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As of: June 8, 2004 (9:12am)

LC3000

**** Bill No. ****

Introduced By *****

By Request of the *****

A Bill for an Act entitled: "An Act providing for an increase in the base salary for the number of highway patrol officer positions existing on March 1, 2006; providing for biennial salary increases after that date; providing for an increase in the base salary for new highway patrol officer positions created after that date; providing a funding mechanism for the increases; providing for a statutory appropriation; amending sections 2-18-303 and 17-7-502, MCA; providing an effective date; and providing applicability dates and a retroactive applicability date."

WHEREAS, it is in the best interests of the citizens of Montana to travel safely on the streets and highways of Montana; and

WHEREAS, the legislature created the Montana Highway Patrol to protect and serve the people of Montana and to ensure their safety when traveling on Montana's roadways; and

WHEREAS, the population of the State of Montana has increased by 223,412 persons (32%) in the past 30 years; and

WHEREAS, the total number of vehicles registered in the State of Montana has increased from 668,717 to 1,059,565 (53%) in the past 30 years; and

WHEREAS, economic loss to the citizens of the State of Montana associated with motor vehicle crashes increased from

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106.6 million dollars in 1973 to 780 million dollars in 2003 (732%); and

WHEREAS, the Montana Highway Patrol is at the same 206 uniformed officers staffing level as 30 years ago, despite an increase of five billion highway miles per year driven over that same period and despite being given additional statutory law enforcement obligations; and

WHEREAS, the standing House and Senate State Administration Committees of the 58th Legislature, recognizing the unique nature of law enforcement services and the importance of retaining qualified law enforcement personnel, directed the Montana Attorney General to report to the State Administration and Veterans' Affairs Interim Committee on recruitment and retention efforts, to conduct a salary survey, and to develop draft legislation to implement recommendations; and

WHEREAS, in addition to the salary survey conducted by the Attorney General, the Montana Legislative Audit Division conducted a separate salary survey of the sheriff departments in the eight counties where the Montana Highway Patrol district offices are located, including the headquarters in Helena; and

WHEREAS, an entry-level officer for the Montana Highway Patrol is paid \$4.19 per hour (\$8,715 per year) less than the average entry-level officer in those eight county sheriff's departments; and

WHEREAS, the Montana Highway Patrol continues to lose officers to other law enforcement agencies after absorbing the cost of training those officers, which places additional

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hardships on the patrol; and

WHEREAS, in the past ten years, 55 of the 89 officers (61.8%) that left the Montana Highway Patrol for non-retirement purposes went to other law enforcement agencies for higher salaries; and

WHEREAS, Montana Highway Patrol officer positions have been placed into the alternative pay and classification plan, which allows market-based salary survey adjustments, to recruit and retain officers; and

WHEREAS, market-based salary information from county sheriff departments, which are recruiting and hiring Montana Highway Patrol officers because of higher salaries, is readily available to establish market-based salary rates to compensate Montana Highway Patrol officers and reduce attrition in these positions; and

WHEREAS, this act is intended to allow the Montana Highway Patrol to be in a position to hire, train, and retain competent officers to ensure that Montana roadways are kept safe for all travelers.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 2-18-303, MCA, is amended to read:

"2-18-303. Procedures for using pay schedules. (1) The pay schedule provided in 2-18-312 must be implemented as follows:

(a) The pay schedule provided in 2-18-312 indicates the entry salary and market salary for each grade for positions classified

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under the provisions of part 2 of this chapter.

(b) Each employee newly hired by the state of Montana must be hired at the entry rate, except as provided in subsections (6) through ~~(9)~~ (10).

(c) On the first day of the first complete pay period in fiscal year 2004, each employee is entitled to the amount of the employee's base salary as it was on June 30, 2003.

(d) Effective on the first day of the first complete pay period that includes January 1, 2005, the base salary of each employee must be increased by an amount equal to 25 cents an hour or by a lesser amount so that the employee's base salary after the increase does not exceed the maximum salary of the pay grade as provided in subsection (1)(f).

(e) An employee's base salary may be no less than the entry salary for the employee's assigned grade.

(f) The maximum salary for each grade is determined by subtracting the entry salary from the market salary and adding that amount to the market salary.

(2) The pay schedule provided in 2-18-312 and the provisions of subsection (1) of this section do not apply to those teachers or blue-collar occupations compensated under the pay schedules provided in 2-18-313 and 2-18-315.

(3) The pay schedules provided in 2-18-313 and 2-18-315 must be implemented as follows:

(a) (i) The pay schedules provided for in 2-18-313 indicate the annual compensation for teachers employed under the authority of the department of corrections or the department of

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public health and human services for fiscal years 2004 and 2005.

(ii) The compensation of each teacher on July 1, 2003, is the same as it was on June 30, 2003.

(iii) Effective on the first day of the first complete pay period that includes January 1, 2005, the base salary of each teacher employed in the department of public health and human services and the department of corrections is the amount provided for the teacher's step and education level under 2-18-313(2). This subsection (3)(a)(iii) does not provide for a step advancement.

(b) The pay schedules provided in 2-18-315 indicate the maximum hourly compensation for fiscal years ending June 30, 2004, and June 30, 2005, for employees in apprentice trades and crafts and other blue-collar occupations recognized in the state blue-collar classification plan who are members of units that have collectively bargained separate classification and pay plans.

(c) The compensation of each employee on the first day of the first pay period in each fiscal year is that amount corresponding to the grade occupied on the last day of the preceding fiscal year.

(4) (a) (i) If the legislature authorizes a pay increase for state employees, a member of a bargaining unit may not receive a pay increase until the employer's collective bargaining representative receives written notice that the employee's bargaining unit has ratified a completely integrated collective bargaining agreement.

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(ii) If ratification of a completely integrated collective bargaining agreement, as required by subsection (4)(a)(i), is not completed by the date on which a legislatively authorized pay increase is implemented, retroactivity to that date may be negotiated.

(iii) If ratification of a completely integrated collective bargaining agreement, as required by subsection (4)(a)(i), is not completed by the date on which a legislatively authorized pay increase is implemented, members of the bargaining unit must continue to receive the compensation that they were receiving until an agreement is ratified.

(b) Methods of administration not inconsistent with the purpose of this part and necessary to properly implement the pay schedules and adjustments provided in 2-18-312, 2-18-313, 2-18-315, and this section may be provided for in collective bargaining agreements.

(5) The current wage or salary of an employee may not be reduced by the implementation of the pay schedules provided for in 2-18-312, 2-18-313, and 2-18-315.

(6) The department may authorize a separate pay schedule for classes of medical professionals if the rates provided in 2-18-312 are not sufficient to attract and retain fully licensed and qualified professionals.

(7) (a) The department may develop and implement an alternative pay and classification plan for certain classes, occupations, and work units. Pay for employees in the alternative pay and classification plan may be established and changed based

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on demonstrated competencies and accomplishments, on the labor market, and on other situations defined by the department.

(b) To the extent that the plan applies to employees within a collective bargaining unit, the implementation of the plan is a negotiable subject under 39-31-305.

(8) The department may develop programs that enable the department to mitigate problems associated with difficult recruitment, retention, transfer, or other exceptional circumstances. To the extent that the program applies to employees within a collective bargaining unit, it is a negotiable subject under 39-31-305.

(9) The department shall review the competitiveness of the compensation provided to all occupations under this part. If the department finds that substantial problems exist with recruitment and retention because of inadequate salaries when compared to competing employers, the department may establish criteria allowing an adjustment in pay or classification to mitigate the problems. To the extent that these adjustments apply to employees within a collective bargaining unit, the implementation of these adjustments is a negotiable subject under 39-31-305.

(10) (a) Montana highway patrol officer base salaries and biennial salary increases must be established through an alternative pay and classification plan. Before June 30 of each odd-numbered year, the department shall, after seeking the advice of the Montana highway patrol, conduct a salary survey to be used in establishing the base salary and a biennial salary increase for existing and entry-level highway patrol officer positions.

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The county sheriff departments in the following consolidated governments and counties are the labor market for purposes of the survey: Butte-Silver Bow, Cascade, Yellowstone, Missoula, Lewis and Clark, Gallatin, Flathead, and Dawson. The base salary and biennial salary increases for existing and entry-level highway patrol officer positions must then be determined by the department of justice using the results of the salary survey and the department of justice pay plan guidelines.

(b) To the extent that the plan applies to employees within a collective bargaining unit, the implementation of the plan is a negotiable subject under 39-31-305.

(c) The salary survey must be submitted to the office of budget and program planning as a part of the information required by 17-7-111."

{ Internal References to 2-18-303: x
2-18-301 2-18-304 15-2-102 }

Section 2. 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: 2-15-151; 2-17-105; [section 3] 5-13-403; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-4-301; 15-1-111; 15-1-113; 15-1-121; 15-23-706; 15-35-108; 15-36-332; 15-37-117; 15-38-202; 15-65-121; 15-70-101; 16-11-404; 17-3-106; 17-3-212; 17-3-222; 17-3-241; 17-6-101; 17-7-304; 18-11-112; 19-3-319; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506; 19-20-604; 20-8-107; 20-9-534; 20-9-622; 20-26-1503; 22-3-1004; 23-5-306; 23-5-409; 23-5-612; 23-5-631; 23-7-301; 23-7-402; 37-43-204; 37-51-501; 39-71-503; 42-2-105; 44-12-206; 44-13-102; 50-4-623; 53-1-109; 53-6-703; 53-24-108; 53-24-206; 61-3-415; 69-3-870; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 77-2-362; 80-2-222; 80-4-416; 80-5-510; 80-11-518; 82-11-161; 87-1-513; 90-3-1003; 90-6-710; and 90-9-306.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation

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authority for the payments. (In subsection (3): pursuant to Ch. 422, L. 1997, the inclusion of 15-1-111 terminates on July 1, 2008, which is the date that section is repealed; pursuant to sec. 10, Ch. 360, L. 1999, the inclusion of 19-20-604 terminates when the amortization period for the teachers' retirement system's unfunded liability is 10 years or less; pursuant to sec. 4, Ch. 497, L. 1999, the inclusion of 15-38-202 terminates July 1, 2014; pursuant to sec. 10(2), Ch. 10, Sp. L. May 2000, and secs. 2 and 5, Ch. 481, L. 2003, the inclusion of 90-6-710 terminates June 30, 2005; pursuant to sec. 10(2), Ch. 10, Sp. L. May 2000, and secs. 3 and 6, Ch. 481, L. 2003, the inclusion of 15-35-108 terminates June 30, 2010; and pursuant to sec. 135, Ch. 114, L. 2003, the inclusion of 2-15-151 terminates June 30, 2005.)"

{ *Internal References to 17-7-502: x*

2-15-151	2-17-105	5-13-403	10-3-203
10-3-310	10-3-312	10-3-312	10-3-314
10-4-301	15-1-111	15-1-113	15-1-121
15-23-706	15-35-108	15-35-108	15-36-332
15-37-117	15-38-202	15-38-202	15-65-121
15-65-121	15-70-101	16-11-404	17-1-508
17-3-106	17-3-212	17-3-222	17-3-241
17-6-101	17-7-304	17-7-501	18-11-112
19-3-319	19-9-702	19-13-604	19-17-301
19-18-512	19-19-305	19-19-506	19-20-604
20-8-107	20-9-534	20-9-622	20-26-1503
22-3-1004	23-5-306	23-5-409	23-5-612
23-5-631	23-7-301	23-7-402	37-43-204
37-51-501	39-71-503	42-2-105	44-12-206
44-13-102	50-4-623	53-1-109	53-6-703
53-24-108	53-24-108	53-24-206	61-3-415
69-3-870	75-1-1101	75-5-1108	75-6-214
75-10-622	75-11-313	77-2-362	80-2-222
80-4-416	80-5-510	80-11-518	82-11-161
87-1-513	90-3-1003	90-6-710	90-9-306 }

NEW SECTION. Section 3. Motor vehicle insurance policy fee

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to partially fund highway patrol officer salaries. (1) Upon issuing or renewing a motor vehicle policy covering one or more motor vehicles licensed in this state, the insurer shall pay to the department of administration a fee of \$5 for each motor vehicle covered by the policy, except that after \$10 in fees have been paid on a motor vehicle in a 12-month period it is no longer subject to the fee. The insurer shall, on or before July 30 of each year, pay to the department the fees collected between January 1 and June 30, and on or before February 1 of each year pay to the department the fees collected between July 1 and December 31.

(2) There is an account in the state special revenue fund. The department of administration must deposit in the account the fees paid to the department under subsection (1). The money in the account is statutorily appropriated, as provided in 17-7-502, to the department of justice to fund, as provided in 2-18-303(10) and to the extent that money in the fund is available, an increase in the base salary for the number of sworn highway patrol officer positions existing on March 1, 2006, biennial salary increases after that date for sworn highway patrol officers, and the base salary for new sworn highway patrol officer positions created after that date.

NEW SECTION. Section 4. Montana highway patrol exempted from vacancy savings. (1) Vacancy savings may not be imposed on authorized positions in the Montana highway patrol.

(2) For purposes of this section:

(a) "Authorized positions" means the authorized positions included in the list of current authorized positions that the Montana highway patrol is required to maintain under 2-18-206; and

(b) "Vacancy savings" means the difference between the cost of fully funding authorized positions for an entire fiscal year and the actual cost of those positions during that period.

NEW SECTION. **Section 5. {standard} Codification**

instruction. (1) [Section 3] is intended to be codified as an integral part of Title 33, chapter 23, part 2, and the provisions of Title 33 apply to [section 3].

(2) [Section 4] is intended to be codified as an integral part of Title 17, chapter 7, part 1, and the provisions of Title 17, chapter 7, apply to [section 4].

NEW SECTION. **Section 6. {standard} Effective dates.** [This act] is effective on passage and approval.

NEW SECTION. **Section 7. {standard} Applicability -- retroactive applicability.** (1) [Section 1] applies to salaries for fiscal years beginning July 1, 2005, except that [section 1] applies to the salaries for the fiscal year beginning July 1, 2005, only to the extent that funding under [section 3] is available for that fiscal year for the purposes of [section 1].

(2) [Section 3] applies to insurance policies that originate or are renewed after [the effective date of this act].

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(3) [Section 4] applies retroactively, within the meaning of 1-2-109, to budget bills that are passed and approved after January 1, 2005.

- END -

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