

HOUSE BILL NO. 148

INTRODUCED BY E. HILL

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR A STATUTORY APPROPRIATION OF FEDERAL FUNDS FOR SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM BENEFITS; AMENDING SECTIONS 17-7-502, 39-71-118, 40-4-215, 53-2-901, 53-2-902, AND 53-2-903, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

Section 1. Section 17-7-502, MCA, is amended to read:

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

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

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

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

(3) The following laws are the only laws containing statutory appropriations: 2-15-247; 2-17-105; 5-11-120; 5-11-407; 5-13-403; 7-4-2502; 10-1-108; 10-1-1202; 10-1-1303; 10-2-603; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-4-301; 15-1-121; 15-1-218; 15-35-108; 15-36-332; 15-37-117; 15-39-110; 15-65-121; 15-70-101; 15-70-369; 15-70-601; 16-11-509; 17-3-106; 17-3-112; 17-3-212; 17-3-222; 17-3-241; 17-6-101; 18-11-112; 19-3-319; 19-6-404; 19-6-410; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506; 19-20-604; 19-20-607; 19-21-203; 20-8-107; 20-9-534; 20-9-622; 20-26-1503; 22-1-327; 22-3-1004; 23-4-105; 23-5-306; 23-5-409; 23-5-612; 23-7-301; 23-7-402; 30-10-1004; 37-43-204; 37-51-501; 39-1-105; 39-71-503; 41-5-2011; 42-2-105; 44-4-1101; 44-12-206; 44-13-102; 53-1-109; 53-1-215; 53-2-208; 53-2-901; 53-9-113; 53-24-108; 53-24-206; 60-11-115; 61-3-415; 69-3-870; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 76-13-150; 76-13-416; 77-1-108; 77-2-362; 80-2-222; 80-4-416; 80-11-518; 81-1-112; 81-7-106; 81-10-103; 82-11-161; 85-20-1504; 85-20-1505; 87-1-603; 90-1-115; 90-1-205; 90-1-504; 90-3-1003; 90-6-331; and 90-9-306.



1 (4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing,
2 paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued
3 pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana
4 to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state
5 treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory
6 appropriation authority for the payments. (In subsection (3): pursuant to sec. 10, Ch. 360, L. 1999, the inclusion
7 of 19-20-604 terminates contingently when the amortization period for the teachers' retirement system's unfunded
8 liability is 10 years or less; pursuant to sec. 10, Ch. 10, Sp. L. May 2000, secs. 3 and 6, Ch. 481, L. 2003, and
9 sec. 2, Ch. 459, L. 2009, the inclusion of 15-35-108 terminates June 30, 2019; pursuant to sec. 73, Ch. 44, L.
10 2007, the inclusion of 19-6-410 terminates contingently upon the death of the last recipient eligible under
11 19-6-709(2) for the supplemental benefit provided by 19-6-709; pursuant to sec. 14, Ch. 374, L. 2009, the
12 inclusion of 53-9-113 terminates June 30, 2015; pursuant to sec. 5, Ch. 442, L. 2009, the inclusion of 90-6-331
13 terminates June 30, 2019; pursuant to sec. 16, Ch. 58, L. 2011, the inclusion of 30-10-1004 terminates June 30,
14 2017; pursuant to sec. 6, Ch. 61, L. 2011, the inclusion of 76-13-416 terminates June 30, 2019; pursuant to sec.
15 13, Ch. 339, L. 2011, the inclusion of 81-1-112 and 81-7-106 terminates June 30, 2017; pursuant to sec. 11(2),
16 Ch. 17, L. 2013, the inclusion of 17-3-112 terminates on occurrence of contingency; pursuant to secs. 3 and 5,
17 Ch. 244, L. 2013, the inclusion of 22-1-327 is effective July 1, 2015, and terminates July 1, 2017; and pursuant
18 to sec. 10, Ch. 413, L. 2013, the inclusion of 2-15-247, 39-1-105, 53-1-215, and 53-2-208 terminates June 30,
19 2015.)"

20

21 **Section 2.** Section 39-71-118, MCA, is amended to read:

22 **"39-71-118. Employee, worker, volunteer, volunteer firefighter, and volunteer emergency medical**
23 **technician defined.** (1) As used in this chapter, the term "employee" or "worker" means:

24 (a) each person in this state, including a contractor other than an independent contractor, who is in the
25 service of an employer, as defined by 39-71-117, under any appointment or contract of hire, expressed or implied,
26 oral or written. The terms include aliens and minors, whether lawfully or unlawfully employed, and all of the
27 elected and appointed paid public officers and officers and members of boards of directors of quasi-public or
28 private corporations, except those officers identified in 39-71-401(2), while rendering actual service for the
29 corporations for pay. Casual employees, as defined by 39-71-116, are included as employees if they are not
30 otherwise covered by workers' compensation and if an employer has elected to be bound by the provisions of

1 the compensation law for these casual employments, as provided in 39-71-401(2). Household or domestic
2 employment is excluded.

3 (b) any juvenile who is performing work under authorization of a district court judge in a delinquency
4 prevention or rehabilitation program;

5 (c) a person who is receiving on-the-job vocational rehabilitation training or other on-the-job training
6 under a state or federal vocational training program, whether or not under an appointment or contract of hire with
7 an employer, as defined in 39-71-117, and, except as provided in subsection (9), whether or not receiving
8 payment from a third party. However, this subsection (1)(c) does not apply to students enrolled in vocational
9 training programs, as outlined in this subsection, while they are on the premises of a public school or community
10 college.

11 (d) an aircrew member or other person who is employed as a volunteer under 67-2-105;

12 (e) a person, other than a juvenile as described in subsection (1)(b), who is performing community
13 service for a nonprofit organization or association or for a federal, state, or local government entity under a court
14 order, or an order from a hearings officer as a result of a probation or parole violation, whether or not under
15 appointment or contract of hire with an employer, as defined in 39-71-117, and whether or not receiving payment
16 from a third party. For a person covered by the definition in this subsection (1)(e):

17 (i) compensation benefits must be limited to medical expenses pursuant to 39-71-704 and an impairment
18 award pursuant to 39-71-703 that is based upon the minimum wage established under Title 39, chapter 3, part
19 4, for a full-time employee at the time of the injury; and

20 (ii) premiums must be paid by the employer, as defined in 39-71-117(3), and must be based upon the
21 minimum wage established under Title 39, chapter 3, part 4, for the number of hours of community service
22 required under the order from the court or hearings officer.

23 (f) an inmate working in a federally certified prison industries program authorized under 53-30-132;

24 (g) a volunteer firefighter as described in 7-33-4109 or a person who provides ambulance services under
25 Title 7, chapter 34, part 1;

26 (h) a person placed at a public or private entity's worksite pursuant to 53-4-704. The person is
27 considered an employee for workers' compensation purposes only. The department of public health and human
28 services shall provide workers' compensation coverage for recipients of financial assistance, as defined in
29 53-4-201, or for participants in the food stamp program, ~~as defined in 53-2-902~~, who are placed at public or
30 private worksites through an endorsement to the department of public health and human services' workers'

1 compensation policy naming the public or private worksite entities as named insureds under the policy. The
2 endorsement may cover only the entity's public assistance participants and may be only for the duration of each
3 participant's training while receiving financial assistance or while participating in the food stamp program under
4 a written agreement between the department of public health and human services and each public or private
5 entity. The department of public health and human services may not provide workers' compensation coverage
6 for individuals who are covered for workers' compensation purposes by another state or federal employment
7 training program. Premiums and benefits must be based upon the wage that a probationary employee is paid for
8 work of a similar nature at the assigned worksite.

9 (i) a member of a religious corporation, religious organization, or religious trust while performing services
10 for the religious corporation, religious organization, or religious trust, as described in 39-71-117(1)(d).

11 (2) The terms defined in subsection (1) do not include a person who is:

12 (a) performing voluntary service at a recreational facility and who receives no compensation for those
13 services other than meals, lodging, or the use of the recreational facilities;

14 (b) performing services as a volunteer, except for a person who is otherwise entitled to coverage under
15 the laws of this state. As used in this subsection (2)(b), "volunteer" means a person who performs services on
16 behalf of an employer, as defined in 39-71-117, but who does not receive wages as defined in 39-71-123.

17 (c) serving as a foster parent, licensed as a foster care provider in accordance with 52-2-621, and
18 providing care without wage compensation to no more than six foster children in the provider's own residence.
19 The person may receive reimbursement for providing room and board, obtaining training, respite care, leisure
20 and recreational activities, and providing for other needs and activities arising in the provision of in-home foster
21 care.

22 (d) performing temporary agricultural work for an employer if the person performing the work is otherwise
23 exempt from the requirement to obtain workers' compensation coverage under 39-71-401(2)(r) with respect to
24 a company that primarily performs agricultural work at a fixed business location or under 39-71-401(2)(d) and is
25 not required to obtain an independent contractor's exemption certificate under 39-71-417 because the person
26 does not regularly perform agricultural work away from the person's own fixed business location. For the
27 purposes of this subsection, the term "agricultural" has the meaning provided in 15-1-101(1)(a).

28 (3) With the approval of the insurer, an employer may elect to include as an employee under the
29 provisions of this chapter a volunteer as defined in subsection (2)(b), a volunteer emergency medical technician
30 as defined in subsection (10), or a volunteer firefighter as defined in 7-33-4510. An ambulance service not

1 otherwise covered by subsection (1)(g) or a paid or volunteer nontransporting medical unit, as defined in
2 50-6-302, in service to a town, city, or county may elect to include as an employee under the provisions of this
3 chapter a volunteer emergency medical technician.

4 (4) (a) If the employer is a partnership, limited liability partnership, sole proprietor, or a member-managed
5 limited liability company, the employer may elect to include as an employee within the provisions of this chapter
6 any member of the partnership or limited liability partnership, the owner of the sole proprietorship, or any member
7 of the limited liability company devoting full time to the partnership, limited liability partnership, proprietorship, or
8 limited liability company business.

9 (b) In the event of an election, the employer shall serve upon the employer's insurer written notice
10 naming the partners, sole proprietor, or members to be covered and stating the level of compensation coverage
11 desired by electing the amount of wages to be reported, subject to the limitations in subsection (4)(d). A partner,
12 sole proprietor, or member is not considered an employee within this chapter until notice has been given.

13 (c) A change in elected wages must be in writing and is effective at the start of the next quarter following
14 notification.

15 (d) All weekly compensation benefits must be based on the amount of elected wages, subject to the
16 minimum and maximum limitations of this subsection (4)(d). For premium ratemaking and for the determination
17 of the weekly wage for weekly compensation benefits, the electing employer may elect an amount of not less than
18 \$900 a month and not more than 1 1/2 times the state's average weekly wage.

19 (5) (a) If the employer is a quasi-public or a private corporation or a manager-managed limited liability
20 company, the employer may elect to include as an employee within the provisions of this chapter any corporate
21 officer or manager exempted under 39-71-401(2).

22 (b) In the event of an election, the employer shall serve upon the employer's insurer written notice
23 naming the corporate officer or manager to be covered and stating the level of compensation coverage desired
24 by electing the amount of wages to be reported, subject to the limitations in subsection (5)(d). A corporate officer
25 or manager is not considered an employee within this chapter until notice has been given.

26 (c) A change in elected wages must be in writing and is effective at the start of the next quarter following
27 notification.

28 (d) For the purposes of an election under this subsection (5), all weekly compensation benefits must be
29 based on the amount of elected wages, subject to the minimum and maximum limitations of this subsection (5)(d).
30 For premium ratemaking and for the determination of the weekly wage for weekly compensation benefits, the

1 electing employer may elect an amount of not less than \$200 a week and not more than 1 1/2 times the state's
2 average weekly wage.

3 (6) Except as provided in Title 39, chapter 8, an employee or worker in this state whose services are
4 furnished by a person, association, contractor, firm, limited liability company, limited liability partnership, or
5 corporation, other than a temporary service contractor, to an employer, as defined in 39-71-117, is presumed to
6 be under the control and employment of the employer. This presumption may be rebutted as provided in
7 39-71-117(3).

8 (7) A student currently enrolled in an elementary, secondary, or postsecondary educational institution
9 who is participating in work-based learning activities and who is paid wages by the educational institution or
10 business partner is the employee of the entity that pays the student's wages for all purposes under this chapter.
11 A student who is not paid wages by the business partner or the educational institution is a volunteer and is subject
12 to the provisions of this chapter.

13 (8) For purposes of this section, an "employee or worker in this state" means:

14 (a) a resident of Montana who is employed by an employer and whose employment duties are primarily
15 carried out or controlled within this state;

16 (b) a nonresident of Montana whose principal employment duties are conducted within this state on a
17 regular basis for an employer;

18 (c) a nonresident employee of an employer from another state engaged in the construction industry, as
19 defined in 39-71-116, within this state; or

20 (d) a nonresident of Montana who does not meet the requirements of subsection (8)(b) and whose
21 employer elects coverage with an insurer that allows an election for an employer whose:

22 (i) nonresident employees are hired in Montana;

23 (ii) nonresident employees' wages are paid in Montana;

24 (iii) nonresident employees are supervised in Montana; and

25 (iv) business records are maintained in Montana.

26 (9) An insurer may require coverage for all nonresident employees of a Montana employer who do not
27 meet the requirements of subsection (8)(b) or (8)(d) as a condition of approving the election under subsection
28 (8)(d).

29 (10) (a) With the approval of the insurer, an ambulance service not otherwise covered by subsection
30 (1)(g) or a paid or volunteer nontransporting medical unit, as defined in 50-6-302, in service to a town, city, or

1 county may elect to include as an employee within the provisions of this chapter a volunteer emergency medical
2 technician who serves public safety through the ambulance service not otherwise covered by subsection (1)(g)
3 or the paid or volunteer nontransporting medical unit.

4 (b) In the event of an election under subsection (10)(a), the employer shall report payroll for all volunteer
5 emergency medical technicians for premium and weekly benefit purposes based on the number of volunteer
6 hours of each emergency medical technician, but no more than 60 hours, times the state's average weekly wage
7 divided by 40 hours.

8 (c) An ambulance service not otherwise covered by subsection (1)(g) or a paid or volunteer
9 nontransporting medical unit, as defined in 50-6-302, may make a separate election to provide benefits as
10 described in this subsection (10) to a member who is either a self-employed sole proprietor or partner who has
11 elected not to be covered under this chapter, but who is covered as a volunteer emergency medical technician
12 pursuant to subsection (10)(a). When injured in the course and scope of employment as a volunteer emergency
13 medical technician, a member may instead of the benefits described in subsection (10)(b) be eligible for benefits
14 at an assumed wage of the minimum wage established under Title 39, chapter 3, part 4, for 2,080 hours a year.
15 If the separate election is made as provided in this subsection (10), payroll information for those self-employed
16 sole proprietors or partners must be reported and premiums must be assessed on the assumed weekly wage.

17 (d) A volunteer emergency medical technician who receives workers' compensation coverage under this
18 section may not receive disability benefits under Title 19, chapter 17, if the individual is also eligible as a volunteer
19 firefighter.

20 (e) (i) The term "volunteer emergency medical technician" means a person who has received a certificate
21 issued by the board of medical examiners as provided in Title 50, chapter 6, part 2, and who serves the public
22 through an ambulance service not otherwise covered by subsection (1)(g) or a paid or volunteer nontransporting
23 medical unit, as defined in 50-6-302, in service to a town, city, or county.

24 (ii) The term does not include a volunteer emergency medical technician who serves an employer as
25 defined in 7-33-4510.

26 (f) The term "volunteer hours" means the time spent by a volunteer emergency medical technician in the
27 service of an employer or as a volunteer for a town, city, or county, including but not limited to training time,
28 response time, and time spent at the employer's premises."
29

30 **Section 3.** Section 40-4-215, MCA, is amended to read:

1 **"40-4-215. Investigations and reports.** (1) If a parent or a court-appointed third party requests, or if
2 the court finds that a parenting proceeding is contested, the court may order an investigation and report
3 concerning parenting arrangements for the child. The investigator may be the child's guardian ad litem or other
4 professional considered appropriate by the court. The department of public health and human services may not
5 be ordered to conduct the investigation or draft a report unless the person requesting the investigation is a
6 recipient of financial assistance, as defined in 53-4-201, or a participant in the food stamp program, ~~as defined~~
7 ~~in 53-2-902~~, and all reasonable options for payment of the investigation, if conducted by a person not employed
8 by the department, are exhausted. The department may consult with any investigator and share information
9 relevant to the child's best interests. The cost of the investigation and report must be paid according to the final
10 order. The cost of the educational evaluation under subsection (2)(a) must be paid by the state as provided in
11 3-5-901.

12 (2) The court shall determine, if appropriate, the level of evaluation necessary for adequate investigation
13 and preparation of the report, which may include one or more of the following:

- 14 (a) parenting education;
- 15 (b) mediation pursuant to 40-4-301;
- 16 (c) factfinding by the investigator; and
- 17 (d) psychological evaluation of the parties.

18 (3) In preparing a report concerning a child, the investigator may consult any person who has information
19 about the child and the child's potential parenting arrangements. Upon order of the court, the investigator may
20 refer the child to professional personnel for diagnosis. Except as required for children 16 years of age or older,
21 the investigator may consult with and obtain information from medical, psychiatric, or other expert persons who
22 have served the child in the past without obtaining the consent of the persons or entities authorized by law to
23 grant or withhold access to the records. The child's consent must be obtained if the child is 16 years of age or
24 older unless the court finds that the child lacks mental capacity to consent. If the requirements of subsection (4)
25 are fulfilled, the investigator's report may be received in evidence at the hearing.

26 (4) The investigator shall mail the investigator's report to counsel and to any party not represented by
27 counsel at least 10 days prior to the hearing. When consistent with state and federal law, the investigator shall
28 make available to counsel and to any party not represented by counsel the investigator's file of underlying data
29 and reports, complete texts of diagnostic reports made to the investigator pursuant to the provisions of subsection
30 (3), and the names and addresses of all persons whom the investigator has consulted. Any party to the

1 proceeding may call the investigator and any person the investigator has consulted for cross-examination. A party
 2 may not waive the right of cross-examination prior to the hearing. The results of the investigation must be included
 3 in the court record and may, without objection, be sealed."

4

5 **Section 4.** Section 53-2-901, MCA, is amended to read:

6 **"53-2-901. Administration of ~~food-stamp~~ supplemental nutrition assistance program or SNAP --**
 7 **rulemaking authority.** (1) The department is authorized to administer the ~~food-stamp~~ supplemental nutrition
 8 assistance program or SNAP in compliance with all federal laws and requirements.

9 (2) There is an account in the federal special revenue fund for federal funds received to provide SNAP
 10 benefits. The funds in the account are statutorily appropriated, as provided in 17-7-502, to the department for
 11 payment of SNAP benefits.

12 ~~(2)~~(3) The department shall adopt rules that are necessary and desirable for the administration of the
 13 ~~food-stamp~~ supplemental nutrition assistance program.

14 ~~(3)~~(4) The department shall adopt rules that may include but are not limited to rules concerning:

15 (a) eligibility for assistance, including income and resource limitations, income and resource exclusions,
 16 and transfers of resources;

17 (b) amounts of assistance and methods for determining benefit amount;

18 (c) periodic redetermination of eligibility;

19 (d) reporting requirements;

20 (e) work registration, employment, and training requirements and exemptions from those requirements;

21 (f) procedures and policies of the employment and training program;

22 (g) disqualification because of intentional program violations, for voluntarily quitting a job without good
 23 cause, or for any other violation of program rules; and

24 (h) penalties applicable to recipients of financial assistance who have been sanctioned because of failure
 25 to meet any requirement of that program.

26 ~~(4)~~(5) The department may adopt rules that include but are not limited to rules concerning:

27 (a) requirements for recipients to assign the right of support;

28 (b) requirements for recipients to cooperate with the state agency administering the child support
 29 enforcement program established under Title IV-D of the Social Security Act, 42 U.S.C. 651, et seq.; and

30 (c) disqualification for failure to perform actions required by other means-tested programs, for failure to

1 cooperate with the state agency administering the child support enforcement program under Title IV-D of the
 2 Social Security Act, 42 U.S.C. 651, et seq., or for failure to pay court-ordered child support as provided in sections
 3 819, 822, and 823 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, 7 U.S.C.
 4 2015."

5

6 **Section 5.** Section 53-2-902, MCA, is amended to read:

7 **"53-2-902. Definitions.** As used in this part, the following definitions apply:

8 (1) "Department" means the department of public health and human services provided in Title 2, chapter
 9 15, part 22.

10 (2) "Employment and training demonstration project" means the employment and training program for
 11 recipients of financial assistance who are participating in the FAIM project.

12 (3) "FAIM project" means the families achieving independence in Montana project, including the financial
 13 assistance part, a food stamp part administered pursuant to the Food Stamp Act of 1977, 7 U.S.C. 2026, and a
 14 medicaid part administered pursuant to the Social Security Act, 42 U.S.C. 1315.

15 (4) (a) "Financial assistance" means the programs funded, in part, with temporary assistance for needy
 16 families, as provided in 45 CFR 260.31(a).

17 (b) The term does not include nonfinancial assistance.

18 ~~(5) "Food stamp program" means the provision of food stamp benefits that can be used to purchase food~~
 19 ~~to low-income persons pursuant to the Food Stamp Act Amendments of 1980, 7 U.S.C. 2011, et seq.~~

20 ~~(6)(5)~~ "Nonfinancial assistance" means the programs funded, in part, with temporary assistance for
 21 needy families, as provided in 45 CFR 260.31(b).

22 (6) "Supplemental nutrition assistance program" or "SNAP" means the program to alleviate hunger and
 23 malnutrition established pursuant to 7 U.S.C. 2011, et seq.

24 (7) "Temporary assistance for needy families" means the block grant established pursuant to 42 U.S.C.
 25 601, et seq."

26

27 **Section 6.** Section 53-2-903, MCA, is amended to read:

28 **"53-2-903. Employment and training program.** The department shall establish and administer an
 29 employment and training program for ~~food stamp~~ supplemental nutrition assistance program recipients that is in
 30 compliance with federal requirements. For purposes of the FAIM project, in accordance with waivers of federal

1 law that are granted by the food and consumer service of the U.S. department of agriculture, the department may
2 merge its ~~food stamp~~ supplemental nutrition assistance program employment and training program with its
3 financial assistance employment and training program or may modify the rules and requirements of the ~~food~~
4 ~~stamp~~ supplemental nutrition assistance program employment and training program as necessary to make them
5 consistent with those of the employment and training demonstration project."

6

7 NEW SECTION. **Section 7. Effective date.** [This act] is effective July 1, 2015.

8

- END -