



AN ACT PROVIDING TERMINATION DATES FOR STATUTORY APPROPRIATIONS; PROVIDING AN ALTERNATIVE MEANS OF FINANCING MANDATED DUTIES OF LOCAL GOVERNMENTS AND SCHOOL DISTRICTS; AMENDING SECTIONS 2-17-105, 5-11-120, 5-11-407, 10-1-108, 10-1-1202, 10-1-1303, 10-2-603, 10-3-312, 15-65-121, 15-70-369, 15-70-601, 16-11-509, 17-3-112, 17-7-502, 20-8-107, 20-9-534, 20-9-622, 22-3-1004, 23-4-105, 23-5-306, 23-5-409, 23-5-612, 23-7-301, 23-7-402, 37-43-204, 37-51-501, 39-71-503, 41-5-2011, 42-2-105, 44-4-1101, 44-12-206, 44-13-102, 53-1-109, 53-24-108, 53-24-206, 61-3-415, 69-3-870, 75-5-1108, 75-6-214, 75-11-313, 80-11-518, 81-10-103, 82-11-161, 90-1-115, 90-1-203, 90-1-205, 90-1-504, 90-3-1003, 90-9-301, AND 90-9-306, MCA; AND PROVIDING AN EFFECTIVE DATE.

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

Section 1. Section 2-17-105, MCA, is amended to read:

"2-17-105. Insurance on state buildings -- use of proceeds -- building replacement. (1) Money received by the state as indemnification for damage to state buildings, except buildings procured by the department of transportation by purchase or condemnation for right-of-way purposes, must be deposited in the state special revenue fund. The money is statutorily appropriated, as provided in 17-7-502, for the purposes of subsections (2) and (3). The statutory appropriation is subject to termination as provided in 17-7-502.

(2) The money may only be:

(a) used to repair the damaged property;

(b) used to replace the damaged property, subject to the limitations in subsection (3); or

(c) transferred to the fund and account from which the premiums were paid on the policy covering the building. Money transferred in this manner may not be spent by the institution or agency having custody of the damaged property but must be available for future legislative appropriation. If the money is not spent or committed within 2 years from the time that it is received, the money automatically reverts to the fund and account from which the premiums were paid.

(3) If an insured building is totally destroyed or so badly damaged that repair is impractical, the governing

board or officer responsible for the building may request that any money received by the state as indemnification for property damage be used to replace the building only if the proposed replacement is designed to be used for the same general purposes as the damaged or destroyed building. If the governing board or officer determines that the building should not be replaced, any money received by the state as indemnification for property damage over and above any outstanding debt on the building must be transferred as provided in subsection (2)(c)."

Section 2. Section 5-11-120, MCA, is amended to read:

"5-11-120. Legislative branch retirement termination reserve account. (1) There is a legislative branch retirement termination reserve account in the state special revenue fund. Money may be deposited in the account through an allocation of money to the account or as provided in 17-7-304.

(2) (a) The money in the account is statutorily appropriated, as provided in 17-7-502, to the legislative services division to be used only for staff retirement termination pay in the legislative branch. The statutory appropriation is subject to termination as provided in 17-7-502.

(b) The money in the account may be expended only with the approval of the appropriate branch division director for eligible termination pay expenditures for division staff.

(3) The account is limited to an amount to be calculated at the beginning of each biennium based on an analysis by branch division directors of the staff eligible for retirement within the biennium. For the 2009 biennium, the limit is set at \$400,000.

(4) The money in the account must be invested pursuant to Title 17, chapter 6. The income and earnings on the account must be deposited in the account."

Section 3. Section 5-11-407, MCA, is amended to read:

"5-11-407. Legislative branch reserve account. (1) There is a legislative branch reserve account in the state special revenue fund. Money may be deposited in the account through an allocation of money to the account or as provided in 17-7-304.

(2) (a) The money in the account is statutorily appropriated, as provided in 17-7-502, to the legislative services division to be used only for major legislative branch information technology projects, including the purchase of hardware, software, and consulting services for new initiatives and replacement and upgrading of existing systems. The statutory appropriation is subject to termination as provided in 17-7-502.

(b) The money in the account may be expended only with the approval of the legislative council. The legislative branch computer system planning council may make recommendations to the legislative council for the use of the money in the account.

(3) The money in the account must be invested pursuant to Title 17, chapter 6. The income and earnings on the account must be deposited in the account."

Section 4. Section 10-1-108, MCA, is amended to read:

"10-1-108. Armories -- acquisition and sale -- proceeds -- account. (1) A county, city, or town may convey or lease real property to the state for armories or other military facilities.

(2) A county, city, or town in which a unit of the national guard is organized and regularly stationed may provide any part of the funds to build an armory. The armory must be of sufficient size and suitable for the drill of the unit.

(3) (a) There is a Montana national guard land purchase account in the state special revenue fund. If the state sells an armory, the money from the sale must be deposited in the account.

(b) Money in the account is statutorily appropriated, as provided in 17-7-502, for the purposes described in subsection (4). The statutory appropriation is subject to termination as provided in 17-7-502.

(c) Any interest and income accruing on the account must be deposited in the state general fund.

(4) Money in the account may be used only for preparations to purchase or the purchase of land necessary for the Montana national guard's mission and is expendable solely upon the authorization of the governor."

Section 5. Section 10-1-1202, MCA, is amended to read:

"10-1-1202. Statutory appropriation. The payment to a beneficiary certified pursuant to 10-1-1201 is statutorily appropriated, as provided in 17-7-502, from the general fund to the department of administration. The statutory appropriation is subject to termination as provided in 17-7-502."

Section 6. Section 10-1-1303, MCA, is amended to read:

"10-1-1303. Fund account -- statutory appropriation. (1) There is a Montana military family relief fund account in the state special revenue fund provided for in 17-2-102. All money transferred to the fund by the

legislature, all monetary contributions, gifts, and grants donated to the fund, all contributions made to the fund pursuant to 15-30-2392, and all interest and income earned on money in the account must be deposited into the account.

(2) Money in the account is statutorily appropriated, as provided in 17-7-502, to the department for the purposes of this part. The statutory appropriation is subject to termination as provided in 17-7-502."

Section 7. Section 10-2-603, MCA, is amended to read:

"10-2-603. Special revenue account -- use of funds -- solicitation. (1) There is an account in the special revenue fund to the credit of the board for the state veterans' cemeteries.

(2) Plot allowances, donations to the cemetery program, and fund transfers pursuant to 15-1-122(2)(d) must be deposited into the account.

(3) The account is statutorily appropriated, as provided in 17-7-502, to the board and may be used only for the construction, maintenance, operation, and administration of the state veterans' cemeteries. The statutory appropriation is subject to termination as provided in 17-7-502.

(4) The board shall solicit veterans' license plate sales and donations on behalf of the state veterans' cemeteries."

Section 8. Section 10-3-312, MCA, is amended to read:

"10-3-312. Maximum expenditure by governor -- appropriation. (1) Whenever a disaster or an emergency, including an energy emergency as defined in 90-4-302 or an invasive species emergency declared under 80-7-1013, is declared by the governor, there is statutorily appropriated to the office of the governor, as provided in 17-7-502, and, subject to subsection (2), the governor is authorized to expend from the general fund an amount not to exceed \$16 million in any biennium, minus any amount appropriated pursuant to 10-3-310 in the same biennium. The statutory appropriation in this subsection may be used by any state agency designated by the governor and is subject to termination as provided in 17-7-502.

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

(3) If a disaster is declared by the president of the United States, there is statutorily appropriated to the office of the governor, as provided in 17-7-502, and the governor is authorized to expend from the general fund

an amount not to exceed \$500,000 during the biennium to meet the state's share of the individual and family grant programs as provided in 42 U.S.C. 5178. The statutory appropriation in this subsection may be used by any state agency designated by the governor and is subject to termination as provided in 17-7-502."

Section 9. Section 15-65-121, MCA, is amended to read:

"15-65-121. Distribution of tax proceeds. (1) The proceeds of the tax imposed by 15-65-111 must, in accordance with the provisions of 17-2-124, be deposited in an account in the state special revenue fund to the credit of the department. The department may spend from that account in accordance with an expenditure appropriation by the legislature based on an estimate of the costs of collecting and disbursing the proceeds of the tax. Before allocating the balance of the tax proceeds in accordance with the provisions of 17-2-124 and as provided in subsections (1)(a) through (1)(e) of this section, the department shall determine the expenditures by state agencies for in-state lodging for each reporting period and deduct 4% of that amount from the tax proceeds received each reporting period. The amount deducted must be deposited in the fund or funds from which in-state lodging expenditures were paid by state agencies. The amount of \$400,000 each year must be deposited in the Montana heritage preservation and development account provided for in 22-3-1004. The balance of the tax proceeds received each reporting period and not deducted pursuant to the expenditure appropriation, deposited in the fund or funds from which in-state lodging expenditures were paid by state agencies, or deposited in the heritage preservation and development account is statutorily appropriated, as provided in 17-7-502, and must be transferred to an account in the state special revenue fund to the credit of the department of commerce for tourism promotion and promotion of the state as a location for the production of motion pictures and television commercials, to the Montana historical society, to the university system, and to the department of fish, wildlife, and parks, as follows:

- (a) 1% to the Montana historical society to be used for the installation or maintenance of roadside historical signs and historic sites;
- (b) 2.5% to the university system for the establishment and maintenance of a Montana travel research program;
- (c) 6.5% to the department of fish, wildlife, and parks for the maintenance of facilities in state parks that have both resident and nonresident use;
- (d) 67.5% to be used directly by the department of commerce; and

(e) (i) except as provided in subsection (1)(e)(ii), 22.5% to be distributed by the department to regional nonprofit tourism corporations in the ratio of the proceeds collected in each tourism region to the total proceeds collected statewide; and

(ii) if 22.5% of the proceeds collected annually within the limits of a city, consolidated city-county, resort area, or resort area district exceeds \$35,000, 50% of the amount available for distribution to the regional nonprofit tourism corporation in the region where the city, consolidated city-county, resort area, or resort area district is located, to be distributed to the nonprofit convention and visitors bureau in that city, consolidated city-county, resort area, or resort area district.

(2) If a city, consolidated city-county, resort area, or resort area district qualifies under this section for funds but fails to either recognize a nonprofit convention and visitors bureau or submit and gain approval for an annual marketing plan as required in 15-65-122, then those funds must be allocated to the regional nonprofit tourism corporation in the region in which the city, consolidated city-county, resort area, or resort area district is located.

(3) If a regional nonprofit tourism corporation fails to submit and gain approval for an annual marketing plan as required in 15-65-122, then those funds otherwise allocated to the regional nonprofit tourism corporation may be used by the department of commerce for tourism promotion and promotion of the state as a location for the production of motion pictures and television commercials.

(4) The statutory appropriation in this section is subject to termination as provided in 17-7-502."

Section 10. Section 15-70-369, MCA, is amended to read:

"15-70-369. Refund for taxes paid on biodiesel by distributor or retailer -- statement -- payment -- appropriation -- records -- report to interim committee. (1) A licensed distributor who pays the special fuel tax under 15-70-343 on biodiesel, as defined in 15-70-301, may claim a refund equal to 2 cents a gallon on biodiesel sold during the previous calendar quarter if the biodiesel is produced entirely from biodiesel ingredients produced in Montana.

(2) The owner or operator of a retail motor fuel outlet may claim a refund equal to 1 cent a gallon on biodiesel on which the special fuel tax has been paid and that is purchased from a licensed distributor if the biodiesel is produced entirely from biodiesel ingredients produced in Montana.

(3) (a) To receive the refund allowed under subsection (1) or (2), the licensed distributor or the owner

or operator of a motor fuel outlet shall file a statement within 30 days after the end of each calendar quarter on a form provided by the department.

(b) The statement provided by a licensed distributor must set forth information required by the department, including the gallons of biodiesel sold and the source of ingredients used to produce biodiesel.

(c) The statement provided by the owner or operator of a retail motor fuel outlet must set forth information required by the department, including the gallons of biodiesel purchased.

(4) The payment of the refund allowed by this section must be made by the department within 90 days after the claim for a refund is filed by the licensed distributor or the owner or operator of a retail motor fuel outlet. Tax refund payments under this section are statutorily appropriated, as provided in 17-7-502, from the state general fund. The statutory appropriation is subject to termination as provided in 17-7-502.

(5) The records of each licensed distributor or owner or operator of a retail motor fuel outlet must be kept for a period of not more than 3 years and must include receipts, invoices, and other information as the department may require.

(6) The department or its authorized representative may examine the books, papers, or records of any licensed distributor or owner or operator of a retail motor fuel outlet.

(7) The department shall report to the revenue and transportation interim committee at least once each year the number and type of taxpayers claiming the refund under this section, the total amount of the refund claimed, and the department's cost associated with administering the refund."

Section 11. Section 15-70-601, MCA, is amended to read:

"15-70-601. Biodiesel production incentive -- appropriation. (1) (a) There is a tax incentive payable to biodiesel producers for increases in annual production the first 3 years of production. The tax incentive under this section applies to biodiesel upon which the tax has been paid under 15-70-343 by a licensed distributor. For the purposes of this section, the production year is the period from July 1 of the current year to June 30 of the succeeding year.

(b) Payments made by the department are statutorily appropriated, as provided in 17-7-502, from the state general fund. The statutory appropriation is subject to termination as provided in 17-7-502.

(2) Except as provided in subsection (3), the tax incentive on each gallon of increased biodiesel production over the previous year, in accordance with subsection (1), is 10 cents a gallon for each gallon of

increased production. Beginning July 1, 2010, there is no tax incentive.

(3) The tax incentive in subsection (2) may be claimed for:

- (a) the first year's total production;
- (b) the production in the second year that exceeds production in the first year; and
- (c) the production in the third year that exceeds production in the second year.

(4) After the department has verified production, the department shall begin payments of the biodiesel tax incentives based on actual production according to the terms of subsection (3).

(5) As used in this section, "biodiesel producer" means a person who engages in the business of producing, refining, or manufacturing in Montana biodiesel for sale, use, or distribution.

(6) The department shall adopt rules necessary to carry out the provisions of this section."

Section 12. Section 16-11-509, MCA, is amended to read:

"16-11-509. Penalties and other remedies. (1) In addition to any other civil or criminal remedy provided by law, upon a determination that a wholesaler has violated 16-11-505 or any rule adopted pursuant to that section, the department may revoke or suspend the license of the wholesaler in the manner provided by 16-11-144 in a proceeding initiated by the department or at the request of the attorney general. For each violation of 16-11-505, a civil penalty in the amount of \$250 for the first full or partial pack and \$10 for each additional full or partial pack to which a tax insignia is affixed or that is sold, offered for sale, or possessed for sale in violation of 16-11-505 may be imposed. Each tax insignia affixed, each offer to sell cigarettes, and each pack sold, offered for sale, or possessed for sale in violation of 16-11-505 constitutes a separate violation. The penalty may be imposed in the manner provided by 16-11-143(2) in a proceeding brought by the department or the attorney general.

(2) Any cigarettes that have been sold, offered for sale, or possessed for sale in this state in violation of 16-11-505 may be considered contraband under 16-11-147. The cigarettes are subject to seizure and forfeiture as provided in 16-11-147, and all cigarettes seized and forfeited must be destroyed and not resold.

(3) The attorney general may seek an injunction to restrain a threatened or actual violation of 16-11-505 or 16-11-507(1) or (4) by a wholesaler and to compel the wholesaler to comply with those sections.

(4) (a) In any action brought pursuant to this part, the prevailing party is entitled to recover the costs of the action and reasonable attorney fees calculated as provided in 16-11-404. If the state is the prevailing party,

its recoverable costs must include the state's costs of investigation of the violation.

(b) In cases in which the state is the prevailing party and outside counsel represents the attorney general, the attorney fees awarded must equal the outside counsel charges reasonably incurred by the attorney general's office for attorney fees and expenses in prosecuting the action. In all other cases in which the state is the prevailing party, the state's attorney fees must be calculated by reference to the hourly rate charged by the agency legal services bureau of the department for the provision of legal services to state agencies, multiplied by the number of attorney hours devoted to the prosecution of the action, plus the actual cost of any expenses reasonably incurred in the prosecution of the action.

(5) (a) It is unlawful for a person to:

(i) sell, offer for sale, or distribute cigarettes that the person knows or should know are intended for distribution or sale in the state in violation of 16-11-505; or

(ii) acquire, hold, own, possess, transport, import, or cause to be imported cigarettes that the person knows or should know are intended for distribution or sale in the state in violation of 16-11-505.

(b) A violation of this section is a misdemeanor punishable as provided in 16-11-148.

(6) If a court determines that a person has violated this part, the court shall order any profits, gain, gross receipts, or other benefit from the violation to be paid to the state treasurer for deposit in the trust fund created by Article XII, section 4, of the Montana constitution.

(7) Penalties, investigation expenses, attorney fees, and costs recovered under parts 4 and 5 of this chapter are allocated to the department of justice for deposit in the major litigation account and may be used for any purpose for which funds deposited in that account may be used. The funds are statutorily appropriated, as provided in 17-7-502, to the department of justice. The statutory appropriation is subject to termination as provided in 17-7-502.

(8) Unless otherwise expressly provided, the remedies or penalties provided by this part are cumulative to each other and to the remedies or penalties available under all other laws of this state. (Certain provisions void on occurrence of contingency--sec. 16, Ch. 397, L. 2003--see part compiler's comment.)"

Section 13. Section 17-3-112, MCA, is amended to read:

"17-3-112. Earnings -- statutory appropriation. If the federal government directs that funds received under the American Recovery and Reinvestment Act of 2009, Public Law 111-5, must be invested and that the

earnings must be expended for the same purpose as the funds generating the earnings, then the earnings are statutorily appropriated, as provided in 17-7-502, for the same purpose as the funds generating the earnings. The statutory appropriation is subject to termination as provided in 17-7-502."

Section 14. Section 17-7-502, MCA, is amended to read:

"17-7-502. Statutory appropriations -- definition -- requisites for validity. (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment and that is subject to legislative review and termination as provided in this section.

(2) Except as provided in subsection ~~(4)~~ (6), to be effective, a statutory appropriation must comply with both of the following provisions:

(a) The law containing the statutory authority must be listed in subsection ~~(3)~~ (4).

(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section.

(3) The statutory appropriation and statutory authority to spend terminate as provided in subsection (5). The legislature may extend statutory appropriations by amending this section. Statutory appropriations that are not listed in subsection (5) are not subject to termination unless otherwise provided by law.

~~(3)~~(4) The following laws are the only laws containing statutory appropriations: 2-17-105; 5-11-120; 5-11-407; 5-13-403; 7-4-2502; 10-1-108; 10-1-1202; 10-1-1303; 10-2-603; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-4-301; 15-1-121; 15-1-218; 15-31-906; 15-35-108; 15-36-332; 15-37-117; 15-39-110; 15-65-121; 15-70-101; 15-70-369; 15-70-601; 16-11-509; 17-3-106; 17-3-112; 17-3-212; 17-3-222; 17-3-241; 17-6-101; 18-11-112; 19-3-319; 19-6-404; 19-6-410; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506; 19-20-604; 19-20-607; 19-21-203; 20-8-107; 20-9-534; 20-9-622; 20-26-1503; 22-3-1004; 23-4-105; 23-5-306; 23-5-409; 23-5-612; 23-7-301; 23-7-402; 37-43-204; 37-51-501; 39-71-503; 41-5-2011; 42-2-105; 44-4-1101; 44-12-206; 44-13-102; 50-4-623; 53-1-109; 53-9-113; 53-24-108; 53-24-206; 60-11-115; 61-3-415; 69-3-870; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 77-1-108; 77-2-362; 80-2-222; 80-4-416; 80-11-518; 81-10-103; 82-11-161; 87-1-230; 87-1-603; 87-1-621; 90-1-115; 90-1-205; 90-1-504; 90-3-1003; 90-6-331; and 90-9-306.

(5) (a) The statutory appropriation and authority to spend for the following laws terminate on June 30, 2014: 2-17-105; 5-11-120; 5-11-407; 10-1-108; 10-1-1202; 10-1-1303; 10-2-603; 10-3-312; 15-65-121; 15-70-369;

15-70-601; and 16-11-509.

(b) The statutory appropriation and authority to spend for the following laws terminate on June 30, 2016: 17-3-112; 20-8-107; 20-9-534; 20-9-622; 22-3-1004; 23-4-105; 23-5-306; 23-5-409; 23-5-612; 23-7-301; and 23-7-402.

(c) The statutory appropriation and authority to spend for the following laws terminate on June 30, 2018: 37-43-204; 37-51-501; 39-71-503; 41-5-2011; 42-2-105; 44-4-1101; 44-12-206; 44-13-102; 53-1-109; 53-24-108; 53-24-206; and 61-3-415.

(d) The statutory appropriations and authority to spend for the following laws terminate on June 30, 2020: 69-3-870; 75-5-1108; 75-6-214; 75-11-313; 80-11-518; 81-10-103; 82-11-161; 90-1-115; 90-1-205; 90-1-504; 90-3-1003; and 90-9-306.

(6) If a statutory appropriation and authority to spend terminates as provided in subsection (5) and as a result of the termination a local government unit or school district is required to perform an activity or provide a service or facility that requires the direct expenditure of additional funds that is not expected of local governments in the scope of their usual operations as provided in 1-2-112 and 1-2-113, then the financing for the activity, service, or facility must be contained in the general appropriations act.

~~(4)~~(7) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to sec. 10, Ch. 360, L. 1999, the inclusion of 19-20-604 terminates when the amortization period for the teachers' retirement system's unfunded liability is 10 years or less; pursuant to sec. 10, Ch. 10, Sp. L. May 2000, secs. 3 and 6, Ch. 481, L. 2003, and sec. 2, Ch. 459, L. 2009, the inclusion of 15-35-108 terminates June 30, 2019; pursuant to sec. 17, Ch. 593, L. 2005, and sec. 1, Ch. 186, L. 2009, the inclusion of 15-31-906 terminates January 1, 2015; pursuant to sec. 73, Ch. 44, L. 2007, the inclusion of 19-6-410 terminates upon the death of the last recipient eligible under 19-6-709(2) for the supplemental benefit provided by 19-6-709; pursuant to sec. 14, Ch. 374, L. 2009, the inclusion of 53-9-113 terminates June 30, 2015; pursuant to sec. 8, Ch. 427, L. 2009, the inclusion of 87-1-230 terminates June 30, 2013; and pursuant to sec. 5, Ch. 442, L. 2009, the inclusion of 90-6-331 terminates June 30, 2019.)"

Section 15. Section 20-8-107, MCA, is amended to read:

"20-8-107. Admission of nonresident children and advance payment of cost -- Indian children.

(1) Hearing impaired or visually impaired children who are not residents of the state of Montana may be admitted to the Montana school for the deaf and blind after proper application for admission, subject to all eligibility requirements prescribed for children who are residents of the state if:

(a) the school is paid in advance a sum of money for each child equal to an estimate of the whole per capita cost of maintaining the school during the year immediately preceding the date of the application; and

(b) the full capacity of the school is not required for children who are residents of the state.

(2) The Montana school for the deaf and blind is authorized to negotiate with an out-of-state educational institution to place a student at the school. If a group of out-of-state students attends the Montana school for the deaf and blind, the educational institution of the other state shall pay in advance to the Montana school for the deaf and blind an amount of money for each student determined as a result of a negotiated agreement between the superintendent of the Montana school for the deaf and blind and the out-of-state educational institution. The agreement must be approved by the board of public education.

(3) Indian children who are Montana residents are eligible for admission and must be admitted to the school on the same terms as residents.

(4) The money paid by an out-of-state institution must be deposited in a state special revenue account and is statutorily appropriated, pursuant to 17-7-502, to the Montana school for the deaf and blind for educational purposes. The statutory appropriation is subject to termination as provided in 17-7-502.

(5) The provisions of 17-2-108 that require the expenditure of nongeneral fund money prior to the expenditure of general fund money do not apply to the expenditure of revenue made available to the Montana school for the deaf and blind from the negotiated agreements described in subsection (2) of this section and through the statutory appropriation provided for in subsection (4) of this section."

Section 16. Section 20-9-534, MCA, is amended to read:

"20-9-534. Statutory appropriation for school technology purposes. (1) The amount of \$1 million a year is statutorily appropriated, as provided in 17-7-502, from the school facility and technology account established in 20-9-516 for grants for school technology purposes. The statutory appropriation is subject to

termination as provided in 17-7-502.

(2) By September 1, the superintendent of public instruction shall allocate the annual statutory appropriation for school technology purposes to each district based on the ratio that each district's BASE budget bears to the statewide BASE budget amount for all school districts multiplied by the amount of money provided in 20-9-343 for the purposes of 20-9-533 in the prior fiscal year."

Section 17. Section 20-9-622, MCA, is amended to read:

"20-9-622. Guarantee account. (1) There is a guarantee account in the state special revenue fund. The guarantee account is intended to:

- (a) stabilize the long-term growth of the permanent fund; and
- (b) maintain a constant and increasing distributable revenue stream. All realized capital gains and all distributable revenue must be deposited in the guarantee account. Except as provided in subsection (2), the guarantee account is statutorily appropriated, as provided in 17-7-502, for distribution to school districts through school equalization aid as provided in 20-9-343. The statutory appropriation is subject to termination as provided in 17-7-502.

(2) As long as a portion of the coal severance tax loan authorized in section 8, Chapter 418, Laws of 2001, is outstanding, the department of natural resources and conservation shall monthly transfer from the guarantee account to the general fund an amount that represents the amount of interest income that would be earned from the investment of the amount of the loan that is currently outstanding. When the loan is fully paid, all mineral royalties deposited in the guarantee account must be transferred to the school facility and technology account pursuant to 17-6-340."

Section 18. Section 22-3-1004, MCA, is amended to read:

"22-3-1004. Montana heritage preservation and development account. (1) (a) There is a Montana heritage preservation and development account in the state special revenue fund and in the federal special revenue fund.

(b) The Montana heritage preservation and development commission shall deposit any federal money that the commission obtains into the appropriate account provided for in this section.

(2) Money deposited in the accounts must be used for:

(a) the purchase of properties in Virginia City and Nevada City;

(b) restoration, maintenance, and operation of historic properties in Virginia City and Nevada City; and

(c) purchasing, restoring, and maintaining historically significant properties in Montana that are in need of preservation.

(3) The accounts are statutorily appropriated, as provided in 17-7-502, to the commission to be used as provided in this section. The statutory appropriation is subject to termination as provided in 17-7-502.

(4) Unless otherwise prohibited by law or agreement, all interest earned on money in the accounts must be deposited in the state special revenue fund to the credit of the commission."

Section 19. Section 23-4-105, MCA, is amended to read:

"23-4-105. Authority of board. The board shall license and regulate racing, match bronc rides, and wild horse rides and review race meets held in this state under this chapter. All percentages withheld from amounts wagered, amounts set aside pursuant to 23-4-202(4)(d), percentages collected pursuant to 23-4-204(3), percentages collected pursuant to 23-4-302(3) and (5)(b)(iii), and money collected pursuant to 23-4-304(1)(a) and (1)(b) must be deposited in a state special revenue account and are statutorily appropriated to the board as provided in 17-7-502. The board shall then distribute all funds collected under 23-4-202(4)(d), 23-4-204(3), 23-4-302(3) and (5)(b)(iii), and 23-4-304(1)(a) and (1)(b) to live race purses or for other purposes for the good of the existing horseracing industry. If the board decides to authorize new forms of racing, including new forms of simulcast racing, not currently authorized in Montana the board shall do so after holding public hearings to determine the effects of these forms of racing on the existing saddle racing program in Montana. The board shall consider both the economic and safety impacts on the existing racing and breeding industry. The statutory appropriation in this section is subject to termination as provided in 17-7-502."

Section 20. Section 23-5-306, MCA, is amended to read:

"23-5-306. Live card game table -- permit -- fees -- disposition of fees. (1) (a) A person who has been granted an operator's license under 23-5-177 and who holds an appropriate license to sell alcoholic beverages for consumption on the premises, as provided in 23-5-119, may be granted an annual permit for the placement of live card game tables.

(b) A permit is not required for social games played for prizes of minimal value, defined as class I gaming

by 25 U.S.C. 2703.

(c) The department may issue an annual permit for the placement of live card game tables to a person operating a premises not licensed to sell alcoholic beverages for consumption on the premises if:

(i) one or more live card game tables were legally operated on the premises on January 15, 1989;

(ii) the premises were licensed on January 15, 1989, to sell food, cigarettes, or any other consumable product;

(iii) the person has been granted an operator's license under 23-5-177; and

(iv) at the time of application for the permit:

(A) the person has continuously operated a live card game table on the premises since January 15, 1989; and

(B) the natural person or persons who own the business operated on the premises are the same as on January 15, 1989.

(2) The annual permit fee in lieu of taxes for each live card game table operated in a licensed operator's premises may not be prorated and must be:

(a) \$250 for the first table; and

(b) \$500 for each additional table.

(3) The department shall retain for administrative purposes \$100 of the fee collected under this part for each live card game table.

(4) The Subject to appropriation, the department shall forward on a quarterly basis the remaining balance of the fee collected under subsection (2) to the treasurer of the county or the clerk, finance officer, or treasurer of the city or town in which the live card game table is located for deposit to the county or municipal treasury. A county is not entitled to proceeds from fees assessed on live card game tables located in incorporated cities and towns within the county. The local government portion of this fee is statutorily appropriated to the department, as provided in 17-7-502, for deposit to the county or municipal treasury. The statutory appropriation is subject to termination as provided in 17-7-502."

Section 21. Section 23-5-409, MCA, is amended to read:

"23-5-409. Bingo and keno tax -- records -- distribution -- statement and payment. (1) A licensee who has received a permit to operate bingo or keno games shall pay to the department a tax of 1% of the gross

proceeds from the operation of each live bingo and keno game operated on the licensee's premises.

(2) A licensee shall keep a record of gross proceeds in the form the department requires. At all times during the business hours of the licensee, the records must be available for inspection by the department.

(3) A licensee shall annually complete and deliver to the department a statement showing the total gross proceeds for each live keno or bingo game operated by the licensee and the total amount due as live bingo or keno tax for the preceding year. This statement must contain any other relevant information required by the department.

(4) ~~The~~ Subject to appropriation, the department shall forward the tax collected under subsection (3) to the treasurer of the county or the clerk, finance officer, or treasurer of the city or town in which the licensed game is located for deposit to the county or municipal treasury. A county is not entitled to proceeds from taxes on live bingo or keno games located in incorporated cities and towns within the county. The tax collected under subsection (3) is statutorily appropriated to the department, as provided in 17-7-502, for deposit to the county or municipal treasury. The statutory appropriation is subject to termination as provided in 17-7-502."

Section 22. Section 23-5-612, MCA, is amended to read:

"23-5-612. Machine permits -- fees. (1) The department, upon payment by the operator of the fee provided in subsection (2) and in conformance with rules adopted under this part, shall issue to the operator an annual permit for an approved video gambling machine.

(2) (a) The department shall charge an annual permit fee of \$220 for each video gambling machine permit. The fee must be prorated on a quarterly basis but may not be prorated to allow a permit to expire before June 30. The department may not grant a refund if the video gambling machine ceases operation before the permit expires.

(b) If the person holding the gambling operator's license for the premises in which the machine is located changes during the first quarter of the permit year and the new operator has received an operator's license and if a machine transfer processing fee of \$25 per machine is paid to the department, the permit remains valid for the remainder of the permit year.

(3) The department shall deposit \$120 of the annual permit fee or for a prorated fee shall deposit \$90 for three quarters, \$60 for two quarters, and \$30 for one quarter collected under subsection (2)(a) and 100% of the machine transfer processing fee collected under subsection (2)(b) in the state special revenue fund for

purposes of administering this part and for other purposes provided by law. The balance of the fee collected under subsection (2)(a) must be returned on a quarterly basis to the local government jurisdiction in which the gambling machine is located. The local government portion of the fee is statutorily appropriated to the department, as provided in 17-7-502, for deposit in the local government treasury. The statutory appropriation is subject to termination as provided in 17-7-502."

Section 23. Section 23-7-301, MCA, is amended to read:

"23-7-301. Ticket or chance sales agents -- licenses. (1) Lottery tickets or chances may be sold only by ticket or chance sales agents licensed by the director in accordance with this section.

(2) The commission shall by rule determine the places at which state lottery game tickets or chances may be sold.

(3) (a) Before issuing a license, the director shall consider:

(i) the financial responsibility and security of the applicant and the applicant's business or activity;

(ii) the accessibility of the applicant's place of business or activity to the public; and

(iii) the sufficiency of existing licenses to serve the public convenience and the volume of the expected sales.

(b) A person under 18 years of age may not sell lottery tickets or chances.

(c) A license as an agent to sell lottery tickets or chances may not be issued to any person to engage in business exclusively as a lottery ticket or chance sales agent.

(4) The director may issue temporary licenses upon conditions that the director considers necessary.

(5) License applicants shall pay a \$50 fee to cover the cost of investigating and processing the application.

(6) The director may require a bond from any licensed agent in an amount provided in the commission's rules and may purchase a blanket bond covering the activities of licensed agents.

(7) A licensed agent shall display the license or a copy of the license conspicuously in accordance with the commission's rules.

(8) A license is not assignable or transferable.

(9) An employee of a ticket or chance sales agent may not be required to sell lottery game tickets or chances if the sale is against the employee's religious or moral beliefs.

(10) Sales agents are entitled to a commission of no more than 10% of the face value of tickets and chances that they purchase from the lottery and do not return. However, to further the sale of lottery products, the lottery commission may adopt rules providing additional commissions to sales agents based on incremental sales. Commissions may not come from that part of all gross revenue that is net revenue and is paid to the general fund. The commissions are statutorily appropriated, as provided in 17-7-502, to the lottery. The statutory appropriation is subject to termination as provided in 17-7-502.

(11) Each sales agent shall keep a complete and up-to-date set of records and accounts fully showing the agent's sales and provide it for inspection upon request of the commission, the director, the department of administration, the office of the legislative auditor, or the office of the attorney general.

(12) Sales agents may pay the state lottery only by check, bankdraft, electronic funds transfer, or other recorded, noncash, financial transfer method as determined by the director.

(13) A license may be suspended or revoked for failure to maintain the license qualifications provided in subsection (3) or for violation of any provision of this chapter or a commission rule. Prior to suspension or revocation, the licensee must be given notice and an opportunity for a hearing."

Section 24. Section 23-7-402, MCA, is amended to read:

"23-7-402. Disposition of revenue. (1) A minimum of 45% of the money paid for tickets or chances must be paid out as prize money. The prize money is statutorily appropriated, as provided in 17-7-502, to the lottery. The statutory appropriation is subject to termination as provided in 17-7-502.

(2) Commissions paid to lottery ticket or chance sales agents are not a state lottery operating expense.

(3) That part of all gross revenue not used for the payment of prizes, commissions, and operating expenses, together with the interest earned on the gross revenue while the gross revenue is in the enterprise fund, is net revenue. Net revenue must be transferred quarterly from the enterprise fund established by 23-7-401 to the state general fund.

(4) The spending authority of the lottery may be increased in accordance with this section upon review and approval of a revised operation plan by the office of budget and program planning."

Section 25. Section 37-43-204, MCA, is amended to read:

"37-43-204. Earmarked money for board expenses -- expenditure of funds from bonds. (1) All

money collected under this chapter must be deposited in the state special revenue fund and may be used only for the purpose of paying expenses of the board. Except for funds received from bonds in subsection (2), the money must be appropriated by the legislature before it may be expended by the board. Income and interest from investment of the money in the state special revenue fund that are collected under this chapter must be credited to the board.

(2) The Subject to appropriation, the board may accept and expend all funds received from bonds required by 37-43-306. The funds must be used to remedy defects in water wells, to compensate for damages caused by violations of this chapter or the rules of the board, or to pay any administrative costs incurred by the board under 37-43-309, 37-43-310, and 37-43-313. These funds, other than those to pay any administrative costs, are statutorily appropriated as provided in 17-7-502. The statutory appropriation is subject to termination as provided in 17-7-502."

Section 26. Section 37-51-501, MCA, is amended to read:

"37-51-501. Real estate recovery account established -- minimum balance -- interest. (1) There is established in the state special revenue fund for the use of the board a real estate recovery account. The account is used to provide payment of claims based on unsatisfied judgments against persons licensed under the provisions of this chapter. The real estate recovery account is statutorily appropriated as provided in 17-7-502. The statutory appropriation is subject to termination as provided in 17-7-502.

(2) The board shall maintain a minimum balance of \$100,000 in the account. The board may in its discretion transfer any money in excess of that amount from the account to the state special revenue fund for the use of the board in accordance with the purposes provided in 37-51-204.

(3) Money earned on the investment of funds in the account must be credited to the account annually."

Section 27. Section 39-71-503, MCA, is amended to read:

"39-71-503. Uninsured employers' fund -- purpose and administration of fund -- maintaining balance for administrative costs -- appropriation. (1) There is created an uninsured employers' fund in the state special revenue account to pay:

(a) to an injured employee of an uninsured employer the same benefits the employee would have received if the employer had been properly enrolled under compensation plan No. 1, 2, or 3, except as provided

in subsection (3);

(b) the costs of investigating and prosecuting workers' compensation fraud under 2-15-2015; and

(c) the expenses incurred by the department in administering the uninsured employers' fund.

(2) The department may refer to the workers' compensation fraud office, established in 2-15-2015, cases involving:

(a) false or fraudulent claims for benefits; and

(b) criminal violations of 45-7-501.

(3) (a) Except as provided in subsection (3)(b), surpluses and reserves may not be kept for the fund. ~~The~~ Subject to appropriation, the department shall make payments that it considers appropriate as funds become available from time to time. The payment of weekly disability benefits takes precedence over the payment of medical benefits. Lump-sum payments of future projected benefits, including impairment awards, may not be made from the fund. The board of investments shall invest the money of the fund, and the investment income must be deposited in the fund.

(b) The department shall maintain at least a 3-month balance based on projected budget costs for administration of the fund. The balance for administrative costs may be used by the department only in administering the fund.

(c) The maximum aggregate medical benefits expenditure that may be made from the fund may not exceed \$100,000 for any single claim regardless of whether the claim arises from an injury or an occupational disease.

(4) The amounts necessary for the payment of benefits from the fund are statutorily appropriated, as provided in 17-7-502, from the fund. The statutory appropriation is subject to termination as provided in 17-7-502."

Section 28. Section 41-5-2011, MCA, is amended to read:

"41-5-2011. Youth court intervention and prevention account -- statutory appropriation -- administration. (1) There is a youth court intervention and prevention account in the state special revenue fund. The office of court administrator shall deposit in the account the following funds transferred by the department:

(a) funds transferred under 41-5-130(2) for evaluations of out-of-home placements, programs, and services;

(b) unexpended funds from the judicial districts' annual allocations as provided for in 41-5-130(8); and

(c) unexpended funds from the cost containment pool as provided for in 41-5-132.

(2) The youth court intervention and prevention account is statutorily appropriated, as provided in 17-7-502, to the supreme court. The statutory appropriation is subject to termination as provided in 17-7-502. The office of court administrator shall administer the account in accordance with 41-5-2012."

Section 29. Section 42-2-105, MCA, is amended to read:

"42-2-105. Fees for services -- special revenue account -- statutory appropriation. (1) The department shall establish fees that it may charge and that are reasonably related to the cost incurred by the department in completing or contracting for adoption services.

(2) The department may contract with licensed social workers or licensed child-placing agencies for the purposes of completing the preplacement or postplacement evaluation or for providing postplacement supervision.

(3) An agency contracting to perform the services may set and charge a reasonable fee commensurate with the services provided.

(4) There is an adoption services account in the state special revenue fund. The fees collected by the department under this title must be deposited into this account and may be used by the department for adoption services. The money in the account is statutorily appropriated, as provided in 17-7-502, to the department. The statutory appropriation is subject to termination as provided in 17-7-502."

Section 30. Section 44-4-1101, MCA, is amended to read:

"44-4-1101. Water right enforcement account -- statutory appropriation. (1) There is a water right enforcement account in the state special revenue fund.

(2) Fines collected pursuant to 85-2-122(3)(b) must be deposited in the water right enforcement account.

(3) The money in the account is statutorily appropriated, as provided in 17-7-502, to the department of justice to enforce the provisions of 85-2-114. The statutory appropriation is subject to termination as provided in 17-7-502."

Section 31. Section 44-12-206, MCA, is amended to read:

"44-12-206. Disposition of proceeds of sale. (1) Whenever property is seized, forfeited, and sold under

the provisions of this chapter, the net proceeds of the sale must be distributed as follows:

(a) to the holders of security interests who have presented proper proof of their claims, if any, up to the amount of their interests in the property;

(b) the remainder, if any, to the county treasurer of the county in which the property was seized, who shall establish and maintain a drug forfeiture account and deposit the remainder into the account, except as provided in subsections (1)(c) through (1)(e);

(c) if the property was seized within the corporate limits of a city or town by a law enforcement agency of that city or town, the remainder, if any, to the city or town treasurer, who shall establish and maintain a drug forfeiture account and deposit the remainder into the account, except as provided in subsections (1)(d) and (1)(e);

(d) if the property was seized by an employee of the state, the remainder, if any, is allocated as provided in subsection (3), except as provided in subsection (1)(e); and

(e) if the property was seized as a result of the efforts of more than one law enforcement agency, the remainder, if any, to the accounts required by this subsection (1), pro rata in the proportions represented by the agencies' expenses of investigation, as determined by the attorney general.

(2) All proceeds from any source that are deposited into a county, city, or town drug forfeiture account must in each fiscal year be appropriated to and remain available until expended by the confiscating agency for drug laws enforcement and education concerning drugs.

(3) (a) Each year, the first \$125,000 of net proceeds received by the state under subsections (1)(d) and (1)(e) must be deposited in an account in the state special revenue fund to the credit of the department of justice. The department may expend the money in the account only for purposes of enforcement of drug laws. An amount up to \$125,000 each year is statutorily appropriated, as provided in 17-7-502, to the attorney general for enforcement of drug laws. The statutory appropriation is subject to termination as provided in 17-7-502. Any expenditure in excess of \$125,000 each fiscal year requires approval through budget amendment, as provided in Title 17, chapter 7, part 4.

(b) Each year, net proceeds in excess of \$125,000 that are received by the state under subsections (1)(d) and (1)(e) must be deposited equally between the state special revenue account and the general fund."

Section 32. Section 44-13-102, MCA, is amended to read:

"44-13-102. Federal forfeitures deposited in account. Except as provided in 46-23-1032, property

and money forfeited under federal law and provided to the state by the federal government to support state and local law enforcement programs must be deposited to the special law enforcement assistance account established in 44-13-101. An amount up to \$125,000 each fiscal year is statutorily appropriated, as provided in 17-7-502, to the attorney general for the support of state and local law enforcement programs. The statutory appropriation is subject to termination as provided in 17-7-502. Any expenditure in excess of \$125,000 each fiscal year requires approval through budget amendment, as provided in Title 17, chapter 7, part 4."

Section 33. Section 53-1-109, MCA, is amended to read:

"53-1-109. Prison inmate welfare account. (1) There is an account in the state special revenue fund. The net proceeds from state prison inmate canteen purchases and inmate telephone use, cash proceeds from the disposition of confiscated contraband, and any public money held for the needs of inmates and their families and not otherwise allocated must be deposited in the account. Money in an account established under 53-1-107 may not be deposited in the account established in this subsection.

(2) The money in the account is statutorily appropriated, as provided in 17-7-502, to the department of corrections, which may allocate the money referred to in subsection (1) to the state prisons in proportion to the amount that each state prison contributed to the fund. The statutory appropriation is subject to termination as provided in 17-7-502. The administrator of each state prison shall consult with the inmates about the use of the money allocated to the state prison and may use the money for the needs of the inmates and their families.

(3) For purposes of this section, "state prison" has the meaning provided in 53-30-101(3)(c)(i) through (3)(c)(iii) and (3)(c)(v)."

Section 34. Section 53-24-108, MCA, is amended to read:

"53-24-108. Use of funds generated by taxation on alcoholic beverages. (1) Revenue generated by 16-1-404, 16-1-406, and 16-1-411 and allocated to the department to be used in state-approved private or public programs whose function is the treatment, rehabilitation, and prevention of alcoholism, which for the purposes of this section includes chemical dependency, must be distributed as follows:

(a) 20% is statutorily appropriated, as provided in 17-7-502, to be allocated as provided in 53-24-206(3)(b), and must be distributed as grants to state-approved private or public alcoholism programs;

(b) 6.6% is statutorily appropriated, as provided in 17-7-502, to be distributed to state-approved private

or public alcoholism programs that provide services for treatment and rehabilitation for persons with co-occurring serious mental illness and chemical dependency; and

(c) the remainder of funds not statutorily appropriated in subsections (1)(a) and (1)(b) may be distributed:

(i) as payment of fees for alcoholism services provided by state-approved private or public alcoholism programs and licensed hospitals for detoxification services; or

(ii) as matching funds for the Montana medicaid program administered by the department that are used for alcoholism and chemical dependency programs.

(2) A person operating a state-approved alcoholism program may not be required to provide matching funds as a condition of receiving a grant under subsection (1)(a).

(3) In addition to funding received under this section, a person operating a state-approved alcoholism program may accept gifts, bequests, or the donation of services or money for the treatment, rehabilitation, or prevention of alcoholism.

(4) A person receiving funding under this section to support operation of a state-approved alcoholism program may not refuse alcoholism treatment, rehabilitation, or prevention services to a person solely because of that person's inability to pay for those services.

(5) A grant made under this section is subject to the following conditions:

(a) The grant application must contain an estimate of all program income, including income from earned fees, gifts, bequests, donations, and grants from other than state sources during the period for which grant support is sought.

(b) Whenever, during the period of grant support, program income exceeds the amount estimated in the grant application, the amount of the excess must be reported to the grantor.

(c) The excess must be used by the grantee under the terms of the grant in accordance with one or a combination of the following options:

(i) use for any purpose that furthers the objectives of the legislation under which the grant was made;

or

(ii) to allow program growth through the expansion of services or for capital expenditures necessary to improve facilities where services are provided.

(6) Revenue generated by 16-1-404, 16-1-406, and 16-1-411 for the treatment, rehabilitation, and prevention of alcoholism that has not been encumbered for those purposes by the counties of Montana or the

department must be returned to the state special revenue fund for the treatment, rehabilitation, and prevention of alcoholism within 30 days after the close of each fiscal year and must be distributed by the department the following year as provided in 53-24-206(3)(b).

(7) The statutory appropriations in this section are subject to termination as provided in 17-7-502."

Section 35. Section 53-24-206, MCA, is amended to read:

"53-24-206. Administration of financial assistance. (1) The department may apply for and receive grants, allotments, or allocations of funds or other assistance for purposes pertaining to the problems of chemical dependency or related social problems under laws and rules of the United States, any other state, or any private organization.

(2) The department may cooperate with any other government agency or private organization in programs on chemical dependency or related social problems. In carrying out cooperative programs, the department may make grants of financial assistance to government agencies and private organizations under terms and conditions agreed upon.

(3) (a) In administering proceeds derived from the liquor license tax, the beer license tax, or the wine tax, the department shall distribute those funds appropriated by the legislature. Money that is appropriated for distribution to approved private or public programs on a discretionary basis must be distributed to those programs that can demonstrate that:

(i) the program is achieving the goals and objectives mutually agreed upon by the program and the department; and

(ii) the receipt of additional funds would be justified.

(b) The remainder of the proceeds that are not appropriated, as provided in subsection (3)(a), or that are not statutorily appropriated in 53-24-108(1)(b) must be distributed to the counties for use by approved private or public programs. The distribution of these proceeds is statutorily appropriated as provided in 17-7-502 and must be distributed in the following manner:

(i) Eighty-five percent must be allocated according to the proportion of each county's population to the state's population according to the most recent United States census.

(ii) Fifteen percent must be allocated according to the proportion of the county's land area to the state's land area.

(c) Money distributed under subsection (3) may only be used for purposes pertaining to the problems of alcoholism and chemical dependency.

(4) The statutory appropriation is subject to termination as provided in 17-7-502."

Section 36. Section 61-3-415, MCA, is amended to read:

"61-3-415. Special motorcycle license plates -- department to design -- fees -- distribution. (1) A Montana resident who is the owner of a motorcycle or quadricycle titled and registered under this chapter and who pays the fee required under subsection (2) may be issued a special motorcycle license plate bearing a design created by the department. The design must recognize the efforts of one or more Montana-based nonprofit organizations that grant wishes to chronically or critically ill Montana children.

(2) A person requesting a special motorcycle license plate under this section shall pay to the county treasurer:

(a) an administrative fee of \$5 upon issuance of the special license plate, to be deposited in the county general fund;

(b) a \$5 license plate fee; and

(c) a donation fee of \$20.

(3) The county treasurer shall remit the fees required in subsections (2)(b) and (2)(c) to the department. For each special plate issued, the department shall deposit \$5 in the state general fund and \$20 in an account in the state special revenue fund to be used by the department as provided in subsection (4).

(4) ~~The~~ Subject to appropriation, the department shall use the money deposited in the account in the state special revenue fund as provided in subsection (3) to provide grants, using criteria established by the department, to Montana-based nonprofit organizations that grant wishes to Montana children who are chronically or critically ill.

(5) The department shall adopt rules to identify the entity or entities that may qualify for grants under this section and to establish the criteria that an entity must meet to receive grant funds.

(6) The account in the state special revenue fund provided for in subsection (3) is statutorily appropriated to the department, as provided in 17-7-502. The statutory appropriation is subject to termination as provided in 17-7-502."

Section 37. Section 69-3-870, MCA, is amended to read:

"69-3-870. Performance assurance state special revenue account -- statutory appropriation. (1)

There is a performance assurance state special revenue account in the state special revenue fund. The account must be used for the deposit of payments to the state made by a telecommunications carrier pursuant to the terms of a performance assurance plan.

(2) Money in the performance assurance state special revenue account is statutorily appropriated, as provided in 17-7-502, and may be expended by the commission in carrying out its responsibilities to administer, audit, and oversee the performance assurance plan, pursuant to the terms of the plan. The statutory appropriation is subject to termination as provided in 17-7-502.

(3) For purposes of this section, a "performance assurance plan" means a commission-approved, self-executing remedy plan to ensure that a telecommunications carrier provides adequate wholesale service to competitors after the carrier gains entry into the interlocal access and transport area long-distance market in its region pursuant to 47 U.S.C. 271."

Section 38. Section 75-5-1108, MCA, is amended to read:

"75-5-1108. Use of funds -- statutory appropriation. Money in the revolving fund is statutorily appropriated, as provided in 17-7-502, for the purposes of making loans to municipalities and private concerns and paying debt service on obligations. The statutory appropriation is subject to termination as provided in 17-7-502."

Section 39. Section 75-6-214, MCA, is amended to read:

"75-6-214. Use of funds -- statutory appropriation. Money in the revolving fund is statutorily appropriated, as provided in 17-7-502, for the purposes of providing financial assistance to public water systems. The statutory appropriation is subject to termination as provided in 17-7-502."

Section 40. Section 75-11-313, MCA, is amended to read:

"75-11-313. Petroleum tank release cleanup fund. (1) There is a petroleum tank release cleanup fund in the state special revenue fund established in 17-2-102. The fund is administered as a revolving fund by the board and is statutorily appropriated, as provided in 17-7-502, for the purposes provided for under subsections

(3)(c) and (3)(d). The statutory appropriation is subject to termination as provided in 17-7-502. Administrative costs under subsections (3)(a) and (3)(b) must be paid pursuant to a legislative appropriation.

(2) There is deposited in the fund:

(a) all revenue from the petroleum storage tank cleanup fee as provided in 75-11-314;

(b) money received by the board in the form of gifts, grants, reimbursements, or appropriations, from any source, intended to be used for the purposes of this fund;

(c) money appropriated or advanced to the fund by the legislature;

(d) money loaned to the board by the board of investments; and

(e) all interest earned on money in the fund.

(3) As provided in 75-11-318, the fund may be used only:

(a) to administer this part, including payment of board expenses associated with administration;

(b) to pay the actual and necessary department expenses associated with administration;

(c) to reimburse owners and operators for eligible costs caused by a release from a petroleum storage tank and approved by the board; and

(d) for repayment of any advance and any loan made pursuant to 17-6-225, plus interest earned on the advance or loan.

(4) Whenever the board accepts a loan from the board of investments pursuant to 17-6-225, the receipts from the fees provided for in 75-11-314 in each fiscal year until the loan is repaid are pledged and dedicated for the repayment of the loan in an amount sufficient to meet the repayment obligation for that fiscal year."

Section 41. Section 80-11-518, MCA, is amended to read:

"80-11-518. Account established -- sources -- use -- expenditures. (1) There is an account in the state special revenue fund into which must be placed:

(a) the proceeds of all commodity assessments and penalties collected under this part; and

(b) the proceeds from all gifts, grants, and donations to the department for commodity research and market development received under 80-11-517.

(2) Funds deposited in the account for a specific commodity research and market development program may be expended only for the purposes of that program.

(3) Money deposited in the account is statutorily appropriated, as provided in 17-7-502, to the department

for purposes of this part. The statutory appropriation is subject to termination as provided in 17-7-502.

(4) The department may direct the board of investments to invest funds from the account pursuant to the provisions of the unified investment program for state funds. Income from the investments must be credited to the account.

(5) The department may assess costs for the services that it provides to each commodity research and market development program. However, the costs assessed must be commensurate to the cost of the services provided."

Section 42. Section 81-10-103, MCA, is amended to read:

"81-10-103. Horse owner amnesty special revenue account. (1) There is a horse owner amnesty account in the state special revenue fund. Money must be deposited in the account pursuant to 81-10-102(6) and subsection (2) of this section.

(2) Money received by the state in the form of gifts, grants, reimbursements, or allocations from any source to be used for the purposes of defraying the costs of this part must be deposited in the account.

(3) The money in the account is statutorily appropriated, as provided in 17-7-502, to the department of livestock, which shall use the funds to defray the costs of this part. The statutory appropriation is subject to termination as provided in 17-7-502."

Section 43. Section 82-11-161, MCA, is amended to read:

"82-11-161. (Temporary) Oil and gas production damage mitigation account -- statutory appropriation. (1) There is an oil and gas production damage mitigation account within the state special revenue fund established in 17-2-102. The oil and gas production damage mitigation account is controlled by the board.

(2) At the beginning of each biennium, there must be allocated to the oil and gas production damage mitigation account \$50,000 from the interest income of the resource indemnity trust fund, except that if at the beginning of a biennium the unobligated cash balance in the oil and gas production damage mitigation account:

(a) equals or exceeds \$200,000, no allocation will be made; or

(b) is less than \$200,000, then an amount less than or equal to the difference between the unobligated cash balance and \$200,000, but not more than \$50,000, must be allocated to the oil and gas production damage mitigation account from the interest income of the resource indemnity trust fund.

(3) In addition to the allocation provided in subsection (2), there must be deposited in the oil and gas production damage mitigation account all funds received by the board pursuant to 82-11-136.

(4) If a sufficient balance exists in the account, funds are statutorily appropriated, as provided in 17-7-502, from the oil and gas production damage mitigation account, upon the authorization of the board, to pay the reasonable costs of properly plugging a well and either reclaiming or restoring, or both, a drill site or other drilling or producing area damaged by oil and gas operations if the board determines that the well, sump, hole, drill site, or drilling or producing area has been abandoned and the responsible person cannot be identified or located or if the responsible person fails or refuses to properly plug, reclaim, or restore the well, sump, hole, drill site, or drilling or producing area within a reasonable time after demand by the board. The responsible person shall, however, pay costs to the extent of that person's available resources and is subsequently liable to fully reimburse the account or is subject to a lien on property as provided in 82-11-164 for costs expended from the account to properly plug, reclaim, or restore the well, sump, hole, drill site, or drilling or producing area and to mitigate any damage for which the person is responsible.

(5) Interest from funds in the oil and gas production damage mitigation account accrues to that account.

(6) The statutory appropriation in this section is subject to termination as provided in 17-7-502.

82-11-161. (Effective on occurrence of contingency) Oil and gas production damage mitigation account -- statutory appropriation. (1) There is an oil and gas production damage mitigation account within the state special revenue fund established in 17-2-102. The oil and gas production damage mitigation account is controlled by the board.

(2) At the beginning of each biennium, there must be allocated to the oil and gas production damage mitigation account \$50,000 from the interest income of the resource indemnity trust fund, except that if at the beginning of a biennium the unobligated cash balance in the oil and gas production damage mitigation account:

(a) equals or exceeds \$200,000, no allocation will be made; or

(b) is less than \$200,000, then an amount less than or equal to the difference between the unobligated cash balance and \$200,000, but not more than \$50,000, must be allocated to the oil and gas production damage mitigation account from the interest income of the resource indemnity trust fund.

(3) In addition to the allocation provided in subsection (2), there must be deposited in the oil and gas production damage mitigation account all funds received by the board pursuant to 82-11-136(1).

(4) If a sufficient balance exists in the account, funds are statutorily appropriated, as provided in

17-7-502, from the oil and gas production damage mitigation account, upon the authorization of the board, to pay the reasonable costs of properly plugging a well and either reclaiming or restoring, or both, a drill site or other drilling or producing area damaged by oil and gas operations if the board determines that the well, sump, hole, drill site, or drilling or producing area has been abandoned and the responsible person cannot be identified or located or if the responsible person fails or refuses to properly plug, reclaim, or restore the well, sump, hole, drill site, or drilling or producing area within a reasonable time after demand by the board. However, the responsible person shall pay costs to the extent of that person's available resources and is subsequently liable to fully reimburse the account or is subject to a lien on property as provided in 82-11-164 for costs expended from the account to properly plug, reclaim, or restore the well, sump, hole, drill site, or drilling or producing area and to mitigate any damage for which the person is responsible.

(5) Interest from funds in the oil and gas production damage mitigation account accrues to that account.

(6) The statutory appropriation in this section is subject to termination as provided in 17-7-502."

Section 44. Section 90-1-115, MCA, is amended to read:

"90-1-115. Department of commerce Lewis and Clark bicentennial account -- Montana historical society Lewis and Clark bicentennial account. (1) (a) There is a department of commerce Lewis and Clark bicentennial account in the state special revenue fund. Three-fourths of the revenue from the sales of Lewis and Clark bicentennial license plates under 2-15-151 must be placed into the account and must be used as provided in 2-15-151. The revenue in the account is statutorily appropriated, as provided in 17-7-502, to the department of commerce. The statutory appropriation is subject to termination as provided in 17-7-502.

(b) There is a Montana historical society Lewis and Clark bicentennial account in the state special revenue fund. One-fourth of the revenue from the sales of Lewis and Clark bicentennial license plates under 2-15-151 must be placed into the account and must be used as provided in 2-15-151. The revenue in the account is statutorily appropriated, as provided in 17-7-502, to the Montana historical society. The statutory appropriation is subject to termination as provided in 17-7-502.

(2) The department of commerce shall allocate the proceeds that are deposited in the account established in subsection (1)(a) as grants, as follows:

(a) one-third to the Lewis and Clark interpretive center foundation;

(b) one-third to the Pompeys pillar historical association;

(c) one-third to the travelers' rest preservation and heritage association."

Section 45. Section 90-1-203, MCA, is amended to read:

"90-1-203. Types of financial assistance available. (1) ~~The~~ Subject to appropriation, the department shall provide for and make grants and loans available to local governments and tribal governments for economic development projects and to certified regional development corporations from the money in the economic development special revenue account provided for in 90-1-205.

(2) A grant or loan may not be used for a project that would result in the transfer or relocation of jobs from one part of the state to another part of the state."

Section 46. Section 90-1-205, MCA, is amended to read:

"90-1-205. Economic development special revenue account. (1) There is an economic development state special revenue account. The account receives earnings from the big sky economic development fund as provided in 17-5-703. The money in the account may be used only as provided in this part.

(2) The money in the account is statutorily appropriated, as provided in 17-7-502, to the department. The statutory appropriation is subject to termination as provided in 17-7-502. Of the money that is deposited in the account that is not used for administrative expenses:

(a) 75% must be allocated for distribution to local governments and tribal governments to be used for job creation efforts; and

(b) 25% must be allocated for distribution to certified regional development corporations, economic development organizations that are located in a county that is not part of a certified regional development corporation, and tribal governments."

Section 47. Section 90-1-504, MCA, is amended to read:

"90-1-504. Use of funds -- statutory appropriation. Money in the distressed wood products industry revolving loan account, the distressed wood products matching fund, and the related federal special revenue fund is statutorily appropriated, as provided in 17-7-502, for the purpose of administering this part. The statutory appropriation is subject to termination as provided in 17-7-502."

Section 48. Section 90-3-1003, MCA, is amended to read:

"90-3-1003. Research and commercialization account -- use. (1) The research and commercialization account provided for in 90-3-1002 is statutorily appropriated, as provided in 17-7-502, to the board of research and commercialization technology, provided for in 2-15-1819, for the purposes provided in this section. The statutory appropriation is subject to termination as provided in 17-7-502.

(2) The establishment of the account in 90-3-1002 is intended to enhance the economic growth opportunities for Montana and constitute a public purpose.

(3) The account may be used only for:

(a) loans that are to be used for research and commercialization projects to be conducted at research and commercialization centers located in Montana;

(b) grants that are to be used for production agriculture research and commercialization projects, clean coal research and development projects, or renewable resource research and development projects to be conducted at research and commercialization centers located in Montana;

(c) matching funds for grants from nonstate sources that are to be used for research and commercialization projects to be conducted at research and commercialization centers located in Montana; or

(d) administrative costs that are incurred by the board in carrying out the provisions of this part.

(4) At least 20% of the account funds approved for research and commercialization projects must be directed toward projects that enhance production agriculture.

(5) (a) At least 30% of the account funds approved for research and commercialization projects must be directed toward projects that enhance clean coal research and development or renewable resource research and development.

(b) If the board is not in receipt of a qualified application for a project to enhance clean coal research and development or renewable resource research and development, subsection (5)(a) does not apply.

(6) An applicant for a grant shall provide matching funds from nonstate sources equal to 25% of total project costs. The requirement to provide matching funds is a qualifier, but not a criterion, for approval of a grant.

(7) The board shall establish policies, procedures, and criteria that achieve the objectives in its research and commercialization strategic plan for the awarding of grants and loans. The criteria must include:

(a) the project's potential to diversify or add value to a traditional basic industry of the state's economy;

(b) whether the project shows promise for enhancing technology-based sectors of Montana's economy

or promise for commercial development of discoveries;

(c) whether the project employs or otherwise takes advantage of existing research and commercialization strengths within the state's public university and private research establishment;

(d) whether the project involves a realistic and achievable research project design;

(e) whether the project develops or employs an innovative technology;

(f) verification that the project activity is located within the state;

(g) whether the project's research team possesses sufficient expertise in the appropriate technology area to complete the research objective of the project;

(h) verification that the project was awarded based on its scientific merits, following review by a recognized federal agency, philanthropic foundation, or other private funding source; and

(i) whether the project includes research opportunities for students.

(8) The board shall direct the state treasurer to distribute funds for approved projects. Unallocated interest and earnings from the account must be retained in the account. Repayments of loans and any agreements authorizing the board to take a financial right to licensing or royalty fees paid in connection with the transfer of technology from a research and commercialization center to another nonstate organization or ownership of corporate stock in a private sector organization must be deposited in the account.

(9) The board shall refer grant applications to external peer review groups. The board shall compile a list of persons willing to serve on peer review groups for purposes of this section. The peer review group shall review the application and make a recommendation to the board as to whether the application for a grant should be approved. The board shall review the recommendation of the peer review group and either approve or deny a grant application.

(10) The board shall identify whether a grant or loan is to be used for basic research, applied research, or some combination of both. For the purposes of this section, "applied research" means research that is conducted to attain a specific benefit or solve a practical problem and "basic research" means research that is conducted to uncover the basic function or mechanism of a scientific question.

(11) For the purposes of this section:

(a) "clean coal research and development" means research and development of projects that would advance the efficiency, environmental performance, and cost-competitiveness of using coal as an energy source well beyond the current level of technology used in commercial service;

(b) "renewable resource research and development" means research and development that would advance:

- (i) the use of any of the sources of energy listed in 69-3-2003(10) to produce electricity; and
- (ii) the efficiency, environmental performance, and cost-competitiveness of using renewable resources as an energy source well beyond the current level of technology used in commercial service."

Section 49. Section 90-9-301, MCA, is amended to read:

"90-9-301. Agriculture seed capital account -- matching funds. (1) There is an agriculture seed capital account administered by the council. Money received by the council under 90-9-306 must be deposited in this account.

(2) ~~The~~ Subject to appropriation, the council may loan or grant money from the agriculture seed capital account, pursuant to the provisions of 90-9-308 through 90-9-311."

Section 50. Section 90-9-306, MCA, is amended to read:

"90-9-306. Appropriation authority and funding -- prohibitions. (1) The council may accept and expend the funds that it receives from grants, donations, or other private or public income, including amounts repaid as principal and interest on loans made by the council. These funds are statutorily appropriated to the council, as provided in 17-7-502, for the purposes of this chapter, except that expenditures for actual and necessary expenses required for the efficient administration of this chapter must be made from temporary appropriations, as described in 17-7-501(1) or (2), made for that purpose. The statutory appropriation is subject to termination as provided in 17-7-502.

(2) Council members may not personally apply for or receive council funds. If an organization with which a member is affiliated applies for council funds, the member shall disclose the nature of the affiliation and, if the council member is a board member or officer of the organization, may not participate in the decision of the council regarding the application."

Section 51. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Section 52. Effective date. [This act] is effective July 1, 2011.

- END -

I hereby certify that the within bill,
HB 0317, originated in the House.

Chief Clerk of the House

Speaker of the House

Signed this _____ day
of _____, 2011.

President of the Senate

Signed this _____ day
of _____, 2011.

HOUSE BILL NO. 317

INTRODUCED BY R. COOK, M. MILBURN

AN ACT PROVIDING TERMINATION DATES FOR STATUTORY APPROPRIATIONS; PROVIDING AN ALTERNATIVE MEANS OF FINANCING MANDATED DUTIES OF LOCAL GOVERNMENTS AND SCHOOL DISTRICTS; AMENDING SECTIONS 2-17-105, 5-11-120, 5-11-407, 10-1-108, 10-1-1202, 10-1-1303, 10-2-603, 10-3-312, 15-65-121, 15-70-369, 15-70-601, 16-11-509, 17-3-112, 17-7-502, 20-8-107, 20-9-534, 20-9-622, 22-3-1004, 23-4-105, 23-5-306, 23-5-409, 23-5-612, 23-7-301, 23-7-402, 37-43-204, 37-51-501, 39-71-503, 41-5-2011, 42-2-105, 44-4-1101, 44-12-206, 44-13-102, 53-1-109, 53-24-108, 53-24-206, 61-3-415, 69-3-870, 75-5-1108, 75-6-214, 75-11-313, 80-11-518, 81-10-103, 82-11-161, 90-1-115, 90-1-203, 90-1-205, 90-1-504, 90-3-1003, 90-9-301, AND 90-9-306, MCA; AND PROVIDING AN EFFECTIVE DATE.