



AN ACT REQUIRING LEGISLATIVE APPROVAL TO APPLY FOR AND SPEND GRANT MONEY RELATED TO PLANNING FOR OR IMPLEMENTING THE PATIENT PROTECTION AND AFFORDABLE CARE ACT; PROHIBITING THE USE OF BUDGET AMENDMENTS TO AUTHORIZE SPENDING OF GRANTS RELATED TO THE ACT; AMENDING SECTION 17-7-402, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE.

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

**Section 1. Legislative approval for certain grant applications.** (1) An agency may not apply for a grant to plan for or implement any provision of Public Law 111-148, the Patient Protection and Affordable Care Act, without approval of the legislature.

(2) (a) An agency shall submit a request for authorization to apply for and spend a grant by:

(i) requesting the appropriation authority as part of the budget prepared pursuant to 17-7-111 and submitted pursuant to 17-7-112; or

(ii) submitting an appropriation bill or an amendment to an appropriation bill during a regular legislative session or a special session if the state budget is a subject included in the call of the special session.

(b) An agency that has received legislative authorization under this section to apply for and spend grant money during a biennium may decide against applying for the grant after the application requirements and terms of the grant award are released by the federal agency administering the grant.

**Section 2.** Section 17-7-402, MCA, is amended to read:

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

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

(i) additional federal revenue, including grant funds or other funds received pursuant to the American Recovery and Reinvestment Act of 2009, Public Law 111-5;

- (ii) additional tuition collected by the Montana university system;
  - (iii) additional revenue deposited in the internal service funds within the department or the office of the commissioner of higher education as a result of increased service demands by state agencies;
  - (iv) Montana historical society enterprise revenue resulting from sales to the public;
  - (v) additional revenue that is deposited in funds other than the general fund and that is from the sale of fuel for those agencies participating in the Montana public vehicle fueling program established by Executive Order 22-91;
  - (vi) revenue resulting from the sale of goods produced or manufactured by the industries program of an institution within the department of corrections;
  - (vii) revenue collected for the administration of the state grain laboratory under the provisions of Title 80, chapter 4, part 7;
  - (viii) revenue collected for the Water Pollution Control State Revolving Fund Act under the provisions of Title 75, chapter 5, part 11;
  - (ix) revenue collected for the Drinking Water State Revolving Fund Act under the provisions of Title 75, chapter 6, part 2;
  - (x) state special revenue adjustments required to allocate costs for leave or terminal leave within an agency in accordance with federal circular A-87; or
  - (xi) revenue generated from fees collected by the department of justice for dissemination of criminal history record information pursuant to Title 44, chapter 5, part 3;
- (b) by the approving authority if the budget amendment contains any significant ascertainable commitment for any present or future increased general fund support;
- (c) by the approving authority for the expenditure of money in the state special revenue fund unless:
- (i) an emergency justifies the expenditure;
  - (ii) the expenditure is authorized under subsection (1)(a); or
  - (iii) the expenditure is exempt under subsection (5);
- (d) by the approving authority unless it will provide additional services;
- (e) by the approving authority for any matter, other than the receipt of federal funds pursuant to the American Recovery and Reinvestment Act of 2009, Public Law 111-5, that are not allocated or appropriated in Chapter 489, Laws of 2009, of which the requesting agency had knowledge at a time when the proposal could

have been presented to an appropriation subcommittee, the house appropriations committee, or the senate finance and claims committee of the most recent legislative session open to that matter, except when the legislative finance committee is given specific notice by the approving authority that significant identifiable events, specific to Montana and pursuant to provisions or requirements of Montana state law, have occurred since the matter was raised with or presented for consideration by the legislature; or

(f) by the approving authority if the budget amendment would spend federal grant money designed to plan for or implement any portion of Public Law 111-148, the Patient Protection and Affordable Care Act; or

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

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

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

(4) Each budget amendment must be submitted by the approving authority to the budget director and the legislative fiscal analyst.

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

(6) An appropriation for a nonrecurring item that would usually be the subject of a budget amendment must be submitted to the legislature for approval during a legislative session between January 1 and the senate hearing on the budget amendment bill. The bill may include authority to spend money in the current fiscal year and in both fiscal years of the next biennium.

(7) A budget amendment to spend state funds, other than from the general fund, required for matching funds in order to receive a grant is exempt from the provisions of subsection (1). (Terminates June 30, 2011--sec. 82, Ch. 489, L. 2009.)

**17-7-402. (Effective July 1, 2011) Budget amendment requirements.** (1) Except as provided in subsection (7), a budget amendment may not be approved:

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

(i) additional federal revenue;

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

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

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

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

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

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

(viii) revenue collected for the Water Pollution Control State Revolving Fund Act under the provisions of Title 75, chapter 5, part 11;

(ix) revenue collected for the Drinking Water State Revolving Fund Act under the provisions of Title 75, chapter 6, part 2;

(x) state special revenue adjustments required to allocate costs for leave or terminal leave within an agency in accordance with federal circular A-87; or

(xi) revenue generated from fees collected by the department of justice for dissemination of criminal history record information pursuant to Title 44, chapter 5, part 3;

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

(c) by the approving authority for the expenditure of money in the state special revenue fund unless:

(i) an emergency justifies the expenditure;

(ii) the expenditure is authorized under subsection (1)(a); or

(iii) the expenditure is exempt under subsection (5);

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

(e) by the approving authority for any matter of which the requesting agency had knowledge at a time when the proposal could have been presented to an appropriation subcommittee, the house appropriations committee, or the senate finance and claims committee of the most recent legislative session open to that matter, except when the legislative finance committee is given specific notice by the approving authority that significant

identifiable events, specific to Montana and pursuant to provisions or requirements of Montana state law, have occurred since the matter was raised with or presented for consideration by the legislature; or

(f) by the approving authority if the budget amendment would spend federal grant money designed to plan for or implement any portion of Public Law 111-148, the Patient Protection and Affordable Care Act; or

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

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

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

(4) Each budget amendment must be submitted by the approving authority to the budget director and the legislative fiscal analyst.

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

(6) An appropriation for a nonrecurring item that would usually be the subject of a budget amendment must be submitted to the legislature for approval during a legislative session between January 1 and the senate hearing on the budget amendment bill. The bill may include authority to spend money in the current fiscal year and in both fiscal years of the next biennium.

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

**Section 3. Codification instruction.** [Section 1] is intended to be codified as an integral part of Title 17, chapter 7, part 1, and the provisions of Title 17, chapter 7, part 1, apply to [section 1].

**Section 4. Effective date.** [This act] is effective on passage and approval.

**Section 5. Retroactive applicability.** [This act] applies retroactively, within the meaning of 1-2-109, to:

(1) grant applications submitted but not approved before [the effective date of this act]; and

(2) grant awards approved but not received before [the effective date of this act].

- END -

I hereby certify that the within bill,  
SB 0224, originated in the Senate.

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Secretary of the Senate

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President of the Senate

Signed this \_\_\_\_\_ day  
of \_\_\_\_\_, 2011.

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Speaker of the House

Signed this \_\_\_\_\_ day  
of \_\_\_\_\_, 2011.

SENATE BILL NO. 224

INTRODUCED BY J. PRIEST

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