

HOUSE BILL NO. 360
INTRODUCED BY LEWIS

A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING THE VOLUNTARY EMPLOYMENT TERMINATION INCENTIVE ACT; DEFINING TERMS; PROVIDING AN INCENTIVE TO ELIGIBLE STATE EMPLOYEES WHO VOLUNTARILY TERMINATE EMPLOYMENT WITHIN A SPECIFIED TIME PERIOD; SPECIFYING THE FEATURES OF THE INCENTIVE; SPECIFYING THE POWERS AND DUTIES OF THE APPROVING AUTHORITY WITH RESPECT TO MANAGING THE WORK FORCE REDUCTIONS CAUSED BY THE TERMINATION INCENTIVE; ESTABLISHING A TRUST FUND FROM WHICH INCENTIVE BENEFITS AND ASSOCIATED COMPENSATION FOR UNUSED VACATION AND SICK LEAVE MUST BE PAID; ~~PROVIDING AN APPROPRIATION FROM THE COAL SEVERANCE TAX PERMANENT FUND~~ REQUIRING CERTAIN FUNDS TO BE TRANSFERRED INTO THE TRUST FUND; PROVIDING A STATUTORY APPROPRIATION; AMENDING SECTIONS 2-18-704 ~~AND~~, 17-2-107, 17-7-139, AND 17-7-502, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

WHEREAS, state budget restrictions will require significant reductions in state agency personal services budgets; and

WHEREAS, providing state employees with an incentive to voluntarily terminate employment within a specified timeframe will benefit employees, achieve vacancy savings, and avoid forced layoffs; and

WHEREAS, the incentive provided in this bill is projected to induce ~~578~~ 963 current state employees to voluntarily leave employment; and

WHEREAS, if ~~578~~ 963 state employees voluntarily leave employment and 400 of the vacated positions are eliminated, if state agencies keep the remaining positions vacant for at least 3 months, and if positions are either eliminated or are refilled by employees paid a base salary that is no more than 90% of the base salary, plus longevity, paid to the terminating employee, then the savings in personal services costs is projected to be ~~\$34,913,627~~ \$46,876,995 for the biennium based on House Bill No. 2 personal service reductions totaling ~~\$31,894,609~~ \$42,200,000 and other personal service reductions totaling ~~\$3,019,018~~ \$4,700,000; and

WHEREAS, SAVINGS OF \$42,000,000 IN EACH SUBSEQUENT BIENNIUM IS PROJECTED; AND

WHEREAS, ~~a one-time appropriation of \$13,825,146~~ TRANSFERS TOTALING \$31,600,000, plus interest, will fund the incentive and payments OF \$26,100,000 AND PAYMENTS OF \$5,500,000 for unused vacation leave and sick leave credit projected to be due pursuant to this bill; and

WHEREAS, the savings achieved is about ~~2-1/2~~ 1.8 times the cost of the incentive THIS BIENNIUM.

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

NEW SECTION. Section 1. Short title. [Sections 1 through 7 8] may be cited as the "Voluntary Employment Termination Incentive Act".

NEW SECTION. Section 2. Definitions. As used in [sections 1 through 7 8], the following definitions apply.

(1) "Agency" ~~has the meaning provided in 2-18-101~~ MEANS A DEPARTMENT, BOARD, COMMISSION, OFFICE, BUREAU, INSTITUTION, OR UNIT OF STATE GOVERNMENT RECOGNIZED IN THE STATE BUDGET, not including the Montana university system.

(2) "Approving authority" has the meaning provided in 17-7-102(3)(a) through (3)(e).

(3) "Full-time employee" means a state agency employee who regularly works 40 hours a week or more throughout the year, NOT INCLUDING:

(A) AN ELECTED OFFICIAL, AS DEFINED IN 5-7-102;

(B) MEMBERS OF BOARDS AND COMMISSIONS APPOINTED BY THE GOVERNOR, THE LEGISLATURE, OR OTHER ELECTED STATE OFFICIALS; AND

(C) PERSONAL STAFF AS DEFINED IN 2-18-101.

(4) "Permanent employee" has the meaning provided in 2-18-101.

NEW SECTION. Section 3. Voluntary employment termination incentive -- eligibility -- benefits.

(1) A state agency employee is eligible for the voluntary employment termination incentive if the employee:

(a) is a permanent and full-time employee;

(b) voluntarily terminates employment on or after July 1, 2003, but before September 30, 2003, except as provided under [section 5(2)];

(c) waives the benefits provided pursuant to the State Employee Protection Act under Title 2, chapter 18, part 12, except as provided in subsection (2)(c); and

(d) complies with the return-to-work limitation in subsection (3).

(2) A state employee eligible under subsection (1) is entitled to:

(a) a cash incentive totaling 3% of the employee's base salary, plus longevity, as it was on the

employee's termination date, for each year of continuous employment, as defined in 2-18-601, plus ~~5%~~ 3% interest compounded annually on the unpaid balance due pursuant to this subsection (2)(a), which must be paid as an annuity, subject to the following provisions:

(I) CONTINUOUS EMPLOYMENT DOES NOT INCLUDE PRIOR SERVICE AS AN ELECTED OFFICIAL, AS DEFINED IN 5-7-102;

~~(i)(ii)~~ the total amount paid to an employee may not exceed the employee's annual base salary, plus longevity, plus ~~5%~~ 3% interest compounded annually on the unpaid balance;

~~(ii)(iii)~~ the annuity must be paid in equal monthly payments over a period determined by the eligible employee;

~~(iii)(iv)~~ a monthly payment may not be less than \$250 or the remaining balance due pursuant to this subsection (2)(a); and

~~(iv)(v)~~ the total number of monthly payments to the employee may not exceed 120;

(b) remain on the state group health insurance plan as provided for in 2-18-704(9); and

(c) access job training programs provided for in 2-18-1203(1)(b) if the employee pays the tuition or fee charged for program participation.

(3) An employee who voluntarily terminates employment and receives the benefits provided under subsection (2) may not return to employment with any agency for more than 960 hours in a calendar year unless the employee forfeits the benefits and repays any annuity payments received under subsection (2)(a).

(4) A PAYMENT RECEIVED BY AN EMPLOYEE PURSUANT TO THIS SECTION IS NOT AND MAY NOT BE INTERPRETED TO BE:

(A) TERMINATION PAY, AS THE TERM IS DEFINED IN 19-20-101 AND USED IN THE TEACHERS' RETIREMENT SYSTEM PROVISIONS CONTAINED IN 19-20-716; OR

(B) COMPENSATION FOR THE PURPOSES OF ANY RETIREMENT SYSTEM OR PLAN CONTAINED IN TITLE 19.

NEW SECTION. Section 4. Payout of leave credit. Compensation for unused vacation leave under 2-18-617(2) and for unused sick leave under 2-18-618(6) or 2-18-1311 to an employee who voluntarily terminates employment pursuant to [sections 1 through 7 8] must be paid from the account established in [section 6].

NEW SECTION. Section 5. Approving authority responsibilities -- special conditions -- waivers.
(1) Each approving authority shall, if necessary, manage reductions in workforce resulting from the incentive provided under [sections 1 through 7 8] by transferring personal service budgets between programs, agencies,

and fiscal years as provided in 17-7-139(3).

(2) Until December 31, 2003, the approving authority may provide up to three 30-day time periods, in addition to the time period provided in [section 3(1)(b)], during which an employee may terminate service and be eligible for the incentive provided in [section 3].

(3) Each approving authority shall notify employees of their options pursuant to [sections 1 through 7 8] within 30 days after [the effective date of this act].

NEW SECTION. Section 6. Termination incentive trust fund account -- STATUTORY APPROPRIATION -- reversion to the coal severance tax permanent GENERAL fund. (1) There is an account established as an employee benefit trust fund type, as provided in 17-2-102(3)(c), to the credit of the department of administration.

(2) Interest earned on funds in the account must remain in the account.

(3) Except as provided in subsection ~~(4)~~ (5), funds in the account may be used only to pay for the costs of providing the voluntary employment termination incentive provided in [section 3] and the compensation for unused annual vacation leave and sick leave provided in [section 4].

~~(4) MONEY IN THE ACCOUNT IS STATUTORILY APPROPRIATED, AS PROVIDED IN 17-7-502, TO THE DEPARTMENT OF ADMINISTRATION.~~

~~(4)(5) After all costs pursuant to [sections 1 through 7 8] have been paid, any unexpended funds in the account must revert to the coal severance tax permanent fund established in 17-5-703 GENERAL FUND.~~

NEW SECTION. Section 7. Rulemaking authority. The department of administration may adopt rules to implement the provisions of [sections 1 through 7 8].

NEW SECTION. SECTION 8. FUNDING OF EMPLOYEE TERMINATION INCENTIVE -- FUND TRANSFERS -- INTERENTITY LOANS. (1) FOR EACH EMPLOYEE WHO VOLUNTARILY TERMINATES EMPLOYMENT PURSUANT TO [SECTIONS 1 THROUGH 8], EACH AGENCY SHALL DETERMINE THE COST OF THE PAYMENTS TO BE PROVIDED TO THE EMPLOYEE PURSUANT TO [SECTIONS 3 AND 4].

(2) (A) FOR EACH EMPLOYEE WHO VOLUNTARILY TERMINATES EMPLOYMENT UNDER [SECTIONS 1 THROUGH 8] AND WHO IS COMPENSATED IN WHOLE OR IN PART FROM NONGENERAL FUND MONEY OR NONFEDERAL FUND MONEY, THE AGENCY SHALL, AT THE TIME OF THE EMPLOYEE'S TERMINATION, TRANSFER TO THE ACCOUNT ESTABLISHED IN [SECTION 6] AN AMOUNT EQUAL TO THE PROPORTIONATE SHARE OF THE COST OF PROVIDING THE PAYMENTS PURSUANT TO [SECTIONS 1 THROUGH 8] FOR THAT EMPLOYEE. THE PROPORTIONATE SHARE MUST BE CALCULATED BASED ON THE

NONGENERAL AND NONFEDERAL FUNDS USED TO COMPENSATE THE EMPLOYEE DURING THE 2002 FISCAL YEAR.

(B) IF AN AGENCY, IN CONSULTATION WITH THE APPROVING AUTHORITY, DETERMINES THAT IT DOES NOT HAVE SUFFICIENT FUNDS TO COMPLETE THE TRANSFER REQUIRED IN SUBSECTION (2)(A) AT THE TIME OF THE EMPLOYEE'S TERMINATION OR THAT THE TRANSFER WOULD LIMIT THE AGENCY'S ABILITY TO MEET MATCHING FUND REQUIREMENTS, THE APPROVING AUTHORITY MAY APPROVE A PAYMENT SCHEDULE FOR THE AGENCY TO TRANSFER THE FUNDS, PLUS 3% INTEREST ON THE FUNDS COMPOUNDED ANNUALLY, OVER A PERIOD OF TIME NOT EXCEEDING 5 YEARS FROM THE ORIGINAL DATE OF THE TRANSFER REQUIRED UNDER SUBSECTION (2)(A).

(3) FOR EACH EMPLOYEE WHO VOLUNTARILY TERMINATES EMPLOYMENT UNDER [SECTIONS 1 THROUGH 8], EACH AGENCY SHALL DETERMINE THE SHARE OF FEDERAL FUNDS ASSOCIATED WITH THE COST OF THE PAYMENTS THAT MUST BE MADE TO THE EMPLOYEE PURSUANT TO [SECTIONS 1 THROUGH 8] AND SHALL PROVIDE THIS INFORMATION TO THE DEPARTMENT OF ADMINISTRATION FOR INCLUSION IN THE STATEWIDE COST ALLOCATION PLAN PROVIDED FOR IN 17-3-110. ANY FEDERAL FUNDS RECEIVED BY THE AGENCY AS REIMBURSEMENTS FOR COSTS INCURRED PURSUANT TO [SECTIONS 1 THROUGH 8] MUST BE DEPOSITED IN THE GENERAL FUND, AS PROVIDED IN 17-3-111(2), THEN TRANSFERRED BY THE AGENCY TO THE ACCOUNT ESTABLISHED IN [SECTION 6].

(4) ON AUGUST 1, 2003, THE BUDGET DIRECTOR, APPOINTED PURSUANT TO 17-7-103, SHALL TRANSFER FROM THE GENERAL FUND TO THE ACCOUNT ESTABLISHED IN [SECTION 6] \$18,268,000.

(5) THE DEPARTMENT MAY PROVIDE INTERENTITY LOANS PURSUANT TO 17-2-107 TO THE ACCOUNT ESTABLISHED IN [SECTION 6] IF THE LOANS ARE NECESSARY TO MEET CASHFLOW DEMANDS PURSUANT TO OBLIGATIONS INCURRED UNDER [SECTIONS 1 THROUGH 8]. THE TIME PERIOD OVER WHICH THE LOANS MUST BE REPAID MAY BE EXTENDED, AS PROVIDED IN 17-2-107(3), FOR ADDITIONAL 1-YEAR PERIODS, UP TO A TOTAL OF 5 YEARS.

Section 9. Section 2-18-704, MCA, is amended to read:

"2-18-704. Mandatory provisions. (1) An insurance contract or plan issued under this part must contain provisions that permit:

(a) the member of a group who retires from active service under the appropriate retirement provisions of a defined benefit plan provided by law or, in the case of the defined contribution plan provided in Title 19, chapter 3, part 21, a member with at least 5 years of service and who is at least age 50 while in covered employment to remain a member of the group until the member becomes eligible for medicare under the federal Health Insurance for the Aged Act, 42 U.S.C. 1395, as amended, unless the member is a participant in another group plan with substantially the same or greater benefits at an equivalent cost or unless the member is employed and, by virtue of that employment, is eligible to participate in another group plan with substantially the same or

greater benefits at an equivalent cost;

(b) the surviving spouse of a member to remain a member of the group as long as the spouse is eligible for retirement benefits accrued by the deceased member as provided by law unless the spouse is eligible for medicare under the federal Health Insurance for the Aged Act or unless the spouse has or is eligible for equivalent insurance coverage as provided in subsection (1)(a);

(c) the surviving children of a member to remain members of the group as long as they are eligible for retirement benefits accrued by the deceased member as provided by law unless they have equivalent coverage as provided in subsection (1)(a) or are eligible for insurance coverage by virtue of the employment of a surviving parent or legal guardian.

(2) An insurance contract or plan issued under this part must contain the provisions of subsection (1) for remaining a member of the group and also must permit:

(a) the spouse of a retired member the same rights as a surviving spouse under subsection (1)(b);

(b) the spouse of a retiring member to convert a group policy as provided in 33-22-508; and

(c) continued membership in the group by anyone eligible under the provisions of this section, notwithstanding the person's eligibility for medicare under the federal Health Insurance for the Aged Act.

(3) (a) A state insurance contract or plan must contain provisions that permit a legislator to remain a member of the state's group plan until the legislator becomes eligible for medicare under the federal Health Insurance for the Aged Act, 42 U.S.C. 1395, as amended, if the legislator:

(i) terminates service in the legislature and is a vested member of a state retirement system provided by law; and

(ii) notifies the department of administration in writing within 90 days of the end of the legislator's legislative term.

(b) A former legislator may not remain a member of the group plan under the provisions of subsection (3)(a) if the person:

(i) is a member of a plan with substantially the same or greater benefits at an equivalent cost; or

(ii) is employed and, by virtue of that employment, is eligible to participate in another group plan with substantially the same or greater benefits at an equivalent cost.

(c) A legislator who remains a member of the group under the provisions of subsection (3)(a) and subsequently terminates membership may not rejoin the group plan unless the person again serves as a legislator.

(4) (a) A state insurance contract or plan must contain provisions that permit continued membership in

the state's group plan by a member of the judges' retirement system who leaves judicial office but continues to be an inactive vested member of the judges' retirement system as provided by 19-5-301. The judge shall notify the department of administration in writing within 90 days of the end of the judge's judicial service of the judge's choice to continue membership in the group plan.

(b) A former judge may not remain a member of the group plan under the provisions of this subsection (4) if the person:

(i) is a member of a plan with substantially the same or greater benefits at an equivalent cost;

(ii) is employed and, by virtue of that employment, is eligible to participate in another group plan with substantially the same or greater benefits at an equivalent cost; or

(iii) becomes eligible for medicare under the federal Health Insurance for the Aged Act, 42 U.S.C. 1395, as amended.

(c) A judge who remains a member of the group under the provisions of this subsection (4) and subsequently terminates membership may not rejoin the group plan unless the person again serves in a position covered by the state's group plan.

(5) A person electing to remain a member of the group under subsection (1), (2), (3), ~~or (4)~~, or (9), shall pay the full premium for coverage and for that of the person's covered dependents.

(6) An insurance contract or plan issued under this part that provides for the dispensing of prescription drugs by an out-of-state mail service pharmacy, as defined in 37-7-702:

(a) must permit any member of a group to obtain prescription drugs from a pharmacy located in Montana that is willing to match the price charged to the group or plan and to meet all terms and conditions, including the same professional requirements that are met by the mail service pharmacy for a drug, without financial penalty to the member; and

(b) may only be with an out-of-state mail service pharmacy that is registered with the board under Title 37, chapter 7, part 7, and that is registered in this state as a foreign corporation.

(7) An insurance contract or plan issued under this part must include coverage for treatment of inborn errors of metabolism, as provided for in 33-22-131.

(8) An insurance contract or plan issued under this part must include substantially equivalent or greater coverage for outpatient self-management training and education for the treatment of diabetes and certain diabetic equipment and supplies as provided in 33-22-129.

(9) A state insurance contract issued under this part must permit an employee eligible for the benefit provided pursuant to [section 3(2)(b)] to remain a member of the group health insurance plan for up to 5 years

after the employee's voluntary termination pursuant to [sections 1 through 7 8]. The years during which an employee remains a plan member under this subsection must be considered active service or covered employment for the purposes of determining the employee's continued eligibility to remain on the group health insurance plan under subsection (1)(a). The provisions of this subsection are in addition to the other rights and benefits provided for in this section."

SECTION 10. 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) through (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 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 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, except as provided in [section 8(5)], 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 17-2-102(4)(a)(iv) and (4)(b) through (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 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) through (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(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.

(9) A loan may not be authorized under this section to any fund or accounting entity that is owed federal or other third-party funds unless the requesting agency certifies to the agency approving the loan that it has and will continue to bill the federal government or other third party for the requesting agency's share of costs incurred in the fund or accounting entity on the earliest date allowable under federal or other third-party regulations applicable to the program. The requesting agency shall recertify its timely billing status to the agency that approved the loan at least monthly during the term of the loan. If at any time the requesting agency fails to recertify the timely billing, the agency that approved the loan shall cancel the loan and return the money to its original source."

Section 11. Section 17-7-139, MCA, is amended to read:

"17-7-139. Program transfers. (1) (a) Unless prohibited by law or a condition contained in the general appropriations act, the approving authority may approve agency requests to transfer appropriations between programs within each fund type within each fiscal year. ~~The~~ Subject to subsection (3), the legislature may restrict the use of funds appropriated for personal services to allow use only for the purpose of the appropriation.

(b) An explanation of any transfer that involves a significant change in agency or program scope, objectives, activities, or expenditures must be submitted to the legislative fiscal analyst for review and comment by the legislative finance committee prior to any implementation of the change. If the approving authority certifies that a request for a transfer representing a significant change in agency or program scope, objectives, activities, or expenditures is time-sensitive, the approving authority may approve the transfer prior to the next regularly scheduled meeting of the legislative finance committee. The approving authority shall submit all proposed time-sensitive changes to the legislative fiscal analyst prior to approval. If the legislative fiscal analyst determines that notification of the legislative finance committee is warranted, the legislative fiscal analyst shall immediately notify as many members as possible of the proposed change and communicate any concerns expressed to the approving authority. The approving authority shall present a report fully explaining the reasons for the action to the next meeting of the legislative finance committee.

(c) All program transfers must be completed within the same fund from which the transfer originated. A

request for a transfer accompanied by a justification explaining the reason for the transfer must be submitted by the requesting agency to the approving authority and the office of budget and program planning. Upon approval of the transfer in writing, the approving authority shall inform the legislative fiscal analyst of the approved transfer and the justification for the transfer. If money appropriated for a fiscal year is transferred to another fiscal year, the money may not be retransferred, except that money remaining from projected costs for spring fires estimated in the last quarter of the first year of a biennium may be retransferred.

(2) For the purposes of subsection (1), an agency or program is considered to have a significant change in its scope, objectives, activities, or expenditures if:

(a) the budget transfer exceeds \$1 million; or

(b) the budget transfer exceeds 25% of a program's total operating plan and the transfer is greater than \$25,000. If there have been other transfers to or from the program in the current fiscal year, all the transfers, including the transfer under consideration, must be used in determining the 25% and \$25,000 threshold.

(3) To manage the workforce reductions caused pursuant to the Voluntary Employment Termination Incentive Act, provided for in [sections 1 through 7 8], the approving authority for the executive branch may, in addition to program transfers authorized under subsection (1), transfer up to 50% of a program's personal services budget between state agencies unless the transfer is prohibited by the general appropriations act, or by law."

SECTION 12. 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; [section 6]; 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; 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.)"

~~NEW SECTION. Section 10. Transfer from coal tax permanent fund -- appropriation. (1) There is transferred from the coal severance tax permanent fund established in Article IX, section 5, of the Montana constitution and provided for in 17-5-703 to the trust fund established in [section 6] \$13,825,146 for fiscal year 2004.~~

~~(2) There is appropriated to the department of administration from the trust fund established in [section 6] \$13,825,146 in fiscal year 2004 to implement [sections 1 through 7].~~

NEW SECTION. Section 13. Contingent voidness. (1) If [this act] and House Bill No. 2 are both passed and approved and if the appropriations contained in House Bill No. 2 are not accompanied by a narrative stating that appropriated amounts for personal services reflect reductions totaling at least ~~\$31.8~~ \$42.2 million as the savings anticipated pursuant to [this act], then [this act] is void.

(2) IF HOUSE BILL NO. 363 IS NOT PASSED AND APPROVED, THEN [THIS ACT] IS VOID.

~~NEW SECTION. Section 12. Three-fourths vote required. Because [section 10] transfers money from~~

~~the coal severance tax trust fund for appropriation, Article IX, section 5, of the Montana constitution requires a vote of three-fourths of the members of each house of the legislature for passage.~~

NEW SECTION. **Section 14. Codification instruction.** [Sections 1 through 7 8] are intended to be codified as an integral part of Title 2, chapter 18, and the provisions of Title 2, chapter 18, apply to [sections 1 through 7 8].

NEW SECTION. **Section 15. Effective date.** [This act] is effective on passage and approval.

- END -

