

1 SENATE BILL NO. 377

2 INTRODUCED BY K. GILLAN

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING THE OFFICIAL ESTIMATE OF THE STATE'S
5 GENERAL FUND REVENUE FOR FISCAL YEAR 2011 AND EACH FISCAL YEAR OF THE 2012-2013
6 BIENNIUM FOR THE PURPOSE OF ACHIEVING A BALANCED BUDGET AS REQUIRED BY ARTICLE VIII,
7 SECTION 9, OF THE MONTANA CONSTITUTION; ACCEPTING THE JUNE 30, 2010, UNRESERVED
8 GENERAL FUND BALANCE THAT WAS ESTABLISHED BASED ON GENERALLY ACCEPTED ACCOUNTING
9 PRINCIPLES; AMENDING SECTIONS 5-4-205, 5-5-227, AND 17-7-140, MCA; AND PROVIDING AN
10 IMMEDIATE EFFECTIVE DATE AND A TERMINATION DATE."
11

12 WHEREAS, Article VI, section 9, of the Montana Constitution requires the Governor to submit to the
13 Legislature "a budget for the ensuing fiscal period setting forth in detail for all operating funds the proposed
14 expenditures and estimated revenue of the state"; and

15 WHEREAS, Article VIII, section 9, of the Montana Constitution prohibits the Legislature from appropriating
16 funds in excess of the anticipated revenue of the state; and

17 WHEREAS, section 5-5-227(2), MCA, requires the Revenue and Transportation Interim Committee to
18 estimate the amount of revenue projected to be available for legislative appropriation and to introduce a resolution
19 setting forth the Committee's current revenue estimate; and

20 WHEREAS, the revenue estimates adopted by the Revenue and Transportation Interim Committee and
21 contained in House Joint Resolution No. 2 underestimate general fund revenue available to the state; and

22 WHEREAS, relying on the revenue estimates contained in House Joint Resolution No. 2 significantly
23 limits budget policy options of the Montana Legislature.

24

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

26

27 NEW SECTION. **Section 1. Official revenue estimates.** (1) For the purpose of adopting a balanced
28 budget as required by Article VIII, section 9, of the Montana constitution for the 2013 biennium, the revenue
29 estimates contained in subsection (2) are the official general fund revenue estimates of the state of Montana for
30 fiscal years 2011, 2012, and 2013.

1 (2) The official state general fund revenue estimates for fiscal year 2011 and each fiscal year of the 2013
2 biennium are:

3 Source of General	4 In Millions of Dollars		
4 Fund Revenue	FY 2011	FY 2012	FY 2013
5 Individual Income Tax	\$765.94	\$795.04	\$856.43
6 Statewide Property Taxes	229.58	237.22	241.67
7 Corporation Income Tax	126.53	142.01	133.86
8 Oil and Natural Gas Production Tax	105.43	109.01	114.54
9 Vehicle Tax and Fees	108.21	110.42	110.45
10 Insurance Premiums Tax	56.85	59.20	60.93
11 Video Gambling Tax	50.51	53.49	55.73
12 Coal Trust Interest	25.33	25.58	26.72
13 U.S. Mineral Royalty	33.23	33.11	32.71
14 Other Revenue	32.42	29.45	30.17
15 Cigarette Tax	31.10	31.60	31.25
16 Tobacco Settlement	3.68	3.65	3.61
17 Treasury Cash Account Interest	3.09	6.58	15.94
18 Telecommunications Excise Tax	23.49	23.88	24.28
19 Public Institution Reimbursements	18.11	17.09	17.25
20 Accommodations Sales Tax	14.13	15.25	16.41
21 Coal Severance Tax	13.01	12.40	12.10
22 Liquor Excise and License Tax	15.70	15.86	16.02
23 Investment License and Permit Fees	6.57	7.05	7.51
24 Lottery Profits	11.67	11.32	11.98
25 Liquor Profits	9.01	9.11	9.16
26 Health Care Facility Utilization Fees	5.38	5.31	5.23
27 Electrical Energy Tax	4.69	4.70	4.73
28 Metalliferous Mines Tax	7.86	9.82	10.69
29 Highway Patrol Fines	4.60	4.61	4.66
30 Public Contractor's Tax	5.44	4.40	4.44

1	Wholesale Energy Transaction Tax	3.85	3.85	3.88
2	Tobacco Products Tax	5.48	5.65	5.82
3	Driver's License Fees	3.90	4.39	4.19
4	Rental Car Sales Tax	3.01	3.22	3.47
5	Railroad Car Tax	2.03	2.07	2.05
6	Wine Tax	2.04	2.15	2.27
7	Beer Tax	3.08	3.12	3.15
8	Total General Fund	\$1,734.96	\$1,801.60	\$1,883.32

9 (3) The legislature shall accept for budget purposes the unreserved fiscal year 2010 fund balance of
10 \$315,020,000 for the general fund, prepared according to generally accepted accounting principles.

11 (4) To the extent feasible, the revenue estimates contained in subsection (2) and the underlying
12 assumptions used by the office of budget and program planning to estimate revenue must be used by all
13 agencies with responsibilities for estimating revenue or costs, including the preparation of fiscal notes, for fiscal
14 years 2011, 2012, and 2013.

15 (5) The legislative fiscal division shall use the revenue estimates contained in subsection (2), as adjusted
16 to account for enacted legislation that impacts general fund revenue for the 2013 biennium, in the June 2011
17 fiscal report for the 2013 biennium. The legislative fiscal division shall use the revenue estimates contained in
18 subsection (2), as adjusted, to monitor general fund revenue collections for fiscal year 2012 and 2013.

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20 **Section 2.** Section 5-4-205, MCA, is amended to read:

21 **"5-4-205. Contents of notes.** (1) Fiscal notes must, when possible, show in dollar amounts the
22 estimated increase or decrease in revenue or expenditures, costs that may be absorbed without additional funds,
23 and long-range financial implications. A comment or opinion relative to the merits of the bill may not be included
24 in the fiscal note. However, technical or mechanical defects may be noted.

25 (2) It is the legislature's intent that a fiscal note be prepared as an objective analysis of the fiscal impact
26 of legislation. The fiscal note should represent only the estimate of the revenue and expenditures that would result
27 from the implementation of the legislation, if enacted, and may not in any way reflect the views or opinions of the
28 preparing agencies, the sponsor, or other interested parties. Changes in revenue must be estimated for each
29 reported year based upon appropriate revenue estimating methodologies for the source of revenue described
30 and, except as provided in [section 1], should reflect a change from the official revenue estimate provided for in

1 5-5-227. Expenditures must be estimated as the amount required for implementing the legislation, if enacted, in
 2 excess of or as a reduction to the present law base level of expenditures in each reported year regardless of
 3 whether or not the preparing agency determines that it can absorb the costs in its proposed budget.

4 (3) The fiscal note must clearly differentiate between facts and assumptions made in the preparation of
 5 the fiscal note while maintaining a logical flow of both fact and assumption in presenting how the fiscal impact
 6 is determined."

7

8 **Section 3.** Section 5-5-227, MCA, is amended to read:

9 **"5-5-227. Revenue and transportation interim committee -- powers and duties -- revenue**
 10 **estimating and use of estimates.** (1) The revenue and transportation interim committee has administrative rule
 11 review, draft legislation review, program evaluation, and monitoring functions for the department of revenue and
 12 the department of transportation and the entities attached to the departments for administrative purposes.

13 (2) (a) The committee must have prepared by December 1 for introduction during each regular session
 14 of the legislature in which a revenue bill is under consideration an estimate of the amount of revenue projected
 15 to be available for legislative appropriation.

16 (b) The committee may prepare for introduction during a special session of the legislature in which a
 17 revenue bill or an appropriation bill is under consideration an estimate of the amount of projected revenue. The
 18 revenue estimate is considered a subject specified in the call of a special session under 5-3-101.

19 (3) ~~The~~ Except as provided in [section 1], the committee's estimate, as introduced in the legislature,
 20 constitutes the legislature's current revenue estimate until amended or until final adoption of the estimate by both
 21 houses. ~~It~~ Except as provided in [section 1], it is intended that the legislature's estimates and the assumptions
 22 underlying the estimates will be used by all agencies with responsibilities for estimating revenue or costs,
 23 including the preparation of fiscal notes.

24 (4) The legislative services division shall provide staff assistance to the committee. The committee may
 25 request the assistance of the staffs of the office of the legislative fiscal analyst, the legislative auditor, the
 26 department of revenue, and any other agency that has information regarding any of the tax or revenue bases of
 27 the state."

28

29 **Section 4.** Section 17-7-140, MCA, is amended to read:

30 **"17-7-140. Reduction in spending.** (1) (a) As the chief budget officer of the state, the governor shall

1 ensure that the expenditure of appropriations does not exceed available revenue. Except as provided in
2 subsection (2), in the event of a projected general fund budget deficit, the governor, taking into account the
3 criteria provided in subsection (1)(b), shall direct agencies to reduce spending in an amount that ensures that the
4 projected ending general fund balance for the biennium will be at least 1% of all general fund appropriations
5 during the biennium. An agency may not be required to reduce general fund spending for any program, as defined
6 in each general appropriations act, by more than 10% during a biennium. Departments or agencies headed by
7 elected officials or the board of regents may not be required to reduce general fund spending by a percentage
8 greater than the percentage of general fund spending reductions required for the total of all other executive
9 branch agencies. The legislature may exempt from a reduction an appropriation item within a program or may
10 direct that the appropriation item may not be reduced by more than 10%.

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

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

- 1 (a) payment of interest and principal on state debt;
 2 (b) the legislative branch;
 3 (c) the judicial branch;
 4 (d) the school BASE funding program, including special education;
 5 (e) salaries of elected officials during their terms of office; and
 6 (f) the Montana school for the deaf and blind.

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

- 9 (i) 2% of the general fund appropriations for the second fiscal year of the biennium prior to October of
 10 the year preceding a legislative session;
 11 (ii) 3/4 of 1% in October of the year preceding a legislative session;
 12 (iii) 1/2 of 1% in January of the year in which a legislative session is convened; and
 13 (iv) 1/4 of 1% in March of the year in which a legislative session is convened.

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

17 (4) If the budget director determines that an amount of actual or projected receipts will result in an
 18 amount less than the amount projected to be received in the revenue estimate established pursuant to 5-5-227
 19 or the revenue estimate established pursuant to [section 1] for the 2013 biennium, the budget director shall notify
 20 the revenue and transportation interim committee of the estimated amount. Within 20 days of notification, the
 21 revenue and transportation interim committee shall provide the budget director with any recommendations
 22 concerning the amount. The budget director shall consider any recommendations of the revenue and
 23 transportation interim committee prior to certifying a projected general fund budget deficit to the governor."
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25 COORDINATION SECTION. **Section 5. Coordination instruction.** If [this act] is passed and approved
 26 and if House Joint Resolution No. 2 is passed by both houses of the legislature, then House Joint Resolution No.
 27 2 is void.
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29 NEW SECTION. **Section 6. Effective date.** [This act] is effective on passage and approval.
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