

1 HOUSE BILL NO. 21

2 INTRODUCED BY R. COOK

3 BY REQUEST OF THE LEGISLATIVE FINANCE COMMITTEE

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE STATUTORY APPROPRIATIONS
6 LAWS; CLARIFYING THE RECIPIENT OF CERTAIN STATUTORY APPROPRIATIONS; CLARIFYING THE
7 CRITERIA FOR APPROPRIATE STATUTORY APPROPRIATIONS; AMENDING SECTIONS 10-2-603, 17-1-508,
8 17-7-502, 20-9-516, 20-9-622, 77-1-109, 77-2-303, AND 77-2-304, MCA; REPEALING SECTIONS 17-3-112,
9 17-6-340, AND 50-4-623, MCA; AND PROVIDING EFFECTIVE DATES."

10
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12
13 **Section 1.** Section 10-2-603, MCA, is amended to read:
14 **"10-2-603. Special revenue account -- use of funds -- solicitation.** (1) There is an account in the
15 special revenue fund to the credit of the board for the state veterans' cemeteries.
16 (2) Plot allowances, donations to the cemetery program, and fund transfers pursuant to 15-1-122(2)(d)
17 must be deposited into the account.
18 (3) The account is statutorily appropriated, as provided in 17-7-502, to the ~~board~~ department and may
19 be used by the board only for the construction, maintenance, operation, and administration of the state veterans'
20 cemeteries.
21 (4) The board shall solicit veterans' license plate sales and donations on behalf of the state veterans'
22 cemeteries."

23
24 **Section 2.** Section 17-1-508, MCA, is amended to read:
25 **"17-1-508. Review of statutory appropriations.** (1) Each biennium, the office of budget and program
26 planning shall, in development of the executive budget, review and identify instances in which statutory
27 appropriations in current law do not appear consistent with the guidelines set forth in subsection (2).
28 (2) The review of statutory appropriations must determine whether a statutory appropriation meets the
29 requirements of 17-7-502. Except as provided in 77-1-108, a statutory appropriation from a continuing and reliable
30 source of revenue may not be used to fund administrative costs. In reviewing and establishing statutory

1 appropriations, the legislature shall consider the following guidelines. A proposed or existing statutory
 2 appropriation may not be considered appropriate if:

- 3 ~~(a)~~ the fund or use requires an appropriation;
- 4 ~~(b)~~(a) the money is ~~not~~ from a continuing, reliable, and estimable source;
- 5 ~~(c)~~(b) the use of the appropriation or the expenditure occurrence is ~~not~~ predictable and reliable;
- 6 ~~(d)~~(c) the authority ~~does not exist~~ exists elsewhere;
- 7 ~~(e)~~(d) an alternative appropriation method is ~~not~~ available, practical, or effective;
- 8 ~~(f)~~(e) ~~other than for emergency purposes, it does not appropriate money from the state general fund~~ it
 9 appropriates state general fund money for purposes other than paying for emergency services;
- 10 ~~(g)~~(f) the money is ~~dedicated for a specific use~~ used for general purposes;
- 11 ~~(h)~~(g) the legislature wishes ~~the activity to be funded on a continual basis~~ to review expenditure and
 12 appropriation levels each biennium; and
- 13 ~~(i)~~(h) ~~when feasible,~~ an expenditure cap and sunset date are ~~included~~ excluded.

14 (3) The office of budget and program planning shall prepare a fiscal note for each piece of legislation
 15 that proposes to create or amend a statutory appropriation. It shall, consistent with the guidelines in this section,
 16 review each of these pieces of legislation. Its findings concerning the statutory appropriation must be contained
 17 in the fiscal note accompanying that legislation."
 18

19 **Section 3.** Section 17-7-502, MCA, is amended to read:

20 **"17-7-502. Statutory appropriations -- definition -- requisites for validity.** (1) A statutory
 21 appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the
 22 need for a biennial legislative appropriation or budget amendment.

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

- 25 (a) The law containing the statutory authority must be listed in subsection (3).
- 26 (b) The law or portion of the law making a statutory appropriation must specifically state that a statutory
 27 appropriation is made as provided in this section.

28 (3) The following laws are the only laws containing statutory appropriations: 2-17-105; 5-11-120;
 29 5-11-407; 5-13-403; 7-4-2502; 10-1-108; 10-1-1202; 10-1-1303; 10-2-603; 10-3-203; 10-3-310; 10-3-312;
 30 10-3-314; 10-4-301; 15-1-121; 15-1-218; 15-31-906; 15-35-108; 15-36-332; 15-37-117; 15-39-110; 15-65-121;

1 15-70-101; 15-70-369; 15-70-601; 16-11-509; 17-3-106; 17-3-112; 17-3-212; 17-3-222; 17-3-241; 17-6-101;
 2 18-11-112; 19-3-319; 19-6-404; 19-6-410; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506;
 3 19-20-604; 19-20-607; 19-21-203; 20-8-107; 20-9-534; 20-9-622; 20-26-1503; 22-3-1004; 23-4-105; 23-5-306;
 4 23-5-409; 23-5-612; 23-7-301; 23-7-402; 30-10-1004; 37-43-204; 37-51-501; 39-71-503; 41-5-2011; 42-2-105;
 5 44-4-1101; 44-12-206; 44-13-102; ~~50-4-623~~; 53-1-109; 53-9-113; 53-24-108; 53-24-206; 60-11-115; 61-3-415;
 6 69-3-870; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 76-13-416; 77-1-108; 77-2-362; 80-2-222; 80-4-416;
 7 80-11-518; 81-1-112; 81-7-106; 81-10-103; 82-11-161; 85-20-1504; 85-20-1505; 87-1-230; 87-1-603; 87-1-621;
 8 90-1-115; 90-1-205; 90-1-504; 90-3-1003; 90-6-331; and 90-9-306.

9 (4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing,
 10 paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued
 11 pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana
 12 to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state
 13 treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory
 14 appropriation authority for the payments. (In subsection (3): pursuant to sec. 10, Ch. 360, L. 1999, the inclusion
 15 of 19-20-604 terminates when the amortization period for the teachers' retirement system's unfunded liability is
 16 10 years or less; pursuant to sec. 10, Ch. 10, Sp. L. May 2000, secs. 3 and 6, Ch. 481, L. 2003, and sec. 2, Ch.
 17 459, L. 2009, the inclusion of 15-35-108 terminates June 30, 2019; pursuant to sec. 17, Ch. 593, L. 2005, and
 18 sec. 1, Ch. 186, L. 2009, the inclusion of 15-31-906 terminates January 1, 2015; pursuant to sec. 73, Ch. 44, L.
 19 2007, the inclusion of 19-6-410 terminates upon the death of the last recipient eligible under 19-6-709(2) for the
 20 supplemental benefit provided by 19-6-709; pursuant to sec. 8, Ch. 330, L. 2009, the inclusion of 87-1-621
 21 terminates June 30, 2013; pursuant to sec. 14, Ch. 374, L. 2009, the inclusion of 53-9-113 terminates June 30,
 22 2015; pursuant to sec. 8, Ch. 427, L. 2009, the inclusion of 87-1-230 terminates June 30, 2013; pursuant to sec.
 23 5, Ch. 442, L. 2009, the inclusion of 90-6-331 terminates June 30, 2019; pursuant to sec. 47, Ch. 19, L. 2011,
 24 the inclusion of 87-1-621 terminates June 30, 2013; pursuant to sec. 16, Ch. 58, L. 2011, the inclusion of
 25 30-10-1004 terminates June 30, 2017; pursuant to sec. 6, Ch. 61, L. 2011, the inclusion of 76-13-416 terminates
 26 June 30, 2019; and pursuant to sec. 13, Ch. 339, L. 2011, the inclusion of 81-1-112 and 81-7-106 terminates
 27 June 30, 2017.)"

28

29 **Section 4.** Section 17-7-502, MCA, is amended to read:

30 **"17-7-502. Statutory appropriations -- definition -- requisites for validity.** (1) A statutory

1 appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the
2 need for a biennial legislative appropriation or budget amendment.

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

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

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

8 (3) The following laws are the only laws containing statutory appropriations: 2-17-105; 5-11-120;
9 5-11-407; 5-13-403; 7-4-2502; 10-1-108; 10-1-1202; 10-1-1303; 10-2-603; 10-3-203; 10-3-310; 10-3-312;
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11 15-70-101; 15-70-369; 15-70-601; 16-11-509; 17-3-106; ~~17-3-442~~; 17-3-212; 17-3-222; 17-3-241; 17-6-101;
12 18-11-112; 19-3-319; 19-6-404; 19-6-410; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506;
13 19-20-604; 19-20-607; 19-21-203; 20-8-107; 20-9-534; 20-9-622; 20-26-1503; 22-3-1004; 23-4-105; 23-5-306;
14 23-5-409; 23-5-612; 23-7-301; 23-7-402; 30-10-1004; 37-43-204; 37-51-501; 39-71-503; 41-5-2011; 42-2-105;
15 44-4-1101; 44-12-206; 44-13-102; 50-4-623; 53-1-109; 53-9-113; 53-24-108; 53-24-206; 60-11-115; 61-3-415;
16 69-3-870; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 76-13-416; 77-1-108; 77-2-362; 80-2-222; 80-4-416;
17 80-11-518; 81-1-112; 81-7-106; 81-10-103; 82-11-161; 85-20-1504; 85-20-1505; 87-1-230; 87-1-603; 87-1-621;
18 90-1-115; 90-1-205; 90-1-504; 90-3-1003; 90-6-331; and 90-9-306.

19 (4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing,
20 paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued
21 pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana
22 to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state
23 treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory
24 appropriation authority for the payments. (In subsection (3): pursuant to sec. 10, Ch. 360, L. 1999, the inclusion
25 of 19-20-604 terminates when the amortization period for the teachers' retirement system's unfunded liability is
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28 sec. 1, Ch. 186, L. 2009, the inclusion of 15-31-906 terminates January 1, 2015; pursuant to sec. 73, Ch. 44, L.
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30 supplemental benefit provided by 19-6-709; pursuant to sec. 8, Ch. 330, L. 2009, the inclusion of 87-1-621

1 terminates June 30, 2013; pursuant to sec. 14, Ch. 374, L. 2009, the inclusion of 53-9-113 terminates June 30,
 2 2015; pursuant to sec. 8, Ch. 427, L. 2009, the inclusion of 87-1-230 terminates June 30, 2013; pursuant to sec.
 3 5, Ch. 442, L. 2009, the inclusion of 90-6-331 terminates June 30, 2019; pursuant to sec. 47, Ch. 19, L. 2011,
 4 the inclusion of 87-1-621 terminates June 30, 2013; pursuant to sec. 16, Ch. 58, L. 2011, the inclusion of
 5 30-10-1004 terminates June 30, 2017; pursuant to sec. 6, Ch. 61, L. 2011, the inclusion of 76-13-416 terminates
 6 June 30, 2019; and pursuant to sec. 13, Ch. 339, L. 2011, the inclusion of 81-1-112 and 81-7-106 terminates
 7 June 30, 2017.)"

8

9 **Section 5.** Section 20-9-516, MCA, is amended to read:

10 **"20-9-516. School facility and technology account.** (1) There is a school facility and technology
 11 account in the state special revenue fund provided for in 17-2-102. The purpose of the account is to provide
 12 money to schools for:

- 13 (a) major deferred maintenance;
- 14 (b) improving energy efficiency in school facilities;
- 15 (c) critical infrastructure in school districts;
- 16 (d) emergency facility needs;
- 17 (e) technological improvements; and
- 18 (f) state reimbursement for school facilities as provided in 20-9-371.

19 (2) There must be deposited in the account:

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

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

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

25

26 **Section 6.** Section 20-9-622, MCA, is amended to read:

27 **"20-9-622. Guarantee account.** ~~(1)~~ There is a guarantee account in the state special revenue fund. The
 28 guarantee account is intended to:

- 29 ~~(a)~~(1) stabilize the long-term growth of the permanent fund; and
- 30 ~~(b)~~(2) maintain a constant and increasing distributable revenue stream. All realized capital gains and all

1 distributable revenue must be deposited in the guarantee account. ~~Except as provided in subsection (2), the~~ The
2 guarantee account is statutorily appropriated, as provided in 17-7-502, for distribution to school districts through
3 school equalization aid as provided in 20-9-343.

4 ~~(2) As long as a portion of the coal severance tax loan authorized in section 8, Chapter 418, Laws of~~
5 ~~2001, is outstanding, the department of natural resources and conservation shall monthly transfer from the~~
6 ~~guarantee account to the general fund an amount that represents the amount of interest income that would be~~
7 ~~earned from the investment of the amount of the loan that is currently outstanding. When the loan is fully paid,~~
8 ~~all mineral royalties deposited in the guarantee account must be transferred to the school facility and technology~~
9 ~~account pursuant to 17-6-340."~~

10

11 **Section 7.** Section 77-1-109, MCA, is amended to read:

12 **"77-1-109. Deposits of proceeds in trust land administration account.** (1) The amount of money that
13 is deposited into the trust land administration account established in 77-1-108 may not exceed an amount equal
14 to 25% of distributable revenue generated in the fiscal year completed prior to the legislative session that will
15 appropriate money for the next biennium. This excludes revenue generated by the forest improvement fee
16 provided for in 77-5-204.

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

19 (i) distributable revenue;

20 (ii) the proceeds or income from the sale of easements and timber, except timber from public school and
21 Montana university system lands;

22 (iii) mineral royalties; and

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

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

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

28 (3) After the deposits in subsection (2) have been made, the remainder of the proceeds, other than
29 proceeds from timber from Montana university system lands ~~and other than those purchased pursuant to~~
30 ~~17-6-340~~, must be deposited in accordance with 17-3-1003, 18-2-107, and 20-9-341(2). Timber proceeds from

1 university system lands must be paid over to the state treasurer, who shall deposit the money to the credit of the
 2 proper fund for use as provided in 17-3-1003. ~~Royalty payments purchased pursuant to 17-6-340 must be used~~
 3 ~~as provided in that section and 20-9-622."~~

4

5 **Section 8.** Section 77-2-303, MCA, is amended to read:

6 **"77-2-303. Restrictions on land available for sale.** (1) ~~Subject to purchase by the department pursuant~~
 7 ~~to 17-6-340, land~~ Land that in the judgment of the department is likely to contain valuable deposits of coal, oil,
 8 oil shale, phosphate, metals, sodium, or other valuable mineral deposits is not subject to sale of either the surface
 9 land or any of the mineral deposits. However, this subsection does not prohibit the sale of lands containing sand,
 10 gravel, building stone, brick clay, or similar materials.

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

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

22

23 **Section 9.** Section 77-2-304, MCA, is amended to read:

24 **"77-2-304. Mineral reservations in state land.** All coal, oil, oil shale, gas, phosphate, sodium, and other
 25 mineral deposits in state land, except sand, gravel, building stone, and brick clay, which were not reserved by
 26 the United States before July 1, 1927, are reserved to the state. ~~Subject to 17-6-340, those~~ Those deposits are
 27 reserved from sale except upon a rental and royalty basis as provided by law. A purchaser of state land acquires
 28 no right, title, or interest in or to any of those deposits. The state also reserves for itself and its lessees the right
 29 to enter upon state land to prospect for, develop, mine, and remove mineral deposits and to occupy and use so
 30 much of the surface of the land as may be required for all purposes reasonably extending to the exploring for,

1 mining, and removal of the deposits from the land, but the lessee shall make just payment to the purchaser for
2 all damage done by reason of entry upon the land and the use and occupancy of the surface of the land."

3
4 **NEW SECTION. Section 10. Repealer.** (1) The following sections of the Montana Code Annotated are
5 repealed:

6 17-6-340. Purchase of permanent fund mineral estate.

7 50-4-623. Fees -- statutory appropriation.

8 (2) The following section of the Montana Code Annotated is repealed:

9 17-3-112. Earnings -- statutory appropriation.

10
11 **NEW SECTION. Section 11. Effective dates -- contingency.** (1) Except as provided in subsection (2),
12 [this act] is effective July 1, 2013.

13 (2) [Sections 4 and 10(2)] are effective on the date that the governor certifies to the code commissioner
14 that federal funds and interest earnings received under 17-3-112 have been spent.

15 - END -