

HOUSE BILL NO. 354

INTRODUCED BY P. CONNELL

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4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE LAWS GOVERNING THE FIRE SUPPRESSION  
5 ACCOUNT; ~~REQUIRING A \$25 MILLION FUND BALANCE IN THE ACCOUNT; REQUIRING A TRANSFER~~  
6 ~~EACH BIENNIUM TO THE ACCOUNT FROM THE GENERAL FUND IF THE FUND BALANCE FALLS BELOW~~  
7 ~~A CERTAIN AMOUNT; ALLOWING MONEY IN THE ACCOUNT TO BE USED ONLY FOR SUPPRESSION OF~~  
8 ~~PROJECT FIRES; REQUIRING THAT INTEREST EARNED ON THE BALANCE OF THE ACCOUNT BE~~  
9 ~~DEPOSITED IN THE GENERAL FUND; REQUIRING THE CONSIDERATION OF WILDLAND FIRE~~  
10 SUPPRESSION ACTIVITIES IN DETERMINING THE AMOUNT OF THE PROJECTED GENERAL FUND  
11 BUDGET DEFICIT; REQUIRING TRANSFER OF THE UNOBLIGATED BALANCE OF THE APPROPRIATION  
12 FOR GOVERNOR-DECLARED DISASTERS TO THE FIRE SUPPRESSION ACCOUNT; REQUIRING  
13 TRANSFER OF A CERTAIN PERCENTAGE OF UNEXPENDED GENERAL FUND MONEY TO THE FIRE  
14 SUPPRESSION ACCOUNT; PROVIDING THAT THE MONEY IN THE FIRE SUPPRESSION ACCOUNT MAY  
15 NOT EXCEED \$100 MILLION; REQUIRING TRANSFER OF AN EXCESS AMOUNT OF CORPORATION  
16 LICENSE TAX REVENUE INTO THE FIRE SUPPRESSION ACCOUNT; STATUTORILY APPROPRIATING THE  
17 MONEY TO THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION; AMENDING SECTIONS  
18 10-3-312, 17-7-140, 17-7-502, AND 76-13-150, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE  
19 AND A TERMINATION DATE."

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

(Refer to Blue Bill)

Strike everything after the enacting clause and insert:

**Section 1.** Section 10-3-312, MCA, is amended to read:

26 **"10-3-312. Maximum expenditure by governor -- appropriation.** (1) Whenever a disaster or an  
27 emergency, including an energy emergency as defined in 90-4-302 or an invasive species emergency declared  
28 under 80-7-1013, is declared by the governor, there is statutorily appropriated to the office of the governor, as  
29 provided in 17-7-502, and, subject to subsection (2), the governor is authorized to expend from the general fund  
30 an amount not to exceed \$16 million in any biennium, minus any amount appropriated pursuant to 10-3-310 in



1 the same biennium. The statutory appropriation in this subsection may be used by any state agency designated  
2 by the governor.

3 (2) In the event of the recovery of money expended under this section, the spending authority must be  
4 reinstated to a level reflecting the recovery.

5 (3) If a disaster is declared by the president of the United States, there is statutorily appropriated to the  
6 office of the governor, as provided in 17-7-502, and the governor is authorized to expend from the general fund  
7 an amount not to exceed \$500,000 during the biennium to meet the state's share of the individual and family grant  
8 programs as provided in 42 U.S.C. 5178. The statutory appropriation in this subsection may be used by any state  
9 agency designated by the governor.

10 (4) At the end of each biennium, an amount equal to the unexpended and unencumbered balance of the  
11 \$16 million statutory appropriation in subsection (1), minus any amount appropriated pursuant to 10-3-310 in the  
12 same biennium, must be transferred by the state treasurer from the state general fund to the fire suppression  
13 account provided for in 76-13-150."

14

15 **Section 2.** Section 17-7-140, MCA, is amended to read:

16 **"17-7-140. Reduction in spending.** (1) (a) As the chief budget officer of the state, the governor shall  
17 ensure that the expenditure of appropriations does not exceed available revenue. Except as provided in  
18 subsection (2), in the event of a projected general fund budget deficit, the governor, taking into account the  
19 criteria provided in subsection (1)(b), shall direct agencies to reduce spending in an amount that ensures that the  
20 projected ending general fund balance for the biennium will be at least 1% of all general fund appropriations  
21 during the biennium. An agency may not be required to reduce general fund spending for any program, as defined  
22 in each general appropriations act, by more than 10% during a biennium. Departments or agencies headed by  
23 elected officials or the board of regents may not be required to reduce general fund spending by a percentage  
24 greater than the percentage of general fund spending reductions required for the total of all other executive  
25 branch agencies. The legislature may exempt from a reduction an appropriation item within a program or may  
26 direct that the appropriation item may not be reduced by more than 10%.

27 (b) The governor shall direct agencies to manage their budgets in order to reduce general fund  
28 expenditures. Prior to directing agencies to reduce spending as provided in subsection (1)(a), the governor shall  
29 direct each agency to analyze the nature of each program that receives a general fund appropriation to determine  
30 whether the program is mandatory or permissive and to analyze the impact of the proposed reduction in spending

1 on the purpose of the program. An agency shall submit its analysis to the office of budget and program planning  
2 and shall at the same time provide a copy of the analysis to the legislative fiscal analyst. The office of budget and  
3 program planning shall review each agency's analysis, and the budget director shall submit to the governor a  
4 copy of the office of budget and program planning's recommendations for reductions in spending. The budget  
5 director shall provide a copy of the recommendations to the legislative fiscal analyst at the time that the  
6 recommendations are submitted to the governor and shall provide the legislative fiscal analyst with any proposed  
7 changes to the recommendations. The legislative finance committee shall meet within 20 days of the date that  
8 the proposed changes to the recommendations for reductions in spending are provided to the legislative fiscal  
9 analyst. The legislative fiscal analyst shall provide a copy of the legislative fiscal analyst's review of the proposed  
10 reductions in spending to the budget director at least 5 days before the meeting of the legislative finance  
11 committee. The committee may make recommendations concerning the proposed reductions in spending. The  
12 governor shall consider each agency's analysis and the recommendations of the office of budget and program  
13 planning and the legislative finance committee in determining the agency's reduction in spending. Reductions in  
14 spending must be designed to have the least adverse impact on the provision of services determined to be most  
15 integral to the discharge of the agency's statutory responsibilities.

16 (2) Reductions in spending for the following may not be directed by the governor:

- 17 (a) payment of interest and principal on state debt;  
18 (b) the legislative branch;  
19 (c) the judicial branch;  
20 (d) the school BASE funding program, including special education;  
21 (e) salaries of elected officials during their terms of office; and  
22 (f) the Montana school for the deaf and blind.

23 (3) (a) As used in this section, "projected general fund budget deficit" means an amount, certified by the  
24 budget director to the governor, by which the projected ending general fund balance for the biennium is less than:

- 25 (i) 2% of the general fund appropriations for the second fiscal year of the biennium prior to October of  
26 the year preceding a legislative session;  
27 (ii) 3/4 of 1% in October of the year preceding a legislative session;  
28 (iii) 1/2 of 1% in January of the year in which a legislative session is convened; and  
29 (iv) 1/4 of 1% in March of the year in which a legislative session is convened.

30 (b) In determining the amount of the projected general fund budget deficit, the budget director shall take

1 into account revenue, established levels of appropriation, anticipated supplemental appropriations for school  
 2 equalization aid and the cost of the state's wildland fire suppression activities exceeding the amount statutorily  
 3 appropriated in 10-3-312, and anticipated reversions.

4 (4) If the budget director determines that an amount of actual or projected receipts will result in an  
 5 amount less than the amount projected to be received in the revenue estimate established pursuant to 5-5-227,  
 6 the budget director shall notify the revenue and transportation interim committee of the estimated amount. Within  
 7 20 days of notification, the revenue and transportation interim committee shall provide the budget director with  
 8 any recommendations concerning the amount. The budget director shall consider any recommendations of the  
 9 revenue and transportation interim committee prior to certifying a projected general fund budget deficit to the  
 10 governor."  
 11

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

13 **"17-7-502. Statutory appropriations -- definition -- requisites for validity.** (1) A statutory  
 14 appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the  
 15 need for a biennial legislative appropriation or budget amendment.

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

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

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

21 (3) The following laws are the only laws containing statutory appropriations: 2-17-105; 5-11-120;  
 22 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;  
 23 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;  
 24 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;  
 25 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;  
 26 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;  
 27 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;  
 28 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;  
 29 69-3-870; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 76-13-150; 76-13-416; 77-1-108; 77-2-362; 80-2-222;  
 30 80-4-416; 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;

1 87-1-621; 90-1-115; 90-1-205; 90-1-504; 90-3-1003; 90-6-331; and 90-9-306.

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

21

22 **Section 4.** Section 76-13-150, MCA, is amended to read:

23 **"76-13-150. Fire suppression account -- fund transfer.** (1) There is a fire suppression account in the  
24 state special revenue fund to the credit of the department.

25 (2) The legislature may transfer money from other funds to the account, and the money in the account  
26 is subject to legislative fund transfers.

27 (3) Funds received for restitution by private parties must be deposited in the account.

28 (4) Money in the account may be used only for the purpose of paying expenses for fire prevention,  
29 including fuel reduction and mitigation, forest restoration, grants for the purchase of fire suppression equipment  
30 for county cooperatives, and fire suppression costs.

1 (5) Interest earned on the balance of the account is retained in the account.

2 (6) Except as provided in subsections (7) and (8), by August 15 following the end of each fiscal year, an  
3 amount equal to the balance of unexpended and unencumbered general fund money appropriated in excess of  
4 0.5% of the total general fund money appropriated for that fiscal year must be transferred by the state treasurer  
5 from the general fund to the fire suppression account. General fund appropriations that continue from a fiscal year  
6 to the next fiscal year and any general fund appropriations made pursuant to 10-3-310 or 10-3-312 are excluded  
7 from the calculation.

8 (7) The provisions of subsection (6) do not apply in a fiscal year in which reductions required by 17-7-140  
9 occur or if a transfer pursuant to subsection (6) would require reductions pursuant to 17-7-140.

10 (8) The fund balance in the account may not exceed \$100 million.

11 (9) Up to \$5 million each biennium may be used for the purpose of fuel reduction and mitigation and  
12 forest restoration.

13 (10) Money in the account is statutorily appropriated, as provided in 17-7-502, to the department for the  
14 purposes described in subsection (4)."

15  
16 **NEW SECTION. Section 5. Fund transfer.** Subject to 76-13-150(8), the following amounts collected  
17 from the corporation license tax pursuant to Title 15, chapter 31, and deposited into the state general fund must  
18 be transferred to the fire suppression account provided for in 76-13-150:

19 (1) by August 15, 2013, funds in excess of \$152 million collected for the fiscal year ending June 30,  
20 2013;

21 (2) by August 15, 2014, funds in excess of \$156.2 million collected for the fiscal year ending June 30,  
22 2014; and

23 (3) by August 15, 2015, funds in excess of \$157.5 million collected for the fiscal year ending June 30,  
24 2015.

25  
26 **NEW SECTION. Section 6. Effective date.** [This act] is effective on passage and approval.

27 - END -