

Unofficial Draft Copy

As of: September 12, 2012 (1:06pm)

LC0328

**** Bill No. ****

Introduced By *****

By Request of the *****

A Bill for an Act entitled: "An Act generally revising the statutory appropriations laws; clarifying the recipient of certain statutory appropriations; clarifying the criteria for appropriate statutory appropriations; amending sections 10-2-603, 17-1-508, 17-7-502, 20-9-516, 20-9-622, 77-1-109, 77-2-303, and 77-2-304, MCA; repealing sections 17-3-112, 17-6-340, an 50-4-623, MCA; and providing effective dates."

Be it enacted by the Legislature of the State of Montana:

Section 1. 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 department and may be used by the board only for the construction, maintenance, operation, and administration of the state veterans' cemeteries.

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

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{*Internal References to 10-2-603:*

10-2-102x 10-2-106x 15-1-122x 15-30-2142x
15-30-2142x 15-30-2142x 17-7-502x 61-3-459x}

Section 2. Section 17-1-508, MCA, is amended to read:

"17-1-508. Review of statutory appropriations. (1) Each biennium, the office of budget and program planning shall, in development of the executive budget, review and identify instances in which statutory appropriations in current law do not appear consistent with the guidelines set forth in subsection (2).

(2) The review of statutory appropriations must determine whether a statutory appropriation meets the requirements of 17-7-502. Except as provided in 77-1-108, a statutory appropriation from a continuing and reliable source of revenue may not be used to fund administrative costs. In reviewing and establishing statutory appropriations, the legislature shall consider the following guidelines. A proposed or existing statutory appropriation may not be considered appropriate if:

- ~~(a) the fund or use requires an appropriation;~~
- ~~(b)~~(a) the money is ~~not~~ from a continuing, reliable, and estimable source;
- ~~(c)~~(b) the use of the appropriation or the expenditure occurrence is ~~not~~ predictable and reliable;
- ~~(d)~~(c) the authority ~~does not exist~~ exists elsewhere;
- ~~(e)~~(d) an alternative appropriation method is ~~not~~ available, practical, or effective;
- ~~(f)~~(e) ~~other than for emergency purposes, it does not appropriate money from the state general fund~~ it appropriates

state general fund for purposes other than paying for emergency services;

~~(g)(f)~~ the money is ~~dedicated for a specific use~~ used for general purposes;

~~(h)(g)~~ the legislature wishes ~~the activity to be funded on a continual basis~~ to review expenditure and appropriation levels each biennium; and

~~(i)(h)~~ ~~when feasible,~~ an expenditure cap and sunset date are ~~included~~ excluded.

(3) The office of budget and program planning shall prepare a fiscal note for each piece of legislation that proposes to create or amend a statutory appropriation. It shall, consistent with the guidelines in this section, review each of these pieces of legislation. Its findings concerning the statutory appropriation must be contained in the fiscal note accompanying that legislation."

{Internal References to 17-1-508: None.}

Section 3. 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.

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

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

(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 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; 30-10-1004; 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; 76-13-416; 77-1-108; 77-2-362; 80-2-222; 80-4-416; 80-11-518; 81-1-112; 81-7-106; 81-10-103; 82-11-161; 85-20-1504; 85-20-1505; 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.

(4) 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

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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. 8, Ch. 330, L. 2009, the inclusion of 87-1-621 terminates June 30, 2013; 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; pursuant to sec. 5, Ch. 442, L. 2009, the inclusion of 90-6-331 terminates June 30, 2019; pursuant to sec. 47, Ch. 19, L. 2011, the inclusion of 87-1-621 terminates June 30, 2013; pursuant to sec. 16, Ch. 58, L. 2011, the inclusion of 30-10-1004 terminates June 30, 2017; pursuant to sec. 6, Ch. 61, L. 2011, the inclusion of 76-13-416 terminates June 30, 2019; and pursuant to sec. 13, Ch. 339, L. 2011, the inclusion of 81-1-112 and 81-7-106 terminates June 30,

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2017.)"

{ *Internal References to 17-7-502:*

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
10-3-312	10-3-314	10-4-301	15-1-121
15-1-218	15-31-906	15-35-108	15-35-108
15-36-332	15-36-332	15-37-117	15-39-110
15-65-121	15-70-101	15-70-369	15-70-601
16-11-509	17-1-508	17-3-106	17-3-112
17-3-212	17-3-222	17-3-241	17-6-101
17-7-501	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
23-4-105	23-5-306	23-5-409	23-5-612
23-7-301	23-7-402	30-10-1004	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	53-24-108
53-24-206	60-11-115	61-3-415	69-3-870
75-1-1101	75-5-1108	75-6-214	75-11-313
76-13-416	77-1-108	77-2-362	80-2-222
80-4-416	80-11-518	81-1-112	81-7-106
81-10-103	82-11-161	82-11-161	85-20-1504
85-20-1505	87-1-230	87-1-603	87-1-621
90-1-115	90-1-115	90-1-205	90-1-504
90-3-1003	90-6-331	90-9-306	}

Section 4. Section 20-9-516, MCA, is amended to read:

"20-9-516. School facility and technology account. (1) There is a school facility and technology account in the state special revenue fund provided for in 17-2-102. The purpose of the account is to provide money to schools for:

- (a) major deferred maintenance;
- (b) improving energy efficiency in school facilities;
- (c) critical infrastructure in school districts;
- (d) emergency facility needs;
- (e) technological improvements; and

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(f) state reimbursement for school facilities as provided in 20-9-371.

(2) There must be deposited in the account:

(a) an amount of money equal to the income attributable to the difference between the average sale value of 18 million board feet and the total income produced from the annual timber harvest on common school trust lands during the fiscal year;

~~(b) the mineral royalties transferred from the guarantee account as provided in 20-9-622; and~~

~~(c)~~(b) the income received from certain lands and riverbeds as provided in 17-3-1003(5)."

{*Internal References to 20-9-516:*

17-3-1003x	17-6-340x	20-9-342x	20-9-343x
20-9-534x	20-9-620x	77-1-218x	90-6-802x
90-6-803x			

Section 5. 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~~ 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.

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~~(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."~~

{*Internal References to 20-9-622:*
17-3-1003x 17-6-340x 17-7-502x 20-9-104x
20-9-310x 20-9-310x 20-9-323x 20-9-342x
20-9-343x 20-9-516a 20-9-620x 77-1-109a
77-1-228x 77-1-229x }

Section 6. Section 77-1-109, MCA, is amended to read:

"77-1-109. Deposits of proceeds in trust land administration account. (1) The amount of money that is deposited into the trust land administration account established in 77-1-108 may not exceed an amount equal to 25% of distributable revenue generated in the fiscal year completed prior to the legislative session that will appropriate money for the next biennium. This excludes revenue generated by the forest improvement fee provided for in 77-5-204.

(2) (a) Subject to subsection (1), the department shall deposit into the trust land administration account the following:

(i) distributable revenue;

(ii) the proceeds or income from the sale of easements and timber, except timber from public school and Montana university

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system lands;

(iii) mineral royalties; and

(iv) fees collected pursuant to 77-2-328.

(b) As deposits are made, they must be identified and accounted for by trust.

(c) The department may not make deductions from interest or income generated from lands granted to the state pursuant to the Morrill Act of 1862, 7 U.S.C. 301 through 308, and the Morrill Act of 1890, 7 U.S.C. 321 through 329.

(3) After the deposits in subsection (2) have been made, the remainder of the proceeds, other than proceeds from timber from Montana university system lands ~~and other than those purchased pursuant to 17-6-340~~, must be deposited in accordance with 17-3-1003, 18-2-107, and 20-9-341(2). Timber proceeds from university system lands must be paid over to the state treasurer, who shall deposit the money to the credit of the proper fund for use as provided in 17-3-1003. ~~Royalty payments purchased pursuant to 17-6-340 must be used as provided in that section and 20-9-622.~~"

{*Internal References to 77-1-109:*
17-3-1003x 17-3-1003x 17-3-1003x 18-2-107x
20-9-341x 20-9-341x 20-9-601x 20-9-601x
20-9-620x 20-25-422x 77-1-108x 77-1-108x
77-1-218x 77-1-229x 77-1-802x 77-1-802x
77-2-328x }

Section 7. Section 77-2-303, MCA, is amended to read:

"77-2-303. Restrictions on land available for sale. (1)

~~Subject to purchase by the department pursuant to 17-6-340, land~~

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Land that in the judgment of the department is likely to contain valuable deposits of coal, oil, oil shale, phosphate, metals, sodium, or other valuable mineral deposits is not subject to sale of either the surface land or any of the mineral deposits. However, this subsection does not prohibit the sale of lands containing sand, gravel, building stone, brick clay, or similar materials.

(2) (a) There is reserved from sale from all state land bordering on navigable lakes, nonnavigable meandered lakes, and navigable streams, that the board considers in the best interests of the state, a strip of land that includes all the land lying between low-water mark and high-water mark and that extends in width landward from the line of high-water mark of the lake or stream the full width of the 40-acre tract or government lot abutting the line of high-water mark. If the width of the abutting government lot at its narrowest point is less than 100 feet, then the strip reserved must extend to and include the next adjoining 40-acre tract or government lot. The land reserved from sale by this subsection is subject to the granting of easements the same as other state lands.

(b) Strips of land bordering on meandering lakes or on navigable streams, except the strip lying between low-water and high-water mark, whether surveyed and platted into blocks and lots or not, may be leased as provided in this title for the leasing of other state lands."

{*Internal References to 77-2-303:*
77-2-211x 77-2-311x 77-2-311x 77-2-364x }

Section 8. Section 77-2-304, MCA, is amended to read:

"77-2-304. Mineral reservations in state land. All coal, oil, oil shale, gas, phosphate, sodium, and other mineral deposits in state land, except sand, gravel, building stone, and brick clay, which were not reserved by the United States before July 1, 1927, are reserved to the state. ~~Subject to 17-6-340, those~~ Those deposits are reserved from sale except upon a rental and royalty basis as provided by law. A purchaser of state land acquires no right, title, or interest in or to any of those deposits. The state also reserves for itself and its lessees the right to enter upon state land to prospect for, develop, mine, and remove mineral deposits and to occupy and use so much of the surface of the land as may be required for all purposes reasonably extending to the exploring for, mining, and removal of the deposits from the land, but the lessee shall make just payment to the purchaser for all damage done by reason of entry upon the land and the use and occupancy of the surface of the land."

{*Internal References to 77-2-304:*
77-2-327x 77-2-343x }

NEW SECTION. **Section 9. {standard} Repealer.** (1) The following sections of the Montana Code Annotated are repealed:
17-6-340. Purchase of permanent fund mineral estate.
50-4-623. Fees -- statutory appropriation.
(2) The following section of the Montana Code Annotated is repealed:

17-3-112 Earnings -- statutory appropriation.

{*Internal References to 17-6-340: 20-9-622a 77-1-109a 77-1-109a*
77-2-303a 77-2-304a
Internal References to 50-4-623: 17-7-502a }

NEW SECTION. **Section 10. {standard} Effective dates -- contingency.** (1) Except as provided in subsection (2), [this act] is effective (LFC to determine).

(2) [Section 9(2)] is effective on the date that the governor certifies to the code commissioner that federal funds and interest earnings received under 17-3-112 have been spent.

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