

SENATE BILL NO. 162

INTRODUCED BY L. GROSFIELD

BY REQUEST OF THE LOCAL GOVERNMENT FUNDING AND STRUCTURE COMMITTEE

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A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING CRITERIA FOR THE DEDICATION OF STATE REVENUE FOR LOCAL GOVERNMENTS; PROVIDING FOR THE REVIEW OF REVENUE DEDICATIONS; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

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

NEW SECTION. **Section 1. Definitions.** As used in [sections 1 through 3], unless the context requires otherwise, the following definitions apply:

(1) "Dedicated revenue provision" means an administrative or legislative action that allocates the revenue from a tax, fee, assessment, or other source to a local government.

(2) "General revenue source" means a source of revenue not governed by established or implied restrictions based on the source or limited use of the revenue. The term includes taxes, interest earnings, investment earnings, fines, and forfeitures.

NEW SECTION. **Section 2. Revenue dedication guidelines.** (1) It is the policy of the legislature that a revenue source may be dedicated for a specific purpose when one or more of the following conditions are met:

(a) The person or entity paying the tax, fee, or assessment is the direct beneficiary of the specific activity that is funded by the tax, fee, or assessment, and the tax, fee, or assessment is commensurate with the costs of the program or activity.

(b) The entire cost of the activity is paid by the beneficiary, and the tax, fee, or assessment is commensurate with the costs of the activity, including reasonable administrative costs.

(c) There is an expectation that funds donated by a person or entity will be used for a specified purpose. Grants from private or public entities are considered donations under this subsection.

(d) There is a legal basis for the revenue dedication. A legal basis is a constitutional mandate, federal mandate, or statutory requirement in which a source of funds is designated for a specific purpose.



1 (e) There is a recognized need for accountability through a separation of funding from the general  
2 fund consistent with generally accepted accounting principles.

3 (2) In the consideration of the general appropriations act for each biennium, the legislature shall  
4 determine the appropriateness of dedicating revenue. The office of budget and program planning shall  
5 describe the occurrence in its presentation of the executive budget, and the legislative fiscal analyst shall  
6 highlight the issue in the budget analysis and for the appropriations subcommittee considering the revenue  
7 dedication.

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9 NEW SECTION. **Section 3. Review of dedicated revenue provisions.** (1) Each interim, the  
10 legislative finance committee shall review dedicated revenue provisions based upon procedures established  
11 under subsection (4) and the revenue dedication guidelines set forth in [section 2].

12 (2) The legislature recognizes that dedicated revenue provisions are also subject to review by:

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

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

16 (c) the legislative services division in drafting legislation; and

17 (d) the legislative audit division in auditing agencies.

18 (3) To avoid unnecessary use of dedicated revenue provisions, the entities listed in subsection (2)  
19 shall, in the course of current duties, consider the guidelines listed in [section 2] and any criteria provided  
20 in the legislation dedicating the revenue and listed in this subsection. ~~A dedicated revenue provision should~~  
21 ~~not give a local government an unfair advantage for funding.~~ The expenditures from a dedicated revenue  
22 provision must be based on requirements for meeting a legislatively established outcome. Statutorily  
23 mandated programs or activities funded through dedicated revenue provisions from general revenue  
24 sources must be reviewed to the same extent as programs or activities funded from the general fund. The  
25 use of a dedicated revenue provision may be justified if it satisfies one or more of the following:

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

29 (b) The use of the dedicated revenue provision provides special information or other advantages  
30 that could not be obtained without the revenue dedication.

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

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

5 (e) The dedicated revenue provision results in an appropriate projected ending fund balance.

6 (f) The dedicated revenue provision fulfills a continuing need recognized by both local government  
7 and the legislature.

8 (g) The dedicated revenue provision does not result in accounting or auditing inefficiency.

9 (4) The legislative finance committee shall establish procedures to facilitate a biennial review and  
10 evaluation of dedicated revenue provisions.

11 (5) Upon completion of the review, the committee shall report a summary of its findings to the  
12 legislature, including its recommendation of termination or extension, with or without modification, of the  
13 dedicated revenue provision.

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15 NEW SECTION. **Section 4. Codification instruction.** [Sections 1 through 3] are intended to be  
16 codified as an integral part of Title 17, chapter 1, and the provisions of Title 17, chapter 1, apply to  
17 [sections 1 through 3].

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19 NEW SECTION. **Section 5. Effective date.** [This act] is effective on passage and approval.

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21 NEW SECTION. **Section 6. Retroactive applicability.** [This act] applies retroactively, within the  
22 meaning of 1-2-109, to state revenue dedications after December 31, 2000.

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