

HOUSE BILL NO. 809
INTRODUCED BY B. GLASER

A BILL FOR AN ACT ENTITLED: "AN ACT APPROPRIATING MONEY TO THE OFFICE OF PUBLIC INSTRUCTION, THE BOARD OF PUBLIC EDUCATION, THE MONTANA SCHOOL FOR THE DEAF AND BLIND, THE MONTANA ARTS COUNCIL, THE MONTANA STATE LIBRARY COMMISSION, AND THE MONTANA HISTORICAL SOCIETY FOR THE BIENNIUM ENDING JUNE 30, 2009, AND SETTING RATES FOR INTERNAL SERVICES FUNDS; REVISING LAWS TO ALLOW FOR THE APPROPRIATIONS AND TO IMPLEMENT THE STATUTORY PROVISIONS GOVERNING APPROPRIATIONS FOR THE OPERATION OF THE OFFICE OF PUBLIC INSTRUCTION, THE BOARD OF PUBLIC EDUCATION, THE MONTANA SCHOOL FOR THE DEAF AND BLIND, THE MONTANA ARTS COUNCIL, THE MONTANA STATE LIBRARY COMMISSION, AND THE MONTANA HISTORICAL SOCIETY ; REQUIRING REPORTS ON THE SUCCESS OF CERTAIN EDUCATION FUNDING MEASURES; AMENDING SECTIONS 15-1-122, 17-1-507, 17-7-123, 17-7-131, 17-7-138, 17-7-139, 17-7-140, 17-7-301, 17-7-304, 20-9-542, AND 90-4-614, MCA; AND PROVIDING EFFECTIVE DATES."

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

NEW SECTION. Section 1. First level expenditures. The agency and program appropriation tables in the legislative fiscal analyst narrative accompanying this bill, showing first level expenditures and funding for the 2009 biennium, are adopted as legislative intent.

NEW SECTION. Section 2. Appropriation control. An appropriation item designated "Biennial" may be spent in either year of the biennium. An appropriation item designated "Restricted" may be used during the biennium only for the purpose designated by its title and as presented to the legislature. An appropriation item designated "One Time Only" or "OTO" may not be included in the present law base for the 2011 biennium. The office of budget and program planning shall establish a separate appropriation on the statewide accounting, budgeting, and human resource system for any item designated "Biennial", "Restricted", "One Time Only", or "OTO". The office of budget and program planning shall establish at least one appropriation on the statewide accounting, budgeting, and human resource system for any appropriation that appears as a separate line item in [section 21].

NEW SECTION. Section 3. Program definition. As used in [section 21], "program" has the same meaning as defined in 17-7-102, is consistent with the management and accountability structure established on the statewide accounting, budgeting, and human resource system, and is identified as a major subdivision of an agency ordinarily numbered with an Arabic numeral.

1 NEW SECTION. **Section 4. Personal services funding -- 2011 biennium.** Present law and new proposal funding budget requests for the 2011 biennium submitted under Title
 2 17, chapter 7, part 1, by each executive, judicial, and legislative branch agency must include funding of first level personal services separate from funding of other expenditures. The funding
 3 of first level personal services by accounting entity or equivalent for each fiscal year must be shown at the fourth reporting level or equivalent in the budget request for the 2011 biennium
 4 submitted by October 30 to the legislative fiscal analyst by the office of budget and program planning.

5
 6 NEW SECTION. **Section 5. Totals not appropriations.** The totals shown in [section 21] are for informational purposes only and are not appropriations.

7
 8 **Section 6.** Section 15-1-122, MCA, is amended to read:

9 **"15-1-122. Fund transfers.** (1) There is transferred from the state general fund to the adoption services account, provided for in 42-2-105, \$36,764 for fiscal year 2003. ~~Beginning~~
 10 ~~with fiscal year 2004, the~~ The amount of the transfer must be increased by 10% in each succeeding fiscal year.

11 (2) There is transferred from the state general fund to the department of transportation state special revenue nonrestricted account the following amounts:

12 (a) \$3,050,205 in fiscal year 2006; and

13 (b) in each succeeding fiscal year, the amount in subsection (2)(a), increased by 1.5% in each succeeding fiscal year.

14 (3) For each fiscal year, there is transferred from the state general fund to the accounts, entities, or recipients indicated the following amounts:

15 (a) to the motor vehicle recycling and disposal program provided for in Title 75, chapter 10, part 5, ~~4.62% of the motor vehicle revenue deposited in the state general fund in fiscal~~
 16 ~~year 2006 and~~ 1.48% of the motor vehicle revenue deposited in the state general fund in succeeding each fiscal years year. The amount of ~~8.75% of the allocation in fiscal year 2006 and~~ 9.48%
 17 of the allocation in fiscal year 2007 and succeeding years each fiscal year must be used for the purpose of reimbursing the hired removal of abandoned vehicles. Any portion of the allocation
 18 not used for abandoned vehicle removal reimbursement must be used as provided in 75-10-532.

19 (b) to the noxious weed state special revenue account provided for in 80-7-816, ~~1.53% of the motor vehicle revenue deposited in the state general fund in fiscal year 2006 and~~ 1.50%
 20 of the motor vehicle revenue deposited in the state general fund in succeeding each fiscal years year;

21 (c) to the department of fish, wildlife, and parks:

22 (i) ~~0.47% of the motor vehicle revenue deposited in the state general fund in fiscal year 2006 and in succeeding fiscal years;~~ 0.46% of the motor vehicle revenue deposited in the
 23 state general fund in each fiscal year, with the applicable percentage to be:

24 (A) used to:

25 (I) acquire and maintain pumpout equipment and other boat facilities, ~~5.2% in fiscal year 2006 and~~ 4.8% in each fiscal year ~~2007 and succeeding years;~~

26 (II) administer and enforce the provisions of Title 23, chapter 2, part 5, ~~20.8% in fiscal year 2006 and~~ 19.1% in each fiscal year ~~2007 and succeeding years;~~

1 (III) enforce the provisions of 23-2-804, ~~12.1% in fiscal year 2006 and 11.1% in~~ each ~~fiscal year 2007 and succeeding fiscal years~~; and

2 (IV) develop and implement a comprehensive program and to plan appropriate off-highway vehicle recreational use, ~~18.1% in fiscal year 2006 and 16.7% in~~ each ~~fiscal year 2007~~
3 ~~and succeeding fiscal years~~; and

4 (B) deposited in the state special revenue fund established in 23-1-105 in an amount equal to ~~43.8% in fiscal year 2006 and 48.3% in~~ each ~~fiscal year 2007 and succeeding fiscal~~
5 ~~years~~;

6 (ii) ~~0.12% of the motor vehicle revenue deposited in the state general fund in fiscal year 2006 and 0.10% of the motor vehicle revenue deposited in the state general fund in each~~
7 ~~subsequent~~ fiscal year, with 50% of the amount to be used for enforcing the purposes of 23-2-601, 23-2-602, 23-2-611, 23-2-614 through 23-2-619, 23-2-621, 23-2-622, 23-2-631 through
8 23-2-635, and 23-2-641 through 23-2-644 and 50% of the amount designated for use in the development, maintenance, and operation of snowmobile facilities; and

9 (iii) ~~0.5% of the motor vehicle revenue deposited in the state general fund in fiscal year 2006 and 0.16% of the motor vehicle revenue deposited in the state general fund in each~~
10 ~~succeeding~~ fiscal year to be deposited in the motorboat account to be used as provided in 23-2-533;

11 (d) ~~0.75% of the motor vehicle revenue deposited in the state general fund in fiscal year 2006 and 0.64% of the motor vehicle revenue deposited in the state general fund in each~~
12 ~~succeeding~~ fiscal year, with ~~21.30% in fiscal year 2006 and 24.55% in~~ each ~~fiscal year 2007 and succeeding fiscal years~~ to be deposited in the state veterans' cemetery account provided for
13 in 10-2-603 and with ~~78.70% in fiscal year 2006 and 75.45% in~~ each ~~fiscal year 2007 and succeeding fiscal years~~ to be deposited in the veterans' services account provided for in 10-2-112(1);

14 (e) ~~0.59% of the motor vehicle revenue deposited in the state general fund in fiscal year 2006 and 0.30% of the motor vehicle revenue deposited in the state general fund in each~~
15 ~~succeeding~~ fiscal year for deposit in the state special revenue fund to the credit of the senior citizens and persons with disabilities transportation services account provided for in 7-14-112;
16 and

17 (f) to the search and rescue account provided for in 10-3-801, ~~0.20% of the motor vehicle revenue deposited in the state general fund in fiscal year 2006 and 0.04% of the motor~~
18 ~~vehicle revenue deposited in the state general fund in each~~ ~~succeeding~~ fiscal year.

19 (4) For the purposes of this section, "motor vehicle revenue deposited in the state general fund" means revenue received from:

20 (a) fees for issuing a motor vehicle title paid pursuant to 61-3-203;

21 (b) fees, fees in lieu of taxes, and taxes for vehicles, vessels, and snowmobiles registered or reregistered pursuant to 61-3-321 and 61-3-562;

22 (c) GVW fees for vehicles registered for licensing pursuant to Title 61, chapter 3, part 3; and

23 (d) all money collected pursuant to 15-1-504(3).

24 (5) The amounts transferred from the general fund to the designated recipient must be appropriated as state special revenue ~~in the general appropriations act~~ for the designated
25 purposes."

26

1 **Section 7.** Section 17-1-507, MCA, is amended to read:

2 **"17-1-507. Principles of revenue dedication.** (1) It is the policy of the legislature that a revenue source not be dedicated for a specific purpose unless one or more of the following
3 conditions are met:

4 (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; the entire cost of the activity
5 is paid by the beneficiary; and the tax, fee, or assessment paid is commensurate with the cost of the activity, including reasonable administrative costs.

6 (b) 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
7 subsection.

8 (c) 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
9 for a specific purpose.

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

11 (2) The total funding for a program is a legislative budget and policy issue for which a dedicated revenue provision may not be justified if:

12 (a) a general fund appropriation is needed to supplement the dedicated revenue support for the program or activity; or

13 (b) dedicating a revenue source or portion of a revenue source diverts funds that could be considered a general revenue source.

14 (3) In the consideration of the ~~general~~ appropriations act for each biennium, the legislature shall determine the appropriateness of dedicating revenue to a program or activity under
15 conditions described in subsection (2). The office of budget and program planning shall describe the occurrence in its presentation of the executive budget, and the legislative fiscal analyst
16 shall highlight the issue in the budget analysis and for the appropriations subcommittee considering the revenue dedication."
17

18 **Section 8.** Section 17-7-123, MCA, is amended to read:

19 **"17-7-123. Form of executive budget.** (1) The budget submitted must set forth a balanced financial plan for funds subject to appropriation and enterprise funds that transfer profits
20 to the general fund or to accounts subject to appropriation for each accounting entity and for the state government for each fiscal year of the ensuing biennium. The base level plan must consist
21 of:

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

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

26 (c) the departmental mission and a statement of goals and objectives for the department;

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

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

4 (i) explanations of appropriation and revenue measures included in the budget that involve policy changes;

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

7 (iii) a summary of budget requests that include proposed expenditures on information technology resources. The summary must include funding, program references, and a decision
8 package reference;

9 (f) a report on:

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

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

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

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

19 **Section 9.** Section 17-7-131, MCA, is amended to read:

20 **"17-7-131. Legislative action -- ending fund balance.** (1) The presiding officers of the house of representatives and of the senate shall promptly refer the budgets and budget bills
21 to the proper committees. The budget bill for the maintenance of the agencies of state government and the state institutions must be based upon the budget and proposed budget bill submitted
22 at the request of the governor. The legislature may amend the proposed budget bill, but it may not ~~amend the proposed~~ enact a budget bill so as to that will affect either the obligations of the
23 state or the payment of any salaries required to be paid by the constitution and laws of the state.

24 (2) The adopted budget must be limited so that a positive ending general fund balance exists at the end of the biennium for which funds are appropriated."
25

26 **Section 10.** Section 17-7-138, MCA, is amended to read:

1 **"17-7-138. Operating budget.** (1) (a) Expenditures by a state agency must be made in substantial compliance with the budget approved by the legislature. Substantial compliance
2 may be determined by conformity to the conditions contained in the bill providing general appropriations act for the agency and to legislative intent as established in the narrative accompanying
3 the general bill providing appropriations act for the agency. An explanation of any significant change in agency or program scope must be submitted on a regular basis to the interim committee
4 that has program evaluation and monitoring functions for the agency pursuant to Title 5, chapter 5, part 2. An explanation of any significant change in agency or program scope, objectives,
5 activities, or expenditures must be submitted to the legislative fiscal analyst for review and comment by the legislative finance committee prior to any implementation of the change. A significant
6 change may not conflict with a condition contained in the general bill providing appropriations act for the agency. If the approving authority certifies that a change is time-sensitive, the approving
7 authority may approve the change prior to the next regularly scheduled meeting of the legislative finance committee. The approving authority shall submit all proposed time-sensitive changes
8 to the legislative fiscal analyst prior to approval. If the legislative fiscal analyst determines that notification of the legislative finance committee is warranted, the legislative fiscal analyst shall
9 immediately notify as many members as possible of the proposed change and communicate any concerns expressed to the approving authority. The approving authority shall present a report
10 fully explaining the reasons for the action to the next meeting of the legislative finance committee. Except as provided in subsection (2), the expenditure of money appropriated in the general
11 bill providing appropriations act for an agency is contingent upon approval of an operating budget by August 1 of each fiscal year. An approved original operating budget must comply with
12 state law and conditions contained in the general bill providing appropriations act for the agency.

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

14 (i) the operating budget change exceeds \$1 million; or

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

17 (2) The expenditure of money appropriated in the general bill providing appropriations act to the board of regents, on behalf of the university system units, as defined in 17-7-102,
18 is contingent upon approval of a comprehensive operating budget by October 1 of each fiscal year. The operating budget must contain detailed revenue and expenditures and anticipated fund
19 balances of current funds, loan funds, endowment funds, and plant funds. After the board of regents approves operating budgets, transfers between units may be made only with the approval
20 of the board of regents. Transfers and related justification must be submitted to the office of budget and program planning and to the legislative fiscal analyst.

21 (3) The operating budget for money appropriated by the general bill providing the primary appropriations act for an agency must be separate from the operating budget for money
22 appropriated by another law except a law appropriating money for the state pay plan or any portion of the state pay plan. The legislature may restrict the use of funds appropriated for personal
23 services to allow use only for the purpose of the appropriation. Each operating budget must include expenditures for each agency program, detailed at least by first-level categories as provided
24 in 17-1-102(3). Each agency shall record its operating budget for all funds, other than higher education funds, and any approved changes on the statewide budget and accounting state financial
25 system. Documents implementing approved changes must be signed. The operating budget for higher education funds must be recorded on the university financial system, with separate
26 accounting categories for each source or use of state government funds. State sources and university sources of funds may be combined for the general operating portion of the current

1 unrestricted funds."

2

3 **Section 11.** Section 17-7-139, MCA, is amended to read:

4 **"17-7-139. Program transfers.** (1) Unless prohibited by law or a condition contained in the ~~general bill providing~~ appropriations ~~set for an agency,~~ the approving authority may approve
5 agency requests to transfer appropriations between programs within each fund type within each fiscal year. The legislature may restrict the use of funds appropriated for personal services
6 to allow use only for the purpose of the appropriation. An explanation of any significant transfer must be submitted on a regular basis to the interim committee that has program evaluation and
7 monitoring functions for the agency pursuant to Title 5, chapter 5, part 2. An explanation of any transfer that involves a significant change in agency or program scope, objectives, activities,
8 or expenditures must be submitted to the legislative fiscal analyst for review and 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 scope, objectives, activities, or expenditures is time-sensitive, the approving authority
10 may approve the transfer prior to the next regularly scheduled meeting of the legislative finance committee. The approving authority shall submit all proposed time-sensitive changes to the
11 legislative fiscal analyst prior to approval. If the legislative fiscal analyst determines that notification of the legislative finance committee is warranted, the legislative fiscal analyst shall immediately
12 notify as many members as possible of the proposed change and communicate any concerns expressed to the approving authority. The approving authority shall present a report fully explaining
13 the reasons for the action to the next meeting of the legislative finance committee. All program transfers must be completed within the same fund from which the transfer originated. A request
14 for a transfer accompanied by a justification explaining the reason for the transfer must be submitted by the requesting agency to the approving authority and the office of budget and program
15 planning. Upon approval of the transfer in writing, the approving authority shall inform the legislative fiscal analyst of the approved transfer and the justification for the transfer. If money
16 appropriated for a fiscal year is transferred to another fiscal year, the money may not be retransferred, except that money remaining from projected costs for spring fires estimated in the last
17 quarter of the first year of a biennium may be retransferred.

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

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

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

22

23 **Section 12.** Section 17-7-140, MCA, is amended to read:

24 **"17-7-140. Reduction in spending.** (1) (a) As the chief budget officer of the state, the governor shall ensure that the expenditure of appropriations does not exceed available revenue.
25 Except as provided in subsection (2), in the event of a projected general fund budget deficit, the governor, taking into account the criteria provided in subsection (1)(b), shall direct agencies
26 to reduce spending in an amount that ensures that the projected ending general fund balance for the biennium will be at least 1% of all general fund appropriations during the biennium. An

1 agency may not be required to reduce general fund spending for any program, as defined in each ~~general bill providing~~ appropriations ~~act for an agency~~, by more than 10% during a biennium.
2 Departments or agencies headed by elected officials or the board of regents may not be required to reduce general fund spending by a percentage greater than the percentage of general fund
3 spending reductions required for the total of all other executive branch agencies. The legislature may exempt from a reduction an appropriation item within a program or may direct that the
4 appropriation item may not be reduced by more than 10%.

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

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

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

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

- 25 (i) 2% of the general fund appropriations for the second fiscal year of the biennium prior to October of the year preceding a legislative session;
- 26 (ii) 3/4 of 1% in October of the year preceding a legislative session;

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

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

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

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

9
10 **Section 13.** Section 17-7-301, MCA, is amended to read:

11 **"17-7-301. Authorization to expend during first year of biennium from appropriation for second year -- proposed supplemental appropriation defined -- limit on second-year**
12 **expenditures.** (1) An agency may make expenditures during the first fiscal year of the biennium from appropriations for the second fiscal year of the biennium if authorized by the general bill
13 providing appropriations ~~act for the agency~~. An agency that is not authorized in the ~~general appropriations act~~ to make first-year expenditures may be granted spending authorization by the
14 approving authority upon submission and approval of a proposed supplemental appropriation to the approving authority. The proposal submitted to the approving authority must include a plan
15 for reducing expenditures in the second year of the biennium that allows the agency to contain expenditures within appropriations. If the approving authority finds that, due to because of an
16 unforeseen and unanticipated emergency, the amount actually appropriated for the first fiscal year of the biennium with all other income will be insufficient for the operation and maintenance
17 of the agency during the year for which the appropriation was made, the approving authority shall, after careful study and examination of the request and upon review of the recommendation
18 for executive branch proposals by the budget director, submit the proposed supplemental appropriation to the legislative fiscal analyst.

19 (2) The plan for reducing expenditures required by subsection (1) is not required if the proposed supplemental appropriation is:

20 (a) due to an unforeseen and unanticipated emergency for fire suppression;

21 (b) requested by the superintendent of public instruction, in accordance with the provisions of 20-9-351, and is to complete the state's funding of guaranteed tax base aid,
22 transportation aid, or equalization aid to elementary and secondary schools for the current biennium; or

23 (c) requested by the attorney general and:

24 (i) is to pay the costs associated with litigation in which the department of justice is required to provide representation to the state of Montana; or

25 (ii) in accordance with the provisions of 7-32-2242, is to pay costs for which the department of justice is responsible for confinement of an arrested person in a detention center.

26 (3) Upon receipt of the recommendation of the legislative finance committee pursuant to 17-7-311, the approving authority may authorize an expenditure during the first fiscal year

1 of the biennium to be made from the appropriation for the second fiscal year of the biennium. Except as provided in subsection (2), the approving authority shall require the agency to implement
2 the plan for reducing expenditures in the second year of the biennium that contains agency expenditures within appropriations.

3 (4) The agency may expend the amount authorized by the approving authority only for the purposes specified in the authorization.

4 (5) The approving authority shall report to the next legislature in a special section of the budget the amounts expended as a result of all authorizations granted by the approving
5 authority and shall request that any necessary supplemental appropriation bills be passed.

6 (6) As used in this part, "proposed supplemental appropriation" means an application for authorization to make expenditures during the first fiscal year of the biennium from
7 appropriations for the second fiscal year of the biennium.

8 (7) (a) Except as provided in subsections (2) and (7)(b), an agency may not make expenditures in the second year of the biennium that, if carried on for the full year, will require a
9 deficiency appropriation, commonly referred to as a "supplemental appropriation".

10 (b) An agency shall prepare and, to the extent feasible, implement a plan for reducing expenditures in the second year of the biennium that contains agency expenditures within
11 appropriations. The approving authority is responsible for ensuring the implementation of the plan. If, in the second year of a biennium, mandated expenditures that are required by state or
12 federal law will cause an agency to exceed appropriations or available funds, the agency shall reduce all nonmandated expenditures pursuant to the plan in order to reduce to the greatest
13 extent possible the expenditures in excess of appropriations or funding. An agency may not transfer funds between fund types in order to implement a plan."

14
15 **Section 14.** Section 17-7-304, MCA, is amended to read:

16 **"17-7-304. Disposal of unexpended appropriations.** (1) All money appropriated for any specific purpose except that appropriated for the university system units listed in subsection
17 (2) [or state money appropriated for the state children's health insurance program provided for in Title 53, chapter 4, part 10,] and except as provided in subsection (4) must, after the expiration
18 of the time for which appropriated, revert to the several funds and accounts from which originally appropriated. However, any unexpended balance in any specific appropriation may be used
19 for the years for which the appropriation was made or may be used to fund the provisions of 2-18-1203 through 2-18-1205 and 19-2-706 in the succeeding year.

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

1 and to the office of budget and program planning.

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

4 (4) (a) Subject to subsection (4)(b), after the end of a fiscal year, 30% of the money appropriated to an agency for that year ~~by the general appropriations act~~ for personal services,
5 operating expenses, and equipment, by fund type, and remaining unexpended and unencumbered at the end of the year may be reappropriated to be spent during the following 2 years for
6 any purpose that is consistent with the goals and objectives of the agency. The dollar amount of the 30% amount that may be carried forward and spent must be determined by the office of
7 budget and program planning.

8 (b) (i) Any portion of the 30% of the unexpended and unencumbered money referred to in subsection (4)(a) that was appropriated to a legislative branch entity may be deposited
9 in the account established in 5-11-407.

10 (ii) After the end of a biennium, any portion of the unexpended and unencumbered money appropriated for the operation of the preceding legislature in a separate appropriation act
11 may be deposited in the account established in 5-11-407. The approving authority shall determine the portion of the unexpended and unencumbered money that is deposited in the account.
12 (Bracketed language terminates on occurrence of contingency--sec. 7, Ch. 565, L. 2005.)"

13

14 **Section 15.** Section 20-9-542, MCA, is amended to read:

15 **"20-9-542. School flexibility account -- distribution of funds.** (1) There is a school flexibility account in the state special revenue fund. The superintendent of public instruction
16 shall allocate the money in the account, including any interest earned on money allocated to the account, to each school district. Each school district's total allocation is the sum of the district
17 K-12 public school funding amount, the district large K-12 public school funding amount, and the district student funding amount.

18 (2) In addition to funds allocated or appropriated to the school flexibility account, all money saved by the state if the actual statewide ANB in a given fiscal year is less than the
19 statewide ANB projected by the legislature during the preceding legislative session must be deposited in the school flexibility account.

20 (3) A portion of the money in the school flexibility account may be expended by a district to alleviate certified staff shortages in the district or for retirement incentives only if a portion
21 of the account is specified for that purpose in ~~a general appropriation~~ an act providing appropriations to the office of public instruction."

22

23 **Section 16.** Section 90-4-614, MCA, is amended to read:

24 **"90-4-614. Appropriation of energy cost savings.** (1) In preparing the executive budget each biennium, the governor shall include for each state agency participating in the state
25 energy conservation program:

26 (a) an estimate of the energy cost savings expected for that agency in each year of the biennium; and

1 (b) a projection of the debt service on energy conservation program bonds that should be apportioned to that agency in each year of the biennium. Debt service is zero after the term
2 of bond repayment.

3 (2) Each session, the legislature shall review the governor's submission pursuant to 90-4-606 and subsection (1) of this section and appropriate ~~in the general appropriations act~~
4 the following:

5 (a) authority for each participating state agency to transfer funds in an amount equal to the agency's projected debt service to the energy conservation program account established
6 in 90-4-612; and

7 (b) authority for each participating state agency to transfer funds to the long-range building program fund in an amount equal to the difference between the estimated energy cost
8 savings to the agency and the projected debt service apportioned to that agency.

9 (3) The current level utility appropriations of state agencies participating in the energy conservation program must be reduced by the sum of the amounts appropriated in subsections
10 (2)(a) and (2)(b).

11 (4) Each participating state agency shall transfer upon request of the department the amounts appropriated in accordance with subsection (2)."

12
13 **NEW SECTION. Section 17. District funding success report -- guidelines.** (1) The legislature has provided school districts with at-risk student payments, Indian education for
14 all payments, and American Indian achievement gap payments and with funding for programs for gifted and talented students.

15 (2) In order to ensure that all students benefit from the success of each individual school district's efforts, a representative of each school board shall submit a written statement to
16 the office of public instruction of progress by August 1 of each year. The statement must contain:

17 (a) how the money from each payment described in subsection (1) was spent, whether there is a balance remaining from the payment, and if there is a balance remaining, the precise
18 amount for each payment;

19 (b) details of each of the district's programs that implement the payments, including commentary on the program's success that may be used to provide guidance to other districts
20 on how other programs might be improved; and

21 (c) any needed modifications of the programs and specific actions that the district intends to make to implement the modifications.

22 (3) The report required by subsection (2) does not need to be in a specified form. The trustees may assign the preparation of the statement to any appropriate representative of
23 the district.

24 (4) The office of public instruction shall compile each district's annual report and distribute one copy of the compiled reports to each school board, the executive director of the board
25 of public education, and the education and local government interim committee.

26 (5) Using the reports required under subsection (2), the office of public instruction shall:

1 (a) gather data on the success or failure of the Indian education for all program. The office of public instruction shall provide advice to local school boards on each school district's
 2 Indian education for all program. Local school boards shall structure programs to educate children on the contributions of Native Americans in Montana history.

3 (b) gather data and design programs to address the high dropout rates of Indian students.

4 (6) The degree of the success of Indian education for all programs is the responsibility of local school boards, the state board of public education, and the legislature.

5

6

7 **NEW SECTION. Section 18. {standard} Codification instruction.** [Section 17] is intended to be codified as an integral part of Title 20, chapter 9, and the provisions of Title 20,
 8 chapter 9, apply to [section 17].

9

10 **NEW SECTION. Section 19. Severability.** If any section, subsection, sentence, clause, or phrase of [this act] is for any reason held unconstitutional, the decision does not affect
 11 the validity of the remaining portions of [this act].

12

13 **NEW SECTION. Section 20. Effective dates.** (1) Except as provided in subsection (2), [this act] is effective July 1, 2007.

14 (2) [Sections 6 through 16] and this section are effective on passage and approval.

15

16 **NEW SECTION. Section 21. Appropriations.** The following money is appropriated for the respective fiscal years:

17

	<u>Fiscal 2008</u>					<u>Total</u>	<u>Fiscal 2009</u>					<u>Total</u>
	<u>General Fund</u>	<u>State Special Revenue</u>	<u>Federal Special Revenue</u>	<u>Proprietary</u>	<u>Other</u>		<u>General Fund</u>	<u>State Special Revenue</u>	<u>Federal Special Revenue</u>	<u>Proprietary</u>	<u>Other</u>	
1	E. EDUCATION											
2	OFFICE OF SUPERINTENDENT OF PUBLIC INSTRUCTION (3501)											
3	1. OPI Administration (06)											
4	5,142,222	228,735	12,607,301	0	0	17,978,258	5,206,519	228,926	12,668,127	0	0	18,103,572
5	a. K-12 Education Data System (Restricted)											
6	933,407	0	0	0	0	933,407	796,066	0	0	0	0	796,066
7	b. K-12 Education Data System (Restricted/OTO)											
8	933,407	0	0	0	0	933,407	796,067	0	0	0	0	796,067
9	c. Tribal History (Restricted/OTO)											
10	100,000	0	0	0	0	100,000	100,000	0	0	0	0	100,000
11	d. Storage Area Network (Restricted/OTO)											
12	160,000	0	0	0	0	160,000	0	0	0	0	0	0
13	e. Indian Education for All (Restricted)											
14	582,223	0	0	0	0	582,223	694,231	0	0	0	0	694,231
15	f. Surplus Computers for Schools (Restricted)											
16	13,100	0	0	0	0	13,100	13,100	0	0	0	0	13,100
17	g. Indian Education for All Reestablished (Restricted)											
18	0	0	0	0	0	0	500,000	0	0	0	0	500,000
19	2. Distribution to Public Schools (09)											
20	0	0	139,285,243	0	0	139,285,243	0	0	145,148,901	0	0	145,148,901
21	a. Base Aid (Restricted)											
22	461,986,238	0	0	0	0	461,986,238	465,156,773	0	0	0	0	465,156,773
23	b. Special Education (Restricted)											
24	40,434,302	0	0	0	0	40,434,302	41,647,331	0	0	0	0	41,647,331
25	c. Transportation (Restricted)											
26	12,472,550	0	0	0	0	12,472,550	12,572,550	0	0	0	0	12,572,550
27	d. School Facility Payment (Restricted)											

	<u>Fiscal 2008</u>					<u>Fiscal 2009</u>						
	<u>General Fund</u>	<u>State Special Revenue</u>	<u>Federal Special Revenue</u>	<u>Proprietary</u>	<u>Other</u>	<u>Total</u>	<u>General Fund</u>	<u>State Special Revenue</u>	<u>Federal Special Revenue</u>	<u>Proprietary</u>	<u>Other</u>	<u>Total</u>
1	10,509,037	0	0	0	0	10,509,037	10,509,037	0	0	0	0	10,509,037
2	e.	In-State Treatment (Restricted)										
3	974,896	0	0	0	0	974,896	974,896	0	0	0	0	974,896
4	f.	Secondary Vo-Ed (Restricted)										
5	1,000,000	0	0	0	0	1,000,000	1,000,000	0	0	0	0	1,000,000
6	g.	Adult Basic Ed (Restricted)										
7	525,000	0	0	0	0	525,000	525,000	0	0	0	0	525,000
8	h.	Gifted and Talented (Restricted)										
9	250,000	0	0	0	0	250,000	250,000	0	0	0	0	250,000
10	i.	School Foods (Restricted)										
11	648,655	0	0	0	0	648,655	648,655	0	0	0	0	648,655
12	j.	HB 124 Block Grants (Restricted)										
13	50,979,326	0	0	0	0	50,979,326	51,366,769	0	0	0	0	51,366,769
14	k.	Traffic Safety (Restricted)										
15	0	750,000	0	0	0	750,000	0	750,000	0	0	0	750,000
16	l.	State Tuition Payments (Restricted)										
17	606,138	0	0	0	0	606,138	606,138	0	0	0	0	606,138
18	<hr/>											
19	Total											
20	588,250,501	978,735	151,892,544	0	0	741,121,780	593,363,132	978,926	157,817,028	0	0	752,159,086

21 The office of public instruction may distribute funds from the appropriation for In-State Treatment to public school districts for the purpose of providing for educational costs of children
 22 with significant behavioral or physical needs.

23 All revenue up to \$1.1 million in the traffic education account for distribution to schools under the provisions of 20-7-506 and 61-5-121 is appropriated as provided in Title 20, chapter
 24 7, part 5.

25 All appropriations for federal special revenue programs in state level activities and in local educational activities and all general fund appropriations in local educational activities are
 26 biennial.

27 BOARD OF PUBLIC EDUCATION (5101)

		<u>Fiscal 2008</u>					<u>Fiscal 2009</u>						
	<u>General Fund</u>	<u>State Special Revenue</u>	<u>Federal Special Revenue</u>	<u>Proprietary</u>	<u>Other</u>	<u>Total</u>	<u>General Fund</u>	<u>State Special Revenue</u>	<u>Federal Special Revenue</u>	<u>Proprietary</u>	<u>Other</u>	<u>Total</u>	
1	1.	Administration (01)											
2		203,003	15,000	0	0	0	218,003	208,097	20,000	0	0	0	228,097
3	a.	Researcher Position											
4		73,382	0	0	0	0	73,382	73,454	0	0	0	0	73,454
5	2.	Advisory Council (03)											
6		0	154,859	0	0	0	154,859	0	154,908	0	0	0	154,908
7	<hr/>												
8	Total												
9		276,385	169,859	0	0	0	446,244	281,551	174,908	0	0	0	456,459
10	SCHOOL FOR THE DEAF AND BLIND (5113)												
11	1.	Administration Program (01)											
12		412,137	2,160	0	0	0	414,297	412,761	2,160	0	0	0	414,921
13	a.	Legislative Audit (Restricted/Biennial)											
14		31,634	0	0	0	0	31,634	0	0	0	0	0	0
15	2.	General Services Program (02)											
16		538,636	0	0	0	0	538,636	534,971	0	0	0	0	534,971
17	3.	Student Services (03)											
18		1,226,546	0	27,187	0	0	1,253,733	1,235,203	0	27,187	0	0	1,262,390
19	4.	Education (04)											
20		2,701,765	416,764	73,517	0	0	3,192,046	2,831,110	291,764	73,516	0	0	3,196,390
21	a.	Expansion of Outreach Services											
22		227,663	0	0	0	0	227,663	221,509	0	0	0	0	221,509
23	b.	Retention/Recruitment of Highly Qualified Staff											
24		213,857	0	0	0	0	213,857	265,050	0	0	0	0	265,050
25	c.	Elimination of Vacancy Savings (OTO)											
26		114,712	0	0	0	0	114,712	114,845	0	0	0	0	114,845
27	<hr/>												

		<u>Fiscal 2008</u>					<u>Fiscal 2009</u>					
	<u>General Fund</u>	<u>State Special Revenue</u>	<u>Federal Special Revenue</u>	<u>Proprietary</u>	<u>Other</u>	<u>Total</u>	<u>General Fund</u>	<u>State Special Revenue</u>	<u>Federal Special Revenue</u>	<u>Proprietary</u>	<u>Other</u>	<u>Total</u>
1	Total											
2	5,466,950	418,924	100,704	0	0	5,986,578	5,615,449	293,924	100,703	0	0	6,010,076
3	MONTANA ARTS COUNCIL (5114)											
4	1. Promotion of the Arts (01)											
5	425,418	179,640	580,895	0	0	1,185,953	416,830	184,707	589,398	0	0	1,190,935
6	a. Legislative Audit (Restricted/Biennial)											
7	9,047	3,907	7,608	0	0	20,562	0	0	0	0	0	0
8	b. Rent and Moving Expenses (Restricted)											
9	15,778	16,836	11,578	0	0	44,192	11,928	17,344	11,928	0	0	41,200
10	<hr/>											
11	Total											
12	450,243	200,383	600,081	0	0	1,250,707	428,758	202,051	601,326	0	0	1,232,135
13	All federal funds in Montana Arts Council are biennial appropriations.											
14	MONTANA STATE LIBRARY COMMISSION (5115)											
15	1. Statewide Library Resources (01)											
16	1,805,230	1,081,517	635,712	0	0	3,522,459	2,063,762	1,081,517	637,040	0	0	3,782,319
17	a. Legislative Audit (Restricted/Biennial)											
18	18,980	0	0	0	0	18,980	0	0	0	0	0	0
19	b. GIS Metadata Portal (Restricted)											
20	75,000	0	0	0	0	75,000	75,000	0	0	0	0	75,000
21	c. LSTA Grants (Biennial)											
22	0	0	916,251	0	0	916,251	0	0	191,220	0	0	191,220
23	d. Library Federation Support (Biennial)											
24	205,662	0	0	0	0	205,662	0	0	0	0	0	0
25	e. Increase Library Federation Support											
26	0	113,495	0	0	0	113,495	0	113,495	0	0	0	113,495
27	<hr/>											

		<u>Fiscal 2008</u>					<u>Fiscal 2009</u>					
	<u>General Fund</u>	<u>State Special Revenue</u>	<u>Federal Special Revenue</u>	<u>Proprietary</u>	<u>Other</u>	<u>Total</u>	<u>General Fund</u>	<u>State Special Revenue</u>	<u>Federal Special Revenue</u>	<u>Proprietary</u>	<u>Other</u>	<u>Total</u>
1	Total											
2	2,104,872	1,195,012	1,551,963	0	0	4,851,847	2,138,762	1,195,012	828,260	0	0	4,162,034
3	The Increase Library Federation Support appropriation of \$113,495 in state special revenue derived from the coal tax shared revenue account is contingent upon revenue estimates											
4	of \$2,061,000 in fiscal year 2008 and \$1,975,000 in fiscal year 2009 in the coal tax shared revenue account. If the revenue to the account is higher than anticipated, 27.26% of additional											
5	revenue is appropriated to Increase Library Federation Support, up to a maximum of an additional \$21,505 of state special revenue each year of the biennium.											
6	MONTANA HISTORICAL SOCIETY (5117)											
7	1. Administration Program (01)											
8	1,021,451	84,991	130,619	439,682	0	1,676,743	1,027,958	85,018	130,619	454,308	0	1,697,903
9	a. Legislative Audit (Restricted/Biennial)											
10	34,798	0	0	0	0	34,798	0	0	0	0	0	0
11	b. Computer Replacement (Restricted)											
12	19,200	0	0	0	0	19,200	19,200	0	0	0	0	19,200
13	2. Library Program (02)											
14	795,186	2,624	0	71,446	0	869,256	798,579	2,624	0	71,528	0	872,731
15	3. Museum Program (03)											
16	272,022	498	0	10,000	0	282,520	261,137	498	0	10,000	0	271,635
17	4. Publications (04)											
18	91,579	0	0	440,951	0	532,530	91,819	0	0	441,762	0	533,581
19	5. Historic Preservation Program (06)											
20	157,036	0	474,338	5,000	0	636,374	158,471	0	477,348	5,000	0	640,819
21	<hr/>											
22	Total											
23	2,391,272	88,113	604,957	967,079	0	4,051,421	2,357,164	88,140	607,967	982,598	0	4,035,869

1 NEW SECTION. **Section 22. Rates.** Internal service fund type fees and charges established by the legislature for the 2009 biennium are as follows:

2	Fiscal 2008	Fiscal 2009
3 Office of Public Instruction -- 3501		
4 1. OPI Indirect-Cost Pool	19.4%	19.4%

5 -End-