~~(32) "Member" means either:~~

11 ~~(a) a person with accumulated contributions and service credited with a defined benefit retirement~~
12 ~~plan or receiving a retirement benefit on account of the person's previous service credited in a retirement~~
13 ~~system; or~~

14 ~~(b) a person with a retirement account in the defined contribution plan.~~

15 ~~(33) "Membership service" means the periods of service that are used to determine eligibility for~~
16 ~~retirement or other benefits.~~

17 ~~(34) (a) "Normal cost" or "future normal cost" means an amount calculated under an actuarial cost~~
18 ~~method required to fund accruing benefits for members of a defined benefit retirement plan during any year in~~
19 ~~the future.~~

20 ~~(b) Normal cost does not include any portion of the supplemental costs of a retirement plan.~~

21 ~~(35) "Normal retirement age" means the age at which a member is eligible to immediately receive a~~
22 ~~retirement benefit based on the member's age or both age and length of service, as specified under the~~
23 ~~member's retirement system, without disability and without an actuarial or similar reduction in the benefit.~~

24 ~~(36) "Pension" means benefit payments for life derived from contributions to a retirement plan made~~
25 ~~from state or employer-controlled funds.~~

26 ~~(37) "Pension trust fund" means a fund established to hold the contributions, income, and assets of a~~
27 ~~retirement system or plan in public trust.~~

28 ~~(38) "Plan choice rate" means the amount of the employer contribution as a percentage of payroll~~

Amendment - 1st Reading-white - Requested by: Free Conference Committee on HB 816

- 2023

68th Legislature 2023

Drafter: Julie Johnson, 406-444-4024

HB0816.003.007

1 covered by the defined contribution plan members that is allocated to the public employees' retirement system's
2 defined benefit plan pursuant to 19-3-2117 to actuarially fund the unfunded liabilities and the normal cost rate
3 changes in a defined benefit plan resulting from member selection of the defined contribution plan.

4 ~~(39)(38)~~ "Regular contributions" means contributions required from members under a retirement plan.

5 ~~(40)(39)~~ "Regular interest" means interest at rates set from time to time by the board.

6 ~~(41)(40)~~ "Retirement" or "retired" means the status of a member who has:

7 (a) terminated from service; and

8 (b) received and accepted a retirement benefit from a retirement plan.

9 ~~(42)(41)~~ "Retirement account" means an individual account within the defined contribution retirement
10 plan for the deposit of employer and member contributions and other assets for the exclusive benefit of a
11 member of the defined contribution plan or the member's beneficiary.

12 ~~(43)(42)~~ "Retirement benefit" means:

13 (a) in the case of a defined benefit plan, the periodic benefit payable as a result of service retirement,
14 early retirement, or disability retirement under a defined benefit plan of a retirement system. With respect to a
15 defined benefit plan, the term does not mean an annuity.

16 (b) in the case of the defined contribution plan, a benefit as defined in subsection (10)(b).

17 ~~(44)(43)~~ "Retirement plan" or "plan" means either a defined benefit plan or a defined contribution plan
18 under one of the public employee retirement systems enumerated in 19-2-302.

19 ~~(45)(44)~~ "Retirement system" or "system" means one of the public employee retirement systems
20 enumerated in 19-2-302.

21 ~~(46)(45)~~ "Service" means employment of an employee in a position covered by a retirement system.

22 ~~(47)(46)~~ "Service credit" means the periods of time for which the required contributions have been
23 made to a retirement plan and that are used to calculate retirement benefits or survivorship benefits under a
24 defined benefit retirement plan.

25 ~~(48)(47)~~ "Service retirement benefit" means the retirement benefit that the member may receive at
26 normal retirement age.

27 ~~(49)(48)~~ "Statutory beneficiary" means the surviving spouse or dependent child or children of a
28 member of the highway patrol officers', municipal police officers', or firefighters' unified retirement system who

Amendment - 1st Reading-white - Requested by: Free Conference Committee on HB 816

- 2023

68th Legislature 2023

Drafter: Julie Johnson, 406-444-4024

HB0816.003.007

1 are statutorily designated to receive benefits upon the death of the member.

2 (50)(49) "Supplemental cost" means an element of the total actuarial cost of a defined benefit
3 retirement plan arising from benefits payable for service performed prior to the inception of the retirement plan
4 or prior to the date of contribution rate increases, changes in actuarial assumptions, actuarial losses, or failure
5 to fund or otherwise recognize normal cost accruals or interest on supplemental costs. These costs are
6 included in the unfunded actuarial liabilities of the retirement plan.

7 (51)(50) "Survivorship benefit" means payments for life to the statutory or designated beneficiary of a
8 deceased member who died while in service under a defined benefit retirement plan.

9 (52)(51) "Termination of employment", "termination from employment", "terminated employment",
10 "terminated from employment", "terminate employment", or "terminates employment" means that:

11 (a) there has been a complete severance of a covered employment relationship by the positive act of
12 either the employee, the employer, or both; and

13 (b) the member is no longer receiving compensation for covered employment, other than any
14 outstanding lump-sum payment for compensatory leave, sick leave, or annual leave.

15 (53)(52) "Termination of service", "termination from service", "terminated from service", "terminated
16 service", "terminating service", or "terminates service" means that:

17 (a) there has been a complete severance of a covered employment relationship by the positive act of
18 either the employee, the employer, or both for at least 30 days;

19 (b) no written or verbal agreement exists between employee and employer that the employee will
20 return to covered employment in the future;

21 (c) the member is no longer receiving compensation for covered employment; and

22 (d) the member has been paid all compensation for compensatory leave, sick leave, or annual leave
23 to which the member was entitled. For the purposes of this subsection (53) (52), compensation does not mean
24 compensation as a result of a legal action, court order, or settlement to which the board was not a party.

25 (54)(53) "Unfunded actuarial liabilities" or "unfunded liabilities" means the excess of a defined benefit
26 retirement plan's actuarial liabilities at any given point in time over the value of its cash and investments on that
27 same date.

28 (55)(54) "Vested account" means an individual account within a defined contribution plan that is for the

1 ~~exclusive benefit of a member or the member's beneficiary. A vested account includes all contributions and the~~
2 ~~income on all contributions in each of the following accounts:~~

3 ~~(a) the member's contribution account;~~

4 ~~(b) the vested portion of the employer's contribution account; and~~

5 ~~(c) the member's account for other contributions.~~

6 ~~(56)(55) "Vested member" or "vested" means:~~

7 ~~(a) with respect to a defined benefit plan, except as provided in subsection (56)(b) (55)(b), a member~~
8 ~~or the status of a member who has at least 5 years of membership service;~~

9 ~~(b) with respect to a member of the highway patrol officers' retirement system established in Title 19,~~
10 ~~chapter 6, who was hired on or after July 1, 2013, a member or the status of a member who has at least 10~~
11 ~~years of membership service; or~~

12 ~~(c) with respect to the defined contribution plan, a member or the status of a member who meets the~~
13 ~~minimum membership service requirement of 19-3-2116.~~

14 ~~(57)(56) "Written application" or "written election" means a written instrument, prescribed by the board~~
15 ~~or required by law, properly signed and filed with the board, that contains all required information, including~~
16 ~~documentation that the board considers necessary.~~

17 ~~(58)(57) "Written instrument" includes an electronic record containing an electronic signature, as~~
18 ~~defined in 30-18-102. "~~

19
20 **SECTION 27. SECTION 19-2-405, MCA, IS AMENDED TO READ:**

21 **"19-2-405. Employment of actuary -- annual investigation and valuation.** ~~(1) The board shall~~
22 ~~retain a competent actuary who is an enrolled member of the American academy of actuaries and who is~~
23 ~~familiar with public systems of pensions. The actuary is the technical adviser of the board on matters regarding~~
24 ~~the operation of the retirement systems.~~

25 ~~(2) The board shall require the actuary to make and report on an annual actuarial investigation into~~
26 ~~the suitability of the actuarial tables used by the retirement systems and an actuarial valuation of the assets and~~
27 ~~liabilities of each defined benefit plan that is a part of the retirement systems.~~

28 ~~(3) The normal cost contribution rate, which is funded by required employee contributions and a~~

1 portion of the required employer contributions to each defined benefit retirement plan, must be calculated as the
2 level percentage of members' salaries that will actuarially fund benefits payable under a retirement plan as
3 those benefits accrue in the future.

4 (4) (a) The unfunded liability contribution rate, which is entirely funded by a portion of the required
5 employer contributions to the retirement plan, must be calculated as the level percentage of current and future
6 defined benefit plan members' salaries that will amortize the unfunded actuarial liabilities of the retirement plan
7 over a reasonable period of time, not to exceed 30 years, as determined by the board, except as provided in
8 19-3-316 for the public employees' retirement system's defined benefit plan.

9 (b) In determining the amortization period under subsection (4)(a) for the public employees' retirement
10 system's defined benefit plan, the actuary shall take into account the plan choice rate contributions to be made
11 to the defined benefit plan pursuant to 19-3-2117 and 19-21-214.

12 (5) The board shall require the actuary to conduct and report on a periodic actuarial investigation into
13 the actuarial experience of the retirement systems and plans.

14 (6) The board may require the actuary to conduct any valuation necessary to administer the
15 retirement systems and the plans subject to this chapter.

16 (7) The board shall provide copies of the reports required pursuant to subsections (2) and (5) to the
17 state administration and veterans' affairs interim committee and to the legislature pursuant to 5-11-210.

18 (8) The board shall require the actuary to prepare for each employer participating in a retirement
19 system the disclosures or the information required to be included in the disclosures as required by law and by
20 the governmental accounting standards board or its generally recognized successor."

21

22 **SECTION 28. SECTION 19-2-409, MCA, IS AMENDED TO READ:**

23 **"19-2-409. Plans to be funded on actuarially sound basis -- definition.** As required by Article VIII,
24 section 15, of the Montana constitution, each system must be funded on an actuarially sound basis. For
25 purposes of this section, "actuarially sound basis" means that contributions to each retirement plan must be
26 sufficient to pay the full actuarial cost of the plan. For a defined benefit plan, the full actuarial cost includes both
27 the normal cost of providing benefits as they accrue in the future and the cost of amortizing unfunded liabilities
28 over a scheduled period of no more than 30 years, except that with respect to the public employees' retirement

1 ~~system's defined benefit plan, the unfunded liabilities must be paid over the periods provided for in 19-3-316.~~

2 For the defined contribution plan, the full actuarial cost is the contribution defined by law that is payable to an
3 account on behalf of the member. "

4

5 **SECTION 29.** ~~SECTION 19-3-315, MCA, IS AMENDED TO READ:~~

6 **"19-3-315. Member's contribution to be deducted.** (1) ~~(a) Except as provided in subsection (2),~~
7 each member's contribution is 7.9% of the member's compensation.

8 (b) ~~The board shall annually review the required contributions and recommend future adjustments to~~
9 ~~the legislature as needed to maintain the amortization schedule set by the board for the payment of the~~
10 ~~system's unfunded liability.~~

11 (2) ~~Each member's contribution must be reduced to 6.9% on January 1 following the system's defined~~
12 ~~benefit plan's annual actuarial valuation if the valuation determines that the plan's funded ratio is at least 100%~~
13 ~~and reducing the employee contribution pursuant to this subsection and reducing the employer contribution~~
14 ~~pursuant to 19-3-316 (4) terminating the employer supplemental contribution pursuant to 19-3-319(3) would not~~
15 ~~cause the system's amortization period to exceed 25 years the plan's funded ratio to be less than 100%.~~

16 (3) ~~Payment of salaries or wages less the contribution is full and complete discharge and acquittance~~
17 ~~of all claims and demands for the service rendered by members during the period covered by the payment,~~
18 ~~except their claims to the benefits to which they may be entitled under the provisions of this chapter.~~

19 (4) ~~Each employer, pursuant to section 414(h)(2) of the federal Internal Revenue Code, 26 U.S.C.~~
20 ~~414(h)(2), shall pick up and pay the contributions that would be payable by the member under subsection (1) or~~
21 ~~(2) for service rendered after June 30, 1985.~~

22 (5) (a) ~~The member's contributions picked up by the employer must be designated for all purposes of~~
23 ~~the retirement system as the member's contributions, except for the determination of a tax upon a distribution~~
24 ~~from the retirement system.~~

25 (b) ~~In the case of a member of the defined benefit plan, these contributions must become part of the~~
26 ~~member's accumulated contributions but must be accounted for separately from those previously accumulated.~~

27 (c) ~~In the case of a member of the defined contribution plan, these contributions must be allocated as~~
28 ~~provided in 19-3-2117.~~

1 ~~(6) The member's contributions picked up by the employer must be payable from the same source as~~
2 ~~is used to pay compensation to the member and must be included in the member's wages, as defined in 19-1-~~
3 ~~102, and compensation. The employer shall deduct from the member's compensation an amount equal to the~~
4 ~~amount of the member's contributions picked up by the employer and remit the total of the contributions to the~~
5 ~~board. "~~

6

7 **SECTION 30. SECTION 19-3-316, MCA, IS AMENDED TO READ:**

8 **"19-3-316. — Employer contribution rates — definitions.** (1) Each employer shall contribute to the
9 system. ~~Except as provided in subsection (2), the employer shall pay as employer contributions 6.9% of the~~
10 ~~compensation paid to all of the employer's employees plus any additional contribution under subsection (3),~~
11 ~~except for those employees properly excluded from membership. Of employer contributions made under this~~
12 ~~subsection for both defined benefit plan and defined contribution plan members, a portion must be allocated for~~
13 ~~educational programs as provided in 19-3-112. Employer contributions for members under the defined~~
14 ~~contribution plan must be allocated as provided in 19-3-2117.~~

15 ~~(2) Local government and school district employer contributions must be the total employer~~
16 ~~contribution rate provided in subsection (1) minus the state contribution rates under 19-3-319.~~

17 ~~(3) (a) Subject to subsection (4), each employer shall contribute to the system an additional employer~~
18 ~~contribution equal to the percentage specified in subsection (3)(b) of the compensation paid to all of the~~
19 ~~employer's employees, except for those employees properly excluded from membership.~~

20 ~~(b) The percentage of compensation to be contributed under subsection (3)(a) is 1.27% for fiscal year~~
21 ~~2014 and increases by 0.1% each fiscal year through fiscal year 2024. For fiscal years beginning after June 30,~~
22 ~~2024, the percentage of compensation to be contributed under subsection (3)(a) is 2.27%.~~

23 ~~(4) (a) The board shall annually review the additional employer contribution provided for under~~
24 ~~subsection (3) and recommend adjustments to the legislature as needed to maintain the amortization schedule~~
25 ~~set by the board for payment of the system's unfunded liabilities.~~

26 ~~(b) The employer contribution required under subsection (3) terminates on January 1 following the~~
27 ~~board's receipt of the system's actuarial valuation if the actuarial valuation determines that terminating the~~
28 ~~additional employer contribution pursuant to this subsection (4)(b) and reducing the employee contribution~~

Amendment - 1st Reading-white - Requested by: Free Conference Committee on HB 816

- 2023

68th Legislature 2023

Drafter: Julie Johnson, 406-444-4024

HB0816.003.007

1 pursuant to 19-3-315 (2) would not cause the amortization period to exceed 25 years.

2 ~~(1) BEGINNING JULY 1, 2023, THROUGH JUNE 30, 2024, EACH EMPLOYER SHALL CONTRIBUTE AN AMOUNT~~
3 ~~EQUAL TO 9.29% OF THE COMPENSATION OF ALL THE EMPLOYER'S EMPLOYEES IN THE DEFINED-BENEFIT PLAN AND THE~~
4 ~~DEFINED CONTRIBUTION PLAN, EXCEPT FOR THOSE PROPERLY EXCLUDED FROM MEMBERSHIP. OF EMPLOYER~~
5 ~~CONTRIBUTIONS MADE UNDER THIS SUBSECTION FOR BOTH DEFINED BENEFIT PLAN AND DEFINED CONTRIBUTION PLAN~~
6 ~~MEMBERS, A PORTION MUST BE ALLOCATED FOR EDUCATIONAL PROGRAMS AS PROVIDED IN 19-3-112. OF EMPLOYER~~
7 ~~CONTRIBUTIONS MADE FOR MEMBERS OF THE DEFINED CONTRIBUTION PLAN, 7.9% MUST GO TO THE DEFINED~~
8 ~~CONTRIBUTION PLAN, AND THE REMAINING AMOUNT MUST GO TO THE DEFINED-BENEFIT PLAN'S LEGACY UNFUNDED~~
9 ~~LIABILITY.~~

10 ~~(2) (A) BEGINNING JULY 1, 2024, EACH EMPLOYER SHALL CONTRIBUTE TO THE DEFINED-BENEFIT PLAN~~
11 ~~EITHER THE ACTUARIALLY DETERMINED EMPLOYER CONTRIBUTION THAT IS DETERMINED ANNUALLY BY THE PUBLIC~~
12 ~~EMPLOYEES' RETIREMENT SYSTEM'S ACTUARY IN ACCORDANCE WITH THE PROVISIONS OF THIS SECTION AND PART OF~~
13 ~~THE PLAN'S ANNUAL ACTUARIAL VALUATION OR THE BASE RATE OF 9.79%, WHICHEVER IS LESS. THIS CONTRIBUTION~~
14 ~~RATE IS EFFECTIVE JULY 1 FOLLOWING THE ANNUAL ACTUARIAL VALUATION COMPLETED IN THE PRIOR CALENDAR YEAR.~~
15 ~~BEGINNING JULY 1, 2025, THE BASE RATE WILL INCREASE BY 0.50% EACH YEAR.~~

16 ~~(B) BEGINNING JULY 1, 2024, EACH EMPLOYER SHALL CONTRIBUTE EITHER THE ACTUARIALLY~~
17 ~~DETERMINED EMPLOYER CONTRIBUTION OR THE BASE RATE OF 9.79% FOR EMPLOYEES IN THE DEFINED CONTRIBUTION~~
18 ~~PLAN, WHICHEVER IS LESS. OF THE TOTAL AMOUNT, 7.9% MUST GO TO THE DEFINED CONTRIBUTION PLAN, AND THE~~
19 ~~REMAINING AMOUNT MUST GO TO THE DEFINED-BENEFIT PLAN'S LEGACY UNFUNDED LIABILITY. BEGINNING JULY 1, 2025,~~
20 ~~THE BASE RATE WILL INCREASE BY 0.50% EACH YEAR.~~

21 ~~(C) IF THE ACTUARIALLY DETERMINED EMPLOYER CONTRIBUTION IS HIGHER THAN THE BASE RATE, THE~~
22 ~~PENSION SPECIAL FUND ESTABLISHED IN [SECTION 21] MUST BE USED TO FUND THE DIFFERENCE SO LONG AS THERE IS~~
23 ~~AN AVAILABLE BALANCE IN THE FUND.~~

24 ~~(D) THE ACTUARIALLY DETERMINED EMPLOYER CONTRIBUTION MUST BE THE SUM OF THE FOLLOWING~~
25 ~~CONTRIBUTION RATES, MINUS THE EMPLOYEE CONTRIBUTION PROVIDED IN 19-3-315 AND THE STATE CONTRIBUTIONS~~
26 ~~PROVIDED IN 19-3-319 AND 19-3-320:~~

27 ~~(I) THE CONTRIBUTION RATE DETERMINED UNDER SUBSECTION (2)(E) TO PAY OFF THE LEGACY UNFUNDED~~
28 ~~LIABILITY;~~

Amendment - 1st Reading-white - Requested by: Free Conference Committee on HB 816

- 2023

68th Legislature 2023

Drafter: Julie Johnson, 406-444-4024

HB0816.003.007

1 ~~(II) THE CONTRIBUTION RATE DETERMINED UNDER SUBSECTION (2)(F) TO PAY FOR THE CONTEMPORARY~~
2 ~~UNFUNDED LIABILITY;~~

3 ~~(III) THE CONTRIBUTION RATE DETERMINED UNDER SUBSECTION (2)(G) TO PAY FOR THE NORMAL COST OF~~
4 ~~BENEFITS AS THEY ACCRUE; AND~~

5 ~~(IV) A CONTRIBUTION OF 0.04% OF COMPENSATION FOR THE EMPLOYER'S EMPLOYEES WHO ARE MEMBERS~~
6 ~~OF EITHER THE DEFINED CONTRIBUTION PLAN OR THE DEFINED BENEFIT PLAN FOR EDUCATIONAL PROGRAMS AS~~
7 ~~PROVIDED IN 19-3-112.~~

8 ~~(E) (I) THE CONTRIBUTION RATE UNDER SUBSECTION (2)(D)(I) FOR THE LEGACY UNFUNDED LIABILITY MUST~~
9 ~~BE THE AMOUNT REQUIRED ON A LEVEL DOLLAR BASIS TO AMORTIZE THE LEGACY UNFUNDED LIABILITY ATTRIBUTABLE TO~~
10 ~~THE EMPLOYER'S EMPLOYEES WHO ARE MEMBERS OF EITHER THE DEFINED CONTRIBUTION PLAN OR THE DEFINED~~
11 ~~BENEFIT PLAN OVER A CLOSED 30-YEAR AMORTIZATION PERIOD BEGINNING JULY 1, 2023, EXCEPT AS PROVIDED IN~~
12 ~~SUBSECTION (2)(D)(II).~~

13 ~~(II) IF THE JUNE 30, 2023, ACTUARIAL VALUATION DETERMINES THE SYSTEM'S AMORTIZATION PERIOD IS~~
14 ~~LESS THAN 30 YEARS, THEN THE CLOSED AMORTIZATION PERIOD USED FOR THE PURPOSES OF SUBSECTION (2)(D)(I)~~
15 ~~MUST BE THAT AMORTIZATION PERIOD.~~

16 ~~(F) THE CONTRIBUTION RATE UNDER SUBSECTION (2)(D)(II) FOR THE CONTEMPORARY UNFUNDED LIABILITY~~
17 ~~MUST BE THE AMOUNT REQUIRED ON A LEVEL DOLLAR BASIS TO PAY THE ANNUAL CONTEMPORARY UNFUNDED LIABILITIES~~
18 ~~ATTRIBUTABLE TO THE EMPLOYER'S EMPLOYEES WHO ARE MEMBERS OF EITHER THE DEFINED CONTRIBUTION PLAN OR~~
19 ~~THE DEFINED BENEFIT PLAN OVER A LAYERED AMORTIZATION SCHEDULE SO THAT EACH FISCAL YEAR'S CONTEMPORARY~~
20 ~~UNFUNDED LIABILITY IS AMORTIZED OVER A CLOSED 10-YEAR PERIOD, STARTING WITH THE CONTEMPORARY UNFUNDED~~
21 ~~LIABILITY FOR THE FISCAL YEAR ENDING JUNE 30, 2024.~~

22 ~~(G) THE CONTRIBUTION RATE UNDER SUBSECTION (2)(D)(III) FOR THE NORMAL COST OF BENEFITS AS THEY~~
23 ~~ACCRUE MUST BE THE AMOUNT REQUIRED ON A LEVEL DOLLAR BASIS TO PAY THE NORMAL COST OF BENEFITS AS~~
24 ~~DETERMINED IN THE ANNUAL ACTUARIAL VALUATION AS THE BENEFITS ACCRUE FOR EACH OF THE EMPLOYER'S~~
25 ~~EMPLOYEES WHO ARE MEMBERS OF EITHER THE DEFINED CONTRIBUTION PLAN OR THE DEFINED BENEFIT PLAN.~~

26 ~~(3) (A) BEGINNING JULY 1, 2023, EACH EMPLOYER SHALL CONTRIBUTE TO THE DEFINED CONTRIBUTION~~
27 ~~PLAN AN AMOUNT EQUAL TO 7.9%. OF EMPLOYER CONTRIBUTIONS MADE UNDER THIS SUBSECTION (3)(A) FOR DEFINED~~
28 ~~CONTRIBUTION PLAN MEMBERS, A PORTION MUST BE ALLOCATED FOR EDUCATIONAL PROGRAMS AS PROVIDED IN 19-3-~~

Amendment - 1st Reading-white - Requested by: Free Conference Committee on HB 816

- 2023

68th Legislature 2023

Drafter: Julie Johnson, 406-444-4024

HB0816.003.007

1 ~~112.~~

2 ~~(B) THE EMPLOYER CONTRIBUTION UNDER SUBSECTION (3)(A) MUST BE ALLOCATED AS PROVIDED IN 19-3-~~

3 ~~2117.~~

4 ~~(C) THE EMPLOYER CONTRIBUTION RATE FOR THE DEFINED CONTRIBUTION PLAN MAY NOT BE LOWER THAN~~

5 ~~7.9%, EVEN IF THE ACTUARIALLY DETERMINED CONTRIBUTION RATE FOR THE DEFINED BENEFIT PLAN IS LESS THAN~~

6 ~~7.9%.~~

7 ~~(4) FOR THE PURPOSES OF THIS SECTION, THE FOLLOWING DEFINITIONS APPLY:~~

8 ~~(A) "CONTEMPORARY UNFUNDED LIABILITY" MEANS THE DEFINED BENEFIT PLAN'S ANNUAL FISCAL YEAR~~

9 ~~ACTUARIAL GAINS AND LOSSES SMOOTHED OVER 5 YEARS STARTING WITH THE FISCAL YEAR ENDING JUNE 30, 2019.~~

10 ~~(B) "LEGACY UNFUNDED LIABILITY" MEANS THE UNFUNDED LIABILITY OF THE DEFINED BENEFIT PLAN AS OF~~

11 ~~JUNE 30, 2023. "~~

12

13 ~~**SECTION 31.** SECTION 19-3-319, MCA, IS AMENDED TO READ:~~

14 ~~**"19-3-319. State contributions for local government and school district employers.** (1) The~~

15 ~~Subject to subsection (3), the state shall contribute monthly from the general fund to the pension trust fund a~~

16 ~~sum equal to 0.1% of the compensation paid to all employees of local government entities and school districts~~

17 ~~on and after July 1, 1997, except those employees properly excluded from membership.~~

18 ~~(2) (a) Subject to subsection (2)(b) (3), in addition to the contribution required under subsection (1),~~

19 ~~the state shall contribute monthly from the general fund to the pension trust fund a sum equal to 0.27% of the~~

20 ~~compensation paid to all employees of school districts except for those employees properly excluded from~~

21 ~~membership.~~

22 ~~(b)(3) The additional contribution under subsection (2)(a) terminates when the additional contribution~~

23 ~~under 19-3-316 (3) terminates contributions in this section terminate January 1 following the defined benefit~~

24 ~~plan's actuarial valuation if the valuation determines that the plan's funded ratio is at least 100% and~~

25 ~~terminating the contribution pursuant to this subsection and reducing the employee contribution pursuant to 19-~~

26 ~~3-315(2) would not cause the funded ratio to be less than 100%.~~

27 ~~(3)(4) The board shall certify amounts due under this section on a monthly basis, and the state~~

28 ~~treasurer shall transfer those amounts to the pension trust fund within 1 week. The payments in this section are~~

1 statutorily appropriated as provided in 17-7-502. "

2

3 **SECTION 32.** ~~SECTION 19-3-1605, MCA, IS AMENDED TO READ:~~

4 ~~"19-3-1605. **Guaranteed annual benefit adjustment.** (1) Subject to subsection (2), on January 1 of~~
5 ~~each year, the permanent monthly benefit payable during the preceding January to each recipient who is~~
6 ~~eligible under subsection (3) must be increased by the applicable percentage provided in subsection (4).~~

7 ~~(2) (a) If a recipient's benefit payable during the preceding January has been increased by one or~~
8 ~~more adjustments not provided for in this section and the adjustments amount to less than an annualized~~
9 ~~increase of the applicable percentage provided in subsection (4), then the recipient's benefit must be adjusted~~
10 ~~by an amount that will provide a total annualized increase of the applicable percentage in the benefit paid since~~
11 ~~the preceding January.~~

12 ~~(b) If a recipient's benefit payable during the preceding January has been increased by one or more~~
13 ~~adjustments not provided for in this section and the increases amount to more than an annualized increase of~~
14 ~~the applicable percentage provided in subsection (4), then the benefit increase provided under this section must~~
15 ~~be 0%.~~

16 ~~(c) If a benefit recipient is a contingent annuitant receiving an optional benefit upon the death of the~~
17 ~~original payee that occurred since the preceding January, the new recipient's monthly benefit must be~~
18 ~~increased to the applicable percentage provided in subsection (4)(b) more than the amount that the contingent~~
19 ~~annuitant would have received had the contingent annuitant received a benefit during the preceding January.~~

20 ~~(3) Except as provided in subsection (2)(b), a benefit recipient is eligible for and must receive the~~
21 ~~minimum annual benefit adjustment provided for in this section if the benefit's commencement date is at least~~
22 ~~12 months prior to January 1 of the year in which the adjustment is to be made.~~

23 ~~(4) (a) The applicable percentage increase under subsection (1) is 3% if the member was hired or~~
24 ~~assumed office:~~

25 ~~(i) before July 1, 2007; or~~

26 ~~(ii) on or after July 1, 2007, and before July 1, 2013, and the benefit recipient is a member of a~~
27 ~~retirement system provided for in this title, and the guaranteed annual benefit adjustment provision for that~~
28 ~~member under that system is a 3% benefit increase.~~

1 ~~(b) The applicable percentage increase under subsection (1) is 1.5% if the member was hired or~~
2 ~~assumed office on or after July 1, 2007, and before June 30, 2013, and the benefit recipient is not otherwise~~
3 ~~covered under subsection (4)(a)(ii).~~

4 ~~(c) The applicable percentage increase under subsection (1) is 1.5% if the member was hired or~~
5 ~~assumed office on or after July 1, 2013, subject to reduction as provided in subsection (5).~~

6 ~~(5) (a) Except as provided in subsection (5)(b), if l the most recent actuarial valuation of the~~
7 ~~retirement system shows that retirement system liabilities are less than 90% funded, the applicable percentage~~
8 ~~increase in subsection (4)(c) must be reduced by 0.1% for each 2% below that 90% funding level.~~

9 ~~(b) If the amortization period is 40 years or greater, the applicable percentage increase in subsection~~
10 ~~(4)(c) must be reduced to 0% and the retirement allowance may not be increased.~~

11 ~~(6) The board shall adopt rules to administer the provisions of this section."~~

12
13 **SECTION 33. SECTION 19-3-2111, MCA, IS AMENDED TO READ:**

14 **"19-3-2111. Plan membership -- written election required -- failure to elect -- effect of election.**

15 ~~(1) Except as otherwise provided in this part:~~

16 ~~(a) a member who was an inactive member of the defined benefit plan on the effective date of the~~
17 ~~defined contribution plan and who is rehired into covered employment after the plan effective date may, within~~
18 ~~the 12-month period provided for in subsection (2)(a), elect to transfer to and become a member of the plan~~
19 ~~regardless of whether the member remains active, becomes inactive, or terminates employment and plan~~
20 ~~membership within the 12-month period;~~

21 ~~(b) a member who is initially hired into covered employment on or after the effective date of the~~
22 ~~defined contribution plan may, within the 12-month period provided for in subsection (2)(a), elect to become a~~
23 ~~member of the plan regardless of whether the member remains active, becomes inactive, or terminates~~
24 ~~employment and plan membership within the 12-month period.~~

25 ~~(2) (a) Elections made pursuant to this section must be made on a form prescribed by the board and~~
26 ~~must be made within 12 months from the month that the employer properly reports the new or rehired member~~
27 ~~to the board.~~

28 ~~(b) A member failing to make an election prescribed by this section remains a member of the defined~~

1 benefit contribution plan.

2 (c) ~~An election under this section, including the default election pursuant to subsection (2)(b), is a~~
3 ~~one-time irrevocable election. Subject to 19-3-2113, this subsection (2)(c) does not prohibit a new election after~~
4 ~~a member has terminated membership in either plan and returned to covered employment.~~

5 (3) ~~A member in either the defined benefit plan or the defined contribution plan who becomes inactive~~
6 ~~after an election under this section and who returns to active membership remains in the plan previously~~
7 ~~elected.~~

8 (4) ~~A system member may not simultaneously be a member of the defined benefit plan and the~~
9 ~~defined contribution plan and must be a member of either the defined benefit plan or the defined contribution~~
10 ~~plan. A period of service may not be credited in more than one retirement plan within the system.~~

11 (5) ~~The provisions of this part do not prohibit the board from adopting rules to allow an employee to~~
12 ~~elect the defined contribution plan from the first day of covered employment.~~

13 (6) ~~A member of the defined benefit plan who is subject to a family law order pursuant to 19-2-907 or~~
14 ~~an execution or income withholding order pursuant to 19-2-909 may not transfer to the defined contribution plan~~
15 ~~unless the order is modified to apply under the defined contribution plan.~~

16 (7) (a) ~~A member of the defined benefit plan who is purchasing service credit through installment~~
17 ~~payments, either made directly to the board or pursuant to a payroll deduction agreement, may not transfer~~
18 ~~membership to the defined contribution plan unless the member first completes or terminates the contract for~~
19 ~~purchase of service credit.~~

20 (b) ~~A member who files an election to transfer membership may make a lump-sum payment for up to~~
21 ~~the balance of the service credit remaining to be purchased prior to transferring, subject to the limitations of~~
22 ~~section 415 of the Internal Revenue Code. The lump-sum payment, unless made by a rollover pursuant to 19-2-~~
23 ~~708, must be made with after-tax dollars.~~

24 (c) ~~If a member who files an election to transfer membership fails to complete or terminate the~~
25 ~~contract for purchase of service credit by the end of the member's 12-month election window, the board shall~~
26 ~~terminate the service purchase contract and credit the member with the prorated amount of service credit~~
27 ~~purchased under the contract."~~

28

1 **SECTION 34.** ~~SECTION 19-3-2117, MCA, IS AMENDED TO READ:~~

2 **"19-3-2117. — Allocation of contributions and forfeitures.** (1) The member contributions made under
3 19-3-315 and additional contributions paid by the member for the purchase of service must be allocated to the
4 plan member's retirement account.

5 ~~(2) Subject to subsections (3) and (4), of the employer contributions under 19-3-316 received The~~
6 ~~employer's contribution received under 19-3-316(2) must be allocated as follows :~~

7 ~~(a) an amount equal to:~~

8 ~~(i)(a) 4.19% the percentage of compensation specified under 19-3-316(3)(a) minus the amounts~~
9 ~~specified in subsections (2)(b) and (2)(c) of this section must be allocated to the member's retirement account;~~

10 ~~(ii) 2.37% of compensation must be allocated to the defined benefit plan as the plan choice rate;~~

11 ~~(iii)(b) 0.04% of compensation must be allocated to the education fund as provided in 19-3-112 (1)(b);~~

12 and

13 ~~(iv)(c) 0.3% of compensation must be allocated to the long-term disability plan trust fund established~~
14 ~~pursuant to 19-3-2141 ;~~

15 ~~(b) on July 1, 2009, continuing until the additional employer contributions terminate pursuant to 19-3-~~
16 ~~316 (4)(b), the percentage specified in subsection (3) of this section of compensation must be allocated to the~~
17 ~~defined benefit plan to eliminate the plan choice rate unfunded actuarial liability;~~

18 ~~(c) on July 1, 2013, and continuing until June 30, 2015, an amount equal to 1% of compensation must~~
19 ~~be allocated to the defined benefit plan unfunded liabilities; and~~

20 ~~(d) on July 1, 2015, and continuing until the plan choice rate unfunded actuarial liability in the defined~~
21 ~~benefit plan is fully paid, an amount equal to 1% of compensation must be allocated to the defined benefit plan~~
22 ~~as part of the plan choice rate. Effective the first full pay period in the month following the board's verification~~
23 ~~that the plan choice rate unfunded actuarial liability is paid off, the amount equal to 1% of compensation must~~
24 ~~be allocated to the member's retirement account until the additional employer contributions terminate pursuant~~
25 ~~to 19-3-316 (4)(b).~~

26 ~~(3) The percentage of compensation to be contributed under subsection (2)(b) is 0.27% for fiscal year~~
27 ~~2014 and increases by 0.1% each fiscal year through fiscal year 2024. For fiscal years beginning after June 30,~~
28 ~~2024, the percentage of compensation to be contributed under subsection (2)(b) is 1.27%.~~

1 (4) Effective the first full pay period in the month following the board's verification that the plan choice
2 rate unfunded actuarial liability is paid off, the 2.37% of compensation in subsection (2)(a)(ii) and the
3 percentage of compensation in subsection (3), if any, must be allocated to the member's retirement account.

4 (5)(3) Forfeitures of employer contributions and investment income on the employer contributions
5 may not be used to increase a member's retirement account. The board shall allocate the forfeitures under 19-
6 3-2116 to meet the plan's administrative expenses, including startup expenses. "

7

8 **SECTION 35. SECTION 19-21-214, MCA, IS AMENDED TO READ:**

9 **"19-21-214. Contributions and allocations for employees in positions covered under public**
10 **employees' retirement system.** (1) The contribution rates for employees in positions covered under the public
11 employees' retirement system who elect to become program members pursuant to 19-3-2112 are as follows:

12 (a) the member's contribution rate must be the rate provided in 19-3-315 ; and

13 (b) the employer's contribution rate must be the rate provided in 19-3-316.

14 (2) Subject to subsections (3) and (4), of the The employer's contribution received under 19-3-316 (3)
15 :

16 (a) an amount equal to must be allocated as follows :

17 (i)(a) 4.49% the percentage of compensation specified under 19-3-316(3)(a) minus the amount
18 specified in subsection (2)(b) of this section must be allocated to the participant's program account;

19 (ii) 2.37% of compensation must be allocated to the defined benefit plan under the public employees'
20 retirement system as the plan choice rate; and

21 (iii)(b) 0.04% of compensation must be allocated to the education fund pursuant to 19-3-112 (1)(b) ;

22 (b) on July 1, 2009, continuing until the additional employer contributions terminate pursuant to 19-3-
23 316 (4)(b), an amount equal to 0.27% of compensation must be allocated to the defined benefit plan to
24 eliminate the plan choice rate unfunded actuarial liability;

25 (c) on July 1, 2013, and continuing until June 30, 2015, an amount equal to 1% of compensation must
26 be allocated to the defined benefit plan unfunded liabilities; and

27 (d) on July 1, 2015, and continuing until the plan choice rate unfunded actuarial liability in the defined
28 benefit plan is fully paid, an amount equal to 1% of compensation must be allocated to the defined benefit plan

1 as part of the plan choice rate. Effective the first full pay period in the month following the board's verification
2 that the plan choice rate unfunded actuarial liability is paid off, the amount equal to 1% of compensation must
3 be allocated to the member's retirement account until the additional employer contributions terminate pursuant
4 to 19-3-316 (4)(b).

5 ~~(3) The percentage of compensation amount to be allocated under subsection (2)(b) must be~~
6 ~~increased by 0.1% each fiscal year through fiscal year 2024. For fiscal years beginning after June 30, 2024, the~~
7 ~~percentage of compensation amount to be allocated under subsection (2)(b) must be 1.27%.~~

8 ~~(4) Effective the first full pay period in the month following the board's verification that the plan choice~~
9 ~~rate unfunded actuarial liability is paid off, amounts equal to the 2.37% of compensation in subsection (2)(a)(ii)~~
10 ~~and the percentage of compensation in subsection (2)(b), if any, must be allocated to the member's retirement~~
11 ~~account."~~

12

13 **SECTION 6. SECTION 2, CHAPTER 44, LAWS OF 2023, IS AMENDED TO READ:**

14 **"Section 2. Individual income tax rebate.** (1) By December 31, 2023, the department of revenue
15 shall issue, to a qualified taxpayer who incurred individual income tax liability in Montana in 2021, a one-time
16 income tax rebate in an amount equal to the lesser of:

17 (a) the qualified taxpayer's 2021 individual income tax liability as properly reported on line 20 of the
18 2021 Montana individual income tax return; or

19 (b) an amount based on the taxpayer's 2021 filing status, equal to:

20 (i) for a single taxpayer, a head of household, or a married taxpayer filing a separate return,

21 \$1,250; or

22 (ii) for a married couple filing a joint return, \$2,500.

23 (2) The department may not issue a rebate pursuant to this section that exceeds the taxpayer's
24 individual income tax liability as properly reported on line 20 of the 2021 Montana individual income tax return.

25 (3) (a) Except as provided in subsection (3)(b), the department shall issue rebates provided for in
26 this section electronically or by mailing a check to the taxpayer's mailing address based on the taxpayer's
27 refund instructions.

28 (b) A rebate provided for in this section must first be credited against any outstanding liability for

1 which the department withholds a tax refund existing at the time the refund is issued.

2 (4) As provided in 15-30-2110(2)(u), a rebate provided for in this section is not taxable income.

3 (5) (a) As used in this section, the term "qualified taxpayer" means an individual who was a
4 resident as defined in 15-30-2101 for the entire income tax year beginning January 1, 2021, and who filed a
5 Montana individual income tax return for income tax years 2020 and 2021 by the due date for filing the return
6 for income tax year 2021, including any extensions ~~that have been granted~~ authorized pursuant to 15-30-
7 2604(1)(b) and (3), respectively.

8 (b) The term does not include:

9 (i) a taxpayer who is a nonresident, as defined in 15-30-2101, who filed tax returns in 2020 or
10 2021 pursuant to 15-30-2104;

11 (ii) an individual who was claimed as a dependent by another taxpayer for federal or Montana
12 income tax purposes for the 2021 tax year; or

13 (iii) a trust.

14 (6) As used in this section, the term "properly reported" means the amount reported on line 20 of
15 the 2021 Montana individual income tax return filed by the due date for filing that return, including any
16 extensions authorized pursuant to 15-30-2604(1)(b) and (3), or an amended 2021 Montana individual income
17 tax return filed on or before May 1, 2023."

18

19 **SECTION 7. SECTION 1, CHAPTER 47, LAWS OF 2023, IS AMENDED TO READ:**

20 **"Section 1. Definitions.** As used in [sections 1 through 3], the following definitions apply:

21 (1) "Montana property taxes" means the ad valorem property taxes, special assessments, and
22 other fees imposed on property classified under 15-6-134 that is a single-family dwelling unit, unit of a multiple-
23 unit dwelling, trailer, manufactured home, or mobile home and as much of the surrounding land, not exceeding
24 1 acre, as is reasonably necessary for its use as a dwelling and that were assessed and paid by the taxpayer
25 as follows:

26 (a) for tax year 2022, the amount of Montana property taxes assessed and paid is equal to the
27 total amount billed by the local government for the dwelling as shown on the 2022 property tax bill received by
28 the TAXPAYER taxpayer with a first-half payment due in or around November 2022 and a second-half payment

Amendment - 1st Reading-white - Requested by: Free Conference Committee on HB 816

- 2023

68th Legislature 2023

Drafter: Julie Johnson, 406-444-4024

HB0816.003.007

1 ~~due in or around May 2023; and~~

2 (b) for tax year 2023, the amount of Montana property taxes assessed and paid is equal to the
3 total amount billed by the local government for the dwelling as shown on the 2023 property tax bill received by
4 the taxpayer ~~with a first half payment due in or around November 2023 and a second half payment due in or~~
5 ~~around May 2024.~~

6 (2) "Owned" includes purchasing under a contract for deed and being the grantor or grantors under
7 a revocable trust indenture.

8 (3) (a) "Principal residence" is, subject to the provisions of subsection (3)(b), a dwelling:

9 (i) in which a taxpayer can demonstrate the taxpayer owned and lived in for at least 7 months of
10 the year for which the rebate is claimed;

11 (ii) that is the only residence for which the property tax rebate is claimed; and

12 (iii) for which the taxpayer made payment of the assessed Montana property taxes during tax year
13 2022 and tax year 2023.

14 (b) A taxpayer that cannot meet the requirements of subsection (3)(a)(i) because the taxpayer's
15 principal residence changes during the tax year to another principal residence may still claim a rebate if the
16 taxpayer paid the Montana property taxes while residing in each principal residence for a total of at least 7
17 consecutive months for each tax year.

18 (4) "Tax year 2022" means the period January 1, 2022, through December 31, 2022.

19 (5) "Tax year 2023" means the period January 1, 2023, through December 31, 2023."
20

21 ~~**NEW SECTION. SECTION 38. — TRANSFER OF FUNDS. (1) WITHIN 15 DAYS OF [THE EFFECTIVE DATE OF THIS**~~
22 ~~**SECTION], THE STATE TREASURER SHALL TRANSFER \$85 MILLION FROM THE GENERAL FUND TO THE LOCAL**~~
23 ~~**GOVERNMENT ROAD MAINTENANCE ACCOUNT PROVIDED IN [SECTION 19].**~~

24 ~~**(2) — BY AUGUST 15, 2023, THE STATE TREASURER SHALL TRANSFER \$200 MILLION FROM THE GENERAL**~~
25 ~~**FUND TO THE ACCOUNT ESTABLISHED IN [SECTION 2].**~~

26
27 ~~**NEW SECTION. Section 39. — Appropriation -- individual income tax rebate. (1) There is**~~
28 ~~**appropriated \$100 million from the general fund to the department of revenue for the biennium beginning July 1,**~~

Amendment - 1st Reading-white - Requested by: Free Conference Committee on HB 816

- 2023

68th Legislature 2023

Drafter: Julie Johnson, 406-444-4024

HB0816.003.007

1 2023.

2 (2) — The appropriation must be used to supplement individual income tax rebates as provided in
3 [section 4].

4
5 NEW SECTION. Section 4. — Appropriation -- property tax rebate. (1) There is appropriated \$100
6 million from the general fund to the department of revenue for the biennium beginning July 1, 2023.

7 (2) — The appropriation must be used to supplement property tax rebates as provided in [section 2].

8
9 NEW SECTION. Section 8. APPROPRIATION -- PROPERTY TAX REBATE. (1) THERE IS APPROPRIATED \$100
10 MILLION FROM THE GENERAL FUND TO THE DEPARTMENT OF REVENUE FOR THE BIENNIUM BEGINNING JULY 1, 2023.

11 (2) THE APPROPRIATION MUST BE USED TO SUPPLEMENT PROPERTY TAX REBATES AS PROVIDED IN
12 [SECTION 1].

13
14 NEW SECTION. Section 9. Codification instruction. (1) [SECTIONS 1 AND 2Section] is ARE intended
15 to be codified as an integral part of Title 15, chapter 30 1, and the provisions of Title 15, chapter 30 1, apply to
16 [section SECTIONS 1 AND 22 2].

17 (2) — [Section 2] is intended to be codified as an integral part of Title 15, chapter 1, and the
18 provisions of Title 15, chapter 1, apply to [section 2] [SECTIONS 2 THROUGH 6] ARE INTENDED TO BE CODIFIED AS AN
19 INTEGRAL PART OF TITLE 17, CHAPTER 6, AND THE PROVISIONS OF TITLE 17, CHAPTER 6, APPLY TO [SECTIONS 2
20 THROUGH 6].

21 (3) — [SECTION 21] IS INTENDED TO BE CODIFIED AS AN INTEGRAL PART OF TITLE 19, CHAPTER 3, PART 3,
22 AND THE PROVISIONS OF TITLE 19, CHAPTER 3, PART 3, APPLY TO [SECTION 21].

23 (4) — [SECTION 23] IS INTENDED TO BE CODIFIED AS AN INTEGRAL PART OF TITLE 15, CHAPTER 30, PART 23,
24 AND THE PROVISIONS OF TITLE 15, CHAPTER 30, PART 23, APPLY TO [SECTION 2 3].

25
26 COORDINATION SECTION. Section 40. — Coordination instruction. (1) If House Bill No. 192 is not
27 passed and approved, then [sections 1 and 3 39] are void.

28 (2) — IF HOUSE BILL NO. 819 IS NOT PASSED AND APPROVED, THEN THE AMOUNT APPROPRIATED IN

1 ~~[SECTION 39] IS REDUCED TO \$30 MILLION.~~

2

3 COORDINATION SECTION. Section 7. — Coordination instruction. If House Bill No. 222 is not
4 passed and approved, then ~~[sections 2 and 4]~~ are void.

5

6 NEW SECTION. Section 10. Severability. If a part of [this act] is invalid, all valid parts that are
7 severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications,
8 the part remains in effect in all valid applications that are severable from the invalid applications.

9

10 NEW SECTION. Section 11. Effective date DATE & DATE. (1) [This act] is ~~[SECTIONS 1, 7 THROUGH 18,~~
11 ~~22, 23, AND 36 THROUGH 45] ARE [THIS ACT] IS~~ effective on passage and approval.

12 (2) ~~— [SECTIONS 2 THROUGH 6, 19 THROUGH 21, AND 24 THROUGH 35] ARE EFFECTIVE JULY 1, 2023.~~

13

14 COORDINATION SECTION. Section 12. Coordination instruction -- transfer. If both House Bill
15 No. 424 and [this act] are passed and approved and if House Bill No. 424 creates a pension state special
16 revenue account to the credit of the department of administration, then the state treasurer shall transfer \$100
17 million from the general fund to the pension state special revenue account by June 30, 2023.

18

19 COORDINATION SECTION. Section 13. Coordination instruction -- House Bill No. 424. If both
20 House Bill No. 424 and [this act] are passed and approved, if House Bill No. 424 creates a pension state
21 special revenue account to the credit of the department of administration, and if House Bill No. 587 is not
22 passed and approved, then, only for the biennium beginning July 1, 2023, if the budget director certifies a
23 projected ending general fund balance for the biennium of less than 6% of general fund appropriations in the
24 second fiscal year of the biennium the governor may authorize a transfer from the account in [section 8 of
25 House Bill No. 424] to the general fund not to exceed one-half of the balance of the account in [section 8 of
26 House Bill No. 424] prior to any other transfers out of the account.

27

28 COORDINATION SECTION. Section 14. Coordination instruction -- House Bill No. 424 and

1 **House Bill No. 587.** If House Bill No. 424, House Bill No. 587, and [this act] are passed and approved, and if
 2 House Bill No. 424 creates a pension state special revenue account to the credit of the department of
 3 administration, then, only for the biennium beginning July 1, 2023, if the budget director certifies a projected
 4 ending general fund balance for the biennium of less than 6% of general revenue appropriations in the second
 5 fiscal year of the biennium the governor may authorize a transfer from the account in [section 8 of House Bill
 6 No. 424] to the general fund not to exceed one-half of the balance of the account in [section 8 of House Bill No.
 7 424] prior to any other transfers out of the account.

8
 9 COORDINATION SECTION. **Section 15. Coordination instruction -- Senate Bill No. 536.** If both
 10 Senate Bill No. 536 and [this act] are passed and approved, then:
 11 (1) [sections 1(3) and 2 of Senate Bill No. 536] are void;
 12 (2) the transfer provided for in [section 4 of Senate Bill No. 536] is \$80 million; and
 13 (3) [section 6 of Senate Bill No. 536] must be amended to read: "If both House Bill No. 2 and [this
 14 act] are passed and approved and if House Bill No. 2 includes an appropriation of at least \$80 million to the
 15 department of transportation for the purposes of [this act], then the appropriation in House Bill No. 2 for the
 16 purposes of [this act] is void."

17
 18 NEW SECTION. **Section 16. Appropriations.** There is appropriated to the office of budget and
 19 program planning \$3.9 million from the general fund and \$600,000 from state special revenue for the biennium
 20 beginning July 1, 2023, to cover shortfalls resulting from legislation this legislative session.

21
 22 COORDINATION SECTION. **Section 17. Coordination instruction -- House Bill No. 355.** (1) If both
 23 House Bill No. 355 and [this act] are passed and approved, then the provisions of House Bill No. 355 apply to
 24 qualifying towns, cities, and consolidated city-county governments and [section 11 of House Bill No. 355] must
 25 be amended to include the following subsection (4):
 26 "(4) (a) For the purpose of allocating the funds in subsections (1)(b) and (1)(c) to a consolidated
 27 city-county government, each entity must be considered to have separate city and county boundaries. The city
 28 limit boundaries are the last official city limit boundaries for the former city unless revised boundaries based on

1 the location of the urban area have been approved by the department of transportation and must be used to
2 determine city and county populations and road mileages in the following manner:

3 (i) Percentage factors must be calculated to determine separate populations for the city and rural
4 county by using the last official decennial federal census population figures that recognized an incorporated city
5 and the rural county. The factors must be based on the ratio of the city to the rural county population,
6 considering the total population in the county minus the population of any other incorporated city or town in the
7 county.

8 (ii) The city and county populations must be calculated by multiplying the total county population,
9 as determined by the latest official decennial census or the latest interim year population estimates from the
10 Montana department of commerce as supplied by the United States bureau of the census, minus the population
11 of any other incorporated city or town in that county, by the factors established in subsection (4)(a)(i).

12 (b) The amount allocated by this method for the city and the county must be combined, and a
13 single allocation must be made to the consolidated city-county government."
14

15 **COORDINATION SECTION. Section 18. Coordination instruction -- House Bill No. 587.** If both

16 House Bill No. 587 and [this act] are passed and approved, then [section 1 of House Bill No. 587] must be
17 amended to read:

18 **"NEW SECTION 1. School equalization and property tax reduction account -- uses.** (1) There is
19 a school equalization and property tax reduction account in the state special revenue fund. Contingent on
20 appropriation by the legislature, money in the account is for distribution to school districts as the second source
21 of funding for state equalization aid as provided in 20-9-343. At fiscal yearend, any fund balance in the account
22 exceeding what was appropriated must be transferred to the guarantee account established in 20-9-622.

23 (2) The account receives revenue as described in 20-9-331, 20-9-333, and 20-9-360.

24 (3) Beginning in fiscal year 2025, each December the superintendent of public instruction shall
25 forecast the amount of revenue the account will receive in that fiscal year by dividing the sum of the taxable
26 value of all property in the state reported by the department of revenue pursuant to 20-9-369 by 1,000 to
27 determine a statewide value mill and then multiplying that amount by 95 mills, or the number of mills calculated
28 by the department of revenue under 15-10-420(8) for the applicable fiscal year. If the forecasted amount differs

1 from the amount determined through the same calculation in the prior fiscal year by \$2 million or more and is:

2 (a) less, then the superintendent shall:

3 (i) decrease the multiplier used to calculate the statewide elementary and high school guaranteed
4 tax base ratios used for funding BASE budgets under 20-9-366 to the nearest whole number determined by the
5 superintendent to result in a decrease in the amount of guaranteed tax base aid distributed to eligible school
6 districts equal to 85% of the decrease in the calculated amount between the 2 years; and

7 (ii) decrease the multiplier used to calculate the statewide elementary and high school mill value
8 per ANB for school retirement guaranteed tax base purposes under 20-9-366 to the nearest whole number
9 determined by the superintendent to result in a decrease in the amount of retirement guaranteed tax base aid
10 distributed to eligible school districts equal to 15% of the decrease in the calculated amount between the 2
11 years;

12 (b) more, then the superintendent shall increase the multipliers used in the guaranteed tax base
13 formulas under 20-9-366 and in the formula for school major maintenance aid under 20-9-525 to the nearest
14 whole number by an amount calculated by the superintendent to result in an increase in the amount of
15 guaranteed tax base aid and school major maintenance aid distributed to eligible counties and school districts
16 equal to one-third of the increase in the calculated amount between the 2 years in the following order, with any
17 amount exceeding the caps under subsections (3)(b)(i) through (3)(b)(iii) flowing to the next mechanism:

18 (i) first, the multiplier used in calculating the statewide mill value per elementary and high school
19 ANB for retirement purposes, not to exceed 305%;

20 (ii) second, the multiplier used in calculating the amount of state school major maintenance aid
21 support for each dollar of local effort, not to exceed 365%; and

22 (iii) third, the multiplier used in calculating the facility guaranteed mill value per ANB for school
23 facility entitlement guaranteed tax base purposes, not to exceed 300%.

24 (4) (a) The adjustments to the multipliers under subsection (3) are applicable to state equalization
25 aid distributions in the fiscal year following the adjustment.

26 (b) Adjustments to the multipliers made under subsection (3) remain in effect in subsequent years
27 unless further changed under 20-9-366 or subsection (3) of this section or as otherwise provided by law."

28

1 COORDINATION SECTION. Section 19. Coordination instruction -- House Bill No. 856. If both
2 House Bill No. 856 and [this act] are passed and approved, then [section 14(4) of House Bill No. 856 must be
3 amended to read:

4 "(4) There is appropriated \$70 million from the capital developments long-range building program
5 account in the capital projects fund type provided for in 17-7-209, to the department of administration for the
6 department renovation of the capitol complex offices and the implementation of the 2022 Montana remote and
7 office workspace study project for the biennium beginning July 1, 2023."

8
9 COORDINATION SECTION. Section 20. Coordination instruction. If both House Bill No. 5 and
10 [this act] are passed and approved, then the appropriations to the DOC Flathead County Prerelease Center in
11 House Bill No. 5 are void.

12
13 NEW SECTION. SECTION 43. APPLICABILITY. [SECTIONS 22 AND 23] APPLY TO TAX YEARS BEGINNING
14 AFTER DECEMBER 31, 2023.

15
16 NEW SECTION. Section 21. Termination. (1) [Section 1 SECTIONS 1, 22, AND 36 2, 3, AND 4] AND THE
17 INSERTION OF "[SECTION 22]" IN SECTION N 25(3) terminates TERMINATE December 31, 2025.

18 (2) [Section 2] terminates June 30, 2025 [SECTIONS 19, 20, AND 37] TERMINATE JUNE 30, 2024
19 [SECTIONS 1 AND 5] TERMINATE JUNE 30, 2025.

20 - END -