



AN ACT REVISING LAWS RELATING TO THE HEALTHY MONTANA KIDS PLAN; REVISING THE ALLOCATION OF TOBACCO SETTLEMENT PROCEEDS; REVISING THE DEFINITION OF "BASE BUDGET" TO INCLUDE CERTAIN APPROPRIATIONS FOR THE HEALTHY MONTANA KIDS PLAN; REVISING PRESUMPTIVE ELIGIBILITY CRITERIA FOR THE HEALTHY MONTANA KIDS PLAN; PROVIDING RULEMAKING AUTHORITY; PROVIDING AN APPROPRIATION; AMENDING SECTIONS 17-6-606, 17-7-102, AND 53-4-1105, MCA; AND PROVIDING AN EFFECTIVE DATE AND A TERMINATION DATE.

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

Section 1. Section 17-6-606, MCA, is amended to read:

"17-6-606. (Temporary) Tobacco settlement accounts -- purpose -- uses. (1) The purpose of this section is to dedicate a portion of the tobacco settlement proceeds to fund statewide programs for tobacco disease prevention designed to:

- (a) discourage children from starting use of tobacco;
- (b) assist adults in quitting use of tobacco;
- (c) provide funds for the children's health insurance program;
- ~~(c)~~(d) provide funds for the healthy Montana kids plan provided for in Title 53, chapter 4, part 11; and
- ~~(d)~~(e) provide funds for the comprehensive health association programs.

(2) An amount equal to ~~32%~~ 13.9% of the total yearly tobacco settlement proceeds ~~received after June 30, 2003;~~ must be deposited in a state special revenue account. Subject to subsection (5), the funds referred to in this subsection may be used only for funding statewide programs for tobacco disease prevention designed to prevent children from starting tobacco use and to help adults who want to quit tobacco use. The department of public health and human services shall manage the tobacco disease prevention programs and shall adopt rules to implement the programs. In adopting rules, the department shall consider the standards contained in Best Practices for Comprehensive Tobacco Control Programs--August 1999 or its successor document, published by the U.S. department of health and human services, centers for disease control and prevention.

(3) An amount equal to ~~17%~~ 35.1% of the total yearly tobacco settlement proceeds ~~received after June 30, 2003~~, must be deposited in a state special revenue account. Subject to subsection (5), the funds referred to in this subsection may be used only for:

(a) matching funds for the Children's Health Insurance Program Act provided for in Title 53, chapter 4, part 10;

~~(a)(b)~~ matching funds to secure the maximum amount of federal funds for the healthy Montana kids plan provided for in Title 53, chapter 4, part 11; and

~~(b)(c)~~ programs of the comprehensive health association provided for in Title 33, chapter 22, part 15, with funding use subject to 33-22-1513.

(4) Funds deposited in a state special revenue account, as provided in subsection (2) or (3), that are not appropriated within 2 years after the date of deposit must be transferred to the trust fund.

(5) The legislature shall appropriate money from the state special revenue accounts provided for in this section for programs for tobacco disease prevention, for the programs referred to in the subsection establishing the account, and for funding the tobacco prevention advisory board.

(6) Programs funded under this section that are private in nature may be funded through contracted services. (Terminates June 30, 2011--sec. 35(1), Ch. 486, L. 2009.)

17-6-606. (Effective July 1, 2011) Tobacco settlement accounts -- purpose -- uses. (1) The purpose of this section is to dedicate a portion of the tobacco settlement proceeds to fund statewide programs for tobacco disease prevention designed to:

(a) discourage children from starting use of tobacco;

(b) assist adults in quitting use of tobacco;

(c) provide funds for the children's health insurance program; and

(d) provide funds for the healthy Montana kids plan provided for in Title 53, chapter 4, part 11; and

~~(d)(e)~~ provide funds for the comprehensive health association programs.

(2) An amount equal to ~~32%~~ 13.9% of the total yearly tobacco settlement proceeds ~~received after June 30, 2003~~, must be deposited in a state special revenue account. Subject to subsection (5), the funds referred to in this subsection may be used only for funding statewide programs for tobacco disease prevention designed to prevent children from starting tobacco use and to help adults who want to quit tobacco use. The department of public health and human services shall manage the tobacco disease prevention programs and shall adopt rules

to implement the programs. In adopting rules, the department shall consider the standards contained in Best Practices for Comprehensive Tobacco Control Programs--August 1999 or its successor document, published by the U.S. department of health and human services, centers for disease control and prevention.

(3) An amount equal to ~~47%~~ 35.1% of the total yearly tobacco settlement proceeds ~~received after June 30, 2003~~, must be deposited in a state special revenue account. Subject to subsection (5), the funds referred to in this subsection may be used only for:

(a) matching funds ~~to secure the maximum amount of federal funds~~ for the Children's Health Insurance Program Act provided for in Title 53, chapter 4, part 10; ~~and~~

(b) matching funds for the healthy Montana kids plan provided for in Title 53, chapter 4, part 11; and

~~(b)~~(c) programs of the comprehensive health association provided for in Title 33, chapter 22, part 15, with funding use subject to 33-22-1513.

(4) Funds deposited in a state special revenue account, as provided in subsection (2) or (3), that are not appropriated within 2 years after the date of deposit must be transferred to the trust fund.

(5) The legislature shall appropriate money from the state special revenue accounts provided for in this section for programs for tobacco disease prevention, for the programs referred to in the subsection establishing the account, and for funding the tobacco prevention advisory board.

(6) Programs funded under this section that are private in nature may be funded through contracted services."

Section 2. Section 17-7-102, MCA, is amended to read:

"17-7-102. (Temporary) Definitions. As used in this chapter, the following definitions apply:

(1) "Additional services" means different services or more of the same services.

(2) "Agency" means all offices, departments, boards, commissions, institutions, universities, colleges, and any other person or any other administrative unit of state government that spends or encumbers public money by virtue of an appropriation from the legislature under 17-8-101.

(3) "Approving authority" means:

(a) the governor or the governor's designated representative for executive branch agencies;

(b) the chief justice of the supreme court or the chief justice's designated representative for judicial branch agencies;

- (c) the speaker for the house of representatives;
- (d) the president for the senate;
- (e) appropriate legislative committees or a designated representative for legislative branch agencies;

or

- (f) the board of regents of higher education or its designated representative for the university system.

(4) (a) "Base budget" means the resources for the operation of state government that are of an ongoing and nonextraordinary nature in the current biennium. The base budget for the state general fund and state special revenue funds may not exceed that level of funding authorized by the previous legislature. For the biennium beginning July 1, 2011, the term includes items specified in section 85, Chapter 489, Laws of 2009.

(b) The term does not include funding for water adjudication if the accountability benchmarks contained in 85-2-271 are not met.

- (5) "Budget amendment" means a temporary appropriation as provided in Title 17, chapter 7, part 4.

(6) "Emergency" means a catastrophe, disaster, calamity, or other serious unforeseen and unanticipated circumstance that has occurred subsequent to the time that an agency's appropriation was made, that was clearly not within the contemplation of the legislature and the governor, and that affects one or more functions of a state agency and the agency's expenditure requirements for the performance of the function or functions.

(7) "Funds subject to appropriation" means those funds required to be paid out of the treasury as set forth in 17-8-101.

(8) "Necessary" means essential to the public welfare and of a nature that cannot wait until the next legislative session for legislative consideration.

(9) "New proposals" means requests to provide new nonmandated services, to change program services, to eliminate existing services, or to change sources of funding. For purposes of establishing the present law base, the distinction between new proposals and the adjustments to the base budget to develop the present law base is to be determined by the existence of constitutional or statutory requirements for the proposed expenditure. Any proposed increase or decrease that is not based on those requirements is considered a new proposal.

(10) (a) "Present law base" means, subject to subsection (10)(b), that level of funding needed under present law to maintain operations and services at the level authorized by the previous legislature, including but not limited to:

- (i) changes resulting from legally mandated workload, caseload, or enrollment increases or decreases;
- (ii) changes in funding requirements resulting from constitutional or statutory schedules or formulas;
- (iii) inflationary or deflationary adjustments;
- (iv) elimination of nonrecurring appropriations; and
- (v) items specified in section 85, Chapter 489, Laws of 2009.

(b) For the budget for the 2011 legislative session, present law base must be adjusted by reducing general fund budgets by the equivalent of that portion of the 2% across-the-board reduction assessed by the 61st legislature on selected agencies that was allocated by those agencies to personal services in the 2011 biennium. The director of the governor's office of budget and program planning and the legislative fiscal analyst shall agree on a mechanism for determining how agencies have allocated this reduction.

(11) "Program" means a principal organizational or budgetary unit within an agency.

(12) "Requesting agency" means the agency of state government that has requested a specific budget amendment.

(13) "University system unit" means the board of regents of higher education; office of the commissioner of higher education; university of Montana, with campuses at Missoula, Butte, Dillon, and Helena; Montana state university, with campuses at Bozeman, Billings, Havre, and Great Falls; the agricultural experiment station, with central offices at Bozeman; the forest and conservation experiment station, with central offices at Missoula; the cooperative extension service, with central offices at Bozeman; the bureau of mines and geology, with central offices at Butte; the fire services training school at Great Falls; and the community colleges at Miles City, Glendive, and Kalispell. (Terminates June 30, 2011--sec. 35(1), Ch. 486, L. 2009; sec. 82, Ch. 489, L. 2009.)

17-7-102. (Effective July 1, 2011) Definitions. As used in this chapter, the following definitions apply:

(1) "Additional services" means different services or more of the same services.

(2) "Agency" means all offices, departments, boards, commissions, institutions, universities, colleges, and any other person or any other administrative unit of state government that spends or encumbers public money by virtue of an appropriation from the legislature under 17-8-101.

(3) "Approving authority" means:

(a) the governor or the governor's designated representative for executive branch agencies;

(b) the chief justice of the supreme court or the chief justice's designated representative for judicial branch agencies;

- (c) the speaker for the house of representatives;
- (d) the president for the senate;
- (e) appropriate legislative committees or a designated representative for legislative branch agencies;

or

- (f) the board of regents of higher education or its designated representative for the university system.

(4) (a) "Base budget" means the resources for the operation of state government that are of an ongoing and nonextraordinary nature in the current biennium. The base budget for the state general fund and state special revenue funds may not exceed that level of funding authorized by the previous legislature. For the biennium beginning July 1, 2013, the base budget for the health resources division in the department of public health and human services may also include funding appropriated in [section 4] during the 2013 biennium for the healthy Montana kids plan.

(b) The term does not include funding for water adjudication if the accountability benchmarks contained in 85-2-271 are not met.

- (5) "Budget amendment" means a temporary appropriation as provided in Title 17, chapter 7, part 4.

(6) "Emergency" means a catastrophe, disaster, calamity, or other serious unforeseen and unanticipated circumstance that has occurred subsequent to the time that an agency's appropriation was made, that was clearly not within the contemplation of the legislature and the governor, and that affects one or more functions of a state agency and the agency's expenditure requirements for the performance of the function or functions.

(7) "Funds subject to appropriation" means those funds required to be paid out of the treasury as set forth in 17-8-101.

(8) "Necessary" means essential to the public welfare and of a nature that cannot wait until the next legislative session for legislative consideration.

(9) "New proposals" means requests to provide new nonmandated services, to change program services, to eliminate existing services, or to change sources of funding. For purposes of establishing the present law base, the distinction between new proposals and the adjustments to the base budget to develop the present law base is to be determined by the existence of constitutional or statutory requirements for the proposed expenditure. Any proposed increase or decrease that is not based on those requirements is considered a new proposal.

- (10) "Present law base" means that level of funding needed under present law to maintain operations and

services at the level authorized by the previous legislature, including but not limited to:

- (a) changes resulting from legally mandated workload, caseload, or enrollment increases or decreases;
- (b) changes in funding requirements resulting from constitutional or statutory schedules or formulas;
- (c) inflationary or deflationary adjustments; and
- (d) elimination of nonrecurring appropriations.

(11) "Program" means a principal organizational or budgetary unit within an agency.

(12) "Requesting agency" means the agency of state government that has requested a specific budget amendment.

(13) "University system unit" means the board of regents of higher education; office of the commissioner of higher education; university of Montana, with campuses at Missoula, Butte, Dillon, and Helena; Montana state university, with campuses at Bozeman, Billings, Havre, and Great Falls; the agricultural experiment station, with central offices at Bozeman; the forest and conservation experiment station, with central offices at Missoula; the cooperative extension service, with central offices at Bozeman; the bureau of mines and geology, with central offices at Butte; the fire services training school at Great Falls; and the community colleges at Miles City, Glendive, and Kalispell. (Terminates June 30, 2020--sec. 11, Ch. 319, L. 2007.)

17-7-102. (Effective July 1, 2020) Definitions. As used in this chapter, the following definitions apply:

(1) "Additional services" means different services or more of the same services.

(2) "Agency" means all offices, departments, boards, commissions, institutions, universities, colleges, and any other person or any other administrative unit of state government that spends or encumbers public money by virtue of an appropriation from the legislature under 17-8-101.

(3) "Approving authority" means:

(a) the governor or the governor's designated representative for executive branch agencies;

(b) the chief justice of the supreme court or the chief justice's designated representative for judicial branch agencies;

(c) the speaker for the house of representatives;

(d) the president for the senate;

(e) appropriate legislative committees or a designated representative for legislative branch agencies;

or

(f) the board of regents of higher education or its designated representative for the university system.

(4) "Base budget" means the resources for the operation of state government that are of an ongoing and nonextraordinary nature in the current biennium. The base budget for the state general fund and state special revenue funds may not exceed that level of funding authorized by the previous legislature.

(5) "Budget amendment" means a temporary appropriation as provided in Title 17, chapter 7, part 4.

(6) "Emergency" means a catastrophe, disaster, calamity, or other serious unforeseen and unanticipated circumstance that has occurred subsequent to the time that an agency's appropriation was made, that was clearly not within the contemplation of the legislature and the governor, and that affects one or more functions of a state agency and the agency's expenditure requirements for the performance of the function or functions.

(7) "Funds subject to appropriation" means those funds required to be paid out of the treasury as set forth in 17-8-101.

(8) "Necessary" means essential to the public welfare and of a nature that cannot wait until the next legislative session for legislative consideration.

(9) "New proposals" means requests to provide new nonmandated services, to change program services, to eliminate existing services, or to change sources of funding. For purposes of establishing the present law base, the distinction between new proposals and the adjustments to the base budget to develop the present law base is to be determined by the existence of constitutional or statutory requirements for the proposed expenditure. Any proposed increase or decrease that is not based on those requirements is considered a new proposal.

(10) "Present law base" means that level of funding needed under present law to maintain operations and services at the level authorized by the previous legislature, including but not limited to:

- (a) changes resulting from legally mandated workload, caseload, or enrollment increases or decreases;
- (b) changes in funding requirements resulting from constitutional or statutory schedules or formulas;
- (c) inflationary or deflationary adjustments; and
- (d) elimination of nonrecurring appropriations.

(11) "Program" means a principal organizational or budgetary unit within an agency.

(12) "Requesting agency" means the agency of state government that has requested a specific budget amendment.

(13) "University system unit" means the board of regents of higher education; office of the commissioner of higher education; university of Montana, with campuses at Missoula, Butte, Dillon, and Helena; Montana state

university, with campuses at Bozeman, Billings, Havre, and Great Falls; the agricultural experiment station, with central offices at Bozeman; the forest and conservation experiment station, with central offices at Missoula; the cooperative extension service, with central offices at Bozeman; the bureau of mines and geology, with central offices at Butte; the fire services training school at Great Falls; and the community colleges at Miles City, Glendive, and Kalispell."

Section 3. Section 53-4-1105, MCA, is amended to read:

"53-4-1105. Rulemaking -- active enrollment -- plan coordination. (1) The department shall adopt rules necessary to implement this part, including plan administration, plan enrollment, outreach efforts, and standards of performance to allow enrollment partners to assist in enrolling children in the plan or other health coverage plans administered by the department.

(2) The rules must:

- (a) establish a process for identifying and approving enrollment partners;
- (b) create and define an active enrollment process;
- (c) promote seamless movement between programs described in 53-4-1104(2);
- (d) promote accessible enrollment through enrollment partners;
- (e) provide, to the extent permitted by law, a single point of access in the department for plan members;
- (f) define income for purposes of determining eligibility for children's health coverage programs within

the plan; and

~~(g) provide for presumptive eligibility; and~~

~~(h)~~(g) encourage enrollment partners to actively enroll as many eligible, uninsured children as possible in the plan or in an employer-sponsored plan as described in 53-4-1108.

(3) The rules may provide for presumptive eligibility and include the development of enrollment partner training, technical assistance programs, and performance measures.

(4) The rules may provide for an exemption from the active enrollment process based upon an individual showing of:

- (a) religious conviction;
- (b) private insurance that offers creditable coverage, as defined in 42 U.S.C. 300gg(c), obtained by the parents for the child from a private group or individual health insurance issuer or under a self-funded employer

health plan; or

(c) other compelling circumstances.

(5) The rules governing eligibility and premium assistance must be consistent with this part. Rules may include but are not limited to financial standards and criteria for income, nonfinancial criteria, family responsibility, residency, the application process, termination of eligibility, definition of terms, and confidentiality of applicant and recipient information."

Section 4. Appropriation. (1) The following money is appropriated from the state special revenue account provided for in 17-6-606 to the department of public health and human services for the purpose of the healthy Montana kids plan:

Fiscal year 2012	\$5,837,100
Fiscal year 2013	5,831,187

(2) The following money is appropriated from the federal special revenue fund to the department of public health and human services as matching funds for the healthy Montana kids plan:

Fiscal year 2012	\$11,427,319
Fiscal year 2013	11,189,207

Section 5. Coordination instruction. If House Bill No. 34 and [this act] are both passed and approved and if both of these bills contain a section that amends 17-6-606, then sections amending 17-6-606 are void and 17-6-606 must be amended as follows:

"17-6-606. (Temporary) Tobacco settlement accounts -- purpose -- uses. (1) The purpose of this section is to dedicate a portion of the tobacco settlement proceeds to fund statewide programs for tobacco disease prevention designed to:

- (a) discourage children from starting use of tobacco;
- (b) assist adults in quitting use of tobacco;
- (c) provide funds for the children's health insurance program;
- ~~(c)~~(d) provide funds for the healthy Montana kids plan provided for in Title 53, chapter 4, part 11; and
- ~~(d)~~(e) provide funds for the comprehensive health association programs.

(2) An amount equal to ~~32%~~ 13.9% of the total yearly tobacco settlement proceeds ~~received after June~~

~~30, 2003~~; must be deposited in a state special revenue account. Subject to subsection ~~(5)~~ (6), the funds referred to in this subsection may be used only for funding statewide programs for tobacco disease prevention designed to prevent children from starting tobacco use and to help adults who want to quit tobacco use. The department of public health and human services shall manage the tobacco disease prevention programs and shall adopt rules to implement the programs. In adopting rules, the department shall consider the standards contained in Best Practices for Comprehensive Tobacco Control Programs--August 1999 or its successor document, published by the U.S. department of health and human services, centers for disease control and prevention.

(3) An amount equal to ~~17%~~ 32.16% of the total yearly tobacco settlement proceeds ~~received after June 30, 2003~~; must be deposited in a state special revenue account. Subject to subsection ~~(5)~~ (6), the funds referred to in this subsection may be used only for:

(a) matching funds for the Children's Health Insurance Program Act provided for in Title 53, chapter 4, part 10;

~~(a)(b) matching funds to secure the maximum amount of federal funds for the healthy Montana kids plan provided for in Title 53, chapter 4, part 11; and~~

(b)(4) An amount equal to 2.94% of the total yearly tobacco settlement proceeds must be deposited in a state special revenue account. Subject to subsection (6), the funds referred to in this subsection may be used only for programs of the Montana comprehensive health association provided for in Title 33, chapter 22, part 15, with funding use subject to 33-22-1513.

~~(4)(5)~~ Funds deposited in a state special revenue account, as provided in subsection ~~(2)~~, ~~or~~ ~~(3)~~, or (4) that are not appropriated within 2 years after the date of deposit must be transferred to the trust fund.

~~(5)(6)~~ The legislature shall appropriate money from the state special revenue accounts provided for in this section for programs for tobacco disease prevention, for the programs referred to in the subsection establishing the account, and for funding the tobacco prevention advisory board.

~~(6)(7)~~ Programs funded under this section that are private in nature may be funded through contracted services. (Terminates June 30, 2011--sec. 35(1), Ch. 486, L. 2009.)

17-6-606. (Effective July 1, 2011) Tobacco settlement accounts -- purpose -- uses. (1) The purpose of this section is to dedicate a portion of the tobacco settlement proceeds to fund statewide programs for tobacco disease prevention designed to:

(a) discourage children from starting use of tobacco;

- (b) assist adults in quitting use of tobacco;
- (c) provide funds for the children's health insurance program; ~~and~~
- (d) provide funds for the healthy Montana kids plan provided for in Title 53, chapter 4, part 11; and
- ~~(d)~~(e) provide funds for the comprehensive health association programs.

(2) An amount equal to ~~32%~~ 13.9% of the total yearly tobacco settlement proceeds ~~received after June 30, 2003~~, must be deposited in a state special revenue account. Subject to subsection ~~(5)~~ (6), the funds referred to in this subsection may be used only for funding statewide programs for tobacco disease prevention designed to prevent children from starting tobacco use and to help adults who want to quit tobacco use. The department of public health and human services shall manage the tobacco disease prevention programs and shall adopt rules to implement the programs. In adopting rules, the department shall consider the standards contained in Best Practices for Comprehensive Tobacco Control Programs--August 1999 or its successor document, published by the U.S. department of health and human services, centers for disease control and prevention.

(3) An amount equal to ~~17%~~ 32.6% of the total yearly tobacco settlement proceeds ~~received after June 30, 2003~~, must be deposited in a state special revenue account. Subject to subsection ~~(5)~~ (6), the funds referred to in this subsection may be used only for:

- (a) matching funds ~~to secure the maximum amount of federal funds~~ for the Children's Health Insurance Program Act provided for in Title 53, chapter 4, part 10; and
- (b) matching funds for the healthy Montana kids plan provided for in Title 53, chapter 4, part 11.

(4) An amount equal to 2.94% of the total yearly tobacco settlement proceeds must be deposited in a state special revenue account. Subject to subsection (6), the funds referred to in this subsection may be used only for programs of the Montana comprehensive health association provided for in Title 33, chapter 22, part 15, with funding use subject to 33-22-1513.

~~(4)~~(5) Funds deposited in a state special revenue account, as provided in subsection (2), ~~or~~ (3), or (4) that are not appropriated within 2 years after the date of deposit must be transferred to the trust fund.

~~(5)~~(6) The legislature shall appropriate money from the state special revenue accounts provided for in this section for programs for tobacco disease prevention, for the programs referred to in the subsection establishing the account, and for funding the tobacco prevention advisory board.

~~(6)~~(7) Programs funded under this section that are private in nature may be funded through contracted services."

Section 6. Effective date. [This act] is effective July 1, 2011.

Section 7. Termination. [Section 2(4)(a)] terminates June 30, 2013.

- END -

I hereby certify that the within bill,
HB 0633, 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. 633
INTRODUCED BY J. ESP

AN ACT REVISING LAWS RELATING TO THE HEALTHY MONTANA KIDS PLAN; REVISING THE ALLOCATION OF TOBACCO SETTLEMENT PROCEEDS; REVISING THE DEFINITION OF "BASE BUDGET" TO INCLUDE CERTAIN APPROPRIATIONS FOR THE HEALTHY MONTANA KIDS PLAN; REVISING PRESUMPTIVE ELIGIBILITY CRITERIA FOR THE HEALTHY MONTANA KIDS PLAN; PROVIDING RULEMAKING AUTHORITY; PROVIDING AN APPROPRIATION; AMENDING SECTIONS 17-6-606, 17-7-102, AND 53-4-1105, MCA; AND PROVIDING AN EFFECTIVE DATE AND A TERMINATION DATE.