

1 SENATE BILL NO. 179

2 INTRODUCED BY T. ZOOK

3 BY REQUEST OF THE OFFICE OF BUDGET AND PROGRAM PLANNING

4

5 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS GOVERNING BUDGETING AND
 6 APPROPRIATIONS; CLARIFYING THE MAXIMUM EXPENDITURE FOR AN EMERGENCY OR DISASTER;
 7 REVISING THE LAW GOVERNING ACCRUALS; PROVIDING THAT AGENCY PROGRAM BUDGET
 8 REDUCTION PLANS APPLY TO THE GENERAL FUND BASE BUDGET FOR THE GENERAL
 9 APPROPRIATIONS ACT AND THE STATE PAY PLAN; PROVIDING THAT AGENCY GOALS AND
 10 OBJECTIVES MAY BE MADE AVAILABLE ELECTRONICALLY; CLARIFYING THE RECORDING OF
 11 UNIVERSITY FUNDS UNDER AN OPERATING BUDGET; ALLOWING THE RETRANSFER OF MONEY
 12 TRANSFERRED FOR SPRING FIRE COSTS; CLARIFYING THE LAWS GOVERNING THE REVERSION OF
 13 FUNDS; CLARIFYING THE PROCEDURE FOR A PROPOSED SUPPLEMENTAL APPROPRIATION TO
 14 TRANSFER FUNDS BETWEEN FISCAL YEARS; EXTENDING THE DURATION OF A BUDGET AMENDMENT
 15 FOR FEDERAL FUNDS TO THE END OF THE FEDERAL FISCAL YEAR; PROVIDING THAT CHARGES FOR
 16 SERVICES AND SUPPLIES BETWEEN AGENCIES ARE VALID CLAIMS; AMENDING SECTIONS 10-3-312,
 17 17-1-102, 17-7-111, 17-7-123, 17-7-138, 17-7-139, 17-7-304, 17-7-311, 17-7-402, AND 17-8-101,
 18 MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE."

19

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

21

22 **Section 1.** Section 10-3-312, MCA, is amended to read:

23 **"10-3-312. Maximum expenditure by governor -- appropriation.** (1) Whenever an emergency or
 24 disaster is declared by the governor, there is statutorily appropriated to the office of the governor, as
 25 provided in 17-7-502, and, subject to subsection (2), the governor is authorized to expend from the
 26 general fund; an amount not to exceed \$12 million in any biennium, minus any amount appropriated
 27 pursuant to 10-3-310 in the same biennium. The statutory appropriation in this subsection may be used
 28 by any state agency designated by the governor.

29 (2) In the event of the recovery of money expended under this section, the spending authority
 30 must be reinstated to a level reflecting the recovery.

1 (3) If a disaster is declared by the president of the United States, there is statutorily appropriated
 2 to the office of the governor, as provided in 17-7-502, and the governor is authorized to expend from the
 3 general fund; an amount not to exceed \$500,000 during the biennium to meet the state's share of the
 4 individual and family grant programs as provided in 42 U.S.C. 5178. The statutory appropriation in this
 5 subsection may be used by any state agency designated by the governor."

6

7 **SECTION 2.** SECTION 17-1-102, MCA, IS AMENDED TO READ:

8 **"17-1-102. Uniform accounting system and expenditure control.** (1) The department shall establish
 9 a system of financial control so that the functioning of the various agencies of the state may be improved,
 10 duplications of work by different state agencies and employees may be eliminated, public service may be
 11 improved, and the cost of government may be reduced.

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

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

20 (4) All state agencies, including units of the university system but excluding community colleges,
 21 shall input all necessary transactions to the accounting system prescribed in subsection (2) before the
 22 accounts are closed at the end of the fiscal year in order to present the receipt, use, and disposition of all
 23 money and property for which the agency is accountable in accordance with generally accepted accounting
 24 principles, except that for budgetary control purposes, encumbrances, ~~other than those for equipment that~~
 25 ~~are not for goods and services related to the maintenance of highway infrastructure in the department of~~
 26 ~~transportation maintenance program to be paid from the highways state special revenue fund,~~ that are
 27 required by generally accepted accounting principles to be reported as a reservation of fund balance must
 28 be recorded as expenditures and liabilities on the accounting records. ~~THE EXCLUSION FOR EQUIPMENT DOES~~
 29 ~~NOT APPLY TO EQUIPMENT FOR GOODS AND SERVICES RELATED TO THE MAINTENANCE OF HIGHWAY INFRASTRUCTURE IN~~
 30 ~~THE DEPARTMENT OF TRANSPORTATION MAINTENANCE PROGRAM TO BE PAID FROM THE HIGHWAYS STATE SPECIAL~~

1 REVENUE FUND, IN ACCORDANCE WITH THE FOLLOWING REQUIREMENTS:

2 (A) GOODS AND SERVICES, GRANTS, AND LOCAL ASSISTANCE THAT ARE PAID FOR WITH THE GENERAL FUND, IN
 3 WHOLE OR IN PART, MAY BE ENCUMBERED. THE GENERAL FUND ENCUMBRANCES MUST BE REVIEWED BY THE DEPARTMENT,
 4 AND A SPECIFIC EXTENSION PLAN MUST BE PRESENTED BY THE ENCUMBERING AGENCY TO THE DEPARTMENT PRIOR TO THE
 5 FISCAL YEAREND. IF A VALID EXTENSION PLAN IS NOT RECEIVED AND APPROVED, THE DEPARTMENT SHALL DELETE THE
 6 ENCUMBRANCE AT FISCAL YEAREND. THE DEPARTMENT SHALL PRESENT A FISCAL YEAREND REPORT TO THE OFFICE OF
 7 BUDGET AND PROGRAM PLANNING AND TO THE LEGISLATIVE FINANCE COMMITTEE ON EACH GENERAL FUND ENCUMBRANCE
 8 REMAINING AT FISCAL YEAREND.

9 (B) NONGENERAL FUND ENCUMBRANCES ALSO REQUIRE A VALID EXTENSION PLAN APPROVED BY THE DEPARTMENT
 10 AT THE END OF EACH FISCAL YEAR. AFTER 3 YEARS, APPROVED EXTENSIONS MUST BE INCLUDED BY THE DEPARTMENT IN
 11 ITS FISCAL YEAREND REPORT TO THE OFFICE OF BUDGET AND PROGRAM PLANNING AND TO THE LEGISLATIVE FINANCE
 12 COMMITTEE."

13

14 **Section 3.** Section 17-7-111, MCA, is amended to read:

15 **"17-7-111. Preparation of state budget -- agency program budgets -- form distribution and**
 16 **contents.** (1) (a) To prepare a state budget, the executive branch, the legislature, and the citizens of the
 17 state need information that is consistent and accurate. Necessary information includes detailed
 18 disbursements by fund type for each agency and program for the appropriate time period,
 19 recommendations for creating a balanced budget, and recommended disbursements and estimated receipts
 20 by fund type and fund category.

21 (b) Subject to the requirements of this chapter, the budget director and the legislative fiscal
 22 analyst shall by agreement:

23 (i) establish necessary standards, formats, and other matters necessary to share information
 24 between the agencies and to ensure that information is consistent and accurate for the preparation of the
 25 state's budget; and

26 (ii) provide for the collection and provision of budgetary and financial information that is in addition
 27 to or different from the information otherwise required to be provided pursuant to this section.

28 (2) In the preparation of a state budget, the budget director shall, not later than the date specified
 29 in 17-7-112(1), distribute to all agencies the proper forms and instructions necessary for the preparation
 30 of budget estimates by the budget director. These forms must be prescribed by the budget director to

1 procure the information required by subsection (3). The forms must be submitted to the budget director
2 by the date provided in 17-7-112(2) or the agency's budget is subject to preparation based upon estimates
3 as provided in 17-7-112(5). The budget director may refuse to accept forms that do not comply with the
4 provisions of this section or the instructions given for completing the forms.

5 (3) The agency budget request must set forth a balanced financial plan for the agency completing
6 the forms for each fiscal year of the ensuing biennium. The plan must consist of:

7 (a) a consolidated agency budget summary of funds subject to appropriation or enterprise funds
8 that transfer profits to the general fund or to an account subject to appropriation for the current base
9 budget expenditures, including statutory appropriations, and for each present law adjustment and new
10 proposal request setting forth the aggregate figures of the full-time equivalent personnel positions (FTE)
11 and the budget, showing a balance between the total proposed disbursements and the total anticipated
12 receipts, together with the other means of financing the budget for each fiscal year of the ensuing
13 biennium, contrasted with the corresponding figures for the last completed fiscal year and the fiscal year
14 in progress;

15 (b) a schedule of the actual and projected receipts, disbursements, and solvency of each
16 ~~accounting entity within each~~ fund for the current biennium and estimated for the subsequent biennium;

17 (c) a statement of the agency mission and a statement of goals and objectives for each program
18 of the agency. The goals and objectives must include, in a concise form, sufficient specific information and
19 quantifiable information to enable the legislature to formulate an appropriations policy regarding the agency
20 and its programs and to allow a determination, at some future date, on whether the agency has succeeded
21 in attaining its goals and objectives.

22 (d) actual FTE and disbursements for the completed fiscal year of the current biennium, estimated
23 FTE and disbursements for the current fiscal year, and the agency's request for the ensuing biennium, by
24 program;

25 (e) actual disbursements for the completed fiscal year of the current biennium, estimated
26 disbursements for the current fiscal year, and the agency's recommendations for the ensuing biennium,
27 by disbursement category;

28 ~~(f) a reference, for each program included in the agency budget request, identifying whether the~~
29 ~~program may be operated at the discretion of the agency or whether the agency is required by federal or~~
30 ~~state law to operate, administer, or manage the program;~~

1 ~~(e)~~(f) for only agencies with more than 20 FTE, a plan to reduce the proposed ~~GENERAL FUND~~ base
 2 budget for the general appropriations act and the proposed state pay plan to ~~85%~~ 95% of the current
 3 ~~GENERAL FUND~~ base budget or lower if directed by the budget director. EACH AGENCY PLAN MUST INCLUDE BASE
 4 BUDGET REDUCTIONS THAT REFLECT THE REQUIRED PERCENTAGE REDUCTION BY FUND TYPE FOR THE GENERAL FUND AND
 5 STATE SPECIAL REVENUE FUND TYPES. The plan must include:

- 6 (i) a prioritized list of services that would be eliminated or reduced;
- 7 (ii) for each service included in the prioritized list, the savings that would result from the elimination
 8 or reduction; and
- 9 (iii) the consequences or impacts of the proposed elimination or reduction of each service.

10 ~~(h)~~(g) other information the budget director feels is necessary for the preparation of a budget.

11 (4) The budget director shall prepare and submit to the legislative fiscal analyst in accordance with
 12 17-7-112:

13 (a) detailed recommendations for the state long-range building program. Each recommendation
 14 must be presented by institution, agency, or branch, by funding source, with a description of each
 15 proposed project.

16 (b) the proposed pay plan schedule for all executive branch employees at the program level by
 17 fund, with the specific cost and funding recommendations for each agency. Submission of a pay plan
 18 schedule under this subsection is not an unfair labor practice under 39-31-401.

19 (c) agency proposals for the use of cultural and aesthetic project grants under Title 22, chapter
 20 2, part 3, the renewable resource grant and loan program under Title 85, chapter 1, part 6, the reclamation
 21 and development grants program under Title 90, chapter 2, part 11, and the treasure state endowment
 22 program under Title 90, chapter 6, part 7.

23 (5) The board of regents shall submit, with its budget request for each university unit in
 24 accordance with 17-7-112, a report on the university system bonded indebtedness and related finances
 25 as provided in this subsection (5). The report must include the following information for each year of the
 26 biennium, contrasted with the same information for the last completed fiscal year and the fiscal year in
 27 progress:

- 28 (a) a schedule of estimated total bonded indebtedness for each university unit by bond indenture;
- 29 (b) a schedule of estimated revenue, expenditures, and fund balances by fiscal year for each
 30 outstanding bond indenture, clearly delineating the accounts relating to each indenture and the minimum

1 legal funding requirements for each bond indenture; and

2 (c) a schedule showing the total funds available from each bond indenture and its associated
3 accounts, with a list of commitments and planned expenditures from such accounts, itemized by revenue
4 source and project for each year of the current and ensuing bienniums.

5 (6) The budget director may not obtain copies of individual income tax records protected under
6 15-30-303. The department of revenue shall make individual income tax data available by removing
7 names, addresses, occupations, social security numbers, and taxpayer identification numbers. The
8 department of revenue may not alter the data in any other way. The data is subject to the same
9 restrictions on disclosure as are individual income tax returns."

10

11 **Section 4.** Section 17-7-123, MCA, is amended to read:

12 **"17-7-123. Form of executive budget.** (1) The budget submitted must set forth a balanced
13 financial plan for funds subject to appropriation and enterprise funds that transfer profits to the general
14 fund or to accounts subject to appropriation for each accounting entity and for the state government for
15 each fiscal year of the ensuing biennium. The base level plan must consist of:

16 (1)(a) a consolidated budget summary setting forth the aggregate figures of the budget in a
17 manner that shows a balance between the total proposed disbursements and the total anticipated receipts,
18 together with the other means of financing the budget for each fiscal year of the ensuing biennium,
19 contrasted with the corresponding figures for the last completed fiscal year and the fiscal year in progress.
20 The consolidated budget summary must be supported by explanatory schedules or statements.

21 (2)(b) budget and full-time equivalent personnel position comparisons by agency, program, and
22 appropriated funds for the current and subsequent biennium;

23 (3)(c) the departmental mission and a statement of goals and objectives for ~~each program~~ of the
24 department;

25 (4)(d) base budget disbursements for the completed fiscal year of the current biennium, estimated
26 comparable disbursements for the current fiscal year, and the proposed present law base budget plus new
27 proposals, if any, for each department and each program of the department;

28 (5)(e) a statement containing recommendations of the governor for the ensuing biennium by
29 program and disbursement category, including:

30 (a)(i) explanations of appropriation and revenue measures included in the budget that involve policy

1 changes; and

2 ~~(b)~~(ii) matters not included as a part of the budget bill but included as a part of the executive
3 budget, such as the state employee pay plan, programs funded through separate appropriations measures,
4 and other matters considered necessary for comprehensive public and legislative consideration of the state
5 budget;

6 ~~(c)~~(f) a report on:

7 ~~(a)~~(i) enterprise funds not subject to the requirements of subsections (1)(a) through ~~(5)~~ (1)(e),
8 including retained earnings and contributed capital, projected operations and charges, and projected fund
9 balances; and

10 ~~(b)~~(ii) fees and charges in the internal service fund type, including changes in the level of fees and
11 charges, projected use of the fees and charges, and projected fund balances. Fees and charges in the
12 internal service fund type must be approved by the legislature in the general appropriations act. Fees and
13 charges in a biennium may not exceed the level approved by the legislature in the general appropriations
14 act effective for that biennium.

15 ~~(7)~~(g) any other financial or budgetary material agreed to by the budget director and the legislative
16 fiscal analyst.

17 (2) The statement of departmental goals and objectives and the schedule for each fund required
18 in 17-7-111(3)(b) of the executive budget are not required to be printed but must be available in the office
19 of budget and program planning and on the internet."

20

21 **Section 5.** Section 17-7-138, MCA, is amended to read:

22 **"17-7-138. Operating budget.** (1) (a) Expenditures by a state agency must be made in substantial
23 compliance with the budget approved by the legislature. Substantial compliance may be determined by
24 conformity to legislative intent as established in the narrative accompanying the general appropriations act.
25 An explanation of any significant change in agency or program scope, objectives, activities, or
26 expenditures must be submitted to the legislative fiscal analyst for review and comment by the legislative
27 finance committee prior to any implementation of the change. If the approving authority certifies that a
28 change is time-sensitive, the approving authority may approve the change prior to the next regularly
29 scheduled meeting of the legislative finance committee. The approving authority shall submit all proposed
30 time-sensitive changes to the legislative fiscal analyst prior to approval. If the legislative fiscal analyst

1 determines that notification of the legislative finance committee is warranted, the legislative fiscal analyst
 2 shall immediately notify as many members as possible of the proposed change and communicate any
 3 concerns expressed to the approving authority. The approving authority shall present a report fully
 4 explaining the reasons for the action to the next meeting of the legislative finance committee. Except as
 5 provided in subsection (2), the expenditure of money appropriated in the general appropriations act is
 6 contingent upon approval of an operating budget by August 1 of each fiscal year. An approved original
 7 operating budget must comply with state law.

8 (b) For the purposes of this subsection (1), an agency or program is considered to have a
 9 significant change in its scope, objectives, activities, or expenditures if:

10 (i) the ~~expenditure~~ operating budget change exceeds \$1 million; or

11 (ii) the ~~expenditure~~ operating budget change exceeds 25% of a budget category and the change
 12 is greater than \$25,000. If there have been other changes to the budget category in the current fiscal
 13 year, all the changes, including the change under consideration, must be used in determining the 25% and
 14 \$25,000 threshold.

15 (2) The expenditure of money appropriated in the general appropriations act to the commissioner
 16 of higher education for distribution by the board of regents to the university system units, as defined in
 17 17-7-102, is contingent upon approval of ~~an a comprehensive~~ operating budget by October 1 of each fiscal
 18 year. ~~All other requirements in this section. This subsection does not apply to the university system units.~~

19 (3) The operating budget for money appropriated by the general appropriations act must be
 20 separate from the operating budget for money appropriated by another law except a law appropriating
 21 money for the state pay plan or any portion of the state pay plan. Each operating budget must include
 22 expenditures for each agency program, detailed at least by first-level categories as provided in
 23 17-1-102(3). Each agency shall record its operating budget for all funds, other than university HIGHER
 24 EDUCATION funds, and any approved changes on the statewide budget and accounting state financial
 25 system. DOCUMENTS IMPLEMENTING APPROVED CHANGES MUST BE SIGNED. Forms used for changing an operating
 26 budget must reference the current, complete, and approved operating budget, show the proposed changes
 27 to the operating budget, and reference any other pending documents to change the operating budget.
 28 University THE OPERATING BUDGET FOR HIGHER EDUCATION funds must be recorded on the university financial
 29 system, with separate accounting categories for each source or use of state government funds. State
 30 sources and university sources of funds may be combined for the general operating portion of the current

1 unrestricted funds."

2

3 **Section 6.** Section 17-7-139, MCA, is amended to read:

4 **"17-7-139. Program transfers.** (1) Unless prohibited by law, the approving authority may approve
5 agency requests to transfer appropriations between programs within each fund type within each fiscal
6 year. An explanation of any transfer that involves a significant change in agency or program scope,
7 objectives, activities, or expenditures must be submitted to the legislative fiscal analyst for review and
8 comment by the legislative finance committee prior to any implementation of the change. If the approving
9 authority certifies that a request for a transfer representing a significant change in agency or program
10 scope, objectives, activities, or expenditures is time-sensitive, the approving authority may approve the
11 transfer prior to the next regularly scheduled meeting of the legislative finance committee. The approving
12 authority shall submit all proposed time-sensitive changes to the legislative fiscal analyst prior to approval.
13 If the legislative fiscal analyst determines that notification of the legislative finance committee is
14 warranted, the legislative fiscal analyst shall immediately notify as many members as possible of the
15 proposed change and communicate any concerns expressed to the approving authority. The approving
16 authority shall present a report fully explaining the reasons for the action to the next meeting of the
17 legislative finance committee. All program transfers must be completed within the same fund from which
18 the transfer originated. A request for a transfer accompanied by a justification explaining the reason for
19 the transfer must be submitted by the requesting agency to the approving authority and the office of
20 budget and program planning. Upon approval of the transfer, the approving authority shall inform the
21 legislative fiscal analyst of the approved transfer and the justification for the transfer. If money
22 appropriated for a fiscal year is transferred to another fiscal year, the money may not be retransferred,
23 except that money remaining from projected costs for spring fires estimated in the last quarter of the first
24 year of a biennium may be retransferred.

25 (2) For the purposes of subsection (1), an agency or program is considered to have a significant
26 change in its scope, objectives, activities, or expenditures if:

27 (a) the budget transfer exceeds \$1 million; or

28 (b) the budget transfer exceeds 25% of a program's total operating plan and the transfer is greater
29 than \$25,000. If there have been other transfers to or from the program in the current fiscal year, all the
30 transfers, including the transfer under consideration, must be used in determining the 25% and \$25,000

1 threshold."

2

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

4 **"17-7-304. Disposal of unexpended appropriations.** (1) All money appropriated for any specific
5 purpose except that appropriated for the university system units listed in subsection (2) and except as
6 provided in subsection (4) must, after the expiration of the time for which appropriated, revert to the
7 several funds and accounts from which originally appropriated. However, any unexpended balance in any
8 specific appropriation may be used for the years for which the appropriation was made or may be used
9 to fund the provisions of 2-18-1203 through 2-18-1205 and 19-2-706 in the succeeding year.

10 (2) Except as provided in 17-2-108 and subsection (3) of this section, all money appropriated for
11 the university of Montana campuses at Missoula, Butte, Dillon, and Helena and the Montana state
12 university campuses at Bozeman, Billings, Havre, and Great Falls, the agricultural experiment station with
13 central offices at Bozeman, the forest and conservation experiment station with central offices at Missoula,
14 the cooperative extension service with central offices at Bozeman, and the bureau of mines and geology
15 with central offices in Butte must, after the expiration of the time for which appropriated, revert to an
16 account held by the board of regents. The board of regents is authorized to maintain a fund balance. There
17 is a statutory appropriation, as provided in 17-7-502, to use the funds held in this account in accordance
18 with a long-term plan for major and deferred maintenance expenditures and equipment or fixed assets
19 purchases prepared by the affected university system units and approved by the board of regents. The
20 affected university system units may, with the approval of the board of regents, modify the long-term plan
21 at any time to address changing needs and priorities. The board of regents shall communicate the plan to
22 each legislature, to the finance committee when requested by the committee, and to the office of budget
23 and program planning.

24 (3) Subsection (2) does not apply to reversions that are the result of a reduction in spending
25 directed by the governor pursuant to 17-7-140. Any amount that is a result of a reduction in spending
26 directed by the governor must revert to the fund or account from which it was originally appropriated.

27 (4) ~~For the 2 years following~~ After the end of a fiscal year, 30% of the money appropriated to an
28 agency for that year by the general appropriations act for personal services, operating expenses, and
29 equipment, by fund type, and remaining unexpended and unencumbered at the end of the year may be
30 reappropriated to be spent during the following 2 years for any purpose that is consistent with the goals

1 and objectives of the agency. The dollar amount of the 30% amount that may be carried forward and
2 spent must be determined by the office of budget and program planning."

3

4 **Section 8.** Section 17-7-311, MCA, is amended to read:

5 **"17-7-311. Proposed fiscal year transfer supplemental appropriation -- procedure.** (1) A proposed
6 supplemental appropriation to transfer appropriations between fiscal years of a biennium and all supporting
7 documentation must be submitted to the legislative fiscal analyst. The governor may not approve a
8 proposed fiscal year transfer supplemental appropriation until the governor receives the legislative finance
9 committee's written report for that proposed fiscal year transfer supplemental appropriation unless:

10 (a) the report is not received within 90 calendar days from the date the proposed fiscal year
11 transfer supplemental appropriation and supporting documentation were forwarded to the legislative
12 finance committee, in which case the governor may approve the proposed fiscal year transfer supplemental
13 appropriation; or

14 (b) there has been a waiver of the review and report requirements, as provided in subsection (4).

15 (2) The legislative fiscal analyst shall review each proposed fiscal year transfer supplemental
16 appropriation submitted by the governor for compliance with statutory requirements and standards and
17 to determine the expenditures that will be reduced in order to contain spending within legislative
18 appropriations. The legislative fiscal analyst shall present a written report of this review to the legislative
19 finance committee. Within 10 days after the legislative finance committee's consideration of the proposed
20 fiscal year transfer supplemental appropriation, the legislative fiscal analyst shall submit the legislative
21 finance committee's report to the governor.

22 (3) Upon receipt of the legislative finance committee's written report, the governor may approve
23 or deny the proposed fiscal year transfer supplemental appropriation or may return the proposed fiscal year
24 transfer supplemental appropriation to the requesting agency for further information. If the governor has
25 returned the proposed fiscal year transfer supplemental appropriation to the requesting agency and the
26 requesting agency resubmits the proposed fiscal year transfer supplemental appropriation to the governor,
27 all procedures provided in this section apply to the resubmitted proposed fiscal year transfer supplemental
28 appropriation.

29 (4) (a) If an emergency occurs that poses a serious threat to the life, health, or safety of the
30 public, the legislative fiscal analyst may waive the written review and the legislative finance committee's

1 written report required by this section. After a waiver, the legislative fiscal analyst may complete the
2 written review.

3 (b) Upon receipt of the waiver, the governor may approve the proposed fiscal year transfer
4 supplemental appropriation.

5 (c) A waiver affects only the legislative fiscal analyst's written review and the legislative finance
6 committee's written report on the proposed fiscal year transfer supplemental appropriation. All other
7 proposed fiscal year transfer supplemental appropriation requirements and standards remain in effect.

8 (5) Nothing in this part confers on the legislative finance committee authority to approve or deny
9 a proposed fiscal year transfer supplemental appropriation."
10

11 **Section 9.** Section 17-7-402, MCA, is amended to read:

12 **"17-7-402. Budget amendment requirements.** (1) Except as provided in subsection (7), a budget
13 amendment may not be approved:

14 (a) by the approving authority, except a budget amendment to spend:

15 (i) additional federal revenue;

16 (ii) additional tuition collected by the Montana university system;

17 (iii) additional revenue deposited in the internal service funds within the department or the office
18 of the commissioner of higher education as a result of increased service demands by state agencies;

19 (iv) Montana historical society enterprise revenue resulting from sales to the public;

20 (v) additional revenue that is deposited in funds other than the general fund and that is from the
21 sale of fuel for those agencies participating in the Montana public vehicle fueling program established by
22 Executive Order 22-91;

23 (vi) revenue resulting from the sale of goods produced or manufactured by the industries program
24 of an institution within the department of corrections; or

25 (vii) revenue collected for the administration of the state grain laboratory under the provisions of
26 Title 80, chapter 4, part 7;

27 (b) by the approving authority if the budget amendment contains any significant ascertainable
28 commitment for any present or future increased general fund support;

29 (c) by the approving authority for the expenditure of money in the state special revenue fund
30 unless an emergency justifies the expenditure or the expenditure is exempt under subsection (5);

1 (d) by the approving authority unless it will provide additional services;

2 (e) by the approving authority for any matter of which the requesting agency had knowledge at
3 a time when the proposal could have been presented to an appropriation subcommittee, the house
4 appropriations committee, or the senate finance and claims committee of the most recent legislative
5 session open to that matter, except when the legislative finance committee is given specific notice by the
6 approving authority that significant identifiable events, specific to Montana and pursuant to provisions or
7 requirements of Montana state law, have occurred since the matter was raised with or presented for
8 consideration by the legislature; or

9 (f) to extend beyond June 30 of the last year of any biennium, except that budget amendments
10 for federal funds may extend to the end of the federal fiscal year.

11 (2) A general fund loan made pursuant to 17-2-107 does not constitute a significant ascertainable
12 commitment of present general fund support.

13 (3) ~~All~~ Subject to subsection (1)(f), all budget amendments must itemize planned expenditures by
14 fiscal year.

15 (4) Each budget amendment must be submitted by the approving authority to the budget director
16 and the legislative fiscal analyst. ~~The proposed expenditure of money from nonstate or nonfederal sources~~
17 ~~that is restricted by law must be submitted to the legislative fiscal analyst.~~

18 (5) Money from nonstate or nonfederal sources that would be deposited in the state special
19 revenue fund and that is restricted by law or by the terms of a written agreement, such as a contract, trust
20 agreement, or donation, is exempt from the requirements of this part.

21 (6) An appropriation for a nonrecurring item that would usually be the subject of a budget
22 amendment ~~that is~~ must be submitted to the legislature for approval during a legislative session between
23 January 1 and the senate hearing on the budget amendment bill. The bill may ~~not~~ include authority to
24 spend money ~~beyond~~ in the first current fiscal year and in both fiscal years of the next biennium.

25 (7) A budget amendment to spend state funds, other than from the general fund, required for
26 matching funds in order to receive a grant is exempt from the provisions of subsection (1)."

27

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

29 **"17-8-101. Appropriation and disbursement of money from treasury.** (1) For purposes of
30 complying with Article VIII, section 14, of the Montana constitution, money deposited in the general fund,

1 the special revenue fund type (except money deposited in the treasury from nonstate and nonfederal
2 sources restricted by law or by the terms of an agreement, such as a contract, trust agreement, or
3 donation), and the capital projects fund type, with the exception of refunds authorized in subsection (4),
4 may be paid out of the treasury only on appropriation made by law.

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

9 (a) by appropriation; or

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

12 (3) The pension trust fund type is not considered a part of the state treasury for appropriation
13 purposes. Money deposited in the pension trust fund type may be paid out of the treasury pursuant to
14 general laws, trust agreement, or contract.

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

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

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

26 (7) The creation of accounts in the enterprise fund or the internal service fund must be approved
27 by the department, using conformity with generally accepted accounting principles as the primary approval
28 criteria. The department shall report annually to the office of budget and program planning and the
29 legislative finance committee on the nature, status, and justification for all new accounts in the enterprise
30 fund and the internal service fund.

1 (8) Enterprise and internal service funds must be appropriated if they are used as a part of a
2 program that is not an enterprise or internal service function and that otherwise requires an appropriation.
3 An enterprise fund that transfers its ending fund balance to the general fund is subject to appropriation.
4 The payment of funds into an internal service fund must be authorized by law."

5

6 NEW SECTION. Section 11. Charges for services or supplies among agencies -- valid claim. (1)
7 Subject to 17-8-242, charges for services and supplies incurred between state agencies are considered
8 a debt that must be paid by the receiving agency as if the amount were owed to a vendor outside of state
9 government.

10 (2) Agencies shall use all funds at their disposal to pay the bills for specific charges for services
11 or supplies provided by another state agency.

12

13 NEW SECTION. Section 12. Codification instruction. [Section ~~40~~ 11] is intended to be codified
14 as an integral part of Title 17, chapter 8, part 3, and the provisions of Title 17, chapter 8, part 3, apply
15 to [section ~~40~~ 11].

16

17 NEW SECTION. SECTION 13. COORDINATION INSTRUCTION. IF HOUSE BILL NO. 533 AND [THIS ACT] ARE
18 BOTH PASSED AND APPROVED, THEN THE SENTENCE "THE FORMS MUST BE SIGNED." ADDED TO SECTION 17-7-138(3)
19 BY HOUSE BILL NO. 533 IS VOID.

20

21 NEW SECTION. Section 14. Effective date. [This act] is effective July 1, 2001.

22

23 NEW SECTION. SECTION 15. APPLICABILITY. [SECTION 2] APPLIES TO FISCAL YEAR 2002 AND THEREAFTER.

24

- END -