

1 \_\_\_\_\_ BILL NO. \_\_\_\_\_

2 INTRODUCED BY \_\_\_\_\_  
3 (Primary Sponsor)

4 BY REQUEST OF THE LEGISLATIVE FINANCE COMMITTEE

5  
6 A BILL FOR AN ACT ENTITLED: "AN ACT ELIMINATING CERTAIN REPORTS TO THE LEGISLATIVE FISCAL  
7 ANALYST AND THE LEGISLATIVE FINANCE COMMITTEE; REQUIRING THAT CERTAIN REPORTS BE  
8 PROVIDED IN AN ELECTRONIC FORMAT; REDIRECTING CERTAIN REPORTS FROM THE LEGISLATIVE  
9 FINANCE COMMITTEE TO THE LEGISLATIVE FISCAL ANALYST AND REQUIRING THE LEGISLATIVE  
10 FISCAL ANALYST TO PRESENT CONCERNS ON THOSE REPORTS TO THE LEGISLATIVE FINANCE  
11 COMMITTEE; AMENDING SECTION 2, CHAPTER 435, LAWS OF 2009; AMENDING SECTIONS 2-17-101,  
12 5-12-302, 17-1-102, 17-1-505, 17-2-107, 17-2-304, 17-5-820, 17-7-140, 17-8-101, 33-22-1514, 39-71-2363,  
13 47-1-201, 50-4-805, 53-6-110, 53-21-702, 61-2-109, 75-1-1101, 85-1-605, AND 90-6-703, MCA; REPEALING  
14 SECTION 17-2-111, MCA; AND PROVIDING AN EFFECTIVE DATE."

15  
16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

17  
18 **Section 1.** Section 2, Chapter 435, Laws of 2009, is amended to read:

19 **"Section 2. Appropriations and authorizations.** (1) All business application systems funded under  
20 this section must have a plan approved by the chief information officer for the design, definition, creation, storage,  
21 and security of the data associated with the application system. The security aspects of the plan must address  
22 but are not limited to authentication and granting of system privileges, safeguards against unauthorized access  
23 to or disclosure of sensitive information, and, consistent with state records retention policies, plans for the removal  
24 of sensitive data from the system when it is no longer needed. It is the intent of this subsection that specific  
25 consideration be given to the potential sharing of data with other state agencies in the design, definition, creation,  
26 storage, and security of the data.

27 (2) Funds may not be released for the project until the chief information officer and budget director  
28 approve the plans described in subsection (1).

29 (3) The following money is appropriated to the department of administration to be used only for the  
30 indicated information technology capital projects:



1 Agency/Project	LRITP	State	Federal	Total
2		Special	Special	
3		Revenue	Revenue	
4 DEPARTMENT OF REVENUE				
5 Efficiency through Imaging	3,366,178			3,366,178
6 DEPARTMENT OF LABOR AND INDUSTRY				
7 Building Standards		2,400,000		2,400,000
8 Licensing Standards		2,250,000		2,250,000
9 Unemployment Insurance				
10 Tax Modernization		16,735,567	3,000,000	19,735,567
11 DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES				
12 Medicaid Management Information				
13 System Replacement	3,500,000		62,000,000	65,500,000
14 SECRETARY OF STATE				
15 Information Management System	1,500,000			1,500,000

16 (4) The projects for which funds are appropriated to the department of public health and human services  
 17 in [section 3] and this section and those projects authorized in section 14, Chapter 3, Special Laws of May 2007,  
 18 are authorized for the transfer of appropriations and authority within the long-range information technology fund  
 19 type and among department of public health and human services projects. The projects for which funds are  
 20 appropriated to the department of public health and human services in [section 3] and this section and those  
 21 projects authorized in section 14, Chapter 3, Special Laws of May 2007, are authorized for the transfer of  
 22 appropriations and authority within the federal special revenue fund type and among department of public health  
 23 and human services projects. ~~The department of public health and human services shall report changes to~~  
 24 ~~appropriations and authority related to the information technology projects in section 14, Chapter 3, Special Laws~~  
 25 ~~of May 2007, and in [section 3] and this section to the interim legislative finance committee upon occurrence.~~

26 (5) The department of labor and industry is authorized to transfer appropriations between federal and  
 27 state special revenue funds for purposes of funding the unemployment insurance tax modernization project. To  
 28 reduce state risk, a scoring preference for bidders of not less than 10% of the total scoring for the request for  
 29 proposals for the unemployment insurance tax modernization project must be established and may be given only  
 30 to vendors who have installed in at least one other state a substantially similar project, that meets all federal

1 department of labor reporting requirements. In responding to the request for proposals, each vendor shall identify  
2 in what states the vendor's substantially similar project has been installed, how long it has been in production,  
3 and whether the project meets all federal department of labor reporting requirements.

4 (6) For the item Medicaid Management Information System Replacement in subsection (3), the  
5 department of public health and human services shall provide a work plan with milestones, goals, and measures  
6 to guide the medicaid management information system replacement to the Legislative Finance Committee at its  
7 June 2009 meeting. At each legislative finance committee meeting, the department shall provide an update on  
8 its activities and progress toward achieving elements of the work plan in a format developed in conjunction with  
9 the legislative finance committee. To reduce state risk, a vendor who successfully bids on the medicaid  
10 management information system replacement project must have experience, proven performance, corporate  
11 resources, and corporate qualifications in large-scale data processing system development along with health care  
12 claims processing experience in system planning, design, development, implementation, and operation. In  
13 responding to the request for proposals, each vendor shall identify whether the vendor's proposed solution is  
14 substantially similar to a project that has been installed in another state, how long the project has been in  
15 production, and whether the project has been approved by the centers for medicare and medicaid services."  
16

17 **Section 2.** Section 2-17-101, MCA, is amended to read:

18 **"2-17-101. Allocation of space -- leasing -- definition.** (1) The department of administration shall  
19 determine the space required by state agencies other than the university system and shall allocate space in  
20 buildings owned or leased by the state, based on each agency's need. To efficiently and effectively allocate  
21 space, the department shall identify the amount, location, and nature of space used by each agency, including  
22 summary information on average cost per square foot for each municipality, and report this to the office of budget  
23 and program planning and to the legislative fiscal analyst by September 1 of each even-numbered year. The  
24 report must be provided in an electronic format.

25 (2) An agency requiring additional space shall notify the department. The department, in consultation  
26 with the agency, shall determine the amount and nature of the space needed and locate space within a building  
27 owned or leased by the state, including buildings in Helena and in other areas, to meet the agency's  
28 requirements. If space is not available in a building owned or leased by the state, the department shall locate  
29 space to be leased in an appropriate existing building or a build-to-lease building, including buildings in Helena  
30 and in other areas, or recommend alternatives to leasing, such as remodeling or exchanging space with another

1 agency. A state agency may not lease, rent, or purchase real property without prior approval of the department.

2 (3) (a) The location of the chambers for the house of representatives must be determined in the sole  
3 discretion of the house of representatives. The location of the chambers for the senate must be determined in  
4 the sole discretion of the senate.

5 (b) Subject to 2-17-108, the department, with the advice of the legislative council, shall allocate other  
6 space for the use of the legislature, including but not limited to space for committee rooms and legislative offices.

7 (4) The department shall consolidate the offices of state agencies in a single, central location within a  
8 municipality whenever the consolidation would result in a cost savings to the state while permitting sufficient  
9 space and facilities for the agencies. The department may purchase, lease, or acquire, by exchange or otherwise,  
10 land and buildings in a municipality to achieve consolidation. Offices of the law enforcement services division and  
11 motor vehicle division of the department of justice are exempted from consolidation.

12 (5) Any lease for more than 40,000 square feet or for a term of more than 20 years must be submitted  
13 as part of the long-range building program and approved by the legislature before the department of  
14 administration may proceed with the lease. Multiple leases in the same building entered into within any 60-day  
15 period are to be aggregated for purposes of this threshold calculation. When immediate relocation of agency  
16 employees is required due to a public exigency, the requirements of this subsection do not apply, but the new  
17 lease must be reported as required by subsection (1).

18 (6) The department shall include language in every lease providing that if funds are not appropriated or  
19 otherwise made available to support continued performance of the lease in subsequent fiscal periods, the lease  
20 must be canceled.

21 (7) "Public exigency" means that due to unforeseen circumstances a facility occupied by state employees  
22 is uninhabitable due to immediate conditions that adversely impact the health or safety of the occupants of the  
23 facility."  
24

25 **Section 3.** Section 5-12-302, MCA, is amended to read:

26 **"5-12-302. Fiscal analyst's duties.** The legislative fiscal analyst shall:

27 (1) provide for fiscal analysis of state government and accumulate, compile, analyze, and furnish  
28 information bearing upon the financial matters of the state that is relevant to issues of policy and questions of  
29 statewide importance, including but not limited to investigation and study of the possibilities of effecting economy  
30 and efficiency in state government;

- 1 (2) estimate revenue from existing and proposed taxes;
- 2 (3) analyze the executive budget and budget requests of selected state agencies and institutions,  
3 including proposals for the construction of capital improvements;
- 4 (4) make the reports and recommendations that the legislative fiscal analyst considers desirable to the  
5 legislature and make reports and recommendations as requested by the legislative finance committee and the  
6 legislature;
- 7 (5) assist committees of the legislature and individual legislators in compiling and analyzing financial  
8 information; ~~and~~
- 9 (6) assist the revenue and transportation interim committee in performing its revenue estimating duties;  
10 and
- 11 (7) review all reports submitted to the legislative fiscal analyst and notify the legislative finance committee  
12 of any concerns the fiscal analyst identifies in a report."
- 13

14 **Section 4.** Section 17-1-102, MCA, is amended to read:

15 **"17-1-102. Uniform accounting system and expenditure control.** (1) The department shall establish  
16 a system of financial control so that the functioning of the various agencies of the state may be improved,  
17 duplications of work by different state agencies and employees may be eliminated, public service may be  
18 improved, and the cost of government may be reduced.

19 (2) The department shall prescribe and install a uniform accounting and reporting system for all state  
20 agencies and institutions, reporting the receipt, use, and disposition of all public money and property in  
21 accordance with generally accepted accounting principles.

22 (3) The uniform accounting and reporting system must contain three levels of expenditure. The first level  
23 must include general categories, such as personal services, operating expenses, equipment, capital outlay, local  
24 assistance, grants, benefits and claims, transfers, and debt service. The second level of expenditure must include  
25 specific categories of expenditures within each first-level category. The third level of expenditure must include  
26 specific items of expenditure within each category of the second level.

27 (4) All state agencies, including units of the university system but excluding community colleges, shall  
28 input all necessary transactions to the accounting system prescribed in subsection (2) before the accounts are  
29 closed at the end of the fiscal year in order to present the receipt, use, and disposition of all money and property  
30 for which the agency is accountable in accordance with generally accepted accounting principles, except that for

1 budgetary control purposes, encumbrances that are required by generally accepted accounting principles to be  
2 reported as a reservation of fund balance must be recorded as expenditures and liabilities on the accounting  
3 records in accordance with the following requirements:

4 (a) Goods and services, grants, and local assistance that are paid for with the general fund, in whole or  
5 in part, may be encumbered. The general fund encumbrances must be reviewed by the department, and a  
6 specific extension plan must be presented by the encumbering agency to the department prior to the fiscal  
7 yearend. If a valid extension plan is not received and approved, the department shall delete the encumbrance  
8 at fiscal yearend. The department shall present a fiscal yearend report to the office of budget and program  
9 planning and to the legislative ~~finance committee~~ fiscal analyst on each general fund encumbrance remaining  
10 at fiscal yearend. The report must be provided in an electronic format.

11 (b) Nongeneral fund encumbrances also require a valid extension plan approved by the department at  
12 the end of each fiscal year. After 3 years, approved extensions must be included by the department in its fiscal  
13 yearend report to the office of budget and program planning and to the legislative finance committee."  
14

15 **Section 5.** Section 17-1-505, MCA, is amended to read:

16 **"17-1-505. Review of dedicated revenue provisions.** (1) The legislature recognizes that dedicated  
17 revenue provisions are subject to review by:

18 (a) the office of budget and program planning in the development and implementation of the executive  
19 budget and analysis of legislation;

20 (b) the legislative fiscal division in analyzing the executive budget;

21 (c) the legislative services division in drafting legislation;

22 (d) the legislative auditor in auditing agencies;

23 (e) the department of administration in performing the functions provided for in 17-2-106 ~~and 17-2-111~~;

24 and

25 (f) the department of revenue in reviewing revenue sources and determining distributions to local  
26 governments.

27 (2) To avoid unnecessary and unjustified use of dedicated revenue provisions, the entities listed in  
28 subsection (1) shall, in the course of current duties, consider the principles in 17-1-507 and the criteria listed in  
29 this subsection for each new or existing dedicated revenue provision. If an entity referred to in subsection (1)  
30 determines that the use of a dedicated revenue provision is not justified, the use or proposed use must be

1 reported to the legislative fiscal analyst. ~~The legislative fiscal analyst shall maintain a list of unjustified dedicated~~  
2 ~~revenue provisions and shall report on the unjustified dedicated revenue provisions to the legislative finance~~  
3 ~~committee no later than October 31 of the year preceding a regular legislative session.~~ A dedicated revenue  
4 provision should not give a program or activity an unfair advantage for funding. The expenditures from a  
5 dedicated revenue provision must be based on requirements for meeting a legislatively established outcome.  
6 Statutorily mandated programs or activities funded through dedicated revenue provisions from general revenue  
7 sources must be reviewed to the same extent as programs or activities funded from the general fund. The use  
8 of a dedicated revenue provision may be justified if it satisfies one or more of the following:

9 (a) The program or activity funded provides direct benefits for those who pay the dedicated tax, fee, or  
10 assessment, and the tax, fee, or assessment is commensurate with the costs of the program or activity.

11 (b) The use of the dedicated revenue provision provides special information or other advantages that  
12 could not be obtained if the revenue were allocated to the general fund.

13 (c) The dedicated revenue provision provides program funding at a level equivalent to the expenditures  
14 established by the legislature.

15 (d) The dedicated revenue provision involves collection and allocation formulas that are appropriate to  
16 the present circumstances and current priorities in state government.

17 (e) The dedicated revenue provision does not impair the legislature's ability to scrutinize budgets, control  
18 expenditures, and establish priorities for state spending.

19 (f) The dedicated revenue provision results in an appropriate projected ending fund balance.

20 (g) The dedicated revenue provision fulfills a continuing, legislatively recognized need.

21 (h) The dedicated revenue provision does not result in accounting or auditing inefficiency.

22 (3) A local government dedicated revenue provision may be justified if it satisfies any of the following:

23 (a) The program or activity funded provides direct benefits or services for those who pay the dedicated  
24 tax, fee, or assessment, and the tax, fee, or assessment is commensurate with the costs of the program or  
25 activity.

26 (b) The provision provides necessary information or other advantages that could not be obtained if the  
27 revenue were allocated to the state general fund.

28 (c) The provision involves collection and allocation formulas that are appropriate to the present  
29 circumstances and current priorities of state and local government.

30 (d) The provision does not impair the ability of the legislature to scrutinize budgets, control expenditures,

1 and establish state spending priorities.

2 (e) The provision fulfills a legislatively recognized continuing need.

3 (f) The provision does not result in accounting or auditing inefficiency or unnecessary complexity and  
4 instability of local government funding structures."

5

6 **Section 6.** Section 17-2-107, MCA, is amended to read:

7 **"17-2-107. Accurate accounting records and interentity loans.** (1) The department shall record  
8 receipts and disbursements for treasury funds and for accounting entities within treasury funds and shall maintain  
9 records in a manner that reflects the total cash and invested balance of each fund and each accounting entity.  
10 The department shall adopt the necessary procedures to ensure that interdepartmental or intradepartmental  
11 transfers of money or loans do not result in inflation of figures reflecting total governmental costs and revenue.

12 (2) (a) Except as provided in 77-1-108 and subject to 17-2-105, when the expenditure of an appropriation  
13 from a fund designated in 17-2-102(1) through (3) is necessary and the cash balance in the accounting entity from  
14 which the appropriation was made is insufficient, the department may authorize a temporary loan, bearing no  
15 interest, of unrestricted money from other accounting entities if there is reasonable evidence that the income will  
16 be sufficient to repay the loan within 1 calendar year and if the loan is recorded in the state accounting records.  
17 An accounting entity receiving a loan or an accounting entity from which a loan is made may not be so impaired  
18 that all proper demands on the accounting entity cannot be met even if the loan is extended.

19 (b) (i) When an expenditure from a fund or subfund designated in 17-2-102(4) is necessary and the cash  
20 balance in the fund or subfund from which the expenditure is to be made is insufficient, the commissioner of  
21 higher education may authorize a temporary loan, bearing interest as provided in subsection (4) of this section,  
22 of money from the agency's other funds or subfunds if there is reasonable evidence that the income will be  
23 sufficient to repay the loan within 1 calendar year and if the loan is recorded in the state accounting records. A  
24 fund or subfund receiving a loan or from which a loan is made may not be so impaired that all proper demands  
25 on the fund or subfund cannot be met even if the loan is extended.

26 (ii) One accounting entity within each fund or subfund designated in 17-2-102(4) must be established for  
27 the sole purpose of recording loans between the funds or subfunds. This accounting entity is the only accounting  
28 entity within each fund or subfund that may receive a loan or from which a loan may be made.

29 (c) A loan made under subsection (2)(a) or (2)(b) must be repaid within 1 calendar year of the date on  
30 which the loan is approved unless it is extended under subsection (3) or by specific legislative authorization.

1 (3) Under unusual circumstances, the director of the department or the board of regents may grant one  
2 extension for up to 1 year for a loan made under subsection (2)(a) or (2)(b). The director or board shall prepare  
3 a written justification and proposed repayment plan for each loan extension authorized and shall furnish a copy  
4 of the written justification and proposed repayment plan to the house appropriations and senate finance and  
5 claims committees at the next legislative session.

6 (4) Any loan from the current unrestricted subfund to funds designated in 17-2-102(4)(a)(iv) and (4)(b)  
7 through (4)(f) must bear interest at a rate equivalent to the previous fiscal year's average rate of return on the  
8 board of investments' short-term investment pool.

9 (5) If for 2 consecutive fiscal yearends a loan or an extension of a loan has been authorized to the same  
10 accounting entity as provided in subsection (2) or (3), the department or the commissioner of higher education  
11 shall submit to the legislative ~~finance committee~~ fiscal analyst by September 1 of the following fiscal year a written  
12 report containing an explanation as to why the second loan or extension was made, an analysis of the solvency  
13 of the accounting entity or accounting entities within the university fund or subfund, and a plan for repaying the  
14 loans. The report must be provided in an electronic format.

15 (6) If for 2 consecutive fiscal yearends an accounting entity in a fund or subfund designated in  
16 17-2-102(4) has a negative cash balance, the commissioner of higher education shall submit to the legislative  
17 ~~finance committee~~ fiscal analyst by September 1 of the following fiscal year a written report containing an  
18 explanation as to why the accounting entity has a negative cash balance, an analysis of the solvency of the  
19 accounting entity, and a plan to address any problems concerning the accounting entity's negative cash balance  
20 or solvency. The report must be provided in an electronic format.

21 (7) (a) An accounting entity in a fund designated in 17-2-102(1) through (3) may not have a negative  
22 cash balance at fiscal yearend. The department may, however, allow a fund type within each agency to carry a  
23 negative balance at any point during the fiscal year if the negative cash balance does not exist for more than 7  
24 working days.

25 (b) (i) Except as provided in subsection (7)(b)(ii) of this section, a unit of the university system shall  
26 maintain a positive cash balance in the funds and subfunds designated in 17-2-102(4).

27 (ii) If a fund or subfund inadvertently has a negative cash balance, the department may allow the fund  
28 or subfund to carry the negative cash balance for no more than 7 working days. If the negative cash balance  
29 exists for more than 7 working days, a transaction may not be processed through the statewide accounting  
30 system for that fund or subfund.

1 (8) Notwithstanding the provisions of subsections (2) through (4), the department may authorize loans  
2 to accounting entities in the federal and state special revenue funds with long-term repayment whenever  
3 necessary because of the timing of the receipt of agreed-upon reimbursements from federal, private, or other  
4 governmental entity sources for disbursements made. If possible, the loans must be made from funds other than  
5 the general fund. The department may approve the loans if the requesting agency can demonstrate that the total  
6 loan balance does not exceed total receivables from federal, private, or other governmental entity sources and  
7 receivables have been billed on a timely basis. The loan must be repaid under terms and conditions that may be  
8 determined by the department or by specific legislative authorization.

9 (9) A loan may not be authorized under this section to any fund or accounting entity that is owed federal  
10 or other third-party funds unless the requesting agency certifies to the agency approving the loan that it has and  
11 will continue to bill the federal government or other third party for the requesting agency's share of costs incurred  
12 in the fund or accounting entity on the earliest date allowable under federal or other third-party regulations  
13 applicable to the program. The requesting agency shall recertify its timely billing status to the agency that  
14 approved the loan at least monthly during the term of the loan. If at any time the requesting agency fails to  
15 recertify the timely billing, the agency that approved the loan shall cancel the loan and return the money to its  
16 original source."

17

18 **Section 7.** Section 17-2-304, MCA, is amended to read:

19 **"17-2-304. Reports required.** (1) The approving authority for a state agency shall annually report in  
20 writing to the legislative ~~finance committee~~ fiscal analyst by September 15:

21 (a) each state agency that had a cash balance in a state charge for services fund contrary to the  
22 limitation provided in 17-2-302(1) during the previous 12 months;

23 (b) the facts certified for each state agency by the approving authority pursuant to 17-2-302(2);

24 (c) each state agency that has complied with the requirements of 17-2-303 and the circumstances of the  
25 agency's compliance;

26 (d) each state agency that has not complied with 17-2-303 and the circumstances of the agency's  
27 noncompliance; ~~and~~

28 (e) all expenditures made by the state agency in the preceding 12 months that are related to the  
29 production and distribution of public service announcements; ~~and~~

30 (f) the report must be provided in an electronic format.

1           (2) The director of the department of administration shall report to the legislature at the time and in the  
2 manner required by 5-11-210 a list of each local government entity that had a balance in a local charge for  
3 services fund contrary to the limitation provided by 17-2-302(1) or that failed to reduce the charge as provided  
4 in 17-2-303, or both, during the previous 12 months."

5

6           **Section 8.** Section 17-5-820, MCA, is amended to read:

7           **"17-5-820. Authorization of bonds.** (1) The board of examiners is authorized to issue and sell general  
8 obligation bonds in an amount not exceeding \$20 million in accordance with the terms and in the manner required  
9 by Title 17, chapter 5, part 8, for the purpose of financing and acquiring infrastructure improvements as  
10 enumerated in 7-15-4288 for aerospace transportation and technology infrastructure development projects  
11 recommended by the department of commerce in accordance with the authority granted to the board by this  
12 section. The bonds are in addition to any other authorization to the board to issue and sell general obligation  
13 bonds and subject to the conditions set forth in this section.

14           (2) The department of commerce may request the board of examiners to issue the bonds for one or more  
15 specified projects in one or more series, but the total amount of bonds issued may not exceed \$20 million. Bond  
16 proceeds must be appropriated to the department of commerce, and the department of commerce is authorized  
17 to acquire or construct the infrastructure improvements, to contract with the incorporated city or town, county, or  
18 city-county consolidated local government in which a project is located, to contract with an airport authority as  
19 defined in 67-1-101, a local port authority as described in 7-14-1101, or a regional port authority as described in  
20 7-14-1102, to contract with a certified regional development corporation as defined in 90-1-116, or, upon a  
21 determination that it is in the best interest of the project, to contract with the developer of an approved project for  
22 the acquisition or construction of the infrastructure improvement. The plans and specifications for the  
23 infrastructure to be financed from the proceeds of the bonds must be prepared by an engineer or architect who  
24 is licensed and bonded in Montana, and the state must be named as an additional insured under any contract,  
25 performance bond, or other documents for the design of any improvements to be financed by the state. The plans  
26 and specifications must be reviewed and approved by the department of commerce after consultation with the  
27 architecture and engineering division of the department of administration. The design and acquisition or  
28 construction of the infrastructure for approved projects are not, with the exception of Title 18, chapter 2, part 4,  
29 subject to the public procurement requirements contained in Title 18. All construction contracts entered into for  
30 the construction of improvements to be financed under this section must name the state as an additional insured

1 if the state is not otherwise party to the contract. All improvements financed with bond proceeds must be owned  
2 by the state, and the use must be governed by a development agreement between the state and the developer  
3 of the project. The agreement may provide for the lease or the use of the infrastructure at less than fair market  
4 value, taking into consideration the number of jobs to be created by the project, the salary range of the jobs, the  
5 amount of capital contributed by the developer, and the projected tax revenue to be received by the state and  
6 local governments from the project over the term of the lease or use agreement. The agreement must require  
7 the contractor to insure for liability and workers' compensation claims during construction and must provide the  
8 project developer with the right of first refusal for the purchase of any real property and improvements financed  
9 by the bonds at fair market value. Fair market value must be determined by a certified appraiser. For purposes  
10 of this section, state and local governments may not provide telecommunications or other services in competition  
11 with private providers unless private providers cannot provide the services.

12 (3) It is the intent of the legislature that state individual and corporate income taxes and state property  
13 taxes generated by the aerospace transportation and technology infrastructure development projects will be at  
14 least equal to the projected amount of the debt service to be paid by the state for the bonds authorized by this  
15 section over the term of the bonds. Prior to requesting the board of examiners to issue the bonds, the department  
16 of commerce shall determine that the developer of a proposed project has the financial ability to implement the  
17 project based upon the audited financial statements of the developer. When requesting the board to issue the  
18 bonds, the department of commerce shall present to the legislative finance committee and to the department of  
19 administration for presentation to the board the following:

20 (a) evidence satisfactory to the board that the developer of each aerospace transportation and  
21 technology infrastructure development project has committed itself to locate its project in Montana; and

22 (b) a certificate signed by the director of the office of budget and program planning that the proposed  
23 project will, over the term of the bonds, generate state individual and corporate income taxes and state property  
24 taxes at least equal to the total aggregate amount of principal and interest on the bonds over the term of the  
25 bonds. In preparing the analysis for the report on the projected tax revenue from the project, the multiplier effect  
26 may be taken into account, using the number of jobs, the salary levels for the jobs, and the estimated date of hire  
27 for each position that the developer will commit to create as part of the development agreement. The development  
28 agreement must provide that if the developer has not created the total number of jobs at the estimated salaries  
29 by the date specified in the development agreement and assumed for purposes of meeting the projections, the  
30 state may terminate the lease or use of the improvements upon 30 days' notice. If the department of commerce

1 is unable to enter into a new lease or use agreement for the improvements that is advantageous to the state, the  
2 state may sell the facility to the highest and best bidder and use the proceeds of the sale to redeem the  
3 outstanding bonds.

4 (4) In determining whether to recommend to the board of examiners that improvements should be  
5 constructed by the state from the proceeds of the bonds for a project, the department of commerce may take into  
6 consideration only the following factors:

7 (a) whether the project is eligible for financing;

8 (b) whether there is sufficient evidence to demonstrate the developer's ability to implement the project;

9 (c) the projected tax revenue report;

10 (d) whether the project as proposed and situated can obtain the necessary zoning, building, and  
11 environmental permits required; and

12 (e) whether the project is in the public interest.

13 (5) In recommending the amount of bonds to be issued for a qualified project, the department of  
14 commerce shall independently determine that the proposed estimated cost of the project is not in excess of what  
15 is required for the project and independently verify the projected costs of designing and constructing the  
16 improvements proposed to be financed exclusive of any development fee to the developer. The authorized bond  
17 proceeds must be used for projects on a first-come, first-served basis."  
18

19 **Section 9.** Section 17-7-140, MCA, is amended to read:

20 **"17-7-140. Reduction in spending.** (1) (a) As the chief budget officer of the state, the governor shall  
21 ensure that the expenditure of appropriations does not exceed available revenue. Except as provided in  
22 subsection (2), in the event of a projected general fund budget deficit, the governor, taking into account the  
23 criteria provided in subsection (1)(b), shall direct agencies to reduce spending in an amount that ensures that the  
24 projected ending general fund balance for the biennium will be at least 1% of all general fund appropriations  
25 during the biennium. An agency may not be required to reduce general fund spending for any program, as defined  
26 in each general appropriations act, by more than 10% during a biennium. Departments or agencies headed by  
27 elected officials or the board of regents may not be required to reduce general fund spending by a percentage  
28 greater than the percentage of general fund spending reductions required for the total of all other executive  
29 branch agencies. The legislature may exempt from a reduction an appropriation item within a program or may  
30 direct that the appropriation item may not be reduced by more than 10%.

1 (b) The governor shall direct agencies to manage their budgets in order to reduce general fund  
2 expenditures. Prior to directing agencies to reduce spending as provided in subsection (1)(a), the governor shall  
3 direct each agency to analyze the nature of each program that receives a general fund appropriation to determine  
4 whether the program is mandatory or permissive and to analyze the impact of the proposed reduction in spending  
5 on the purpose of the program. An agency shall submit its analysis to the office of budget and program planning  
6 and shall at the same time provide a copy of the analysis to the legislative fiscal analyst. The report must be  
7 submitted in an electronic format. The office of budget and program planning shall review each agency's analysis,  
8 and the budget director shall submit to the governor a copy of the office of budget and program planning's  
9 recommendations for reductions in spending. The budget director shall provide a copy of the recommendations  
10 to the legislative fiscal analyst at the time that the recommendations are submitted to the governor and shall  
11 provide the legislative fiscal analyst with any proposed changes to the recommendations. The recommendations  
12 must be provided in an electronic format. The legislative finance committee shall meet within 20 days of the date  
13 that the proposed changes to the recommendations for reductions in spending are provided to the legislative  
14 fiscal analyst. The legislative fiscal analyst shall provide a copy of the legislative fiscal analyst's review of the  
15 proposed reductions in spending to the budget director at least 5 days before the meeting of the legislative  
16 finance committee. The committee may make recommendations concerning the proposed reductions in spending.  
17 The governor shall consider each agency's analysis and the recommendations of the office of budget and  
18 program planning and the legislative finance committee in determining the agency's reduction in spending.  
19 Reductions in spending must be designed to have the least adverse impact on the provision of services  
20 determined to be most integral to the discharge of the agency's statutory responsibilities.

21 (2) Reductions in spending for the following may not be directed by the governor:

- 22 (a) payment of interest and principal on state debt;  
23 (b) the legislative branch;  
24 (c) the judicial branch;  
25 (d) the school BASE funding program, including special education;  
26 (e) salaries of elected officials during their terms of office; and  
27 (f) the Montana school for the deaf and blind.

28 (3) (a) As used in this section, "projected general fund budget deficit" means an amount, certified by the  
29 budget director to the governor, by which the projected ending general fund balance for the biennium is less than:

- 30 (i) 2% of the general fund appropriations for the second fiscal year of the biennium prior to October of

1 the year preceding a legislative session;

2 (ii) 3/4 of 1% in October of the year preceding a legislative session;

3 (iii) 1/2 of 1% in January of the year in which a legislative session is convened; and

4 (iv) 1/4 of 1% in March of the year in which a legislative session is convened.

5 (b) In determining the amount of the projected general fund budget deficit, the budget director shall take  
6 into account revenue, established levels of appropriation, anticipated supplemental appropriations for school  
7 equalization aid, and anticipated reversions.

8 (4) If the budget director determines that an amount of actual or projected receipts will result in an  
9 amount less than the amount projected to be received in the revenue estimate established pursuant to 5-5-227,  
10 the budget director shall notify the revenue and transportation interim committee of the estimated amount. Within  
11 20 days of notification, the revenue and transportation interim committee shall provide the budget director with  
12 any recommendations concerning the amount. The budget director shall consider any recommendations of the  
13 revenue and transportation interim committee prior to certifying a projected general fund budget deficit to the  
14 governor."

15

16 **Section 10.** Section 17-8-101, MCA, is amended to read:

17 **"17-8-101. Appropriation and disbursement of money from treasury.** (1) For purposes of complying  
18 with Article VIII, section 14, of the Montana constitution, money deposited in the general fund, the special revenue  
19 fund type (except money deposited in the treasury from nonstate and nonfederal sources restricted by law or by  
20 the terms of an agreement, such as a contract, trust agreement, or donation), and the capital projects fund type,  
21 with the exception of refunds authorized in subsection (4), may be paid out of the treasury only on appropriation  
22 made by law.

23 (2) Subject to the provisions of subsection (8), money deposited in the enterprise fund type, debt service  
24 fund type, internal service fund type, private purpose trust fund type, agency fund type, and state special revenue  
25 fund from nonstate and nonfederal sources restricted by law or by the terms of an agreement, such as a contract,  
26 trust agreement, or donation, may be paid out of the treasury:

27 (a) by appropriation; or

28 (b) under general laws, or contracts entered into in pursuance of law, permitting the disbursement if a  
29 subclass is established on the state financial system.

30 (3) The pension trust fund type is not considered a part of the state treasury for appropriation purposes.

1 Money deposited in the pension trust fund type may be paid out of the treasury pursuant to general laws, trust  
2 agreement, or contract.

3 (4) Money paid into the state treasury through error or under circumstances such that the state is not  
4 legally entitled to retain it and a refund procedure is not otherwise provided by law may be refunded upon the  
5 submission of a verified claim approved by the department.

6 (5) Authority to expend appropriated money may be transferred from one state agency to another,  
7 provided that the original purpose of the appropriation is maintained. ~~The office of budget and program planning  
8 shall report semiannually to the legislative finance committee concerning all appropriations transferred under the  
9 provisions of this section.~~

10 (6) Fees and charges for services deposited in the internal service fund type must be based upon  
11 commensurate costs. The legislative auditor, during regularly scheduled audits of state agencies, shall audit and  
12 report on the reasonableness of internal service fund type fees and charges and on the fund equity balances.

13 (7) The creation of accounts in the enterprise fund or the internal service fund must be approved by the  
14 department, using conformity with generally accepted accounting principles as the primary approval criteria. The  
15 department shall report annually to the office of budget and program planning and the legislative ~~finance  
16 committee~~ fiscal analyst on the nature, status, and justification for all new accounts in the enterprise fund and the  
17 internal service fund. The report must be provided in an electronic format.

18 (8) Enterprise and internal service funds must be appropriated if they are used as a part of a program  
19 that is not an enterprise or internal service function and that otherwise requires an appropriation. An enterprise  
20 fund that is required by law to transfer money to the general fund or to any other appropriated fund is subject to  
21 appropriation. The payment of funds into an internal service fund must be authorized by law."

22

23 **Section 11.** Section 33-22-1514, MCA, is amended to read:

24 **"33-22-1514. Administration of association plan -- rules.** (1) The association shall select one lead  
25 carrier to issue the association plan and the association portability plan. The board of directors of the association  
26 shall prepare appropriate specifications and bid forms and may solicit bids from licensed administrators and the  
27 members of the association for the purpose of selecting the lead carrier. The selection of the lead carrier must  
28 be based upon criteria established by the board of directors.

29 (2) The lead carrier shall perform all administrative and claims payment functions required by this section  
30 upon the commissioner's approval of the policy forms and contracts submitted. The lead carrier shall provide

1 these services for a period of at least 3 years, unless a request to terminate is approved by the association and  
2 the commissioner. The association and the commissioner shall approve or deny a request to terminate within 90  
3 days of the receipt of the request. A failure to make a final decision on a request to terminate within the specified  
4 period is considered an approval. The association shall invite submissions of policy forms from members of the  
5 association, including the lead carrier, 6 months prior to the expiration of each 3-year period. The association  
6 shall follow the procedure provided in subsection (1) in selecting a lead carrier for the subsequent 3-year period  
7 or, if a request to terminate is approved, on or before the end of the 3-year period.

8 (3) The lead carrier shall provide all eligible persons involved in the association plan and the association  
9 portability plan an individual certificate setting forth a statement as to the insurance protection to which the person  
10 is entitled, the method and place of filing claims, and to whom benefits are payable. The certificate must indicate  
11 that coverage was obtained through the association.

12 (4) The lead carrier shall submit to the association, the legislative ~~finance committee~~ fiscal analyst, and  
13 the commissioner on a semiannual basis a report of the operation of the association plan and the association  
14 portability plan. The report must be provided in an electronic format. The association shall determine the specific  
15 information to be contained in the report prior to the effective date of the association plan and the association  
16 portability plan.

17 (5) The lead carrier shall pay all claims pursuant to this part and shall indicate that the claim was paid  
18 by the association plan or the association portability plan. Each claim payment must include information  
19 specifying the procedure involved if a dispute arises over the amount of payment.

20 (6) The lead carrier must be reimbursed from the association plan and the association portability plan  
21 premiums received for its direct and indirect expenses. Direct and indirect expenses include a prorated  
22 reimbursement for the portion of the lead carrier's administrative, printing, claims administration, management,  
23 and building overhead expenses, which are assignable to the maintenance and administration of the association  
24 plan and the association portability plan. The association shall approve cost accounting methods to substantiate  
25 the lead carrier's cost reports consistent with generally accepted accounting principles. Direct and indirect  
26 expenses may not include costs directly related to the original submission of policy forms prior to selection as the  
27 lead carrier.

28 (7) The lead carrier is, when carrying out its duties under this part, an independent contractor for the  
29 association and is individually liable for the lead carrier's actions, subject to the laws of this state."  
30

1           **Section 12.** Section 39-71-2363, MCA, is amended to read:

2           **"39-71-2363. Agency law -- submission of budget -- annual report.** (1) The state fund is subject to  
3 state laws applying to state agencies, except as otherwise provided by law, and it is exempt from the provisions  
4 of The Legislative Finance Act in Title 5, chapter 12, and the provisions of Title 17, chapter 7, parts 1 through 4.  
5 The state fund may use the debt collection procedures provided in Title 17, chapter 4, part 1.

6           (2) (a) Except as provided in 2-15-2015, the executive director shall annually submit to the board for its  
7 approval an estimated budget of the entire expense of administering the state fund for the succeeding fiscal year,  
8 with due regard to the business interests and contract obligations of the state fund. A copy of the approved  
9 budget must be delivered to the governor and the legislature.

10           (b) Upon approval of the estimated budget for the succeeding fiscal year, the state fund shall, no later  
11 than October 1 of each year, submit the approved annual budget for review to the legislative ~~finance committee~~  
12 ~~established under 5-12-201~~ fiscal analyst. The budget must be submitted in an electronic format.

13           (c) Dividends may not be included as administrative expenditures as provided in subsection (2)(a), but  
14 are a disbursement of excess surplus pursuant to 39-71-2323 after a determination by the state fund of income  
15 from operations.

16           (3) The board shall submit an annual financial report to the governor and to the legislature as provided  
17 in 5-11-210, indicating the business done by the state fund during the previous year and containing a statement  
18 of the estimated liabilities of the state fund as determined by an independent actuary."

19

20           **Section 13.** Section 47-1-201, MCA, is amended to read:

21           **"47-1-201. Office of state public defender -- personnel -- compensation -- expenses -- reports.** (1)  
22 There is an office of state public defender. The office must be located in Butte, Montana. The head of the office  
23 is the chief public defender, who is supervised by the commission.

24           (2) The chief public defender must be an attorney licensed to practice law in the state. The chief public  
25 defender is appointed by and serves at the pleasure of the commission. The position of chief public defender is  
26 exempt from the state classification and pay plan as provided in 2-18-103. The commission shall establish  
27 compensation for the position commensurate with the position's duties and responsibilities, taking into account  
28 the compensation paid to prosecutors with similar responsibilities.

29           (3) The chief public defender shall hire or contract for and supervise other personnel necessary to  
30 perform the function of the office of state public defender and to implement the provisions of this chapter,

1 including but not limited to:

2 (a) the following personnel who are exempt from the state classification and pay plan as provided in  
3 2-18-103:

4 (i) an administrative director, who must be experienced in business management and contract  
5 management;

6 (ii) a chief contract manager to oversee and enforce the contracting program;

7 (iii) a training coordinator, appointed as provided in 47-1-210;

8 (iv) deputy public defenders, as provided in 47-1-215;

9 (b) assistant public defenders; and

10 (c) other necessary administrative and professional support staff for the office.

11 (4) Positions established pursuant to subsections (3)(b) and (3)(c) are classified positions, and persons  
12 in those positions are entitled to salaries, wages, benefits, and expenses as provided in Title 2, chapter 18.

13 (5) The following expenses are payable by the office if the expense is incurred at the request of a public  
14 defender:

15 (a) witness and interpreter fees and expenses provided in Title 26, chapter 2, part 5, and 46-15-116; and

16 (b) transcript fees, as provided in 3-5-604.

17 (6) If the costs to be paid pursuant to this section are not paid directly, reimbursement must be made  
18 within 30 days of the receipt of a claim.

19 (7) The office may accept gifts, grants, or donations, which must be deposited in the account provided  
20 for in 47-1-110.

21 (8) The office shall provide assistance with the budgeting, reporting, and related administrative functions  
22 of the office of appellate defender as provided in 47-1-205.

23 (9) The chief public defender shall establish procedures to provide for the approval, payment, recording,  
24 reporting, and management of defense expenses paid pursuant to this section, including defense expenses paid  
25 for work performed by or for the office of appellate defender.

26 (10) (a) The office of public defender is required to report data for each fiscal year by September 30 of  
27 the subsequent fiscal year representing the caseload for the entire public defender system to the legislative  
28 ~~finance committee~~ fiscal analyst. The report must be provided in an electronic format and include unduplicated  
29 count data for all cases for which representation is paid for by the office of public defender, the number of new  
30 cases opened, the number of cases closed, the number of cases that remain open and active, the number of

1 cases that remain open but are inactive, and the average number of days between case opening and closure for  
2 each case type.

3 (b) The office of public defender is required to report to the legislative ~~finance committee~~ fiscal analyst  
4 for each fiscal year by September 30 of the subsequent fiscal year on the amount of funds collected as  
5 reimbursement for services rendered, including the number of cases for which a collection is made, the number  
6 of cases for which an amount is owed, the amount collected, and the amount remaining unpaid. The report must  
7 be provided in an electronic format."

8

9 **Section 14.** Section 50-4-805, MCA, is amended to read:

10 **"50-4-805. Program expenditures -- report to legislature.** (1) Subject to appropriation by the  
11 legislature, the department shall provide competitive grants in accordance with 50-4-806 and this section to  
12 community or tribal boards operating as a nonprofit entity in accordance with the Public Health Service Act, 42  
13 U.S.C. 254b, to increase access to primary care and preventive health services for uninsured, underinsured,  
14 low-income, or underserved Montanans.

15 (2) Grants must be made each year to accomplish any of the following goals:

16 (a) to create and support new nonfederally funded community health centers with state funding for a  
17 maximum of 6 years or until federal funds are granted. Successful applicants for the state grants shall also apply  
18 for federally qualified health center look-alike status and federal community health center grants at the first  
19 available opportunity.

20 (b) to expand the medical, mental health, or dental services offered by existing federally qualified  
21 community health centers or other facilities that have received federally qualified health center look-alike status;  
22 and

23 (c) to provide one-time grants for capital expenditures to existing federally qualified community health  
24 centers and facilities with federally qualified health center look-alike status.

25 (3) The department shall contract with an entity that is able to:

26 (a) provide technical assistance to new and existing federally qualified community health centers in their  
27 efforts to apply for federal funds;

28 (b) assist new and existing centers in their efforts to expand services; and

29 (c) collect standardized data on the provision of services to low-income and uninsured Montanans.

30 (4) The department shall require the contractor to provide an annual report on the services it has

1 provided, the data it has collected, and the status of applications for federal community health center funding.

2 (5) ~~(a) The department shall provide regular interim reports on the status of the program and program~~  
 3 ~~expenditures to the legislative finance committee and the children, families, health, and human services interim~~  
 4 ~~committee.~~

5 (b) The department shall report to the legislature, as provided for in 5-11-210, the following information  
 6 for each year of the biennium:

7 (i)(a) the status of the expenditures made pursuant to this part;

8 (ii)(b) the number of people served by the expenditure of funds; and

9 (iii)(c) the costs to the state of the services provided pursuant to this part."

10

11 **Section 15.** Section 53-6-110, MCA, is amended to read:

12 **"53-6-110. Report and recommendations on medicaid funding.** (1) As a part of the information  
 13 required in 17-7-111, the department of public health and human services shall submit a report concerning  
 14 medicaid funding for the next biennium. This report must include at least the following elements:

15 (a) analysis of past and present funding levels for the various categories and types of health services  
 16 eligible for medicaid reimbursement;

17 (b) projected increased medicaid funding needs for the next biennium. These projections must identify  
 18 the effects of projected population growth and demographic patterns on at least the following elements:

19 (i) trends in unit costs for services, including inflation;

20 (ii) trends in use of services;

21 (iii) trends in medicaid recipient levels; and

22 (iv) the effects of new and projected facilities and services for which a need has been identified in the  
 23 state health care facilities plan.

24 (2) As an integral part of the report, the department of public health and human services shall present  
 25 a recommendation of funding levels for the medicaid program. The recommendation need not be consistent with  
 26 the state health care facilities plan.

27 (3) In making its appropriations for medicaid funding, the legislature shall specify the portions of medicaid  
 28 funding anticipated to be allocated to specific categories and types of health care services.

29 (4) Beginning November 15 of each year through June 15 of the following year, the department of public  
 30 health and human services shall provide to the legislative ~~finance committee~~ fiscal analyst monthly reports

1 containing estimates of the cost for medicaid services and a budget status report for all department programs.  
2 The department shall also provide a fiscal yearend summary of medicaid costs and the department budget status  
3 report prior to the first legislative finance committee meeting following the end of the fiscal year. The reports must  
4 be presented in a format mutually agreed to by the legislative ~~finance committee~~ fiscal analyst and the  
5 department."

6

7 **Section 16.** Section 53-21-702, MCA, is amended to read:

8 **"53-21-702. Mental health care system -- eligibility -- services -- advisory council.** (1) The  
9 department of public health and human services shall develop a delivery system of mental health care from  
10 providers or other entities that are able to provide administration or delivery of mental health services. The public  
11 mental health care system shall:

12 (a) include specific outcome and performance measures for the administration or delivery of a continuum  
13 of mental health services;

14 (b) provide for local advisory councils that shall report to and meet on a regular basis with the advisory  
15 council provided for in subsection (4);

16 (c) provide level-of-care appeals that are understandable and accessible; and

17 (d) provide a system for tracking children who need mental health services that are provided under  
18 substantive interagency agreements between state agencies responsible for addictive and mental disorders,  
19 foster care, children with developmental disabilities, special education, and juvenile corrections.

20 (2) The department may establish resource and income standards of eligibility for mental health services  
21 that are more liberal than the resource and income standards of eligibility for physical health services. The  
22 standards of eligibility for mental health services may provide for eligibility for households not eligible for medicaid  
23 with family income that does not exceed 160% of the federal poverty threshold or that does not exceed a lesser  
24 amount determined at the discretion of the department. The department may by rule specify under what  
25 circumstances deductions for medical expenses should be used to reduce countable family income in determining  
26 eligibility. The department may also adopt rules establishing fees, premiums, or copayments to be charged  
27 recipients for services. The fees, premiums, or copayments may vary according to family income.

28 (3) The department shall establish the amount, scope, and duration of services to be provided under the  
29 program. Services for nonmedicaid-eligible individuals may be more limited than those services provided to  
30 medicaid-eligible individuals. Services to nonmedicaid-eligible individuals may include a pharmacy benefit.

1 (4) (a) The department shall form an advisory council, to be known as the mental health oversight  
 2 advisory council, to provide input to the department in the development and management of any public mental  
 3 health system. The advisory council is not subject to 2-15-122. The advisory council membership must include:

4 (i) one-half of the members as consumers of mental health services, including persons with serious  
 5 mental illnesses who are receiving public mental health services, other recipients of mental health services,  
 6 former recipients of public mental health services, and immediate family members of recipients of mental health  
 7 services; and

8 (ii) advocates for consumers or family members of consumers, members of the public at large, providers  
 9 of mental health services, legislators, and department representatives.

10 (b) The advisory council under this section may be administered so as to fulfill any federal advisory  
 11 council requirements to obtain federal funds for this program.

12 (c) Geographic representation must be considered when appointing members to the advisory council  
 13 in order to provide the widest possible representation.

14 ~~(d) The advisory council shall provide a summary of each meeting and a copy of any recommendations  
 15 made to the department to the legislative finance committee and any other designated appropriate legislative  
 16 interim committee. The department shall provide the same committees with the department's rationale for not  
 17 accepting or implementing any recommendation of the advisory council."~~

18

19 **Section 17.** Section 61-2-109, MCA, is amended to read:

20 **"61-2-109. Emergency medical services grants.** The department of transportation shall report to the  
 21 governor and the legislative ~~finance committee~~ fiscal analyst not later than November 1 of the year preceding a  
 22 regular session of the legislature regarding emergency medical services grants that are awarded during each  
 23 biennium. The report must be provided in an electronic format and include a listing of all grant requests and a  
 24 listing of grants awarded, including a summary of the use of grant funds."

25

26 **Section 18.** Section 75-1-1101, MCA, is amended to read:

27 **"75-1-1101. Environmental contingency account objectives.** (1) There is an environmental  
 28 contingency account within the state special revenue fund established in 17-2-102. The environmental  
 29 contingency account is controlled by the governor.

30 (2) At the beginning of each biennium, \$175,000 must be allocated to the environmental contingency

1 account from the interest income of the resource indemnity trust fund with the following exceptions:

2 (a) if at the beginning of any biennium the unobligated cash balance in the environmental contingency  
3 account equals or exceeds \$750,000, allocation may not be made; and

4 (b) if at the beginning of any biennium the unobligated cash balance in the environmental contingency  
5 account is less than \$750,000, then an amount less than or equal to the difference between the unobligated cash  
6 balance and \$750,000, but not to exceed \$175,000, must be allocated to the environmental contingency account  
7 from the interest income of the resource indemnity trust fund.

8 (3) Funds are statutorily appropriated, as provided in 17-7-502, from the environmental contingency  
9 account upon the authorization of the governor to meet unanticipated public needs consistent with the following  
10 objectives:

11 (a) to support renewable resource development projects in communities that face an emergency or  
12 imminent need for the services or to prevent the physical failure of a project;

13 (b) to preserve vegetation, water, soil, fish, wildlife, or other renewable resources from an imminent  
14 physical threat or during an emergency, not including:

15 (i) natural disasters adequately covered by other funding sources; or

16 (ii) fire;

17 (c) to respond to an emergency or imminent threat to persons, property, or the environment caused by  
18 mineral development;

19 (d) to respond to an emergency or imminent threat to persons, property, or the environment caused by  
20 a hazardous material; and

21 (e) to fund the environmental quality protection fund provided for in 75-10-704 or to take other necessary  
22 actions, including the construction of facilities, to respond to actual or potential threats to persons, property, or  
23 the environment caused by hazardous wastes or other hazardous materials.

24 (4) Interest from funds in the environmental contingency account accrues to the general fund.

25 (5) The governor shall submit to the legislative fiscal analyst, as a part of the information required by  
26 17-7-111, a complete financial report on the environmental contingency account, including a description of all  
27 expenditures made since the preceding report. The report must be provided in an electronic format.  
28

29 **Section 19.** Section 85-1-605, MCA, is amended to read:

30 **"85-1-605. Grants, loans, and bonds for state, local, or tribal government assistance.** (1) The

1 department may recommend to the legislature that grants and loans be made from revenue deposited in the  
2 natural resources projects state special revenue account established in 15-38-302, that loans be made from  
3 renewable resource bond proceeds deposited in the renewable resource loan proceeds account established in  
4 85-1-617(5), and that coal severance tax bonds be authorized pursuant to Title 17, chapter 5, part 7, to provide  
5 financial assistance to a department, agency, board, commission, or other division of state government, to a city,  
6 county, or other political subdivision or local government body of the state, including an authority as defined in  
7 75-6-304, or to a tribal government. The legislature may approve by appropriation or other appropriate means  
8 those grants and loans that it finds consistent with the policies and purposes of the program.

9 (2) Nothing in this part creates or expands the state's or a local government's authority to incur debt, and  
10 the legislature may authorize loans only to state and local government entities otherwise structured to incur debt.

11 (3) Loans may not be authorized except to a state, local, or tribal government entity that agrees to secure  
12 the authorized loan with its bond.

13 (4) In addition to implementing those projects approved by the legislature, the department may request  
14 up to 10% of the grant funds available and up to \$10 million for loans from the natural resources projects state  
15 special revenue account established in 15-38-302 and the renewable resource loan proceeds account in any  
16 biennium to be used for emergencies. These emergency grant projects or loan projects, or both, may not be  
17 made because of the gross negligence of the state, local, or tribal government applicant, must be approved by  
18 the department, and must be defined as those projects otherwise eligible for either grant funding or loan funding,  
19 or both, that, if delayed until legislative approval can be obtained, will cause substantial damages or legal liability  
20 to the project sponsor. In allocating the funds, the department shall inform the legislative ~~finance committee of~~  
21 ~~the legislature~~ fiscal analyst.

22 (5) The grants and loans provided for by this section may be made for projects that enhance renewable  
23 resources in the state through conservation, development, management, or preservation; for assessing feasibility  
24 or planning; for implementing renewable resource projects; and for similar purposes approved by the legislature.

25 (6) Grant and loan agreements with tribal governments in Montana entered into under this part must  
26 contain, in addition to other appropriate terms and conditions, the following conditions:

27 (a) a requirement that in the event a dispute or claim arises under the agreement, state law will govern  
28 as to the interpretation and performance of the agreement and that any judicial proceeding concerning the terms  
29 of the agreement will be brought in the district court of the first judicial district of the state of Montana;

30 (b) an express waiver of the tribal government's immunity from suit on any issue specifically arising from

1 the transaction of a loan or grant; and

2 (c) an express waiver of any right to exhaust tribal remedies signed by the tribal government."

3

4 **Section 20.** Section 90-6-703, MCA, is amended to read:

5 **"90-6-703. Types of financial assistance available.** (1) The legislature shall provide for and make  
6 available to local governments the following types of financial assistance under this part:

7 (a) matching grants for local infrastructure projects;

8 (b) matching grants for infrastructure planning; and

9 (c) emergency grants for local infrastructure projects.

10 (2) The department of commerce may provide local governments with emergency grants for  
11 infrastructure projects only if necessary to remedy conditions that, if allowed to continue until legislative approval  
12 could be obtained, will endanger the public health or safety and expose the applicant to substantial financial risk.

13 The department shall report to the governor and the legislative ~~finance committee~~ fiscal analyst regarding  
14 emergency grants that are awarded during each biennium. The report must be provided in an electronic format.

15 (3) The department of commerce may provide local governments with matching grants for infrastructure  
16 planning. The department shall report to the governor and the legislature regarding infrastructure planning grants  
17 that are awarded during each biennium."

18

19 NEW SECTION. **Section 21. Repealer.** The following section of the Montana Code Annotated is  
20 repealed:

21 17-2-111. State special revenue accounts -- report.

22

23 NEW SECTION. **Section 22. Effective date.** [This act] is effective July 1, 2013.

24

- END -