

HOUSE BILL NO. 613

INTRODUCED BY D. ROBERTS

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3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING ELEMENTS OF THE BUDGETING  
5 PROCESS TO IMPLEMENT PROVISIONS OF THE GENERAL APPROPRIATIONS ACT; DEFINING THE BASE  
6 BUDGET FOR THE HUMAN AND COMMUNITY SERVICES DIVISION IN THE DEPARTMENT OF PUBLIC  
7 HEALTH AND HUMAN SERVICES; PROVIDING THAT EMPLOYEES OF THE MONTANA SCHOOL FOR THE  
8 DEAF AND BLIND ARE EXEMPT FROM VACANCY SAVINGS; REVISING REPORTING REQUIREMENTS FOR  
9 THE OFFICE OF STATE PUBLIC DEFENDER TO THE LEGISLATIVE FINANCE COMMITTEE; PROVIDING  
10 BENCHMARKS FOR CATEGORIZING PETROLEUM STORAGE TANK RELEASE SITES AS RESOLVED AND  
11 THE ELIMINATION OF THE BASE BUDGET WHEN BENCHMARKS ARE NOT MET; ESTABLISHING  
12 REPORTING REQUIREMENTS TO THE ENVIRONMENTAL QUALITY COUNCIL REGARDING THE CLOSURE  
13 OF PETROLEUM STORAGE TANK RELEASE SITES AS IT RELATES TO THE BASE BUDGET AND THE  
14 BENCHMARKS; AMENDING SECTIONS 17-7-102, ~~17-7-444~~, AND 47-1-201, MCA; AND PROVIDING AN  
15 EFFECTIVE DATE AND A TERMINATION DATE."

16  
17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

18  
19 **Section 1.** Section 17-7-102, MCA, is amended to read:

20 **"17-7-102. (Temporary) Definitions.** As used in this chapter, the following definitions apply:

21 (1) "Additional services" means different services or more of the same services.

22 (2) "Agency" means all offices, departments, boards, commissions, institutions, universities, colleges,  
23 and any other person or any other administrative unit of state government that spends or encumbers public  
24 money by virtue of an appropriation from the legislature under 17-8-101.

25 (3) "Approving authority" means:

26 (a) the governor or the governor's designated representative for executive branch agencies;

27 (b) the chief justice of the supreme court or the chief justice's designated representative for judicial  
28 branch agencies;

29 (c) the speaker for the house of representatives;

30 (d) the president for the senate;



- 1 (e) appropriate legislative committees or a designated representative for legislative branch agencies;  
2 or
- 3 (f) the board of regents of higher education or its designated representative for the university system.
- 4 (4) (a) "Base budget" means the resources for the operation of state government that are of an ongoing  
5 and nonextraordinary nature in the current biennium. The base budget for the state general fund and state special  
6 revenue funds may not exceed that level of funding authorized by the previous legislature. For the biennium  
7 beginning July 1, 2011, the term includes items specified in section 85, Chapter 489, Laws of 2009.
- 8 (b) The term does not include funding for water adjudication if the accountability benchmarks contained  
9 in 85-2-271 are not met.
- 10 (5) "Budget amendment" means a temporary appropriation as provided in Title 17, chapter 7, part 4.
- 11 (6) "Emergency" means a catastrophe, disaster, calamity, or other serious unforeseen and unanticipated  
12 circumstance that has occurred subsequent to the time that an agency's appropriation was made, that was clearly  
13 not within the contemplation of the legislature and the governor, and that affects one or more functions of a state  
14 agency and the agency's expenditure requirements for the performance of the function or functions.
- 15 (7) "Funds subject to appropriation" means those funds required to be paid out of the treasury as set  
16 forth in 17-8-101.
- 17 (8) "Necessary" means essential to the public welfare and of a nature that cannot wait until the next  
18 legislative session for legislative consideration.
- 19 (9) "New proposals" means requests to provide new nonmandated services, to change program  
20 services, to eliminate existing services, or to change sources of funding. For purposes of establishing the present  
21 law base, the distinction between new proposals and the adjustments to the base budget to develop the present  
22 law base is to be determined by the existence of constitutional or statutory requirements for the proposed  
23 expenditure. Any proposed increase or decrease that is not based on those requirements is considered a new  
24 proposal.
- 25 (10) (a) "Present law base" means, subject to subsection (10)(b), that level of funding needed under  
26 present law to maintain operations and services at the level authorized by the previous legislature, including but  
27 not limited to:
- 28 (i) changes resulting from legally mandated workload, caseload, or enrollment increases or decreases;  
29 (ii) changes in funding requirements resulting from constitutional or statutory schedules or formulas;  
30 (iii) inflationary or deflationary adjustments;

1 (iv) elimination of nonrecurring appropriations; and  
2 (v) items specified in section 85, Chapter 489, Laws of 2009.

3 (b) For the budget for the 2011 legislative session, present law base must be adjusted by reducing  
4 general fund budgets by the equivalent of that portion of the 2% across-the-board reduction assessed by the 61st  
5 legislature on selected agencies that was allocated by those agencies to personal services in the 2011 biennium.  
6 The director of the governor's office of budget and program planning and the legislative fiscal analyst shall agree  
7 on a mechanism for determining how agencies have allocated this reduction.

8 (11) "Program" means a principal organizational or budgetary unit within an agency.

9 (12) "Requesting agency" means the agency of state government that has requested a specific budget  
10 amendment.

11 (13) "University system unit" means the board of regents of higher education; office of the commissioner  
12 of higher education; university of Montana, with campuses at Missoula, Butte, Dillon, and Helena; Montana state  
13 university, with campuses at Bozeman, Billings, Havre, and Great Falls; the agricultural experiment station, with  
14 central offices at Bozeman; the forest and conservation experiment station, with central offices at Missoula; the  
15 cooperative extension service, with central offices at Bozeman; the bureau of mines and geology, with central  
16 offices at Butte; the fire services training school at Great Falls; and the community colleges at Miles City,  
17 Glendive, and Kalispell. (Terminates June 30, 2011--sec. 35(1), Ch. 486, L. 2009; sec. 82, Ch. 489, L. 2009.)

18 **17-7-102. (Effective July 1, 2011) Definitions.** As used in this chapter, the following definitions apply:

19 (1) "Additional services" means different services or more of the same services.

20 (2) "Agency" means all offices, departments, boards, commissions, institutions, universities, colleges,  
21 and any other person or any other administrative unit of state government that spends or encumbers public  
22 money by virtue of an appropriation from the legislature under 17-8-101.

23 (3) "Approving authority" means:

24 (a) the governor or the governor's designated representative for executive branch agencies;

25 (b) the chief justice of the supreme court or the chief justice's designated representative for judicial  
26 branch agencies;

27 (c) the speaker for the house of representatives;

28 (d) the president for the senate;

29 (e) appropriate legislative committees or a designated representative for legislative branch agencies;

30 or

1 (f) the board of regents of higher education or its designated representative for the university system.

2 (4) (a) "Base budget" means the resources for the operation of state government that are of an ongoing  
3 and nonextraordinary nature in the current biennium. The base budget for the state general fund and state special  
4 revenue funds may not exceed that level of funding authorized by the previous legislature. For the biennium  
5 beginning July 1, 2013, the base budget for the human and community services division in the department of  
6 public health and human services may also include the state general fund equivalent to expenditures in fiscal year  
7 2012 of one-time-only TANF federal special revenue funding appropriated during the 2013 biennium to the  
8 division for the purpose of child care.

9 (b) The term does not include:

10 (i) funding for water adjudication if the accountability benchmarks contained in 85-2-271 are not met;

11 (ii) funding for petroleum storage tank leak prevention if the accountability benchmarks in [section 5 4]  
12 are not met.

13 (5) "Budget amendment" means a temporary appropriation as provided in Title 17, chapter 7, part 4.

14 (6) "Emergency" means a catastrophe, disaster, calamity, or other serious unforeseen and unanticipated  
15 circumstance that has occurred subsequent to the time that an agency's appropriation was made, that was clearly  
16 not within the contemplation of the legislature and the governor, and that affects one or more functions of a state  
17 agency and the agency's expenditure requirements for the performance of the function or functions.

18 (7) "Funds subject to appropriation" means those funds required to be paid out of the treasury as set  
19 forth in 17-8-101.

20 (8) "Necessary" means essential to the public welfare and of a nature that cannot wait until the next  
21 legislative session for legislative consideration.

22 (9) "New proposals" means requests to provide new nonmandated services, to change program  
23 services, to eliminate existing services, or to change sources of funding. For purposes of establishing the present  
24 law base, the distinction between new proposals and the adjustments to the base budget to develop the present  
25 law base is to be determined by the existence of constitutional or statutory requirements for the proposed  
26 expenditure. Any proposed increase or decrease that is not based on those requirements is considered a new  
27 proposal.

28 (10) "Present law base" means that level of funding needed under present law to maintain operations and  
29 services at the level authorized by the previous legislature, including but not limited to:

30 (a) changes resulting from legally mandated workload, caseload, or enrollment increases or decreases;

- 1 (b) changes in funding requirements resulting from constitutional or statutory schedules or formulas;  
2 (c) inflationary or deflationary adjustments; and  
3 (d) elimination of nonrecurring appropriations.
- 4 (11) "Program" means a principal organizational or budgetary unit within an agency.  
5 (12) "Requesting agency" means the agency of state government that has requested a specific budget  
6 amendment.
- 7 (13) "University system unit" means the board of regents of higher education; office of the commissioner  
8 of higher education; university of Montana, with campuses at Missoula, Butte, Dillon, and Helena; Montana state  
9 university, with campuses at Bozeman, Billings, Havre, and Great Falls; the agricultural experiment station, with  
10 central offices at Bozeman; the forest and conservation experiment station, with central offices at Missoula; the  
11 cooperative extension service, with central offices at Bozeman; the bureau of mines and geology, with central  
12 offices at Butte; the fire services training school at Great Falls; and the community colleges at Miles City,  
13 Glendive, and Kalispell. (Terminates June 30, 2020--sec. 11, Ch. 319, L. 2007.)
- 14 **17-7-102. (Effective July 1, 2020) Definitions.** As used in this chapter, the following definitions apply:  
15 (1) "Additional services" means different services or more of the same services.  
16 (2) "Agency" means all offices, departments, boards, commissions, institutions, universities, colleges,  
17 and any other person or any other administrative unit of state government that spends or encumbers public  
18 money by virtue of an appropriation from the legislature under 17-8-101.  
19 (3) "Approving authority" means:  
20 (a) the governor or the governor's designated representative for executive branch agencies;  
21 (b) the chief justice of the supreme court or the chief justice's designated representative for judicial  
22 branch agencies;  
23 (c) the speaker for the house of representatives;  
24 (d) the president for the senate;  
25 (e) appropriate legislative committees or a designated representative for legislative branch agencies;  
26 or  
27 (f) the board of regents of higher education or its designated representative for the university system.  
28 (4) "Base budget" means the resources for the operation of state government that are of an ongoing and  
29 nonextraordinary nature in the current biennium. The base budget for the state general fund and state special  
30 revenue funds may not exceed that level of funding authorized by the previous legislature.

1 (5) "Budget amendment" means a temporary appropriation as provided in Title 17, chapter 7, part 4.

2 (6) "Emergency" means a catastrophe, disaster, calamity, or other serious unforeseen and unanticipated  
3 circumstance that has occurred subsequent to the time that an agency's appropriation was made, that was clearly  
4 not within the contemplation of the legislature and the governor, and that affects one or more functions of a state  
5 agency and the agency's expenditure requirements for the performance of the function or functions.

6 (7) "Funds subject to appropriation" means those funds required to be paid out of the treasury as set  
7 forth in 17-8-101.

8 (8) "Necessary" means essential to the public welfare and of a nature that cannot wait until the next  
9 legislative session for legislative consideration.

10 (9) "New proposals" means requests to provide new nonmandated services, to change program  
11 services, to eliminate existing services, or to change sources of funding. For purposes of establishing the present  
12 law base, the distinction between new proposals and the adjustments to the base budget to develop the present  
13 law base is to be determined by the existence of constitutional or statutory requirements for the proposed  
14 expenditure. Any proposed increase or decrease that is not based on those requirements is considered a new  
15 proposal.

16 (10) "Present law base" means that level of funding needed under present law to maintain operations and  
17 services at the level authorized by the previous legislature, including but not limited to:

- 18 (a) changes resulting from legally mandated workload, caseload, or enrollment increases or decreases;  
19 (b) changes in funding requirements resulting from constitutional or statutory schedules or formulas;  
20 (c) inflationary or deflationary adjustments; and  
21 (d) elimination of nonrecurring appropriations.

22 (11) "Program" means a principal organizational or budgetary unit within an agency.

23 (12) "Requesting agency" means the agency of state government that has requested a specific budget  
24 amendment.

25 (13) "University system unit" means the board of regents of higher education; office of the commissioner  
26 of higher education; university of Montana, with campuses at Missoula, Butte, Dillon, and Helena; Montana state  
27 university, with campuses at Bozeman, Billings, Havre, and Great Falls; the agricultural experiment station, with  
28 central offices at Bozeman; the forest and conservation experiment station, with central offices at Missoula; the  
29 cooperative extension service, with central offices at Bozeman; the bureau of mines and geology, with central  
30 offices at Butte; the fire services training school at Great Falls; and the community colleges at Miles City,

1 Glendive, and Kalispell."

2

3 ~~Section 2.~~ Section 17-7-111, MCA, is amended to read:

4 ~~"17-7-111. Preparation of state budget -- agency program budgets -- form distribution and~~

5 ~~contents.~~ (1) (a) To prepare a state budget, the executive branch, the legislature, and the citizens of the state

6 ~~need information that is consistent and accurate. Necessary information includes detailed disbursements by fund~~

7 ~~type for each agency and program for the appropriate time period, recommendations for creating a balanced~~

8 ~~budget, and recommended disbursements and estimated receipts by fund type and fund category.~~

9 ~~(b) Subject to the requirements of this chapter, the budget director and the legislative fiscal analyst shall~~

10 ~~by agreement:~~

11 ~~(i) establish necessary standards, formats, and other matters necessary to share information between~~

12 ~~the agencies and to ensure that information is consistent and accurate for the preparation of the state's budget;~~

13 ~~and~~

14 ~~(ii) provide for the collection and provision of budgetary and financial information that is in addition to or~~

15 ~~different from the information otherwise required to be provided pursuant to this section.~~

16 ~~(2) In the preparation of a state budget, the budget director shall, not later than the date specified in~~

17 ~~17-7-112(1), distribute to all agencies the proper forms and instructions necessary for the preparation of budget~~

18 ~~estimates by the budget director. These forms must be prescribed by the budget director to procure the~~

19 ~~information required by subsection (3). The forms must be submitted to the budget director by the date provided~~

20 ~~in 17-7-112(2), or the agency's budget is subject to preparation based upon estimates as provided in 17-7-112(5).~~

21 ~~The budget director may refuse to accept forms that do not comply with the provisions of this section or the~~

22 ~~instructions given for completing the forms.~~

23 ~~(3) Subject to subsections (7) and (8), the agency budget request must set forth a balanced financial plan~~

24 ~~for the agency completing the forms for each fiscal year of the ensuing biennium. The plan must consist of:~~

25 ~~(a) a consolidated agency budget summary of funds subject to appropriation, as provided in 17-8-101,~~

26 ~~for the current base budget expenditures, including statutory appropriations, and for each present law adjustment~~

27 ~~and new proposal request setting forth the aggregate figures of the full-time equivalent personnel positions (FTE)~~

28 ~~and the budget, showing a balance between the total proposed disbursements and the total anticipated receipts;~~

29 ~~together with the other means of financing the budget for each fiscal year of the ensuing biennium, contrasted~~

30 ~~with the corresponding figures for the last-completed fiscal year and the fiscal year in progress;~~

- 1 ~~——— (b) a schedule of the actual and projected receipts, disbursements, and solvency of each fund for the~~  
2 ~~current biennium and estimated for the subsequent biennium;~~
- 3 ~~——— (c) a statement of the agency mission and a statement of goals and objectives for each program of the~~  
4 ~~agency. The goals and objectives must include, in a concise form, sufficient specific information and quantifiable~~  
5 ~~information to enable the legislature to formulate an appropriations policy regarding the agency and its programs~~  
6 ~~and to allow a determination, at some future date, on whether the agency has succeeded in attaining its goals~~  
7 ~~and objectives.~~
- 8 ~~——— (d) actual FTE and disbursements for the completed fiscal year of the current biennium, estimated FTE~~  
9 ~~and disbursements for the current fiscal year, and the agency's request for the ensuing biennium, by program;~~
- 10 ~~——— (e) actual disbursements for the completed fiscal year of the current biennium, estimated disbursements~~  
11 ~~for the current fiscal year, and the agency's recommendations for the ensuing biennium, by disbursement~~  
12 ~~category;~~
- 13 ~~——— (f) for agencies with more than 20 FTE, a plan to reduce the proposed base budget for the general~~  
14 ~~appropriations act and the proposed state pay plan to 95% of the current base budget or lower if directed by the~~  
15 ~~budget director. Each agency plan must include base budget reductions that reflect the required percentage~~  
16 ~~reduction by fund type for the general fund and state special revenue fund types. Exempt from the calculations~~  
17 ~~of the 5% target amounts are legislative audit costs, administratively attached entities that hire their own staff~~  
18 ~~under 2-15-121, and state special revenue accounts that do not transfer their investment earnings or fund~~  
19 ~~balances to the general fund. The plan must include:~~
- 20 ~~——— (i) a prioritized list of services that would be eliminated or reduced;~~
- 21 ~~——— (ii) for each service included in the prioritized list, the savings that would result from the elimination or~~  
22 ~~reduction; and~~
- 23 ~~——— (iii) the consequences or impacts of the proposed elimination or reduction of each service.~~
- 24 ~~——— (g) a reference for each new information technology proposal stating whether the new proposal is~~  
25 ~~included in the approved agency information technology plan as required in 2-17-523;~~
- 26 ~~——— (h) energy cost saving information as required by 90-4-616; and~~
- 27 ~~——— (i) other information the budget director feels is necessary for the preparation of a budget.~~
- 28 ~~——— (4) The budget director shall prepare and submit to the legislative fiscal analyst in accordance with~~  
29 ~~17-7-112:~~
- 30 ~~——— (a) detailed recommendations for the state long-range building program. Each recommendation must~~



- 1 be presented by institution, agency, or branch, by funding source, with a description of each proposed project.
- 2 ~~—— (b) a statewide project budget summary as provided in 2-17-526;~~
- 3 ~~—— (c) the proposed pay plan schedule for all executive branch employees at the program level by fund, with~~
- 4 ~~the specific cost and funding recommendations for each agency. Submission of a pay plan schedule under this~~
- 5 ~~subsection is not an unfair labor practice under 39-31-401.~~
- 6 ~~—— (d) agency proposals for the use of cultural and aesthetic project grants under Title 22, chapter 2, part~~
- 7 ~~3, the renewable resource grant and loan program under Title 85, chapter 1, part 6, the reclamation and~~
- 8 ~~development grants program under Title 90, chapter 2, part 11, and the treasure state endowment program under~~
- 9 ~~Title 90, chapter 6, part 7.~~
- 10 ~~—— (5) The board of regents shall submit, with its budget request for each university unit in accordance with~~
- 11 ~~17-7-112, a report on the university system bonded indebtedness and related finances as provided in this~~
- 12 ~~subsection (5). The report must include the following information for each year of the biennium, contrasted with~~
- 13 ~~the same information for the last completed fiscal year and the fiscal year in progress:~~
- 14 ~~—— (a) a schedule of estimated total bonded indebtedness for each university unit by bond indenture;~~
- 15 ~~—— (b) a schedule of estimated revenue, expenditures, and fund balances by fiscal year for each outstanding~~
- 16 ~~bond indenture, clearly delineating the accounts relating to each indenture and the minimum legal funding~~
- 17 ~~requirements for each bond indenture; and~~
- 18 ~~—— (c) a schedule showing the total funds available from each bond indenture and its associated accounts,~~
- 19 ~~with a list of commitments and planned expenditures from the accounts, itemized by revenue source and project~~
- 20 ~~for each year of the current and ensuing bienniums.~~
- 21 ~~—— (6) (a) The department of revenue shall make Montana individual income tax information available by~~
- 22 ~~removing names, addresses, and social security numbers and substituting in their place a state accounting record~~
- 23 ~~identifier number. Except for the purposes of complying with federal law, the department may not alter the data~~
- 24 ~~in any other way.~~
- 25 ~~—— (b) The department of revenue shall provide the name and address of a taxpayer on written request of~~
- 26 ~~the budget director when the values on the requested return, including estimated payments, are considered~~
- 27 ~~necessary by the budget director to properly analyze state revenue and are of a sufficient magnitude to materially~~
- 28 ~~affect the analysis and when the identity of the taxpayer is necessary to evaluate the effect of the return or~~
- 29 ~~payments on the analysis being performed.~~
- 30 ~~—— (7) (a) The department of public health and human services' budget request for the 2013 biennium must~~

1 identify changes necessary to reduce the 2013 biennium expenditures to the level funded in the general  
 2 appropriations act. The department may include changes such as reducing administrative costs, developing more  
 3 cost-efficient methods to deliver services, limiting the number of medicaid services that adults may receive,  
 4 changing medicaid services included in the Montana medicaid state plan, changing eligibility or level-of-care  
 5 requirements for medicaid waiver services, limiting or changing services that are fully state-funded, or  
 6 implementing other initiatives that reduce state funds. Achieving the necessary general fund reduction in the 2013  
 7 biennium budget request may not include shifting costs to state special revenue funds.

8 ~~—— (b) The department of public health and human services shall prepare a work plan with goals,  
 9 milestones, and measures to guide its review of alternatives to identify, evaluate, and select initiatives to reduce  
 10 ongoing state spending in its 2013 biennium budget submission. The department shall submit the work plan,  
 11 goals, milestones, and measures to the legislative finance committee at its first meeting after the adjournment  
 12 of the 2009 legislative session for its review and comment. The department shall provide an update of its budget  
 13 reduction for review and comment at each legislative finance committee meeting in a format developed with and  
 14 agreed upon by the committee.~~

15 ~~—— (8) Each agency budget request for the 2013 biennium must include the adjustments to present law base  
 16 specified in 17-7-102(10)(b)."~~

17

18 **Section 2.** Section 47-1-201, MCA, is amended to read:

19 **"47-1-201. Office of state public defender -- personnel -- compensation -- expenses -- reports. (1)**

20 There is an office of state public defender. The office must be located in Butte, Montana. The head of the office  
 21 is the chief public defender, who is supervised by the commission.

22 (2) The chief public defender must be an attorney licensed to practice law in the state. The chief public  
 23 defender is appointed by and serves at the pleasure of the commission. The position of chief public defender is  
 24 exempt from the state classification and pay plan, as provided in 2-18-103. The commission shall establish  
 25 compensation for the position commensurate with the position's duties and responsibilities, taking into account  
 26 the compensation paid to prosecutors with similar responsibilities.

27 (3) The chief public defender shall hire or contract for and supervise other personnel necessary to  
 28 perform the function of the office and to implement the provisions of this chapter, including but not limited to:

29 (a) the following personnel who are exempt from the state classification and pay plan, as provided in  
 30 2-18-103:

- 1 (i) an administrative director, who must be experienced in business management and contract  
 2 management;
- 3 (ii) a chief appellate defender;
- 4 (iii) a chief contract manager to oversee and enforce the contracting program;
- 5 (iv) a training coordinator, appointed as provided in 47-1-210;
- 6 (v) deputy public defenders, as provided in 47-1-215;
- 7 (b) assistant public defenders; and
- 8 (c) other necessary administrative and professional support staff for the office.
- 9 (4) Positions established pursuant to subsections (3)(b) and (3)(c) are classified positions, and persons  
 10 in those positions are entitled to salaries, wages, benefits, and expenses as provided in Title 2, chapter 18.
- 11 (5) The following expenses are payable by the office if the expense is incurred at the request of a public  
 12 defender:
- 13 (a) witness and interpreter fees and expenses provided in Title 26, chapter 2, part 5, and 46-15-116; and
- 14 (b) transcript fees, as provided in 3-5-604.
- 15 (6) If the costs to be paid pursuant to this section are not paid directly, reimbursement must be made  
 16 within 30 days of the receipt of a claim.
- 17 (7) The office may accept gifts, grants, or donations, which must be deposited in the account provided  
 18 for in 47-1-110.
- 19 (8) The chief public defender shall establish procedures to provide for the approval, payment, recording,  
 20 reporting, and management of defense expenses paid pursuant to this section.
- 21 (9) (a) The office of public defender is required to report data for each fiscal year representing the  
 22 caseload for the entire public defender system to the legislative finance committee. The report must include  
 23 unduplicated count data for both employee and contract attorneys ALL CASES FOR WHICH REPRESENTATION IS PAID  
 24 FOR BY THE OFFICE OF PUBLIC DEFENDER, the number of new cases opened, the number of cases closed, the  
 25 number of cases that remain open and active, the number of cases that remain open but are inactive, and the  
 26 average number of days between case opening and closure for each case type. The report for the prior fiscal year  
 27 ~~2009~~ must be provided to the legislative finance committee by ~~January 1, 2010~~, and the report for fiscal year 2010  
 28 ~~must be provided to the legislative finance committee by September 30, 2010~~ September 30 following the close  
 29 of the fiscal year.
- 30 (b) The office of public defender is required to report to the legislative finance committee for each fiscal

1 year on the amount of funds collected as reimbursement for services rendered, including the number of cases  
 2 for which a collection is made, the number of cases for which an amount is owed, the amount collected, and the  
 3 amount remaining unpaid. The report for the prior fiscal year ~~2009~~ must be provided to the legislative finance  
 4 committee by ~~January 1, 2010, and the report for fiscal year 2010 must be provided to the legislative finance~~  
 5 ~~committee by September 30, 2010~~ September 30 following the close of the fiscal year."

6  
 7 **NEW SECTION. Section 3. Montana school for the deaf and blind exempt from vacancy savings.**

8 (1) Vacancy savings may not be imposed on authorized positions in the Montana school for the deaf and blind,  
 9 as described in 20-8-101.

10 (2) Each fiscal year, the board shall provide to the legislative audit committee provided for in 5-13-201  
 11 a detailed report on all authorized positions in the Montana school for the deaf and blind. At a minimum, the report  
 12 must include the following information:

13 (a) the number of positions that were filled during the year and the average salary paid at hire; and  
 14 (b) the total number of vacancies incurred during the year broken out by position title, the cause of each  
 15 vacancy, and the length of time the position remained vacant.

16 (3) For purposes of this section, the following definitions apply:

17 (a) "Authorized positions" means those positions included in the list of current authorized positions that  
 18 the board is required to maintain under 2-18-206.

19 (b) "Board" means the board of public education created by Article X, section 9, subsection (3), of the  
 20 Montana constitution and 2-15-1507.

21 (c) "Vacancy savings" means the difference between the cost of fully funding authorized positions for  
 22 an entire fiscal year and the actual cost of those authorized positions during that period.

23  
 24 **NEW SECTION. Section 4. Benchmarks -- budget action taken if not met.** (1) Categorizing  
 25 petroleum storage tank release sites as resolved is a higher priority than investigation of new releases unless the  
 26 new release is an imminent danger to the health and safety of the public.

27 (2) The department shall develop a list of open release sites prioritized by danger to the health and safety  
 28 of the public and anticipated date of categorizing the sites as resolved.

29 (3) (a) The cumulative benchmarks that are provided in subsection (3)(b) must be met. If the benchmarks  
 30 are not met, money appropriated for petroleum storage tank leak prevention may not be included in the

1 department's base budget, as defined in 17-7-102, for the current biennium.

2 (b) The cumulative benchmarks are as follows:

3 Date	Total Number of Resolved Sites
4 December 31, 2011	45
5 July 1, 2012	90
6 December 31, 2012	135
7 July 1, 2013	180
8 December 31, 2013	225
9 July 1, 2014	270
10 December 31, 2014	315
11 July 1, 2015	360

12 (4) The department shall report to the environmental quality council established by 5-16-101 at the next  
13 regularly scheduled meeting of the council following the passing of each benchmark date in subsection (3)(b).

14 (5) As used in this section, the following definitions apply:

15 (a) "Petroleum storage tank" has the same meaning as prescribed in 75-11-302.

16 (b) "Release" has the same meaning as prescribed in 75-11-302.

17 (c) "Resolved" means a determination by the department that all cleanup requirements have been met  
18 and that conditions at the site ensure present and long-term protection of human health, safety, and the  
19 environment.

20  
21 **NEW SECTION. Section 5. Codification instruction.** (1) [Section 4 3] is intended to be codified as  
22 an integral part of Title 17, chapter 7, part 1, and the provisions of Title 17, chapter 7, part 1, apply to [section 4  
23 3].

24 (2) [Section 5 4] is intended to be codified as an integral part of Title 75, chapter 11, part 5, and the  
25 provisions of Title 75, chapter 11, part 5, apply to [section 5 4].

26  
27 **NEW SECTION. Section 6. Severability.** If a part of [this act] is invalid, all valid parts that are severable  
28 from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part  
29 remains in effect in all valid applications that are severable from the invalid applications.

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