

HOUSE BILL 257

Introduced by Gilbert

1/18	Introduced
1/18	Referred to State Administration
1/18	Fiscal Note Requested
1/18	First Reading
1/24	Fiscal Note Received
1/25	Fiscal Note Printed
1/30	Hearing
1/31	Committee Report--Bill Passed as Amended
2/02	2nd Reading Passed
2/02	Taken From Engrossing and Rereferred to Appropriations
3/11	Hearing Died in Committee

1 House BILL NO. 257
 2 INTRODUCED BY Esilbert

3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING A LUMP-SUM
 5 DEATH BENEFIT FOR PUBLIC SAFETY OFFICERS KILLED IN THE LINE
 6 OF DUTY; PROVIDING FOR A STATUTORY APPROPRIATION FROM THE
 7 GENERAL FUND FOR THE PROGRAM; PROVIDING THAT THE DEPARTMENT
 8 OF ADMINISTRATION ADMINISTER THE FUND; PROVIDING A PENALTY
 9 FOR FRAUD; AMENDING SECTION 17-7-502, MCA; AND PROVIDING AN
 10 EFFECTIVE DATE."
 11

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

13 NEW SECTION. Section 1. Short title. [Sections 1
 14 through 8] shall be known and may be cited as the "Public
 15 Safety Officers' Death Benefit Act".

16 NEW SECTION. Section 2. Purpose and intent. (1) It is
 17 the intent of the legislature to recognize and honor those
 18 public employees who because of their dedication to their
 19 duties and responsibilities to protect the public safety
 20 often must place themselves in life-threatening situations.

21 (2) It is further the intent of the legislature that
 22 the state provide to the beneficiaries of public safety
 23 officers killed in the line of duty a \$25,000 lump-sum
 24 payment that is in addition to whatever other compensation
 25 may be due from any other source.

1 (3) In order to achieve this purpose, [sections 1
 2 through 8] provide:

3 (a) an account for public safety officers killed in the
 4 line of duty, to be administered by the department;

5 (b) a statutory appropriation from the state general
 6 fund to the account; and

7 (c) guidelines, powers, and responsibilities for the
 8 general administration of the program and for payments from
 9 the account.

10 (4) It is not the intent of the legislature that the
 11 benefit provided in [sections 1 through 8] replace or modify
 12 prior compensation law or death benefits provided in an
 13 employee's retirement plan.

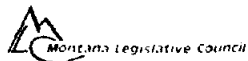
14 NEW SECTION. Section 3. Definitions. As used in
 15 [sections 1 through 8], the following definitions apply:

16 (1) "Department" means the department of administration
 17 provided for in 2-15-1001.

18 (2) (a) "Killed in the line of duty" means death caused
 19 as a direct result of an incident occurring while a public
 20 safety officer is performing his duties.

21 (b) The term does not include death resulting from an
 22 occupational disease or sickness.

23 (3) "Public safety officer" means a public employee
 24 who, in the execution of the duties and responsibilities of
 25 employment, provides emergency services that may place the



1 individual in life-threatening situations. The employee must
2 be actively employed as:

- 3 (a) a sheriff as defined in 19-7-101;
- 4 (b) a law enforcement officer employed by an
5 incorporated city or town as a police officer and as
6 provided for in Title 7, chapter 32, part 41;
- 7 (c) a highway patrol officer as provided for in Title
8 44, chapter 1, part 4;
- 9 (d) a state game warden as defined in 19-8-101;
- 10 (e) an emergency medical technician--basic or an
11 emergency medical technician--advanced as defined in
12 50-6-202; or
- 13 (f) a firefighter as provided for in 7-33-4106, a
14 volunteer firefighter enrolled as an active member of a fire
15 company as described in 19-12-501, or a member of a
16 firefighter association as described in 19-11-102.

17 NEW SECTION. **Section 4.** Payment of benefit --
18 designation of beneficiary. (1) Upon receipt of a written
19 application filed with the department by a designated
20 beneficiary under the provisions of this section, the
21 department shall grant to the designated beneficiary of a
22 public safety officer killed in the line of duty a one-time
23 lump-sum benefit of \$25,000 from the appropriation
24 established in [section 8].

25 (2) The beneficiary of a public safety officer must be

1 a natural person designated by the officer as beneficiary in
2 an appropriate document. An officer may revoke a designation
3 and name different beneficiaries by filing written notice
4 with the department.

5 (3) If a beneficiary is not designated or is not
6 living, the estate of the officer is the beneficiary. If the
7 estate would not be probated but for the amount due from the
8 appropriation established in [section 8], the \$25,000 must
9 be paid directly, without probate, to the surviving next of
10 kin of the deceased or the guardians of the survivor's
11 estate, share and share alike.

12 (4) Payment under subsection (3) must be made in the
13 same order in which the following groups are listed:

- 14 (a) husband or wife;
- 15 (b) children;
- 16 (c) father and mother;
- 17 (d) grandchildren;
- 18 (e) brothers and sisters; or
- 19 (f) nieces and nephews.

20 (5) A payment may not be made to persons included in a
21 group if on the date of payment there are living persons in
22 any of the groups preceding it, as listed in subsection (4).
23 Payment must be made to a claimant upon receipt of an
24 affidavit made on a form supplied by the department and
25 stating that there are no living individuals in the groups

1 preceding the claimant and that the estate of the deceased
2 will not be probated.

3 (6) If the benefit is payable to a minor, the benefit
4 must be paid to one of the following:

5 (a) a surviving parent, if any;

6 (b) a parent awarded custody of the minor in a divorce
7 proceeding;

8 (c) a custodian designated under Title 72, chapter 26;

9 (d) a guardian appointed pursuant to Title 72, chapter
10 5, part 2; or

11 (e) a conservator appointed pursuant to Title 72,
12 chapter 5, part 4.

13 (7) The person receiving the benefit for a minor shall
14 account to the minor for the money when the minor reaches
15 the age of majority.

16 (8) The payment is a full and complete discharge and
17 acquittance of the department and the benefit payment under
18 [section 4].

19 NEW SECTION. Section 5. General administration. (1)
20 The department shall administer the provisions of [sections
21 1 through 8].

22 (2) Consistent with the purpose and intent outlined in
23 [section 2], the department's powers and responsibilities
24 include:

25 (a) administering, interpreting, and enforcing the

1 provisions of [sections 1 through 8];

2 (b) establishing uniform rules to administer the
3 provisions of [sections 1 through 8]; and

4 (c) determining the conditions under which the
5 survivors of public safety officers killed in the line of
6 duty may become eligible for the benefit provided in
7 [sections 1 through 8].

8 NEW SECTION. Section 6. Administrative expenses. The
9 department may submit to the treasurer a claim for the
10 expenses of administering the provisions of [sections 1
11 through 8] and may be paid from the appropriation
12 established in [section 8].

13 NEW SECTION. Section 7. Penalty for fraud. A person
14 who knowingly makes a false statement or who falsifies or
15 permits to be falsified any record pursuant to the
16 survivorship benefit established in [sections 1 through 8]
17 in an attempt to defraud the state is guilty of a
18 misdemeanor and is punishable as provided by law.

19 NEW SECTION. Section 8. Statutory appropriation for
20 survivor's benefits. Up to \$500,000 each year is statutorily
21 appropriated, as provided in 17-7-502, from the state
22 general fund to make benefit payments provided for in
23 [section 4] and to pay the expenses provided for in [section
24 6].

25 **Section 9.** Section 17-7-502, MCA, is amended to read:

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

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

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

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

14 (3) The following laws are the only laws containing
 15 statutory appropriations: 2-9-202; 2-17-105; 2-18-812;
 16 10-3-203; 10-3-312; 10-3-314; 10-4-301; 13-37-304; 15-1-111;
 17 15-25-123; 15-31-702; 15-36-112; 15-37-117; 15-65-121;
 18 15-70-101; 16-1-404; 16-1-410; 16-1-411; 17-3-212; 17-5-404;
 19 17-5-424; 17-5-804; 19-8-504; 19-9-702; 19-9-1007;
 20 19-10-205; 19-10-305; 19-10-506; 19-11-512; 19-11-513;
 21 19-11-606; 19-12-301; 19-13-604; [section 8]; 20-6-406;
 22 20-8-111; 20-9-361; 23-5-306; 23-5-409; 23-5-610; 23-5-612;
 23 23-5-1016; 23-5-1027; 27-12-206; 37-51-501; 39-71-2504;
 24 53-6-150; 53-24-206; 61-2-406; 61-5-121; 67-3-205;
 25 75-1-1101; 75-5-1108; 75-11-313; 76-12-123; 80-2-103;

1 82-11-136; 82-11-161; 90-3-301; 90-4-215; 90-4-613;
 2 90-6-331; 90-9-306; and section 13, House Bill No. 861, Laws
 3 of 1985.

4 (4) There is a statutory appropriation to pay the
 5 principal, interest, premiums, and costs of issuing, paying,
 6 and securing all bonds, notes, or other obligations, as due,
 7 that have been authorized and issued pursuant to the laws of
 8 Montana. Agencies that have entered into agreements
 9 authorized by the laws of Montana to pay the state
 10 treasurer, for deposit in accordance with 17-2-101 through
 11 17-2-107, as determined by the state treasurer, an amount
 12 sufficient to pay the principal and interest as due on the
 13 bonds or notes have statutory appropriation authority for
 14 such payments. (In subsection (3), pursuant to sec. 10, Ch.
 15 664, L. 1987, the inclusion of 39-71-2504 terminates June
 16 30, 1991.)"

17 NEW SECTION. **Section 10.** Effective date. [This act] is
 18 effective July 1, 1991.

-End-

STATE OF MONTANA - FISCAL NOTE
Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0257, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:


An act providing a lump-sum death benefit for public safety officers killed in the line of duty; providing for a statutory appropriation from the general fund for the program; providing that the Department of Administration administer the fund; providing a penalty for fraud; amending section 17-7-502, MCA; and providing an effective date.


ASSUMPTIONS:

1. Employers include counties, cities, municipalities, fire districts, and ambulance services (hospital and private).
2. Employers will determine eligibility, collect information about beneficiary designations, certify claims and provide general information to employees.
3. Based on records of prior years, approximately one death per year would require the proposed lump-sum payment.
4. Department of Administration will maintain files of beneficiary designations of approximately 3,000 eligible employees. The department will verify and pay claims.
5. Department of Administration will draft, issue and interpret the administrative rules and regulations for the program. The department will print and distribute program forms and information for distribution among employers and employees.
6. The department will absorb the additional workload of approximately 484 hours per year or may contract for assistance if necessary.

FISCAL IMPACT:

	FY 92			FY 93		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
<u>Expenditures:</u>						
Operating Costs	0	9,091	9,091	0	9,091	9,091
Benefits and Claims	<u>0</u>	<u>25,000</u>	<u>25,000</u>	<u>0</u>	<u>25,000</u>	<u>25,000</u>
Total	0	34,091	34,091	0	34,091	34,091
<u>Funding:</u>						
General Fund	0	34,091	34,091	0	34,091	34,091


ROD SUNDSTED, BUDGET DIRECTOR
Office of Budget and Program Planning
DATE 1-23-91


ROBERT "BOB" GILBERT, PRIMARY SPONSOR
DATE 1-25-91

Fiscal Note for HB0257, as introduced.

HB 257

APPROVED BY COMMITTEE
ON STATE ADMINISTRATION

1 HOUSE BILL NO. 257

2 INTRODUCED BY GILBERT

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING A LUMP-SUM
5 DEATH BENEFIT FOR PUBLIC SAFETY OFFICERS KILLED IN THE LINE
6 OF DUTY; PROVIDING FOR A STATUTORY APPROPRIATION FROM THE
7 GENERAL FUND FOR THE PROGRAM; PROVIDING THAT THE DEPARTMENT
8 OF ADMINISTRATION BOARD OF CRIME CONTROL ADMINISTER THE
9 FUND; PROVIDING A PENALTY FOR FRAUD; AMENDING SECTION
10 17-7-502, MCA; AND PROVIDING AN EFFECTIVE DATE."

11
12 STATEMENT OF INTENT

13 A STATEMENT OF INTENT IS REQUIRED FOR THIS BILL BECAUSE
14 [SECTION 5] GRANTS TO THE BOARD OF CRIME CONTROL AUTHORITY
15 TO ADOPT RULES NECESSARY TO IMPLEMENT THE PROVISIONS OF THIS
16 BILL. IT IS THE INTENT OF THE LEGISLATURE THAT THE RULES
17 PROMULGATED BY THE BOARD INCLUDE, AT A MINIMUM, THE
18 DEVELOPMENT AND IMPLEMENTATION OF:

19 (1) AN INFORMATION CAMPAIGN TO PUBLIC SAFETY OFFICERS
20 THAT THE PURPOSE OF THE \$25,000 AWARD PROVIDED BY THE BILL
21 IS TO RECOGNIZE AND HONOR PUBLIC SAFETY PERSONNEL KILLED IN
22 THE LINE OF DUTY;

23 (2) A SIMPLE AND EXPEDITIOUS PROCEDURE FOR
24 BENEFICIARIES TO COLLECT THE AWARD, INCLUDING A
25 STRAIGHTFORWARD AND SIMPLE APPLICATION PROCESS;

1 (3) AN AWARENESS EFFORT, TO BE CONDUCTED BY THE BOARD,
2 INFORMING PUBLIC SAFETY OFFICERS OF THE PROGRAM;

3 (4) A PROCEDURE FOR ASSISTING BENEFICIARIES IN THE
4 APPLICATION AND PAYMENT PROCESS; AND

5 (5) SUCH OTHER RULES AS MAY BE NECESSARY TO IMPLEMENT
6 THE PROVISIONS OF THE BILL.

7
8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

9 NEW SECTION. Section 1. Short title. [Sections 1
10 through 8 7] shall be known and may be cited as the "Public
11 Safety Officers' Death Benefit Act".

12 NEW SECTION. Section 2. Purpose and intent. (1) It is
13 the intent of the legislature to recognize and honor those
14 public-employees PERSONS who because of their dedication to
15 their duties and responsibilities to protect the public
16 safety often must place themselves in life-threatening
17 situations.

18 (2) It is further the intent of the legislature that
19 the state provide to the beneficiaries of public safety
20 officers killed in the line of duty a \$25,000 lump-sum
21 payment that is in addition to whatever other compensation
22 may be due from any other source.

23 (3) In order to achieve this purpose, [sections 1
24 through 8 7] provide:

25 (a) an account for public safety officers killed in the

SECOND READING

1 line of duty, to be administered by the department BOARD;

2 (b) a statutory appropriation from the state general
3 fund to the account; and

4 (c) guidelines, powers, and responsibilities for the
5 general administration of the program and for payments from
6 the account.

7 (4) It is not the intent of the legislature that the
8 benefit provided in [sections 1 through 8 7] replace or
9 modify prior compensation law or death benefits provided in
10 an employee's retirement plan.

11 NEW SECTION. Section 3. Definitions. As used in
12 [sections 1 through 8 7], the following definitions apply:

13 (1) ~~"Department"-means-the-department-of-administration~~
14 ~~provided-for-in-2-15-1001~~ "BOARD" MEANS THE BOARD OF CRIME
15 CONTROL AS PROVIDED IN 2-15-2006.

16 (2) (a) "Killed in the line of duty" means death caused
17 as a direct result of an incident occurring while a public
18 safety officer is performing his duties.

19 (b) The term does not include death resulting from an
20 occupational disease or sickness.

21 (3) "Public safety officer" means a ~~public-employee~~
22 PERSON who, in the execution of the duties and
23 responsibilities of employment OR AS A VOLUNTEER, provides
24 CRIMINAL INVESTIGATION OR emergency services that may place
25 the individual in life-threatening situations. The employee

1 must be actively employed as:

2 (a) a sheriff as defined in 19-7-101;

3 (b) a law enforcement officer employed by an
4 incorporated city or town as a police officer and as
5 provided for in Title 7, chapter 32, part 41;

6 (c) a highway patrol officer as provided for in Title
7 44, chapter 1, part 4;

8 (d) a state game warden as defined in 19-8-101;

9 (e) an ~~emergency--medical--technician--basic--or--an~~
10 ~~emergency--medical--technician--advanced---as---defined---in~~
11 50-6-2027--or EMPLOYEE OF OR A VOLUNTEER FOR AN EMERGENCY
12 MEDICAL SERVICE, PUBLIC OR NONPROFIT, LICENSED BY THE
13 DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES UNDER
14 50-6-306;

15 (f) a firefighter as provided for in 7-33-4106, a
16 volunteer firefighter enrolled as an active member of a fire
17 company as described in 19-12-501, or a member of a
18 firefighter association as described in 19-11-102; OR

19 (G) AN AGENT, AS DEFINED IN 44-2-111, OF THE DEPARTMENT
20 OF JUSTICE, EXCEPT AN AGENT ASSIGNED TO INVESTIGATE GAMBLING
21 ACTIVITIES IN THIS STATE AS PROVIDED IN 23-5-113.

22 NEW SECTION. Section 4. Payment of benefit --
23 designation of beneficiary. (1) Upon receipt of a written
24 application filed with the department BOARD by a designated
25 beneficiary under the provisions of this section, the

1 department BOARD shall grant to the designated beneficiary
 2 of a public safety officer killed in the line of duty a
 3 one-time lump-sum benefit of \$25,000 from the appropriation
 4 established in [section 8 7].

5 (2) The beneficiary of a public safety officer must be
 6 a natural person designated by the officer as beneficiary in
 7 an appropriate document. An officer may revoke a designation
 8 and name different beneficiaries by filing written notice
 9 with the department.

10 (3) If a beneficiary is not designated or is not
 11 living, the estate of the officer is the beneficiary. If the
 12 estate would not be probated but for the amount due from the
 13 appropriation established in [section 8 7], the \$25,000 must
 14 be paid directly, without probate, to the surviving next of
 15 kin of the deceased or the guardians of the survivor's
 16 estate, share and share alike.

17 (4) Payment under subsection (3) must be made in the
 18 same order in which the following groups are listed:

- 19 (a) husband or wife;
 - 20 (b) children;
 - 21 (c) father and mother;
 - 22 (d) grandchildren;
 - 23 (e) brothers and sisters; or
 - 24 (f) nieces and nephews.
- 25 (5) A payment may not be made to persons included in a

1 group if on the date of payment there are living persons in
 2 any of the groups preceding it, as listed in subsection (4).
 3 Payment must be made to a claimant upon receipt of an
 4 affidavit made on a form supplied by the department BOARD
 5 and stating that there are no living individuals in the
 6 groups preceding the claimant and that the estate of the
 7 deceased will not be probated.

8 (6) If the benefit is payable to a minor, the benefit
 9 must be paid to one of the following:

- 10 (a) a surviving parent, if any;
- 11 (b) a parent awarded custody of the minor in a divorce
 12 proceeding;
- 13 (c) a custodian designated under Title 72, chapter 26;
- 14 (d) a guardian appointed pursuant to Title 72, chapter
 15 5, part 2; or
- 16 (e) a conservator appointed pursuant to Title 72,
 17 chapter 5, part 4.

18 (7) The person receiving the benefit for a minor shall
 19 account to the minor for the money when the minor reaches
 20 the age of majority.

21 (8) The payment is a full and complete discharge and
 22 acquittance of the department BOARD and the benefit payment
 23 under {section-4} THIS SECTION.

24 NEW SECTION. Section 5. General administration. (1)
 25 The department BO RD shall administer the provisions of

1 [sections 1 through 8 7].

2 (2) Consistent with the purpose and intent outlined in
3 [section 2], the department's BOARD'S powers and
4 responsibilities include:

5 (a) administering, interpreting, and enforcing the
6 provisions of [sections 1 through 8 7];

7 (b) establishing uniform rules to administer the
8 provisions of [sections 1 through 8 7]; and

9 (c) determining the conditions under which the
10 survivors of public safety officers killed in the line of
11 duty may become eligible for the benefit provided in
12 [sections 1 through 8 7].

13 ~~NEW SECTION. Section 6. Administrative expenses. The~~
14 ~~department may submit to the treasurer a claim for the~~
15 ~~expenses of administering the provisions of [sections 1~~
16 ~~through 8] and may be paid from the appropriation~~
17 ~~established in [section 8].~~

18 NEW SECTION. Section 6. Penalty for fraud. A person
19 who knowingly makes a false statement or who falsifies or
20 permits to be falsified any record pursuant to the
21 survivorship benefit established in [sections 1 through 8 7]
22 in an attempt to defraud the state is guilty of a
23 misdemeanor and is punishable as provided by law.

24 NEW SECTION. Section 7. Statutory appropriation for
25 survivor's benefits. Up to \$500,000 each year is statutorily

1 appropriated, as provided in 17-7-502, from the state
2 general fund to make benefit payments provided for in
3 [section 4] ~~and to pay the expenses provided for in [section~~
4 ~~6].~~

5 **Section 8.** Section 17-7-502, MCA, is amended to read:

6 "17-7-502. Statutory appropriations -- definition --
7 requisites for validity. (1) A statutory appropriation is an
8 appropriation made by permanent law that authorizes spending
9 by a state agency without the need for a biennial
10 legislative appropriation or budget amendment.

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

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

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

19 (3) The following laws are the only laws containing
20 statutory appropriations: 2-9-202; 2-17-105; 2-18-812;
21 10-3-203; 10-3-312; 10-3-314; 10-4-301; 13-37-304; 15-1-111;
22 15-25-123; 15-31-702; 15-36-112; 15-37-117; 15-65-121;
23 15-70-101; 16-1-404; 16-1-410; 16-1-411; 17-3-212; 17-5-404;
24 17-5-424; 17-5-804; 19-8-504; 19-9-702; 19-9-1007;
25 19-10-205; 19-10-305; 19-10-506; 19-11-512; 19-11-513;

1 19-11-606; 19-12-301; 19-13-604; [section 8 7]; 20-6-406;
 2 20-8-111; 20-9-361; 23-5-306; 23-5-409; 23-5-610; 23-5-612;
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 7 90-6-331; 90-9-306; and section 13, House Bill No. 861, Laws
 8 of 1985.

9 (4) There is a statutory appropriation to pay the
 10 principal, interest, premiums, and costs of issuing, paying,
 11 and securing all bonds, notes, or other obligations, as due,
 12 that have been authorized and issued pursuant to the laws of
 13 Montana. Agencies that have entered into agreements
 14 authorized by the laws of Montana to pay the state
 15 treasurer, for deposit in accordance with 17-2-101 through
 16 17-2-107, as determined by the state treasurer, an amount
 17 sufficient to pay the principal and interest as due on the
 18 bonds or notes have statutory appropriation authority for
 19 such payments. (In subsection (3), pursuant to sec. 10, Ch.
 20 664, L. 1987, the inclusion of 39-71-2504 terminates June
 21 30, 1991.)"

22 NEW SECTION. **Section 9.** Effective date. [This act] is
 23 effective July 1, 1991.

-End-