

HOUSE BILL NO. 134
INTRODUCED BY WEISS
BY REQUEST OF THE DEPARTMENT OF CORRECTIONS

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE DISPOSITION OF FUNDS HELD BY OR FOR THE BENEFIT OF STATE PRISON INMATES; PROVIDING AN APPROPRIATION; AND AMENDING SECTIONS 17-7-502 AND 53-1-107, MCA."

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

Section 1. Section 17-7-502, MCA, is amended to read:

"17-7-502. Statutory appropriations -- definition -- requisites for validity. (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.

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

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

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

(3) The following laws are the only laws containing statutory appropriations: 2-15-151; 2-17-105; 5-13-403; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-4-301; 15-1-111; 15-1-113; 15-1-121; 15-23-706; 15-35-108; 15-36-324; 15-37-117; 15-38-202; 15-65-121; 15-70-101; 17-3-106; 17-3-212; 17-3-222; 17-3-241; 17-6-101; 17-7-304; 18-11-112; 19-3-319; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506; 19-20-604; 20-8-107; 20-9-534; 20-9-622; 20-26-1503; 22-3-1004; 23-5-306; 23-5-409; 23-5-612; 23-5-631; 23-7-301; 23-7-402; 37-43-204; 37-51-501; 39-71-503; 42-2-105; 44-12-206; 44-13-102; 50-4-623; [section 3]; 53-6-703; 53-24-206; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 80-2-222; 80-4-416; 80-5-510; 80-11-518; 82-11-161; 87-1-513; 90-3-1003; 90-6-710; and 90-9-306.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state

treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to Ch. 422, L. 1997, the inclusion of 15-1-111 terminates on July 1, 2008, which is the date that section is repealed; pursuant to sec. 10, Ch. 360, L. 1999, the inclusion of 19-20-604 terminates when the amortization period for the teachers' retirement system's unfunded liability is 10 years or less; pursuant to sec. 4, Ch. 497, L. 1999, the inclusion of 15-38-202 terminates July 1, 2014; pursuant to sec. 10(2), Ch. 10, Sp. L. May 2000, the inclusion of 15-35-108 and 90-6-710 terminates June 30, 2005; pursuant to sec. 17, Ch. 414, L. 2001, the inclusion of 2-15-151 terminates December 31, 2006; and pursuant to sec. 2, Ch. 594, L. 2001, the inclusion of 17-3-241 becomes effective July 1, 2003.)"

Section 2. Section 53-1-107, MCA, is amended to read:

"53-1-107. ~~Limits on inmate~~ Inmate financial transactions and trust account system. (1) An inmate of ~~the Montana a state prison in Deer Lodge or the women's prison in Billings,~~ as defined in 53-30-101(3)(c)(i) through (3)(c)(iii) and (3)(c)(v), shall use the prison inmate trust account system administered by the department of corrections to send money out of or receive money in the facility unless the department grants the inmate an exception. ~~If an inmate accumulates a balance in excess of \$200 in the inmate's prison inmate trust account, the excess must, consistent with department rules, be forfeited for the payment of restitution or costs of incarceration.~~ The department may charge an inmate a minimum fee, not to exceed ~~\$1.60~~ \$2 each month, to administer the inmate's account.

(2) The department may, consistent with administrative rules adopted by the department, use A PORTION OF THE funds in an inmate's account to:

- (a) satisfy court-ordered restitution, whether or not restitution is a condition of probation or parole;
- (b) satisfy court-ordered child support;
- (c) satisfy court-ordered fines, fees, or costs; and
- (D) PAY FOR THE INMATE'S MEDICAL AND DENTAL EXPENSES AND COSTS OF INCARCERATION; AND
- (d)(E) pay any other fees, costs, expenses, or monetary sanctions ordered by a court or imposed by a state prison and pay reasonable claims by a debt collection or financial institution.

~~(2)(3)~~ (a) Money ~~forfeited~~ taken under subsection ~~(4)~~ (2) for the payment of restitution must be paid in the following order:

- (i) to the victim until the victim's unreimbursed pecuniary loss is satisfied;
- (ii) to the crime victims compensation and assistance program in the department of justice for deposit in the state general fund until the state is fully reimbursed for compensation to the victim provided pursuant to Title

53, chapter 9, part 1;

(iii) to any other government agency that has compensated the victim for the victim's pecuniary loss; and

(iv) to any insurance company that has compensated the victim for the victim's pecuniary loss.

(b) ~~If the inmate's sentence did not provide for the payment of restitution or if there is a balance of money in the inmate's account after restitution has been paid~~ payments under subsection (2)(a), ~~money forfeited under subsection (1) must be applied to the inmate's costs of incarceration, the department may allow the balance to accumulate in a savings subaccount for the inmate.~~

~~(3)(4)~~ The department shall adopt rules establishing ~~criteria for forfeiture~~ the prison inmate trust account system and criteria for the use of funds under subsection (1) this section. The rules must contain clear guidelines regarding ~~forfeiture~~ the use of funds that ensure ~~restitution~~ payment under subsection (2) ~~but that:~~

———~~(a) do not unreasonably inhibit an inmate's ability to save money for the purchase of tools or other items to further the education of the inmate for purposes of rehabilitation or seeking employment after release from the correctional facility; and~~

———~~(b) do and that~~ inhibit any an inmate's ability to deal in contraband or illegal acts within or outside the correctional facility state prison."

NEW SECTION. Section 3. Prison inmate welfare account. (1) There is an account in the state special revenue fund. The net proceeds from state prison inmate canteen purchases and inmate telephone use, cash proceeds from the disposition of confiscated contraband, and any public money held for the needs of inmates and their families and not otherwise allocated must be deposited in the account. Money in an account established under 53-1-107 may not be deposited in the account established in this subsection.

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

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

NEW SECTION. Section 4. Codification instruction. [Section 3] is intended to be codified as an integral part of Title 53, chapter 1, part 1, and the provisions of Title 53, chapter 1, part 1, apply to [section 3].

NEW SECTION. SECTION 5. COORDINATION INSTRUCTION. IF HOUSE BILL NO. 453 AND [SECTION 2 OF THIS ACT], AMENDING 53-1-107, ARE BOTH PASSED AND APPROVED, THEN THE AMENDMENTS TO SUBSECTIONS (1) AND (2) OF 53-1-107 CONTAINED IN HOUSE BILL NO. 453 ARE VOID.

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