

1 HOUSE BILL NO. 604

2 INTRODUCED BY R. COOK

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR FUND TRANSFERS; AUTHORIZING FUND
5 TRANSFERS FROM THE TELECOMMUNICATIONS SERVICES AND SPECIALIZED TELECOMMUNICATIONS
6 EQUIPMENT ACCOUNT, THE MOTOR VEHICLE AND RECYCLING ACCOUNT, THE ORPHAN SHARE
7 ACCOUNT, THE COAL BED METHANE PROTECTION ACCOUNT, AND THE OIL AND GAS CONSERVATION
8 ACCOUNT TO THE GUARANTEE ACCOUNT FOR DISTRIBUTION TO SCHOOL DISTRICTS; AUTHORIZING
9 A FUND TRANSFER TO THE OLD STATE FUND WORKERS' COMPENSATION ACCOUNT FROM THE
10 GENERAL FUND; AMENDING SECTIONS 53-19-310, 75-10-532, 75-10-743, 76-15-904, AND 82-11-135, MCA;
11 AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

12
13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

14
15 NEW SECTION. **Section 1. Transfer of funds to guarantee account.** (1) By August 15, 2011, the
16 state treasurer shall transfer \$1.85 million from the telecommunications services and specialized
17 telecommunications equipment account provided for in 53-19-310 to the guarantee account provided for in
18 20-9-622.

19 (2) By August 15, 2011, the state treasurer shall transfer \$2.5 million from the account that is established
20 for the motor vehicle recycling and disposal program under the provisions of 75-10-532 to the guarantee account
21 provided for in 20-9-622.

22 (3) By August 15, 2011, the state treasurer shall transfer \$8 million from the orphan share account
23 provided for in 75-10-743 to the guarantee account provided for in 20-9-622.

24 (4) By August 15, 2011, the state treasurer shall transfer \$8 million from the coal bed methane protection
25 account provided for in 76-15-904 to the guarantee account provided for in 20-9-622.

26 (5) By August 15, 2011, the state treasurer shall transfer \$12 million from the board of oil and gas
27 conservation account provided for in 82-11-135 to the guarantee account provided for in 20-9-622.

28
29 NEW SECTION. **Section 2. Transfer of funds to old state fund account.** (1) By June 30, 2011, the
30 state treasurer shall transfer the lesser of the amount required to pay off the unfunded liability of the old state fund

1 account or \$50 million from the state general fund to the old state fund account.

2 (2) For the purpose of this section "old state fund account" means the account in 39-71-2321 that is used
3 to pay for claims and administrative expenses for accidents occurring before July 1, 1990.

4

5 **Section 3.** Section 53-19-310, MCA, is amended to read:

6 **"53-19-310. Account for telecommunications services and specialized telecommunications**
7 **equipment for persons with disabilities.** (1) There is an account for telecommunications services and
8 specialized telecommunications equipment for persons with disabilities in the state special revenue fund in the
9 state treasury. The account consists of:

10 (a) all monetary contributions, gifts, and grants received by the committee as provided in 53-19-309; and

11 (b) all fees billed and collected pursuant to 53-19-311.

12 (2) ~~The Subject to legislative fund transfers,~~ money in the account is allocated to the committee for
13 purposes of implementing this part. Gifts and grants received by the committee as provided in 53-19-309 are not
14 subject to legislative fund transfers.

15 (3) All expenditures of the committee in administering this part must be paid from money deposited in
16 the account."

17

18 **Section 4.** Section 75-10-532, MCA, is amended to read:

19 **"75-10-532. Disposition of money collected.** All money received from the sale of junk vehicles or from
20 recycling of the material and all motor vehicle wrecking facility license fees must be remitted to the state, as
21 provided in 15-1-504. ~~The Subject to legislative fund transfers, the~~ money must be used for the control, collection,
22 recycling, and disposal of junk vehicles and component parts and for the removal of abandoned vehicles."

23

24 **Section 5.** Section 75-10-743, MCA, is amended to read:

25 **"75-10-743. Orphan share state special revenue account -- reimbursement of claims -- payment**
26 **of department costs.** (1) There is an orphan share account in the state special revenue fund established in
27 17-2-102 that is to be administered by the department. Money in the account is available to the department by
28 appropriation and, except as provided in subsections (9), ~~and (10), and (11),~~ must be used to reimburse remedial
29 action costs claimed pursuant to 75-10-742 through 75-10-751 and to pay costs incurred by the department in
30 defending the orphan share.

- 1 (2) There must be deposited in the orphan share account:
- 2 (a) all penalties assessed pursuant to 75-10-750(12);
- 3 (b) funds received from the distribution of oil and natural gas production taxes pursuant to 15-36-331;
- 4 (c) unencumbered funds remaining in the abandoned mines state special revenue account;
- 5 (d) interest income on the account;
- 6 (e) funds received from settlements pursuant to 75-10-719(7); and
- 7 (f) funds received from reimbursement of the department's orphan share defense costs pursuant to
- 8 subsection (6).
- 9 (3) If the orphan share fund contains sufficient money, valid claims must be reimbursed subsequently
- 10 in the order in which they were received by the department. If the orphan share fund does not contain sufficient
- 11 money to reimburse claims for completed remedial actions, a reimbursement may not be made and the orphan
- 12 share fund, the department, and the state are not liable for making any reimbursement for the costs. The
- 13 department and the state are not liable for any penalties if the orphan share fund does not contain sufficient
- 14 money to reimburse claims, and interest may not accrue on outstanding claims.
- 15 (4) Except as provided in subsections (6) and (7), claims may not be submitted and remedial action costs
- 16 may not be reimbursed from the orphan share fund until all remedial actions, except for operation and
- 17 maintenance, are completed at a facility.
- 18 (5) Except as provided in subsection (6), reimbursement from the orphan share fund must be limited to
- 19 actual documented remedial action costs incurred after the date of a petition provided for in 75-10-745.
- 20 Reimbursement may not be made for attorney fees, legal costs, or operation and maintenance costs.
- 21 (6) (a) The department's costs incurred in defending the orphan share must be paid by the persons
- 22 participating in the allocation under 75-10-742 through 75-10-751 in proportion to their allocated shares. The
- 23 orphan share fund is responsible for a portion of the department's costs incurred in defending the orphan share
- 24 in proportion to the orphan share's allocated share, as follows:
- 25 (i) If sufficient funds are available in the orphan share fund, the department's costs incurred in defending
- 26 the orphan share must be paid from the orphan share fund in proportion to the share of liability allocated to the
- 27 orphan share.
- 28 (ii) If sufficient funds are not available in the orphan share fund, persons participating in the allocation
- 29 under 75-10-742 through 75-10-751 shall pay all the orphan share's allocated share of the department's costs
- 30 incurred in defending the orphan share in proportion to each person's allocated share of liability.

1 (b) A person who pays the orphan share's proportional share of costs has a claim against the orphan
2 share fund and must be reimbursed as provided in subsection (3).

3 (c) A state agency that is liable for remedial action costs incurred has a claim against the orphan share
4 fund and must be reimbursed as provided in subsection (3). The agency may submit a claim before or after
5 remedial action is complete. Reimbursement may not be made for attorney fees, legal costs, or operation and
6 maintenance costs. The agency may be reimbursed only after:

7 (i) its liability has been determined pursuant to 75-10-742 through 75-10-751 or by a court of competent
8 jurisdiction;

9 (ii) it has received a notice letter pursuant to 75-10-711; and

10 (iii) the department has approved the costs.

11 (7) (a) If the lead liable person under 75-10-746 presents evidence to the department that the person
12 cannot complete the remedial actions without partial reimbursement and that a delay in reimbursement will cause
13 undue financial hardship on the person, the department may allow the submission of claims and may reimburse
14 the claims prior to the completion of all remedial actions. A person is not eligible for early reimbursement unless
15 the person is in substantial compliance with all department-approved remedial action plans.

16 (b) The department may reimburse claims from a lead liable person upon completion and department
17 approval of a report evaluating the nature and extent of contamination and a report formulating and evaluating
18 final remediation alternatives. This early reimbursement is limited to those eligible costs incurred by the lead liable
19 person for the preparation of the reports.

20 (8) A person participating in the allocation process who received funds under the mixed funding pilot
21 program provided for in sections 14 through 20, Chapter 584, Laws of 1995, may not claim or receive
22 reimbursement from the orphan share fund for the amount of funds received under the mixed funding pilot
23 program that are later attributed to the orphan share under the allocation process.

24 (9) (a) For the biennium beginning July 1, 2005, up to \$1.25 million may be used by the department to
25 pay the costs incurred by the department in contracting for evaluating the extent of contamination and formulating
26 final remediation alternatives for releases at the Kalispell pole and timber, reliance refinery company, and Yale
27 oil corporation facility complex. If the department spends less than \$1.25 million for those purposes, the remaining
28 funds must be spent for remediation of the facility complex. The department may not seek recovery of the \$1.25
29 million from potentially liable persons.

30 (b) The money spent pursuant to subsection (9)(a) must be credited against the amount owed by the

1 state agency in a judgment or settlement agreement for payment of the remedial action costs at the facility for
2 which the money was spent.

3 (10) (a) The department shall transfer from the orphan share account to the long-term or perpetual water
4 treatment permanent trust fund provided for in 82-4-367 \$1.2 million in each fiscal year until the board of
5 investments makes the certification pursuant to subsection (10)(b) of this section.

6 (b) (i) The board of investments shall monitor the long-term or perpetual water treatment permanent trust
7 fund provided for in 82-4-367 to determine when the amount of money in the long-term or perpetual water
8 treatment permanent trust fund will be sufficient, with future earnings, to provide a fund balance of \$19.3 million
9 on January 1, 2018.

10 (ii) When the board of investments makes the determination pursuant to subsection (10)(b)(i), the board
11 of investments shall notify the department and certify to the department the amount of money, if any, that must
12 be transferred during the fiscal year in which the board of investments makes its determination pursuant to
13 subsection (10)(b)(i) in order to provide a fund balance of \$19.3 million on January 1, 2018.

14 (iii) In the fiscal year that the board of investments makes its determination and notifies the department,
15 the department shall transfer only the amount certified by the board of investments, if any, and may not make
16 additional transfers during subsequent fiscal years.

17 (11) The orphan share account is subject to legislative fund transfers."

18

19 **Section 6.** Section 76-15-904, MCA, is amended to read:

20 **"76-15-904. Coal bed methane protection account -- use.** (1) There is a coal bed methane protection
21 account in the state special revenue fund.

22 (2) There must be deposited in the account the proceeds from the distribution of oil and natural gas
23 production taxes, as provided in 15-36-331.

24 (3) All money paid into the account must be invested by the board of investments. Earnings from
25 investments must be deposited in the account.

26 (4) Subject to the conditions of ~~subsection~~ subsections (5) and (6), money deposited in the account must
27 be used to compensate landowners and water right holders for damages attributable to coal bed methane
28 development as provided in this part.

29 (5) Money deposited in the fund and earnings of the fund may not be expended until after June 30, 2005.
30 For fiscal years beginning after June 30, 2005, principal and earnings may be expended only in the case of an

1 emergency. For fiscal years beginning after June 30, 2011, principal and earnings in the account may be
2 expended for any purpose authorized pursuant to this part.

3 (6) ~~Money~~ Subject to legislative fund transfers, money in the account must be appropriated to the
4 department for use by conservation districts that have private landowners or water right holders who qualify for
5 compensation as provided in 76-15-905. (Subsection (2) terminates June 30, 2011--sec. 10, Ch. 531, L. 2001.)"

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7 **Section 7.** Section 82-11-135, MCA, is amended to read:

8 **"82-11-135. Money earmarked for board expenses.** The state treasurer shall deposit all money
9 distributed to the board under 15-36-331 and collected under this chapter in the state special revenue fund. ~~The~~
10 Subject to legislative fund transfers, the money must be used for the purpose of paying all expenses of the board
11 and for no other purpose. The board shall use the money subject to biennial appropriations by the legislature.
12 Income and interest from investment of the board's money in the state special revenue fund must be credited to
13 the board."

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15 COORDINATION SECTION. **Section 8. Coordination instruction.** If House Bill No. 42 is passed and
16 approved in a form that contains a fund transfer from the coal bed methane protection account provided for in
17 76-15-904 to the state treasury, then the fund transfer in [section 1(4)] is reduced by the amount of the difference
18 between the amount specified in House Bill No. 42 and the amount specified in [section 1(4)].

19

20 NEW SECTION. **Section 9. Severability.** If a part of [this act] is invalid, all valid parts that are severable
21 from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part
22 remains in effect in all valid applications that are severable from the invalid applications.

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24 NEW SECTION. **Section 10. Effective date.** [This act] is effective on passage and approval.

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