

SENATE BILL NO. 133
INTRODUCED BY G. JERGESON
BY REQUEST OF THE DEPARTMENT OF ADMINISTRATION

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS TO CONFORM FUND TYPE TERMINOLOGY TO THE MOST RECENT GENERALLY ACCEPTED ACCOUNTING PRINCIPLES; AMENDING SECTIONS 15-30-195, 15-34-115, 15-35-108, 15-38-106, 15-38-202, 17-2-102, 17-2-103, 17-2-107, 17-6-203, 17-7-150, 17-8-101, 17-8-303, 20-9-601, 20-25-225, 22-1-225, 22-1-226, 22-3-113, 22-3-114, 39-3-213, 39-51-401, 41-3-705, 72-14-204, 72-14-205, 72-14-206, 72-14-207, 72-14-209, 72-14-210, 72-14-403, 77-1-108, 77-1-109, 77-1-602, 80-2-103, 87-1-601, 90-3-1001, 90-3-1002, 90-3-1003, AND 90-6-107, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

Section 1. Section 15-30-195, MCA, is amended to read:

"15-30-195. (Temporary) Excess tax refund agreement (EXTRA) -- process -- requirements -- limitations. (1) This section may be referred to as the "Excess Tax Refund Agreement" or "EXTRA".

(2) On or before October 15, 1995, the department of administration shall determine and certify to the governor the combined total of the unreserved ending fund balances in the general fund, described in ~~17-2-102(1)(a)(i)~~ 17-2-102(1)(a), and the school equalization aid account, described in 20-9-343, for the fiscal year ending June 30, 1995.

(3) If the amount of the unreserved ending fund balances described in subsection (2) exceeds \$24.4 million, the amount in excess of \$24.4 million, subject to the limitation provided in subsection (9), is the amount available for refund under this section.

(4) The amount determined under subsection (3) to be available for refund must be refunded on a pro rata basis to each taxpayer who filed a state income tax return, pursuant to 15-30-103, for tax year 1994.

(5) For the purposes of this section:

(a) the term "taxpayer" does not include a fiduciary or a beneficiary of an estate or trust who was required to file an income tax return pursuant to 15-30-135 unless a 1994 return was filed on behalf of a decedent;

(b) a return filed using the filing status married filing jointly is considered to have been filed by a single taxpayer; and

(c) the 1994 tax year is the 12-month period beginning January 1, 1994, and ending December 31, 1994, except that for fiscal year taxpayers, the 1994 tax year is a 12-month period ending between January 1, 1994, and December 31, 1994.

(6) (a) The pro rata distribution of the amount available for refund must be calculated by the department by dividing the amount available for refund described in subsection (3) by the total individual income tax liability as determined by the department from all 1994 tax year returns that were filed by October 15, 1995.

(b) The percentage determined in subsection (6)(a), adjusted to take into account the limitations contained in subsection (8), must be used as the adjusted percentage multiplier described in subsection (6)(c) to determine the amount of each taxpayer's refund. The department may not alter or change the adjusted percentage multiplier.

(c) The department shall calculate the amount of each taxpayer's refund by multiplying the amount of tax shown on the taxpayer's return on line 40 of the 1994 Montana Individual Income Tax Return, Form 2, or line 27 of the 1994 Montana Individual Income Tax Return, Short Form 2S, depending on the form used by the taxpayer for tax year 1994, by the adjusted percentage multiplier determined in subsection (6)(b).

(7) (a) The department shall calculate the amount of each taxpayer's refund based on the taxpayer's 1994 tax year return on file with the department by October 15, 1995. A taxpayer filing a delinquent return for the 1994 tax year after October 15, 1995, is not eligible for a refund under this section.

(b) (i) If a taxpayer files an amended return or if the department reviews a taxpayer's return and recalculates the tax due to the state, the department shall recalculate the refund due to the taxpayer under this section.

(ii) If the department's recalculation determines that the taxpayer has an increased tax liability for tax year 1994 and should receive an additional refund under this section as a result of increased 1994 liability, the department shall credit the additional amount of refund under this section to the amount of additional tax due from the taxpayer.

(iii) If the amount of the recalculated refund due to the taxpayer exceeds the amount of additional tax due from the taxpayer, the department shall pay the excess amount to the taxpayer, but only if the amount of the refund exceeds \$10.

(iv) If, as the result of the taxpayer filing an amended return or of a review by the department, a taxpayer's original 1994 tax liability is decreased, any overpayment of the refund calculated by the department based on the original tax liability must be credited against any refund due to the taxpayer.

(8) A refund paid to a taxpayer pursuant to this section may not exceed \$1,000. The department may

not issue a refund under this section if the amount of the refund is \$10 or less.

(9) Refunds may not be made under this section if the total amount available for refund as determined in subsection (3) is less than \$10 million.

(10) Beginning in November 1995, the department shall calculate and issue refunds due to taxpayers under this section.

(11) (a) Notwithstanding the provisions of 15-1-211, any objection concerning the determination of the amount of refund or any other issue relating to the refunds provided in this section must be raised by the taxpayer with the department no later than 30 days after the refund is mailed to the taxpayer.

(b) A district court has no jurisdiction to entertain or consider any issue relating to the determination or payment of a refund made under this section unless the issue was first presented to the department and the taxpayer exhausted all administrative remedies. (Terminates July 1, 2001--sec. 7, Ch. 29, L. 1995.)"

Section 2. Section 15-34-115, MCA, is amended to read:

"15-34-115. Coal producer's license tax allocation. Coal producer's license taxes collected pursuant to 15-34-101 must be deposited in the coal producer's license tax bond account established in 90-3-1004 to pay debt service on outstanding bonds issued pursuant to Title 17, chapter 5, part 7. The state treasurer shall determine, on July 1 of each year, the amount necessary to meet all principal and interest payments on outstanding coal severance tax bonds and on outstanding coal severance tax school bond contingency loan bonds. If coal severance tax receipts retained in the coal severance tax bond fund and in the coal severance tax school bond contingency loan fund are insufficient to meet all principal and interest payments in that year, then the amount that is deficient must be retained in the coal producer's license tax bond account. At no time may the total amount retained in the coal severance tax bond fund, the coal severance tax school bond contingency loan fund, and the coal producer's license tax bond account exceed the amount necessary to make annual debt service payments for coal severance tax bonds and coal severance tax school bond contingency loan bonds. All coal producer's license tax revenue in excess of the amount retained for payment of annual debt service on outstanding coal severance tax bonds and coal severance tax school contingency loan bonds must be allocated as follows:

(1) for the fiscal year beginning July 1, 1999, and until June 30, 2001, \$2.3 million each fiscal year is allocated to the treasure state endowment special revenue account provided for in 17-5-703(4)(b), and beginning July 1, 2001, \$600,000 is allocated to that account each fiscal year;

(2) \$2.5 million is allocated to the agriculture seed capital account, provided for in 90-9-301, to be used

for purposes of Title 90, chapter 1, part 1, and Title 90, chapter 9, part 2;

(3) beginning July 1, 2001, \$1.7 million each year is allocated to the treasure state endowment regional water system special revenue account provided for in 90-6-715;

(4) for fiscal year 2000 and future years, ~~there is~~ \$600,000 is allocated to the department of administration for tax increment financing industrial districts; and

(5) the amount remaining after the allocation in subsections (1) through (3) is allocated as follows:

(a) 33.33% is allocated to the research and commercialization ~~expendable trust fund~~ special revenue account established in 90-3-1002;

(b) 16.99% is allocated to the long-range building program account established in 17-7-205;

(c) 11.15% is allocated to the account in the state special revenue fund provided for in 15-35-108(3) to be used as provided in that subsection;

(d) 1.70% is allocated to the ~~nonexpendable trust~~ permanent fund for parks acquisition or management to be used as provided in Title 23, chapter 1, part 1;

(e) 1.27% is allocated to the debt service fund type to the credit of the renewable resource loan debt service fund;

(f) 0.86% is allocated to the cultural and aesthetic trust fund provided for in 15-35-108(6);

(g) beginning July 1, 1999, and ending June 30, 2007, 1.74% is allocated to the long-range building program fund in the debt service fund type to fund the bonds issued for the purchase of Virginia City and Nevada City property; and

(h) the remainder is allocated to the state general fund."

Section 3. Section 15-35-108, MCA, is amended to read:

"15-35-108. (Temporary) Disposal of severance taxes. Severance taxes collected under this chapter must, in accordance with the provisions of 15-1-501, be allocated as follows:

(1) Fifty percent of total coal severance tax collections is allocated to the trust fund created by Article IX, section 5, of the Montana constitution. The trust fund money must be deposited in the fund established under 17-6-203(6) and invested by the board of investments as provided by law.

(2) Twelve percent of coal severance tax collections is allocated to the long-range building program account established in 17-7-205.

(3) The amount of 8.36% must be credited to an account in the state special revenue fund to be allocated by the legislature for local impacts, county land planning, provision of basic library services for the residents of

all counties through library federations and for payment of the costs of participating in regional and national networking, conservation districts, and the Montana Growth Through Agriculture Act. Expenditures of the allocation may be made only from this account. Money may not be transferred from this account to another account other than the general fund. Any unreserved fund balance at the end of each fiscal year must be deposited in the general fund.

(4) The amount of 1.27% must be allocated to a ~~nonexpendable trust~~ permanent fund account for the purpose of parks acquisition or management. Income from this ~~trust~~ permanent fund account must be appropriated for the acquisition, development, operation, and maintenance of any sites and areas described in 23-1-102.

(5) The amount of 0.95% must be allocated to the debt service fund type to the credit of the renewable resource loan debt service fund.

(6) The amount of 0.63% must be allocated to a trust fund for the purpose of protection of works of art in the capitol and for other cultural and aesthetic projects. Income from this trust fund must be appropriated for protection of works of art in the state capitol and for other cultural and aesthetic projects.

(7) (a) Subject to subsection (7)(b), all other revenue from severance taxes collected under the provisions of this chapter must be credited to the general fund of the state.

(b) The interest income from \$140 million of the coal severance tax permanent fund that is deposited in the general fund is statutorily appropriated, as provided in 17-7-502, for the biennium ending June 30, 2001, as follows:

- (i) \$65,000 to the cooperative development center;
- (ii) \$1.25 million for the growth through agriculture program provided for in Title 90, chapter 9;
- (iii) to the department of commerce:
 - (A) \$350,000 for business recruitment;
 - (B) \$125,000 for a small business development center;
 - (C) \$50,000 for a small business innovative research program;
 - (D) \$425,000 for certified communities;
 - (E) \$200,000 for the Montana manufacturing extension center at Montana state university-Bozeman; and
 - (F) \$300,000 for export trade enhancement; and

(iv) \$600,000 to the department of administration for the purpose of reimbursing tax increment financing industrial districts as provided in 7-15-4299. Reimbursement must be made to qualified districts on a proportional basis to the loss of taxable value as a result of Chapter 285, Laws of 1999, and as documented by the

department of revenue. This documentation must be provided to the budget director and to the legislative fiscal analyst. The reimbursement may not be used to pay debt service on tax increment bonds to the extent that the bonds are secured by a guaranty, a letter of credit, or a similar arrangement provided by or on behalf of an owner of property within the district. (Terminates June 30, 2001--sec. 10(1), Ch. 10, Sp. L. May 2000.)

15-35-108. (Effective July 1, 2001) Disposal of severance taxes. Severance taxes collected under this chapter must, in accordance with the provisions of 15-1-501, be allocated as follows:

(1) Fifty percent of total coal severance tax collections is allocated to the trust fund created by Article IX, section 5, of the Montana constitution. The trust fund money must be deposited in the fund established under 17-6-203(6) and invested by the board of investments as provided by law.

(2) Twelve percent of coal severance tax collections is allocated to the long-range building program account established in 17-7-205.

(3) The amount of 8.36% must be credited to an account in the state special revenue fund to be allocated by the legislature for local impacts, county land planning, provision of basic library services for the residents of all counties through library federations and for payment of the costs of participating in regional and national networking, conservation districts, and the Montana Growth Through Agriculture Act. Expenditures of the allocation may be made only from this account. Money may not be transferred from this account to another account other than the general fund. Any unreserved fund balance at the end of each fiscal year must be deposited in the general fund.

(4) The amount of 1.27% must be allocated to a ~~nonexpendable trust~~ permanent fund account for the purpose of parks acquisition or management. Income from this ~~trust~~ permanent fund account must be appropriated for the acquisition, development, operation, and maintenance of any sites and areas described in 23-1-102.

(5) The amount of 0.95% must be allocated to the debt service fund type to the credit of the renewable resource loan debt service fund.

(6) The amount of 0.63% must be allocated to a trust fund for the purpose of protection of works of art in the capitol and for other cultural and aesthetic projects. Income from this trust fund must be appropriated for protection of works of art in the state capitol and for other cultural and aesthetic projects.

(7) (a) Subject to subsections (7)(b) and (7)(c), all other revenue from severance taxes collected under the provisions of this chapter must be credited to the general fund of the state.

(b) The interest income from \$140 million of the coal severance tax permanent fund that is deposited in the general fund is statutorily appropriated, as provided in 17-7-502, on an annual basis as follows:

(i) \$65,000 to the cooperative development center;

(ii) \$1.25 million for the growth through agriculture program provided for in Title 90, chapter 9;

(iii) to the department of commerce:

(A) \$350,000 for business recruitment;

(B) \$125,000 for a small business development center;

(C) \$50,000 for a small business innovative research program;

(D) \$425,000 for certified communities;

(E) \$200,000 for the Montana manufacturing extension center at Montana state university-Bozeman; and

(F) \$300,000 for export trade enhancement; and

(iv) \$600,000 to the department of administration for the purpose of reimbursing tax increment financing industrial districts as provided in 7-15-4299. Reimbursement must be made to qualified districts on a proportional basis to the loss of taxable value as a result of Chapter 285, Laws of 1999, and as documented by the department of revenue. This documentation must be provided to the budget director and to the legislative fiscal analyst. The reimbursement may not be used to pay debt service on tax increment bonds to the extent that the bonds are secured by a guaranty, a letter of credit, or a similar arrangement provided by or on behalf of an owner of property within the district.

(c) Beginning July 1, 2001, there is transferred annually from the interest income referred to in subsection (7)(b) \$4.85 million to the research and commercialization expendable trust fund created in 90-3-1002. (Terminates June 30, 2005--sec. 10(2), Ch. 10, Sp. L. May 2000.)

15-35-108. (Effective July 1, 2005) Disposal of severance taxes. Severance taxes collected under this chapter must, in accordance with the provisions of 15-1-501, be allocated as follows:

(1) Fifty percent of total coal severance tax collections is allocated to the trust fund created by Article IX, section 5, of the Montana constitution. The trust fund money must be deposited in the fund established under 17-6-203(6) and invested by the board of investments as provided by law.

(2) Twelve percent of coal severance tax collections is allocated to the long-range building program account established in 17-7-205.

(3) The amount of 8.36% must be credited to an account in the state special revenue fund to be allocated by the legislature for local impacts, county land planning, provision of basic library services for the residents of all counties through library federations and for payment of the costs of participating in regional and national networking, conservation districts, and the Montana Growth Through Agriculture Act. Expenditures of the allocation may be made only from this account. Money may not be transferred from this account to another

account other than the general fund. Any unreserved fund balance at the end of each fiscal year must be deposited in the general fund.

(4) The amount of 1.27% must be allocated to a ~~nonexpendable trust~~ permanent fund account for the purpose of parks acquisition or management. Income from this ~~trust~~ permanent fund account must be appropriated for the acquisition, development, operation, and maintenance of any sites and areas described in 23-1-102.

(5) The amount of 0.95% must be allocated to the debt service fund type to the credit of the renewable resource loan debt service fund.

(6) Beginning July 1, 1997, and ending June 30, 1999, the amount of 0.87% must be allocated to an account in the state special revenue fund for the purpose of protection of works of art in the state capitol and for other cultural and aesthetic projects. Beginning July 1, 1999, the amount of 0.63% must be allocated to a trust fund for the purpose of protection of works of art in the capitol and for other cultural and aesthetic projects. Income from this trust fund must be appropriated for protection of works of art in the state capitol and for other cultural and aesthetic projects.

(7) All other revenue from severance taxes collected under the provisions of this chapter must be credited to the general fund of the state."

Section 4. Section 15-38-106, MCA, is amended to read:

"15-38-106. (Temporary) Payment of tax -- records -- collection of taxes -- refunds. (1) The tax imposed by this chapter must be paid by each person to which the tax applies, on or before March 31, on the value of product in the year preceding January 1 of the year in which the tax is paid. The tax must be paid to the department at the time that the statement of yield for the preceding calendar year is filed with the department.

(2) The department shall, in accordance with the provisions of 15-1-501, deposit in the following order:

(a) 50% of the proceeds of the tax in the resource indemnity trust fund of the ~~nonexpendable trust~~ permanent fund type;

(b) \$300,000 of the remaining proceeds in the ground water assessment account established by 85-2-905;

(c) 50% of the remaining proceeds in the reclamation and development grants account established by 90-2-1104; and

(d) all remaining proceeds in the orphan share account established in 75-10-743.

(3) Each person to whom the tax applies shall keep records in accordance with 15-38-105, and the

records are subject to inspection by the department upon reasonable notice during normal business hours.

(4) The department shall examine the statement and compute the taxes to be imposed, and the amount computed by the department is the tax imposed, assessed against, and payable by the taxpayer. If the tax found to be due is greater than the amount paid, the excess must be paid by the taxpayer to the department within 30 days after written notice of the amount of deficiency is mailed by the department to the taxpayer. If the tax imposed is less than the amount paid, the difference must be applied as a tax credit against tax liability for subsequent years or refunded if requested by the taxpayer.

15-38-106. (Effective on occurrence of contingency) Payment of tax -- records -- collection of taxes -- refunds. (1) The tax imposed by this chapter must be paid by each person to which the tax applies, on or before March 31, on the value of product in the year preceding January 1 of the year in which the tax is paid. The tax must be paid to the department at the time that the statement of yield for the preceding calendar year is filed with the department.

(2) The department shall, in accordance with the provisions of 15-1-501, deposit in the following order:

(a) \$366,000 of the proceeds in the ground water assessment account established by 85-2-905;

(b) 50% of the remaining proceeds in the orphan share account established in 75-10-743; and

(c) all remaining proceeds in the reclamation and development grants account established by 90-2-1104, for the purpose of making grants to be used for mineral development reclamation projects.

(3) Each person to whom the tax applies shall keep records in accordance with 15-38-105, and the records are subject to inspection by the department upon reasonable notice during normal business hours.

(4) The department shall examine the statement and compute the taxes to be imposed, and the amount computed by the department is the tax imposed, assessed against, and payable by the taxpayer. If the tax found to be due is greater than the amount paid, the excess must be paid by the taxpayer to the department within 30 days after written notice of the amount of deficiency is mailed by the department to the taxpayer. If the tax imposed is less than the amount paid, the difference must be applied as a tax credit against tax liability for subsequent years or refunded if requested by the taxpayer."

Section 5. Section 15-38-202, MCA, is amended to read:

"15-38-202. (Temporary) Investment of resource indemnity trust fund -- expenditure -- minimum balance. (1) All money paid into the resource indemnity trust fund, including money payable into the fund under the provisions of 15-36-324 and 15-37-117, must be invested at the discretion of the board of investments. Only the net earnings may be appropriated and expended until the fund reaches \$100 million. Thereafter, all net

earnings and all receipts may be appropriated by the legislature and expended, provided that the balance in the fund may never be less than \$100 million.

(2) (a) At the beginning of each fiscal year, there is allocated from the interest income of the resource indemnity trust fund:

(i) \$240,000, which is statutorily appropriated, as provided in 17-7-502, to be deposited into the renewable resource grant and loan program state special revenue account to support the operations of the environmental science-water quality instructional programs at Montana state university-northern, to be used for support costs, for matching funds necessary to attract additional funds to further expand statewide impact, and for enhancement of the facilities related to the programs. Any amount of the appropriation in this subsection (2)(a)(i) that is not pledged to repay bonds issued prior to January 1, 1999, may be deposited in a ~~nonexpendable trust~~ permanent fund account, the income from which may be used for the purposes provided in this subsection.

(ii) \$2 million to be deposited into the renewable resource grant and loan program state special revenue account, created by 85-1-604, for the purpose of making grants;

(iii) \$1.5 million to be deposited into the reclamation and development grants special revenue account, created by 90-2-1104, for the purpose of making grants; and

(iv) \$300,000 to be deposited into the ground water assessment account created by 85-2-905.

(b) At the beginning of each biennium, there is allocated from the interest income of the resource indemnity trust fund:

(i) an amount not to exceed \$175,000 to the environmental contingency account pursuant to the conditions of 75-1-1101;

(ii) an amount not to exceed \$50,000 to the oil and gas production damage mitigation account pursuant to the conditions of 82-11-161; and

(iii) \$500,000 to be deposited into the water storage state special revenue account created by 85-1-631.

(c) The remainder of the interest income is allocated as follows:

(i) Thirty percent of the interest income of the resource indemnity trust fund must be allocated to the renewable resource grant and loan program state special revenue account created by 85-1-604.

(ii) Twenty-six percent of the interest income of the resource indemnity trust fund must be allocated to the hazardous waste/CERCLA special revenue account provided for in 75-10-621.

(iii) Thirty-five percent of the interest income from the resource indemnity trust fund must be allocated to the reclamation and development grants account provided for in 90-2-1104.

(iv) Nine percent of the interest income of the resource indemnity trust fund must be allocated to the

environmental quality protection fund provided for in 75-10-704.

(3) Any formal budget document prepared by the legislature or the executive branch that proposes to appropriate funds other than as provided for by the allocations in subsection (2) must specify the amount of money from each allocation that is proposed to be diverted and the proposed use of the diverted funds. A formal budget document includes a printed and publicly distributed budget proposal or recommendation, an introduced bill, or a bill developed during the legislative appropriation process or otherwise during a legislative session.

15-38-202. (Effective July 1, 2001) Investment of resource indemnity trust fund -- expenditure -- minimum balance. (1) All money paid into the resource indemnity trust fund, including money payable into the fund under the provisions of 15-36-324 and 15-37-117, must be invested at the discretion of the board of investments. Only the net earnings may be appropriated and expended until the fund reaches \$100 million. Thereafter, all net earnings and all receipts may be appropriated by the legislature and expended, provided that the balance in the fund may never be less than \$100 million.

(2) (a) At the beginning of each fiscal year, there is allocated from the interest income of the resource indemnity trust fund:

(i) \$240,000, which is statutorily appropriated, as provided in 17-7-502, to be deposited into the renewable resource grant and loan program state special revenue account to support the operations of the environmental science-water quality instructional programs at Montana state university-northern, to be used for support costs, for matching funds necessary to attract additional funds to further expand statewide impact, and for enhancement of the facilities related to the programs. Any amount of the appropriation in this subsection (2)(a)(i) that is not pledged to repay bonds issued prior to January 1, 1999, may be deposited in a ~~nonexpendable trust~~ permanent fund account, the income from which may be used for the purposes provided in this subsection.

(ii) \$2 million to be deposited into the renewable resource grant and loan program state special revenue account, created by 85-1-604, for the purpose of making grants;

(iii) \$1.5 million to be deposited into the reclamation and development grants special revenue account, created by 90-2-1104, for the purpose of making grants;

(iv) \$300,000 to be deposited into the ground water assessment account created by 85-2-905; and

(v) \$500,000 to the department of fish, wildlife, and parks for the purposes of 87-1-283. The future fisheries review panel shall approve and fund qualified mineral reclamation projects before other types of qualified projects.

(b) At the beginning of each biennium, there is allocated from the interest income of the resource indemnity trust fund:

(i) an amount not to exceed \$175,000 to the environmental contingency account pursuant to the conditions of 75-1-1101;

(ii) an amount not to exceed \$50,000 to the oil and gas production damage mitigation account pursuant to the conditions of 82-11-161; and

(iii) \$500,000 to be deposited into the water storage state special revenue account created by 85-1-631.

(c) The remainder of the interest income is allocated as follows:

(i) Thirty percent of the interest income of the resource indemnity trust fund must be allocated to the renewable resource grant and loan program state special revenue account created by 85-1-604.

(ii) Twenty-six percent of the interest income of the resource indemnity trust fund must be allocated to the hazardous waste/CERCLA special revenue account provided for in 75-10-621.

(iii) Thirty-five percent of the interest income from the resource indemnity trust fund must be allocated to the reclamation and development grants account provided for in 90-2-1104.

(iv) Nine percent of the interest income of the resource indemnity trust fund must be allocated to the environmental quality protection fund provided for in 75-10-704.

(3) Any formal budget document prepared by the legislature or the executive branch that proposes to appropriate funds other than as provided for by the allocations in subsection (2) must specify the amount of money from each allocation that is proposed to be diverted and the proposed use of the diverted funds. A formal budget document includes a printed and publicly distributed budget proposal or recommendation, an introduced bill, or a bill developed during the legislative appropriation process or otherwise during a legislative session. (Terminates July 1, 2009--sec. 9, Ch. 529, L. 1999.)

15-38-202. (Effective July 1, 2009) Investment of resource indemnity trust fund -- expenditure -- minimum balance. (1) All money paid into the resource indemnity trust fund, including money payable into the fund under the provisions of 15-36-324 and 15-37-117, must be invested at the discretion of the board of investments. Only the net earnings may be appropriated and expended until the fund reaches \$100 million. Thereafter, all net earnings and all receipts may be appropriated by the legislature and expended, provided that the balance in the fund may never be less than \$100 million.

(2) (a) At the beginning of each fiscal year, there is allocated from the interest income of the resource indemnity trust fund:

(i) \$240,000, which is statutorily appropriated, as provided in 17-7-502, to be deposited into the renewable resource grant and loan program state special revenue account to support the operations of the environmental science-water quality instructional programs at Montana state university-northern, to be used for

support costs, for matching funds necessary to attract additional funds to further expand statewide impact, and for enhancement of the facilities related to the programs. Any amount of the appropriation in this subsection (2)(a)(i) that is not pledged to repay bonds issued prior to January 1, 1999, may be deposited in a ~~nonexpendable trust~~ permanent fund account, the income from which may be used for the purposes provided in this subsection.

(ii) \$2 million to be deposited into the renewable resource grant and loan program state special revenue account, created by 85-1-604, for the purpose of making grants;

(iii) \$1.5 million to be deposited into the reclamation and development grants special revenue account, created by 90-2-1104, for the purpose of making grants; and

(iv) \$300,000 to be deposited into the ground water assessment account created by 85-2-905.

(b) At the beginning of each biennium, there is allocated from the interest income of the resource indemnity trust fund:

(i) an amount not to exceed \$175,000 to the environmental contingency account pursuant to the conditions of 75-1-1101;

(ii) an amount not to exceed \$50,000 to the oil and gas production damage mitigation account pursuant to the conditions of 82-11-161; and

(iii) \$500,000 to be deposited into the water storage state special revenue account created by 85-1-631.

(c) The remainder of the interest income is allocated as follows:

(i) Thirty percent of the interest income of the resource indemnity trust fund must be allocated to the renewable resource grant and loan program state special revenue account created by 85-1-604.

(ii) Twenty-six percent of the interest income of the resource indemnity trust fund must be allocated to the hazardous waste/CERCLA special revenue account provided for in 75-10-621.

(iii) Thirty-five percent of the interest income from the resource indemnity trust fund must be allocated to the reclamation and development grants account provided for in 90-2-1104.

(iv) Nine percent of the interest income of the resource indemnity trust fund must be allocated to the environmental quality protection fund provided for in 75-10-704.

(3) Any formal budget document prepared by the legislature or the executive branch that proposes to appropriate funds other than as provided for by the allocations in subsection (2) must specify the amount of money from each allocation that is proposed to be diverted and the proposed use of the diverted funds. A formal budget document includes a printed and publicly distributed budget proposal or recommendation, an introduced bill, or a bill developed during the legislative appropriation process or otherwise during a legislative session. (Terminates June 30, 2014--sec. 5, Ch. 497, L. 1999.)

15-38-202. (Effective July 1, 2014) Investment of resource indemnity trust fund -- expenditure -- minimum balance. (1) All money paid into the resource indemnity trust fund, including money payable into the fund under the provisions of 15-36-324 and 15-37-117, must be invested at the discretion of the board of investments. Only the net earnings may be appropriated and expended until the fund reaches \$100 million. Thereafter, all net earnings and all receipts may be appropriated by the legislature and expended, provided that the balance in the fund may never be less than \$100 million.

(2) (a) At the beginning of each fiscal year, there is allocated from the interest income of the resource indemnity trust fund:

(i) \$2 million to be deposited into the renewable resource grant and loan program state special revenue account, created by 85-1-604, for the purpose of making grants;

(ii) \$1.5 million to be deposited into the reclamation and development grants special revenue account, created by 90-2-1104, for the purpose of making grants; and

(iii) \$300,000 to be deposited into the ground water assessment account created by 85-2-905.

(b) At the beginning of each biennium, there is allocated from the interest income of the resource indemnity trust fund:

(i) an amount not to exceed \$175,000 to the environmental contingency account pursuant to the conditions of 75-1-1101;

(ii) an amount not to exceed \$50,000 to the oil and gas production damage mitigation account pursuant to the conditions of 82-11-161; and

(iii) \$500,000 to be deposited into the water storage state special revenue account created by 85-1-631.

(c) The remainder of the interest income is allocated as follows:

(i) Thirty percent of the interest income of the resource indemnity trust fund must be allocated to the renewable resource grant and loan program state special revenue account created by 85-1-604.

(ii) Twenty-six percent of the interest income of the resource indemnity trust fund must be allocated to the hazardous waste/CERCLA special revenue account provided for in 75-10-621.

(iii) Thirty-five percent of the interest income from the resource indemnity trust fund must be allocated to the reclamation and development grants account provided for in 90-2-1104.

(iv) Nine percent of the interest income of the resource indemnity trust fund must be allocated to the environmental quality protection fund provided for in 75-10-704.

(3) Any formal budget document prepared by the legislature or the executive branch that proposes to appropriate funds other than as provided for by the allocations in subsection (2) must specify the amount of

money from each allocation that is proposed to be diverted and the proposed use of the diverted funds. A formal budget document includes a printed and publicly distributed budget proposal or recommendation, an introduced bill, or a bill developed during the legislative appropriation process or otherwise during a legislative session."

Section 6. Section 17-2-102, MCA, is amended to read:

"17-2-102. Fund structure. ~~(1)~~ For the purpose of ensuring strict accountability for all revenue received and spent, there are in the state treasury only the following fund categories and types:

~~(a)~~(1) the governmental fund category, which includes:

~~(i)~~(a) the general fund, which accounts for all financial resources except those required to be accounted for in another fund;

~~(ii)~~(b) the special revenue fund type, which accounts for the proceeds of specific revenue sources (other than ~~expendable private purpose~~ trusts or major capital projects) that are legally restricted to expenditure for specified purposes. The financial activities of the special revenue fund type are subdivided, for operational purposes, into the following funds to serve the purpose indicated:

~~(A)~~(i) The state special revenue fund consists of money from state and other nonfederal sources deposited in the state treasury that is earmarked for the purposes of defraying particular costs of an agency, program, or function of state government and money from other nonstate or nonfederal sources that is restricted by law or by the terms of an agreement, such as a contract, trust agreement, or donation.

~~(B)~~(ii) The federal special revenue fund consists of money deposited in the treasury from federal sources, including trust income, that is used for the operation of state government.

~~(iii)~~(c) the capital projects fund type, which accounts for financial resources to be used for the acquisition or construction of major capital facilities, other than those financed by proprietary funds or trust funds; ~~and~~

~~(iv)~~(d) the debt service fund type, which accounts for the accumulation of resources for and the payment of general long-term debt principal and interest; and

(e) the permanent fund type, which accounts for financial resources that are legally restricted to the extent that only earnings, but not principal, may be used;

~~(b)~~(2) the proprietary fund category, which includes:

~~(i)~~(a) the enterprise fund type, which accounts for operations:

~~(A)~~(i) that are financed and operated in a manner similar to private business enterprises whenever the intent of the legislature is that costs (i.e., expenses, including depreciation) of providing goods or services to the general public on a continuing basis are to be financed or recovered primarily through user charges; or

~~(B)~~(ii) whenever the legislature has decided that periodic determination of revenue earned, expenses incurred, or net income is appropriate for capital maintenance, public policy, management control, accountability, or other purposes; and

~~(ii)~~(b) the internal service fund type, which accounts for the financing of goods or services provided by one department or agency to other departments or agencies of state government or to other governmental entities on a cost-reimbursed basis;

~~(e)~~(3) the fiduciary fund category, which includes trust and agency fund types used to account for assets held by state government in a trustee capacity or as an agent for individuals, private organizations, other governmental entities, or other funds. These include the:

~~(i)~~(a) ~~expendable private purpose~~ trust fund type;

~~(ii)~~ nonexpendable trust fund type;

~~(iii)~~(b) investment trust fund type;

~~(iv)~~(c) pension ~~and other employee benefit~~ trust fund type; and

~~(v)~~(d) agency fund type.

~~(d)~~(4) the higher education funds, which include:

~~(i)~~(a) the current fund, which accounts for money deposited in the state treasury that is used to pay current operating costs relating to instruction, research, public service, and allied support operations and programs conducted within the Montana university system. The financial activities of the current fund are subdivided, for operational purposes, into the four following subfunds to serve the purpose indicated:

~~(A)~~(i) The unrestricted subfund segregates that portion of the current fund's financial resources that can be expended for general operations and is free of externally imposed restrictions, except those imposed by the legislature.

~~(B)~~(ii) The restricted subfund segregates that portion of the current fund's financial resources that can be expended for general operations but only for purposes imposed by sources external to the board of regents and the legislature.

~~(C)~~(iii) The designated subfund segregates that portion of the current fund's financial resources that is associated with general operations but is separately classified in order to accumulate costs that are to be recharged as allocated to other funds or subfunds, identifies financial activities related to special organized activities of educational departments in which the activity is fully supported by supplemental assessments, and identifies special supply and facility fees that are approved for collections beyond normal course fees and their disposition.

~~(D)~~(iv) The auxiliary subfund segregates that portion of the current fund's financial resources that is devoted to providing essential on-campus services primarily to students, faculty, or staff ~~wherein~~ in which a fee, ~~which that~~ is directly related to but does not necessarily equal the cost of the service provided; is charged to the consumer.

(ii)(b) the student loan fund, which accounts for money deposited in the state treasury that may be loaned to students, faculty, or staff for purposes related to education, organized research, or public services by the Montana university system;

(iii)(c) the endowment fund, which accounts for money deposited in the state treasury by the Montana university system ~~wherein~~ in which the principal portion of the amount received is nonexpendable but is available for investment, ~~thus producing consumable income~~. Expendable earnings on endowment funds are to be transferred to appropriate operating funds pursuant to prevailing administrative requirements.

(iv)(d) the annuity and life income fund, which accounts for money deposited in the state treasury by the Montana university system under an agreement ~~whereby~~ by which the money is made available on the condition that the receiving unit of the Montana university system binds itself to pay stipulated amounts periodically to the donor or others designated by the donor over a specified period of time;

(v)(e) the plant fund, which accounts for those financial resources allocated to or received by the Montana university system for capital outlay purposes or to retire long-term debts associated with construction or acquisition of fixed assets and the net accumulative results of these activities; and

(vi)(f) the agency fund, which accounts for money deposited in the state treasury ~~wherein~~ for which the Montana university system acts in the capacity of a custodian or fiscal agent for individual students, faculty, staff, and qualified organizations.

~~(2) In addition to the funds provided for in subsection (1), there are in the state treasury the following account groups:~~

~~—— (a) the fixed assets account group, which is a self-balancing group of accounts set up to establish accounting control and accountability for the state's general fixed assets, except those accounted for in proprietary funds, trust funds, and the higher education funds designated in subsections (1)(d)(i)(D), (1)(d)(iii), and (1)(d)(v); and~~

~~—— (b) the long-term debt account group, which is a self-balancing group of accounts set up to establish accounting control and accountability for the state's unmatured general long-term liabilities, except those accounted for in proprietary funds, trust funds, and the higher education funds designated in subsections (1)(d)(i)(D), (1)(d)(iii), and (1)(d)(v)."~~

Section 7. Section 17-2-103, MCA, is amended to read:

"17-2-103. Previous definitions of funds -- identification or segregation of money and funds. (1)

It is the intent of the legislature that the definitions in 17-2-102 supersede all previous definitions of public funds that are inconsistent with the definitions found in this part.

(2) Any laws enacted ~~in the future~~ or any contracts entered into ~~in the future~~ in pursuance of law that require the segregation of money in the state treasury by means of a separate treasury fund must be interpreted as permitting the segregation of the money by means of a subfund or account within one of the funds created by 17-2-102.

(3) Each federal grant or other federal money within any subfund or account of one of the funds created by 17-2-102(1)~~(a)~~ through ~~(1)(e)~~ (3) must be identifiable as a separate accounting entity, reporting center, responsibility center, or revenue identification code, and an account must be made of each ~~such~~ grant or other money by income and expenditure for each federal grant year or fiscal year as may be applicable.

(4) Unless otherwise specifically provided in the statutes pertaining to the tax, the portion of taxes collected by the state that, pursuant to a statute, are to be allocated or distributed to units of local government, school districts, authorities, or other local governmental entities must be accounted for in a state special revenue fund, established in 17-2-102, as prescribed by the department in accordance with generally accepted accounting principles."

Section 8. Section 17-2-107, MCA, is amended to read:

"17-2-107. Accurate accounting records and interentity loans. (1) The department shall record receipts and disbursements for treasury funds and for accounting entities within treasury funds and shall maintain records in a manner that reflects the total cash and invested balance of each fund and each accounting entity. The department shall adopt the necessary procedures to ensure that interdepartmental or intradepartmental transfers of money or loans do not result in inflation of figures reflecting total governmental costs and revenue.

(2) (a) Subject to 17-2-105, when the expenditure of an appropriation from a fund designated in 17-2-102(1)~~(a)~~ through ~~(1)(e)~~ (3) is necessary and the cash balance in the accounting entity from which the appropriation was made is insufficient, the department may authorize a temporary loan, bearing no interest, of unrestricted money from other accounting entities if there is reasonable evidence that the income will be sufficient to repay the loan within 1 calendar year and if the loan is recorded in the state accounting records. An accounting entity receiving a loan or an accounting entity from which a loan is made may not be so impaired that all proper demands on the accounting entity cannot be met even if the loan is extended.

(b) (i) When an expenditure from a fund or subfund designated in ~~47-2-102(1)(d)~~ 17-2-102(4) is necessary and the cash balance in the fund or subfund from which the expenditure is to be made is insufficient, the commissioner of higher education may authorize a temporary loan, bearing interest as provided in subsection (4) of this section, of money from the agency's other funds or subfunds if there is reasonable evidence that the income will be sufficient to repay the loan within 1 calendar year and if the loan is recorded in the state accounting records. A fund or subfund receiving a loan or from which a loan is made may not be so impaired that all proper demands on the fund or subfund cannot be met even if the loan is extended.

(ii) One accounting entity within each fund or subfund designated in ~~47-2-102(1)(d)~~ 17-2-102(4) must be established for the sole purpose of recording loans between the funds or subfunds. This accounting entity is the only accounting entity within each fund or subfund that may receive a loan or from which a loan may be made.

(c) A loan made under subsection (2)(a) or (2)(b) must be repaid within 1 calendar year of the date on which the loan is approved unless it is extended under subsection (3) or by specific legislative authorization.

(3) Under unusual circumstances, the director of the department or the board of regents may grant one extension for up to 1 year for a loan made under subsection (2)(a) or (2)(b). The director or board shall prepare a written justification and proposed repayment plan for each loan extension authorized and shall furnish a copy of the written justification and proposed repayment plan to the house appropriations and senate finance and claims committees at the next legislative session.

(4) Any loan from the current unrestricted subfund to funds designated in ~~47-2-102(1)(d)(i)(D)~~ 17-2-102(4)(a)(iv) and ~~(1)(d)(ii)~~ (4)(b) through ~~(1)(d)(vi)~~ (4)(f) must bear interest at a rate equivalent to the previous fiscal year's average rate of return on the board of investments' short-term investment pool.

(5) If for 2 consecutive fiscal yearends a loan or an extension of a loan has been authorized to the same accounting entity as provided in subsection (2) or (3), the department or the commissioner of higher education shall submit to the legislative finance committee by September 1 of the following fiscal year a written report containing an explanation as to why the second loan or extension was made, an analysis of the solvency of the accounting entity or accounting entities within the university fund or subfund, and a plan for repaying the loans.

(6) If for 2 consecutive fiscal yearends an accounting entity in a fund or subfund designated in ~~47-2-102(1)(d)~~ 17-2-102(4) has a negative cash balance, the commissioner of higher education shall submit to the legislative finance committee by September 1 of the following fiscal year a written report containing an explanation as to why the accounting entity has a negative cash balance, an analysis of the solvency of the accounting entity, and a plan to address any problems concerning the accounting entity's negative cash balance or solvency.

(7) (a) An accounting entity in a fund designated in 17-2-102(1)(~~a~~) through (~~1~~)(~~e~~) (3) may not have a negative cash balance at fiscal yearend. The department may, however, allow a fund type within each agency to carry a negative balance at any point during the fiscal year if the negative cash balance does not exist for more than 7 working days.

(b) (i) Except as provided in subsection (7)(b)(ii) of this section, a unit of the university system shall maintain a positive cash balance in the funds and subfunds designated in ~~17-2-102(1)(d)~~ 17-2-102(4).

(ii) If a fund or subfund inadvertently has a negative cash balance, the department may allow the fund or subfund to carry the negative cash balance for no more than 7 working days. If the negative cash balance exists for more than 7 working days, a transaction may not be processed through the statewide accounting system for that fund or subfund.

(8) Notwithstanding the provisions of subsections (2) through (4), the department may authorize loans to accounting entities in the federal and state special revenue funds with long-term repayment whenever necessary because of the timing of the receipt of agreed-upon reimbursements from federal, private, or other governmental entity sources for disbursements made. If possible, the loans must be made from funds other than the general fund. The department may approve the loans if the requesting agency can demonstrate that the total loan balance does not exceed total receivables from federal, private, or other governmental entity sources and receivables have been billed on a timely basis. The loan must be repaid under terms and conditions that may be determined by the department or by specific legislative authorization."

Section 9. Section 17-6-203, MCA, is amended to read:

"17-6-203. Separate investment funds. Separate investment funds ~~shall~~ must be maintained as follows:

(1) the ~~nonexpendable trust~~ permanent funds, including all public school funds and funds of the Montana university system and other state institutions of learning referred to in ~~sections 2 and 10~~, Article X, sections 2 and 10, of the ~~1972~~ Montana constitution. The principal and any part ~~thereof~~ of the principal of each ~~and every~~ fund constituting the Montana ~~nonexpendable trust~~ permanent fund type ~~shall be~~ is subject to payment deposit at any time when due under the statutory provisions applicable ~~thereto~~ to the fund and according to the provisions of the gift, donation, grant, legacy, bequest, or devise through or from which the particular fund arises.

(2) a separate investment fund, which may not be held jointly with other funds, for money pertaining to each retirement or insurance system ~~now or hereafter~~ maintained by the state, including ~~those now maintained~~ under the following statutes:

- (a) the highway patrol officers' retirement system described in Title 19, chapter 6;
 - (b) the public employees' retirement system described in Title 19, chapter 3;
 - (c) the game wardens' and peace officers' retirement system described in Title 19, chapter 8;
 - (d) the teachers' retirement system described in Title 19, chapter 20; and
 - (e) the ~~industrial accident insurance~~ workers' compensation program described in Title 39, chapter 71, part 23;
- (3) a pooled investment fund, including all other accounts within the treasury fund structure established by 17-2-102;
- (4) the fish and wildlife mitigation trust fund established by 87-1-611;
- (5) a fund consisting of gifts, donations, grants, legacies, bequests, devises, and other contributions made or given for a specific purpose or under conditions expressed in the gift, donation, grant, legacy, bequest, devise, or contribution ~~on the part of~~ to be observed by the state of Montana ~~to be observed~~. If ~~such a~~ gift, donation, grant, legacy, bequest, devise, or contribution permits investment and is not otherwise restricted by its terms, it may be treated jointly with other ~~such~~ gifts, donations, grants, legacies, bequests, devises, or contributions.
- (6) a fund consisting of coal severance taxes allocated ~~thereto~~ under section 5, Article IX, of the Montana constitution; ~~the~~ The principal of this the coal severance tax trust fund shall be is permanent; in the event If the legislature appropriates any part of the principal of ~~this the coal severance tax trust fund~~ by a vote of three-fourths of the members of each house, ~~such liquidation~~ the appropriation or investment may create a gain or loss in the principal; ~~and~~
- (7) ~~such~~ additional investment funds ~~as that~~ may be expressly required by law or ~~may be determined by that~~ the board of investments ~~to determine~~ be are necessary to fulfill fiduciary responsibilities of the state with respect to funds from a particular source."

Section 10. Section 17-7-150, MCA, is amended to read:

"17-7-150. Definitions. As used in 17-7-151, the following definitions apply:

- (1) "Current biennium" means the biennium during which the legislature is meeting in regular session.
- (2) "Next biennium" means the biennium for which the regular session of the legislature makes appropriations.
- (3) (a) "State resources" means:
 - (i) the general fund;

- (ii) state special revenue funds other than private funds;
 - (iii) federal special revenue funds;
 - (iv) proprietary funds that require an appropriation;
 - (v) long-range building program appropriations; and
 - (vi) agency funds distributed to local governments.
- (b) The term does not include:
- (i) debt service funds;
 - (ii) capital project funds other than those appropriated;
 - (iii) internal service or proprietary funds that do not require an appropriation;
 - (iv) fund transfers;
 - (v) enterprise funds;
 - (vi) unrestricted or other university funds;
 - (vii) agency funds not distributed to local governments;
 - (viii) ~~expendable~~ private purpose trust funds;
 - (ix) ~~nonexpendable trust~~ permanent funds;
 - (x) pension trust funds;
 - (xi) noncash accounting entries; and
 - (xii) private funds deposited in state special revenue accounts."

Section 11. Section 17-8-101, MCA, is amended to read:

"17-8-101. Appropriation and disbursement of money from treasury. (1) For purposes of complying with Article VIII, section 14, of the Montana constitution, money deposited in the general fund, the special revenue fund type (except money deposited in the treasury from nonstate and nonfederal sources restricted by law or by the terms of an agreement, such as a contract, trust agreement, or donation), and the capital projects fund type, with the exception of refunds authorized in subsection (4), may be paid out of the treasury only on appropriation made by law.

(2) Subject to the provisions of subsection (8), money deposited in the enterprise fund type, debt service fund type, internal service fund type, ~~expendable~~ private purpose trust fund type, agency fund type, and state special revenue fund from nonstate and nonfederal sources restricted by law or by the terms of an agreement, such as a contract, trust agreement, or donation, may be paid out of the treasury:

- (a) by appropriation; or

(b) under general laws, or contracts entered into in pursuance of law, permitting the disbursement.

(3) The pension trust fund type is not considered a part of the state treasury for appropriation purposes. Money deposited in the pension trust fund type may be paid out of the treasury pursuant to general laws, trust agreement, or contract.

(4) Money paid into the state treasury through error or under circumstances such that the state is not legally entitled to retain it and a refund procedure is not otherwise provided by law may be refunded upon the submission of a verified claim approved by the department.

(5) Authority to expend appropriated money may be transferred from one state agency to another, provided that the original purpose of the appropriation is maintained. The office of budget and program planning shall report semiannually to the legislative finance committee concerning all appropriations transferred under the provisions of this section.

(6) Fees and charges for services deposited in the internal service fund type must be based upon commensurate costs. The legislative auditor, during regularly scheduled audits of state agencies, shall audit and report on the reasonableness of internal service fund type fees and charges and on the fund equity balances.

(7) The creation of accounts in the enterprise fund or the internal service fund must be approved by the department, using conformity with generally accepted accounting principles as the primary approval criteria. The department shall report annually to the office of budget and program planning and the legislative finance committee on the nature, status, and justification for all new accounts in the enterprise fund and the internal service fund.

(8) Enterprise and internal service funds must be appropriated if they are used as a part of a program that is not an enterprise or internal service function and that otherwise requires an appropriation. An enterprise fund that transfers its ending fund balance to the general fund is subject to appropriation. The payment of funds into an internal service fund must be authorized by law."

Section 12. Section 17-8-303, MCA, is amended to read:

"17-8-303. Warrants -- presentation and cancellation. (1) State warrants must be presented for payment within the time limits specified as follows:

(a) Except as provided in subsection (1)(b), all warrants drawn by the state treasurer on the state treasury must be presented for payment within 6 months after the date of issue.

(b) Warrants issued for the department of public health and human services that are funded to any extent with federal money must be presented for payment within 180 days after the date of issue.

(2) If the payee or legal holder of any warrant fails to present it for payment within the time specified in subsection (1), the state treasurer shall record the warrant as canceled and the amount must be credited to a separate ~~expendable private purpose~~ trust fund account administered by the treasurer. If the payee or legal owner of a canceled warrant presents it for payment or presents a claim for payment within 4 years from the date of issue, the state treasurer may, upon proper showing by affidavit, issue a new warrant in lieu of the canceled warrant.

(3) Three years and 6 months after cancellation, the warrant must be classed as unclaimed property subject to the provisions of Title 70, chapter 9, part 8. If the payee or legal owner of a canceled warrant presents it for payment or presents a claim for payment, the presentation must be to the department of revenue as provided in 70-9-815."

Section 13. Section 20-9-601, MCA, is amended to read:

"20-9-601. Public school fund. The public school fund must be maintained by the state treasurer as a fund in the ~~nonexpendable trust~~ permanent fund type, and the principal amount of the fund is irreducible and permanent. The following money must be credited to the fund as an addition to the irreducible and permanent principal amount:

- (1) appropriations and donations by the state;
- (2) donations and bequests by individuals to the state or schools;
- (3) the proceeds of land and other property that revert to the state by escheat and forfeiture;
- (4) the proceeds of all property granted to the state, when the purpose of the grant is not specified or is uncertain;
- (5) funds accumulated in the treasury of the state for the disbursement of which provision has not been made by law;
- (6) except as provided in 77-1-109, the proceeds of the sale of stone, materials, or other property from school lands other than those granted for specific purposes and all money other than rental recovered from persons trespassing on the lands;
- (7) the principal of all money arising from the sale of lands and other property that has been and may be granted to the state for the support of common schools;
- (8) except as provided in 77-1-109, the amount earmarked for deposit in this fund under the provisions of 20-9-341; and
- (9) other money as may be provided by the legislature."

Section 14. Section 20-25-225, MCA, is amended to read:

"20-25-225. Experimental farms. (1) In accordance with the provisions of the Morrill Act of July 2, 1862, the regents shall make available for the purchase of sites or experimental farms from any funds deposited in the Montana ~~nonexpendable trust~~ permanent fund credited to the state university through provisions of the Morrill Land Act of 1862, known as the agricultural college Morrill permanent fund, a sum not to exceed 10% of the amount of ~~such~~ the fund.

(2) The total amount ~~which that~~ that may be used for purchase of ~~needed~~ lands for sites or experimental farms may not exceed 10% ~~in the aggregate~~ of the total amount ~~which has now or which may accrue~~ accrued to the credit of the agricultural college Morrill permanent ~~trust~~ fund.

(3) ~~No portion of the moneys~~ Money apportioned from the endowment funds for the purchase of sites or experimental farms ~~shall~~ may not be applied directly or indirectly to the purchase, erection, preservation, or repair of any building ~~or buildings~~.

(4) The regents shall approve purchases of sites or experimental farms, which must be essential for the research programs of the state university."

Section 15. Section 22-1-225, MCA, is amended to read:

"22-1-225. Montana state library trust -- interest retention. (1) There is an account in the ~~fiduciary~~ governmental fund category ~~expendable trust~~ state special revenue fund type to be known as the Montana state library trust, to be used as provided in 22-1-226.

(2) Interest and earnings of the account must be retained by the account."

Section 16. Section 22-1-226, MCA, is amended to read:

"22-1-226. Use of Montana state library trust. (1) The principal of the Montana state library trust established in 22-1-225 is ~~intended to be an expendable trust~~ subject to investment by the board of investments in accordance with investment principles established for the investment of state funds in Title 17, chapter 6, part 2.

(2) Unless otherwise provided by the donor, donations received pursuant to 22-1-103 must be placed in the Montana state library trust.

(3) Interest earned on the principal of the Montana state library trust may be used for providing library service to Montanans, including those who, because of disability, cannot read standard print.

(4) Revenue that is not expended on the service authorized in subsection (3) and that is not expended

at the end of each fiscal year remains in the Montana state library trust for investment as provided in subsection (1).

(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 library from the Montana state library trust."

Section 17. Section 22-3-113, MCA, is amended to read:

"22-3-113. Acquisitions trust. There is an account in the ~~fiduciary governmental~~ fund category ~~nonexpendable trust~~ permanent fund type to be known as the Montana historical society acquisitions trust, to be used exclusively for the acquisition of items or collections as provided in 22-3-114."

Section 18. Section 22-3-114, MCA, is amended to read:

"22-3-114. Use of acquisitions trust funds -- principal nonexpendable -- investment of principal -- reversion of unspent revenue. (1) The principal of the acquisitions trust established in 22-3-113 is intended to be a permanent, ~~nonexpendable trust fund~~ fund subject to investment by the board of investments in accordance with investment principles established for the investment of state funds in Title 17, chapter 6, part 2.

(2) Unless otherwise provided by the donor, donations of \$500 or more received pursuant to 22-3-107(9) and revenue earned by the Montana historical society from sales provided for by 22-3-107(6) must be placed in the acquisitions trust.

(3) Interest earned on the principal of the acquisitions trust may be used only for the purpose of acquiring society library, museum, archive, and photoarchive items or collections.

(4) Revenue that is not expended on appropriate acquisitions authorized in subsection (3) and that remains at the end of each fiscal year reverts to the principal of the acquisitions trust for investment as provided in subsection (1).

(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 society from the acquisitions trust."

Section 19. Section 39-3-213, MCA, is amended to read:

"39-3-213. Disposition of wages. (1) The commissioner of labor shall deposit wages collected under parts 2 and 4 of this chapter into the ~~expendable trust~~ state special revenue fund and shall attempt to make

payment of wages to the entitled person. Wages deposited into the ~~expendable trust~~ state special revenue fund do not bear interest. The payment of wages collected may be made by means of state warrants.

(2) Warrants issued pursuant to subsection (1) that remain unclaimed for more than 1 year from the date of issuance must be returned to the state treasurer for cancellation in accordance with 17-8-303."

Section 20. Section 39-51-401, MCA, is amended to read:

"39-51-401. Unemployment insurance fund -- establishment and control. There is established separate and apart from all public money or funds of this state a fund in the ~~expendable trust~~ enterprise fund type known as the unemployment insurance fund, which must be administered by the department exclusively for the purposes of this chapter. Any reference to the unemployment insurance fund in ~~this code~~ the Montana Code Annotated means the unemployment insurance ~~expendable trust~~ enterprise fund. All money in the fund must be mingled and undivided. This fund consists of:

- (1) all contributions collected under this chapter and payments made in lieu of contributions as provided in 39-51-1124 through 39-51-1126;
- (2) interest earned upon any money in the fund;
- (3) any property or securities acquired through the use of money belonging to the fund;
- (4) all earnings of ~~such~~ the property or securities acquired by the fund; and
- (5) all money credited to this state's account in the unemployment trust fund pursuant to sections 903 and 904 of the Social Security Act (42 U.S.C. 1103 and 1104), as amended."

Section 21. Section 41-3-705, MCA, is amended to read:

"41-3-705. Endowment for children. (1) There is within the ~~nonexpendable trust~~ permanent fund type an endowment for children. The endowment is not subject to appropriation. The purpose of the endowment is to provide a permanent source of funding to support the programs and services referred to in 41-3-701.

- (2) The endowment may receive funds from:
 - (a) appropriations;
 - (b) gifts, grants, and donations, from public or private sources; and
 - (c) other money credited or transferred to the endowment from any other fund or source.
- (3) The state treasurer must receive and shall deposit money in the endowment. The board of investments shall invest the money in the endowment. Only the interest generated by the endowment is available for expenditure by the board."

Section 22. Section 72-14-204, MCA, is amended to read:

"72-14-204. Order directing sale of property upon final settlement of estate. At the final settlement of an estate, if there are no heirs or other claimants, the district judge shall order the public administrator to sell all property belonging to the estate and pay the proceeds to the county treasurer. The county treasurer shall keep an account of the money received from each estate and paid to the county treasurer and shall remit the money to the department of revenue with a statement of the estate to which the money belongs. The department shall immediately deliver the money to the state treasurer for deposit in the ~~expendable~~ private purpose trust fund."

Section 23. Section 72-14-205, MCA, is amended to read:

"72-14-205. Unsold intangible personal property -- how disposed of -- auction sale. (1) If the intangible personal property in an escheated estate was not sold by the personal representative at the final settlement of the estate, then the personal representative shall deliver all of the property to the department of revenue with a statement setting forth the name of the estate to which it belongs. The department shall, within 1 year of the receipt of the property, sell the property to the highest bidder at a public auction sale at the department's office in Helena, Montana.

(2) The department shall give notice of the sale by publication in a Helena newspaper once a week for 2 successive weeks. The last publication must be at least 20 days prior to the date of the sale. The notice must give the time and place of the sale and must contain a list and description of the stocks, bonds, securities, or other intangible personal property to be sold.

(3) All of the expenses of the sale must be deducted from the proceeds of the sale by the department, and the balance of the proceeds must be delivered by the department to the state treasurer for deposit in the ~~expendable~~ private purpose trust fund."

Section 24. Section 72-14-206, MCA, is amended to read:

"72-14-206. Unsold real property -- how disposed of -- auction sale. (1) If the real property was not sold by the personal representative at the final settlement of the estate, then the personal representative shall make and execute to the state of Montana a deed and deliver the deed to the county clerk and recorder of the county in which the real property is situated. The county clerk and recorder shall file and record the deed without charge and shall mail the deed to the department of revenue. The department of revenue shall record the deed and deliver it to the board of land commissioners.

(2) Within 1 year after the receipt of the recorded deed, the board shall sell the property to the highest

bidder at a public auction sale to be held at the courthouse in the county where the real property or any part of the property is situated.

(3) The board shall give notice of the sale by publication once a week for 2 weeks in a newspaper published in the county in which the real estate or any part of the real estate is situated. The last publication must be at least 20 days prior to the date of the sale. The notice must give the time and place of the sale and contain a description of the real property to be sold.

(4) All expenses of the sale must be deducted by the board from the proceeds of the sale, and the balance of the proceeds must be turned over to the state treasurer for deposit in the ~~expendable~~ private purpose trust fund. The board shall provide the department with a statement indicating the sale price, expenses, and net proceeds resulting from each sale."

Section 25. Section 72-14-207, MCA, is amended to read:

"72-14-207. Unsold tangible personal property -- how disposed of -- auction sale. (1) If the tangible personal property in an escheated estate was not sold by the personal representative at the final settlement of the estate, the personal representative shall deliver the property to the county treasurer. The county treasurer shall, within 1 year of the receipt of the property, sell it to the highest bidder at a public auction sale at the county seat of the county of administration of the estate.

(2) The county treasurer shall give notice of the sale by publication once a week for 2 successive weeks in a newspaper published in the county of administration. The last publication must be at least 20 days prior to the date of the sale. The notice ~~shall~~ must give the time and place of ~~such~~ the sale and must contain a description of the property to be sold.

(3) All expenses of the sale must be deducted from the proceeds of the sale by the county treasurer, and the balance of the proceeds must be delivered by the county treasurer to the department of revenue for deposit in the ~~expendable~~ private purpose trust fund."

Section 26. Section 72-14-209, MCA, is amended to read:

"72-14-209. Deposit of all sums escheated -- ~~expendable~~ private purpose trust fund. All sums escheated under the provisions of parts 1 through 3 of this chapter must be delivered by the department of revenue to the state treasurer and deposited by the treasurer in the ~~expendable~~ private purpose trust fund."

Section 27. Section 72-14-210, MCA, is amended to read:

"72-14-210. Expendable Private purpose trust fund money to be held in trust -- deposit in public school nonexpendable trust permanent fund. Money and property placed in the ~~expendable private purpose~~ trust fund must be held in trust for a period of 5 years prior to deposit in the public school ~~nonexpendable trust~~ permanent fund by the state treasurer. The ~~expendable private purpose~~ trust is for the benefit of persons who claim property pursuant to part 3 of this chapter. A claim may be brought for an amount equal to the full amount or value of the property escheated minus the costs and expenses incident to reducing the property to the possession of the state."

Section 28. Section 72-14-403, MCA, is amended to read:

"72-14-403. Deposit of unclaimed property in state treasury -- escheat. (1) All money or other property distributed in the administration of an estate of a decedent or as the subject of a trust and deposited ~~before or after July 1, 1947,~~ with the county treasurer to the credit of the distributee or beneficiary and any money remaining on deposit to the credit of an estate after final distribution must, within 1 year of receipt by the county treasurer, be delivered into the state treasury for deposit in the ~~expendable private purpose~~ trust fund ~~by the county treasurer.~~

(2) If money or other property deposited in the state treasury is not claimed by the person or persons entitled to the property by bringing an action as provided in part 3 of this chapter, the money or property escheats to the state and must be placed in the public school ~~nonexpendable trust~~ permanent fund."

Section 29. Section 77-1-108, MCA, is amended to read:

"77-1-108. Trust land administration account. (1) There is a trust land administration account in the state special revenue fund. Money in the account is available to the department by appropriation and must be used to pay the costs of administering state trust lands.

(2) Appropriations from the account for each fiscal year may not exceed the sum of 1 1/8% of the book value balance in the nine ~~nonexpendable trust~~ permanent funds administered by the department on the first day of January preceding the new biennium and 10% of the revenue deposited in the capitol building land grant trust fund in the last completed fiscal year prior to the new biennium.

(3) Unreserved funds remaining in the account at the end of a fiscal year must be transferred to each of the ~~nonexpendable trust~~ permanent funds in proportionate shares to each ~~trust's~~ fund's contribution to the account as calculated in 77-1-109(3)."

Section 30. Section 77-1-109, MCA, is amended to read:

"77-1-109. Deposits of proceeds in trust land administration account. (1) The department shall, until the deposit equals the amount appropriated for the fiscal year pursuant to 77-1-108, deposit into the trust land administration account created by 77-1-108, the following:

- (a) mineral royalties;
- (b) the proceeds or income from the sale of easements and timber, except timber from public school lands; and
- (c) 5% of the interest and income annually credited to the public school fund in accordance with 20-9-341.

(2) After the deposits in subsection (1) have been made, the remainder of the proceeds must be deposited in the appropriate permanent fund ~~for the appropriate trust~~ and the capitol building land grant trust fund.

(3) The amount of money that is deposited into the trust land administration account may not exceed 1 1/8% of the book value balance in each of the nine ~~nonexpendable trust~~ permanent funds administered by the department on the first day of January preceding the new biennium and 10% of the previous fiscal year revenue deposited into the capitol building land grant trust fund."

Section 31. Section 77-1-602, MCA, is amended to read:

"77-1-602. Definition of terms. Unless the context requires otherwise, in this part the following definitions apply:

- (1) "Account" means the resource development account in the state special revenue fund.
- (2) "Income" means all proceeds received for the use of state land except revenue required by law to be placed in the ~~Montana nonexpendable trust~~ permanent fund type and revenue from the sale of timber."

Section 32. Section 80-2-103, MCA, is amended to read:

"80-2-103. Administration of trust assets. Funds and the proceeds of the trust assets that are not authorized to be administered by the secretary of agriculture under 80-2-102 must be received by the department and paid by it to the state treasurer for deposit in the ~~expendable trust~~ state special revenue fund, to be used for expenditure or obligation by the department for the purposes of 80-2-102 or for the rural rehabilitation purposes permissible under the charter of the now dissolved Montana rural rehabilitation corporation as may be agreed upon between the department and the secretary of agriculture, subject to Public Law 499."

Section 33. Section 87-1-601, MCA, is amended to read:

"87-1-601. Use of fish and game money. (1) (a) Except as provided in subsection (7), all money collected or received from the sale of hunting and fishing licenses or permits, from the sale of seized game or hides, from damages collected for violations of the fish and game laws of this state, or from appropriations or received by the department from any other state source must be turned over to the state treasurer and placed in the state special revenue fund to the credit of the department.

(b) Any money received from federal sources must be deposited in the federal special revenue fund to the credit of the department.

(c) All interest earned on money from the following sources must be placed in the state special revenue fund to the credit of the department:

(i) the general license account;

(ii) the license drawing account;

(iii) accounts established to administer the provisions of 87-1-246, 87-1-258, 87-1-605, 87-2-412, 87-2-722, and 87-2-724; and

(iv) money received from the sale of any other hunting and fishing license.

(2) The money described in subsection (1) must be exclusively set apart and made available for the payment of all salaries, per diem, fees, expenses, and expenditures authorized to be made by the department under the terms of this title. The money described in subsection (1) must be spent for those purposes by the department, subject to appropriation by the legislature.

(3) Any reference to the fish and game fund in this code means fish and game money in the state special revenue fund and the federal special revenue fund.

(4) Except as provided in subsections (7) and (8), all money collected or received from fines and forfeited bonds, except money collected or received by a justice's court, that relates to violations of state fish and game laws under Title 87 must be deposited by the state treasurer and credited to the department in a state special revenue fund account for this purpose. Out of any fine imposed by a court for the violation of the fish and game laws, the costs of prosecution must be paid to the county where the trial was held in any case in which the fine is not imposed in addition to the costs of prosecution.

(5) (a) Money must be deposited in an account in the permanent fund if it is received by the department from:

(i) the sale of surplus real property;

(ii) from exploration or development of oil, gas, or mineral deposits from lands acquired by the department

except royalties or other compensation based on production; and

~~(iii) from leases of interests in department real property not contemplated at the time of acquisition must be deposited in an account within the nonexpendable trust fund of the state treasury.~~

(b) The interest derived from the ~~fund~~ account, but not the principal, may be used only for the purpose of operation, development, and maintenance of real property of the department and only upon appropriation by the legislature. If the use of money as set forth in this section would result in violation of applicable federal laws or state statutes specifically naming the department or money received by the department, then the use of this money must be limited in the manner, method, and amount to those uses that do not result in a violation.

(6) Money received from the collection of license drawing applications is not subject to the deposit requirements of 17-6-105. The department shall deposit license drawing application money within a reasonable time after receipt.

(7) Money collected or received from fines or forfeited bonds for the violation of 77-1-801, 77-1-806, or rules adopted under 77-1-804 must be deposited in the state general fund.

(8) The state treasurer shall deposit in the state general fund one-half of the money received from the fines pursuant to 87-1-102."

Section 34. Section 90-3-1001, MCA, is amended to read:

"90-3-1001. Purpose -- definition. (1) The purpose of establishing a research and commercialization ~~expendable trust fund~~ special revenue account in 90-3-1002 and 90-3-1003 is to:

(a) provide a predictable and stable source of funding for research and commercialization projects conducted in the state that demonstrates to both private and public sources, including federal research granting agencies, that Montana recognizes the important contributions that research and commercialization endeavors offer to the state's basic industries;

(b) expand and strengthen research efforts for the state's basic industries to increase their economic impact on the state's economy; and

(c) expand research efforts into areas beyond the scope of the state's basic industries to diversify and strengthen the state's economic security through the creation of technology-based operations and long-term quality jobs.

(2) As used in 90-3-1002 and 90-3-1003, "research and commercialization center" means the campuses of the university of Montana or Montana state university, tribal colleges, colleges of technology, community colleges, agricultural research centers, or a private, nonprofit laboratory or research center."

Section 35. Section 90-3-1002, MCA, is amended to read:

"90-3-1002. Research and commercialization ~~expendable trust fund~~ special revenue account. (1) There is a research and commercialization ~~expendable trust fund~~ special revenue account within the state treasury. The purpose of the ~~fund~~ account is to establish a permanent source of funding for research and commercialization projects to be conducted at research and commercialization centers in the state.

(2) The research and commercialization ~~expendable trust fund~~ account must be invested by the board of investments. Earnings on the ~~expendable trust fund~~ account must be deposited in the ~~fund~~ account for distribution pursuant to 90-3-1003(3) and (5)."

Section 36. Section 90-3-1003, MCA, is amended to read:

"90-3-1003. Research and commercialization ~~expendable trust fund~~ account -- use. (1) The research and commercialization ~~expendable trust fund~~ 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.

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

(3) The ~~expendable trust fund~~ account may be used only for loans or for 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. At least 20% of the investments made must be directed toward projects that enhance production agriculture. An amount allocated for matching funds must be matched by at least a 1-to-1 ratio.

(4) The board shall establish policies, procedures, and criteria that achieve the objectives in their 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.

(5) The board shall direct the state treasurer to distribute funds for approved projects. Unallocated interest and earnings from the ~~expendable trust fund~~ fund account must be retained in the fund 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 fund account.

(6) 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.

(7) 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."

Section 37. Section 90-6-107, MCA, is amended to read:

"90-6-107. Deposit and expenditure of funds. (1) There is a housing authority enterprise fund in the proprietary fund type as provided for in ~~17-2-102(1)(b)~~ 17-2-102(2). All funds from the proceeds of bonds issued under this part, fees, and other ~~moneys~~ money received by the board, ~~moneys~~ money appropriated by the legislature for the use of the board in carrying out this part, and ~~moneys~~ money made available from any other source for the use of the board ~~shall~~ must be deposited in the housing authority enterprise fund except ~~where~~ as otherwise provided by law. All funds deposited in the housing authority enterprise fund, except funds appropriated by the legislature for use of the board in payment of expenses incurred in carrying out this part, are continuously appropriated to and may be expended by the board for the purposes authorized in this part.

(2) There is a capital reserve account in the housing authority enterprise fund provided for in subsection

(1). The capital reserve account consists of the aggregate of ~~moneys~~ money retained by the board under existing agreements with bondholders as the minimum capital reserve requirement described in 90-6-119 for each bond issue sold by the board.

(3) Funds appropriated by the legislature for use of the board in payment of expenses incurred in carrying out this part ~~shall~~ must be deposited in the housing authority enterprise fund. Funds expended by the board under this subsection ~~shall~~ must be repaid by the board from the fees and charges collected under this part and from any other ~~moneys~~ money available for ~~such~~ repayment in accordance with this part."

NEW SECTION. **Section 38. Code commissioner instruction.** The code commissioner is directed to change the names of accounts and funds established or referred to in legislation enacted during the 57th legislative session to conform to [this act].

NEW SECTION. **Section 39. Effective date.** [This act] is effective July 1, 2001.

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