



AN ACT GENERALLY REVISING INFRASTRUCTURE LAWS; CREATING INFRASTRUCTURE POLICY; LIMITING AUTHORITY TO CREATE STATE DEBT; DISTINGUISHING BETWEEN MAJOR REPAIR AND CAPITAL DEVELOPMENT PROJECTS; REQUIRING THE ARCHITECTURE AND ENGINEERING DIVISION OF THE DEPARTMENT OF ADMINISTRATION TO SUBMIT A PRIORITIZED LIST OF ANTICIPATED MAJOR REPAIR PROJECTS PURSUANT TO CRITERIA; REQUIRING THE DIVISION TO REPORT CHANGES OF ALLOCATIONS FOR MAJOR REPAIR PROJECTS; REQUIRING A MINIMUM LEVEL OF FUNDING FOR MAJOR REPAIR PROJECTS PRIOR TO AUTHORIZING CAPITAL DEVELOPMENTS; PROVIDING FOR TRANSFERS FOR CAPITAL DEVELOPMENTS DEPENDING ON ANNUAL DEBT SERVICE; REQUIRING CERTAIN TRANSFERS BE CONSIDERED PRESENT LAW BASE; ESTABLISHING LONG-RANGE BUILDING PROGRAM ACCOUNTS FOR MAJOR REPAIR AND CAPITAL DEVELOPMENTS; REQUIRING INCREASED PROGRAMMATIC AND MAINTENANCE FUNDING BE APPROPRIATED IN CERTAIN CIRCUMSTANCES; PROVIDING DEFINITIONS; AMENDING SECTIONS 15-35-108, 16-11-119, 17-5-802, 17-7-111, 17-7-201, 17-7-202, 17-7-203, 17-7-204, 17-7-205, AND 90-4-625, MCA; REPEALING SECTION 17-7-206, MCA; AND PROVIDING AN EFFECTIVE DATE.

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

Section 1. Major repair -- submission of list to legislature -- priorities. (1) By November 15 of the year preceding a regular legislative session, the division shall, on behalf of all state agencies, submit a list of anticipated major repair projects to the governor. The governor shall review the list of anticipated long-range building program eligible major repair projects recommended by the division and submit it to the legislature.

(2) The division shall ensure that the list identifies:

- (a) single projects that cost more than \$150,000;
- (b) multiple projects within a single building or facility that collectively cost more than \$150,000; and
- (c) single projects that will be constructed in phases with an aggregate cost of more than \$150,000.

(3) Unless otherwise directed by the legislature, the division shall execute major repair projects from the

prioritized list submitted to the legislature up to the level of appropriation made by the legislature.

(4) In prioritizing major repair projects, the division shall consider the results of the statewide facility inventory and condition assessment prepared pursuant to 17-7-202.

(5) In prioritizing major repair projects, the division shall allocate at least 80% of the funds that the legislature appropriates for major repair to:

(a) projects that address:

(i) any issue that impacts health and safety;

(ii) failing building envelopes;

(iii) structural deficiencies;

(iv) energy, utility, or water savings;

(b) projects that upgrade, repair, or replace:

(i) mechanical, plumbing, or control systems;

(ii) electrical systems;

(iii) fixed equipment;

(iv) an essential building component; or

(v) infrastructure, including a utility tunnel, water line, gas line, sewer line, roof, parking lot, or road; or

(c) projects that demolish and replace an existing building or facility that is in extensive disrepair and cannot be fixed by repair or maintenance.

(6) In prioritizing major repair projects, the division shall allocate no more than 20% of the funds that the legislature appropriates for major repair to:

(a) remodeling and aesthetic upgrades to meet programmatic needs; or

(b) construct an addition to an existing building or facility.

Section 2. Funding for major repair -- emergency funding. (1) After the legislature approves the list of anticipated major repair projects, if an exigency arises that creates an unforeseen and critical need for a major repair project, the division may reallocate major repair funds to address the project.

(2) The division shall report any changes made in major repair allocations approved by the legislature to:

(a) the legislative fiscal analyst and the budget director on a quarterly basis; and

(b) the legislature at its next regular session.

Section 3. Minimum funding for major repair -- restriction of capital developments -- transfer to satisfy minimum as present law base. (1) The minimum level of funding for major repair projects is 0.6% of the replacement cost of existing long-range building program eligible buildings for each fiscal year.

(2) The legislature may not fund the design or construction of any new capital development projects, except to complete the funding of projects for which partial funding has been previously provided, until the legislature has estimated and appropriated the amount referred to in subsection (1) to fund major repair projects for long-range building program eligible buildings from the account established in 17-7-205 for each fiscal year.

(3) Sources for funding the amount referred to in subsection (1) are:

(a) revenue allocations into the account established in 17-7-205 of cigarette tax revenue allocated pursuant to 16-11-119 and coal severance taxes allocated pursuant to 15-35-108, as projected in the official revenue estimate provided in 5-5-227; and

(b) an appropriated transfer into the account from the general fund in the general appropriations act.

(4) The appropriated transfer in subsection (3)(b) to the account established in 17-7-205 to fund major repair projects is part of the present law base for purposes of Title 17, chapter 7, part 1, and must be sufficient to fund the amount referred to in subsection (1) when added to the account's revenue allocations in subsection (3)(a).

Section 4. Capital development funding -- transfer as present law base. (1) As part of the executive budget prepared pursuant to 17-7-123, the governor shall propose annual transfers from the general fund into the account established in [section 5]. Except as provided in subsection (2), the amount of the proposed annual transfers are considered present law and must be equal to 1% of the amount of the certified unaudited state general fund revenue, including transfers into the general fund, as determined by the state treasurer on or before August 15 of the year preceding a legislative session less the:

(a) general fund debt service anticipated by the office of budget and program planning for each year of the biennium for issued general obligation bonds paid from the general fund as set forth in the state budget pursuant to 17-5-802; and

(b) projected general fund debt service for each year of the biennium for general obligation bonds paid

from the general fund proposed in the executive budget.

(2) The governor may propose to reduce or increase the amount of the annual transfers proposed pursuant to subsection (1). Any proposed increase or decrease to the amount required in subsection (1) must be included in the executive budget request as a new proposal.

(3) The legislature may appropriate funds in the general appropriations act for transfer into the account established in [section 5] from the general fund for capital development projects based on the state fiscal condition.

(4) The appropriated transfer to the account established in [section 5] to fund capital developments is part of the base budget for purposes of Title 17, chapter 7, part 1.

(5) The department of administration shall transfer the annual amount appropriated by the legislature from the general fund to the capital developments long-range building program account established in [section 5] by August 15 of each fiscal year except as provided in subsection (6).

(6) The department of administration may not make the annual transfer if the executive has authorized transfers from the budget stabilization reserve fund established in 17-7-130 in the immediately preceding 11 months or if the transfer would result in reductions pursuant to 17-7-140.

(7) This section does not limit the ability of the legislature to authorize general obligation bonds or the board of examiners to issue and sell bonds authorized by previous legislatures, and has no effect on the pledge or security for general obligation bonds.

Section 5. Capital developments long-range building program account. (1) There is a capital developments long-range building program account in the capital projects fund type to fund capital developments.

(2) Interest earnings, project carryover funds, administrative fees, and miscellaneous revenue must be retained in the account.

(3) The legislature may transfer unencumbered funds from the account only to supplement funding local infrastructure.

(4) The state treasurer may temporarily borrow from the fund to address cash balance deficiencies in the general fund. A loan made to the general fund does not bear interest and must be recorded in the state accounting records. The fund may not be so impaired by a loan that all legal obligations against the fund cannot be met.

Section 6. Required funding for maintenance of newly authorized state buildings. (1) If construction of a new facility requires an immediate or future increase in state funding for program expansion or operations and maintenance, the legislature may not authorize the new facility unless it also appropriates funds for the increase in state funding for program expansion and operations and maintenance.

(2) (a) To the extent allowed by law, at the end of each fiscal year following approval of a new facility, but prior to receipt of its certificate of occupancy, the appropriation made pursuant to subsection (1) reverts to its originating fund. The appropriation is not subject to the provisions of 17-7-304.

(b) When a certificate of occupancy for a new facility is received prior to the end of the fiscal year, the amount of the appropriation made pursuant to subsection (1) that reverts to its originating fund is the prorated amount from the beginning of the fiscal year to the date of the receipt of the certificate of occupancy.

Section 7. Section 15-35-108, MCA, is amended to read:

"15-35-108. (Temporary) Disposal of severance taxes. Severance taxes collected under this chapter must, in accordance with the provisions of 17-2-124, be allocated as follows:

(1) Fifty percent of total coal severance tax collections is allocated to the trust fund created by Article IX, section 5, of the Montana constitution. The trust fund money must be deposited in the fund established under 17-6-203(6) and invested by the board of investments as provided by law.

(2) The amount of 12% of coal severance tax collections is allocated to the major repair long-range building program account established in 17-7-205.

(3) The amount of 0.85% in fiscal year 2018 and 0.88% in fiscal year 2019 must be allocated for provision of basic library services for the residents of all counties through library federations and for payment of the costs of participating in regional and national networking and must be deposited in the basic library services account established in 22-1-202.

(4) The amount of 3.89% in fiscal year 2018 and 3.83% in fiscal year 2019 must be allocated to the department of natural resources and conservation for conservation districts and deposited in the conservation district account established in 76-15-106.

(5) The amount of 0.72% in fiscal year 2018 and 0.75% in fiscal year 2019 must be allocated to the Montana Growth Through Agriculture Act and deposited in the growth through agriculture account established

in 90-9-104.

(6) The amount of 1.27% must be allocated to a permanent fund account for the purpose of parks acquisition or management. Income from this permanent fund account, excluding unrealized gains and losses, must be appropriated for the acquisition, development, operation, and maintenance of any sites and areas described in 23-1-102.

(7) The amount of 0.95% must be allocated to the debt service fund type to the credit of the renewable resource loan debt service fund.

(8) The amount of 0.63% must be allocated to a trust fund for the purpose of protection of works of art in the capitol and for other cultural and aesthetic projects. Income from this trust fund account, excluding unrealized gains and losses, must be appropriated for protection of works of art in the state capitol and for other cultural and aesthetic projects.

(9) The amount of 5.8% through June 30, 2019, and beginning July 1, 2019, the amount of 2.9% must be credited to the coal natural resource account established in 90-6-1001(2).

(10) After the allocations are made under subsections (2) through (9), \$250,000 for the fiscal year must be credited to the coal and uranium mine permitting and reclamation program account established in 82-4-244.

(11) (a) Subject to subsection (11)(b), all other revenue from severance taxes collected under the provisions of this chapter must be credited to the general fund of the state.

(b) The interest income of the coal severance tax permanent fund that is deposited in the general fund, less the annual transfer of \$1.275 million to the research and commercialization state special revenue account pursuant to 15-1-122(2), is statutorily appropriated, as provided in 17-7-502, on July 1 each year as follows:

- (i) \$65,000 to the cooperative development center;
- (ii) \$625,000 for the growth through agriculture program provided for in Title 90, chapter 9;
- (iii) to the department of commerce:
 - (A) \$125,000 for a small business development center;
 - (B) \$50,000 for a small business innovative research program;
 - (C) \$425,000 for certified regional development corporations;
 - (D) \$200,000 for the Montana manufacturing extension center at Montana state university-Bozeman;

and

- (E) \$300,000 for export trade enhancement. (Terminates June 30, 2019--secs. 2, 3, Ch. 459, L. 2009.)

15-35-108. (Effective July 1, 2019) Disposal of severance taxes. Severance taxes collected under this chapter must, in accordance with the provisions of 17-2-124, be allocated as follows:

(1) Fifty percent of total coal severance tax collections is allocated to the trust fund created by Article IX, section 5, of the Montana constitution. The trust fund money must be deposited in the fund established under 17-6-203(6) and invested by the board of investments as provided by law.

(2) The amount of 12% of coal severance tax collections is allocated to the major repair long-range building program account established in 17-7-205.

(3) The amount of 0.90% in fiscal year 2020 and 0.93% in fiscal year 2021 and in each fiscal year thereafter must be allocated for provision of basic library services for the residents of all counties through library federations and for payment of the costs of participating in regional and national networking and must be deposited in the basic library services account established in 22-1-202.

(4) The amount of 3.77% in fiscal year 2020 and 3.71% in fiscal year 2021 and in each fiscal year thereafter must be allocated to the department of natural resources and conservation for conservation districts and deposited in the conservation district account established in 76-15-106.

(5) The amount of 0.79% in fiscal year 2020 and 0.82% in fiscal year 2021 and in each fiscal year thereafter must be allocated to the Montana Growth Through Agriculture Act and deposited in the growth through agriculture account established in 90-9-104.

(6) The amount of 1.27% must be allocated to a permanent fund account for the purpose of parks acquisition or management. Income from this permanent fund account, excluding unrealized gains and losses, must be appropriated for the acquisition, development, operation, and maintenance of any sites and areas described in 23-1-102.

(7) The amount of 0.95% must be allocated to the debt service fund type to the credit of the renewable resource loan debt service fund.

(8) The amount of 0.63% must be allocated to a trust fund for the purpose of protection of works of art in the capitol and for other cultural and aesthetic projects. Income from this trust fund account, excluding unrealized gains and losses, must be appropriated for protection of works of art in the state capitol and for other cultural and aesthetic projects.

(9) The amount of 2.9% must be credited to the coal natural resource account established in 90-6-1001(2).

(10) After the allocations are made under subsections (2) through (9), \$250,000 for the fiscal year must be credited to the coal and uranium mine permitting and reclamation program account established in 82-4-244.

(11) All other revenue from severance taxes collected under the provisions of this chapter must be credited to the general fund of the state."

Section 8. Section 16-11-119, MCA, is amended to read:

"16-11-119. Disposition of taxes -- statutory appropriation. (1) A sum equal to the amount necessary to purchase cigarette tax stamps must be deposited to or allocated from the state special revenue fund to the credit of the department from cigarette taxes collected under the provisions of 16-11-111, as provided in subsection (5) of this section.

(2) After the deposit or allocation in subsection (1), cigarette taxes collected under the provisions of 16-11-111 must, in accordance with the provisions of 17-2-124, be deposited as follows:

(a) 8.3% or \$2 million, whichever is greater, in the state special revenue fund to the credit of the department of public health and human services for the operation and maintenance of state veterans' nursing homes;

(b) 2.6% in the major repair long-range building program account provided for in 17-7-205;

(c) 44% in the state special revenue fund to the credit of the health and medicaid initiatives account provided for in 53-6-1201; and

(d) the remainder to the state general fund.

(3) If money in the state special revenue fund for the operation and maintenance of state veterans' nursing homes exceeds \$2 million at the end of the fiscal year, the excess must be transferred to the state general fund.

(4) The taxes collected on tobacco products other than cigarettes must in accordance with the provisions of 17-2-124 be deposited as follows:

(a) one-half in the state general fund; and

(b) one-half in the state special revenue fund account for health and medicaid initiatives provided for in 53-6-1201.

(5) Each fiscal year, a sum equal to the amount of money necessary to purchase cigarette tax stamps is statutorily appropriated, as provided in 17-7-502, from the state special revenue fund allocation in subsection

(1) to the department for tax administration responsibilities."

Section 9. Section 17-5-802, MCA, is amended to read:

"17-5-802. Authority to authorize and issue general obligation bonds and notes. (1) When authorized by and within the limits of a bond act and as provided in this part, the board may issue and sell bonds of the state in the manner that it considers necessary and proper to provide funds for the purpose set forth in the bond act.

(2) The full faith and credit and taxing powers of the state must be pledged for the payment of all bonds and notes issued pursuant to this part, with all interest on the bonds and notes and premiums payable upon the redemption of the bonds and notes. All principal, interest, and redemption premium, if any, becoming due during a fiscal year must be included in the state budget for that fiscal year, and sufficient revenue must be appropriated for the payment of principal, interest, and redemption premiums from the general fund and, if the general fund is not sufficient, from any other funds of the state legally available for the payment of principal, interest, and redemption premiums. Bonds may not be issued to cover deficits incurred because appropriations exceeded anticipated revenue. Money transferred for the payment of bonds and notes must be deposited in the debt service account.

(3) Except as provided in subsection (8), the legislature may not authorize general obligation bonds paid from the general fund if the issuance of those bonds would cause the total amount of the state debt to exceed 0.6% of the fair market value of all taxable property within the state.

(4) Except as provided in subsection (8), the legislature may not authorize new general obligation bonds paid from the general fund if the issuance of those bonds would create an obligation for fiscal year debt service on general obligation bonds paid from the general fund that have been issued that exceeds 1.5% of the amount of the certified unaudited state general fund revenue, including transfers into the general fund, as determined by the state treasurer on or before August 15 of the year preceding a legislative session.

(5) For purposes of subsections (3) and (4):

(a) "fair market value of all taxable property within the state" includes all real and personal property subject to ad valorem taxation within the state as enumerated in the department of revenue's biennial report issued pursuant to 15-1-205.

(b) "general obligation bonds paid from the general fund" means bonds issued as general obligation

bonds of the state that are payable from only the general fund and that are not payable from or secured by funds or specific sources of revenue outside the general fund.

(c) "state debt" means:

(i) the outstanding principal of issued general obligation bonds paid from the general fund as of July 1 of the current fiscal year;

(ii) the principal amount of all authorized but unissued general obligation bonds paid from the general fund; and

(iii) the total amount of unfunded actuarial accrued liability of the public retirement systems established in Title 19 that does not amortize in 30 years as identified in those systems' most recent actuarial valuation of the assets and liabilities of their plans.

(6) For purposes of calculating the total fiscal year debt service of proposed bonds to determine whether the limitations described in subsection (4) are satisfied, the debt service amounts set forth in the fiscal note for the proposed bond act regarding the bonds are used and are final and conclusive.

(7) The passage and approval of a bond act is final and conclusive authority for the issuance of the bonds authorized under that act. The board of examiners may rely on that authority without regard to condition or circumstance existing as of the date of the issuance of the bonds.

(8) The limits on legislative authority to authorize general obligation bonds paid from the general fund do not apply to bonds authorized during a state of emergency or a state of disaster as provided in Title 10, chapter 3."

Section 10. Section 17-7-111, MCA, is amended to read:

"17-7-111. Preparation of state budget -- agency program budgets -- form distribution and contents. (1) (a) To prepare a state budget, the executive branch, the legislature, and the citizens of the state need information that is consistent and accurate. Necessary information includes detailed disbursements by fund type for each agency and program for the appropriate time period, recommendations for creating a balanced budget, and recommended disbursements and estimated receipts by fund type and fund category.

(b) Subject to the requirements of this chapter, the budget director and the legislative fiscal analyst shall by agreement:

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

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

(ii) provide for the collection and provision of budgetary and financial information that is in addition to or different from the information otherwise required to be provided pursuant to this section.

(2) In the preparation of a state budget, the budget director shall, not later than the date specified in 17-7-112(1), distribute to all agencies the proper forms and instructions necessary for the preparation of budget estimates by the budget director. These forms must be prescribed by the budget director to procure the information required by subsection (3). The forms must be submitted to the budget director by the date provided in 17-7-112(2), or the agency's budget is subject to preparation based upon estimates as provided in 17-7-112(5). The budget director may refuse to accept forms that do not comply with the provisions of this section or the instructions given for completing the forms.

(3) The agency budget request must set forth a balanced financial plan for the agency completing the forms for each fiscal year of the ensuing biennium. The plan must consist of:

(a) a consolidated agency budget summary of funds subject to appropriation, as provided in 17-8-101, for the current base budget expenditures, including statutory appropriations, and for each present law adjustment and new proposal request setting forth the aggregate figures of the full-time equivalent personnel positions (FTE) and the budget, showing a balance between the total proposed disbursements and the total anticipated receipts, together with the other means of financing the budget for each fiscal year of the ensuing biennium, contrasted with the corresponding figures for the last-completed fiscal year and the fiscal year in progress;

(b) a schedule of the actual and projected receipts, disbursements, and solvency of each fund for the current biennium and estimated for the subsequent biennium;

(c) a statement of the agency mission and a statement of goals and objectives for each program of the agency. The goals and objectives must include, in a concise form, sufficient specific information and quantifiable information to enable the legislature to formulate an appropriations policy regarding the agency and its programs and to allow a determination, at some future date, on whether the agency has succeeded in attaining its goals and objectives.

(d) actual FTE and disbursements for the completed fiscal year of the current biennium, estimated FTE and disbursements for the current fiscal year, and the agency's request for the ensuing biennium, by program;

(e) actual disbursements for the completed fiscal year of the current biennium, estimated disbursements

for the current fiscal year, and the agency's recommendations for the ensuing biennium, by disbursement category;

(f) for agencies with more than 20 FTE, a plan to reduce the proposed base budget for the general appropriations act and the proposed state pay plan to 95% of the current base budget or lower if directed by the budget director. Each agency plan must include base budget reductions that reflect the required percentage reduction by fund type for the general fund and state special revenue fund types. Exempt from the calculations of the 5% target amounts are legislative audit costs, administratively attached entities that hire their own staff under 2-15-121, and state special revenue accounts that do not transfer their investment earnings or fund balances to the general fund. The plan must include:

(i) a prioritized list of services that would be eliminated or reduced;

(ii) for each service included in the prioritized list, the savings that would result from the elimination or reduction; and

(iii) the consequences or impacts of the proposed elimination or reduction of each service.

(g) a reference for each new information technology proposal stating whether the new proposal is included in the approved agency information technology plan as required in 2-17-523;

(h) energy cost saving information as required by 90-4-616; and

(i) other information the budget director feels is necessary for the preparation of a budget.

(4) The budget director shall prepare and submit to the legislative fiscal analyst in accordance with 17-7-112:

(a) detailed recommendations for capital developments for:

(i) local infrastructure projects;

(ii) funding for energy development-impacted areas; and

(iii) the state long-range building program. Each recommendation for the capital developments long-range building program must be presented by institution, agency, or branch, by funding source, with a description of each proposed project.

(b) a statewide project budget summary as provided in 2-17-526;

(c) the proposed pay plan schedule for all executive branch employees at the program level by fund, with the specific cost and funding recommendations for each agency. Submission of a pay plan schedule under this subsection is not an unfair labor practice under 39-31-401.

(d) agency proposals for the use of cultural and aesthetic project grants under Title 22, chapter 2, part 3, the renewable resource grant and loan program under Title 85, chapter 1, part 6, the reclamation and development grants program under Title 90, chapter 2, part 11, and the treasure state endowment program under Title 90, chapter 6, part 7.

(5) The board of regents shall submit, with its budget request for each university unit in accordance with 17-7-112, a report on the university system bonded indebtedness and related finances as provided in this subsection (5). The report must include the following information for each year of the biennium, contrasted with the same information for the last-completed fiscal year and the fiscal year in progress:

(a) a schedule of estimated total bonded indebtedness for each university unit by bond indenture;

(b) a schedule of estimated revenue, expenditures, and fund balances by fiscal year for each outstanding bond indenture, clearly delineating the accounts relating to each indenture and the minimum legal funding requirements for each bond indenture; and

(c) a schedule showing the total funds available from each bond indenture and its associated accounts, with a list of commitments and planned expenditures from the accounts, itemized by revenue source and project for each year of the current and ensuing bienniums.

(6) (a) The department of revenue shall make Montana individual income tax information available by removing names, addresses, and social security numbers and substituting in their place a state accounting record identifier number. Except for the purposes of complying with federal law, the department may not alter the data in any other way.

(b) The department of revenue shall provide the name and address of a taxpayer on written request of the budget director when the values on the requested return, including estimated payments, are considered necessary by the budget director to properly analyze state revenue and are of a sufficient magnitude to materially affect the analysis and when the identity of the taxpayer is necessary to evaluate the effect of the return or payments on the analysis being performed."

Section 11. Section 17-7-201, MCA, is amended to read:

"17-7-201. Definitions. In this part, the following definitions apply:

(1) (a) "Building" includes a:

(i) building, facility, or structure constructed or purchased wholly or in part with state money;

(ii) building, facility, or structure at a state institution;
 (iii) building, facility, or structure owned or to be owned by a state agency, including the department of transportation.

(b) The term does not include a:

(i) building, facility, or structure owned or to be owned by a county, city, town, school district, or special improvement district;

(ii) facility or structure used as a component part of a highway or water conservation project.

(2) "Capital development" means a:

(a) renovation, construction, alteration, site, or utility project with a total cost of \$2.5 million or more;

(b) new facility with a construction cost of \$250,000 or more; or

(c) purchase of real property for which an appropriation is required to fund the purchase.

~~(2)~~(3) "Construction" includes construction, repair, alteration, renovation, and equipping and furnishing during construction, repair, or alteration.

(4) "Division" means the architecture and engineering division of the department of administration.

~~(3)~~(5) "High-performance building" means a building that integrates and optimizes all major high-performance building attributes, including but not limited to:

- (a) energy efficiency;
- (b) durability;
- (c) life-cycle performance; and
- (d) occupant productivity.

~~(4)~~(6) (a) "Long-range building program-eligible building" means a building, facility, or structure:

(i) owned by a state agency and for which the operation and maintenance are funded with state general fund money; or

(ii) that supports academic missions of the university system and for which the operation and maintenance are funded with current unrestricted university funds.

(b) The term does not include a building, facility, or structure:

(i) owned by a state agency and for which the operation and maintenance are entirely funded with state special revenue, federal special revenue, or proprietary funds; or

(ii) that supports nonacademic functions of the university system and for which the operation and

maintenance are funded from nonstate and nontuition sources.

(7) (a) "Major repair" means:

(i) a renovation, alteration, replacement, or repair project with a total cost of less than \$2.5 million;

(ii) a site or utility improvement with a total cost of less than \$2.5 million; or

(iii) a new facility with a total construction cost of less than \$250,000.

(b) The term does not include operations and maintenance as defined in this section.

(8) (a) "New facility" means the construction of a new building on state property regardless of funding source and includes:

(i) an addition to an existing building; and

(ii) the enclosure of space that was not previously fully enclosed.

(b) The term does not include the replacement of state-owned space that is demolished or that is otherwise removed from state use, if the total construction cost of the replacement space is less than \$2.5 million.

(9) "Operations and maintenance" means operational costs and regular, ongoing, and routine repairs and maintenance funded in an agency operating budget that does not extend the capacity, function, or lifespan of a facility.

(10) "Replacement cost of existing long-range building program eligible building" means the current replacement value of all long-range building program eligible buildings included in the statewide facility inventory and condition assessment as provided in 17-7-202."

Section 12. Section 17-7-202, MCA, is amended to read:

"17-7-202. Preparation of building programs and submission to department of administration -- statewide facility inventory and condition assessment. (1) Before July 1 of ~~each even-numbered year~~ the year preceding a legislative session, each state agency and institution shall submit to the ~~department of administration~~ architecture and engineering division of the department of administration, on forms furnished by the ~~department division~~ division, a proposed long-range building program for major repair projects and capital developments, if any, for the agency or institution. Each agency and institution shall furnish any additional information requested by the ~~department division~~ division relating to the utilization of or need for ~~buildings~~ major repair projects and capital developments.

(2) (a) Except as provided in subsection (3), the ~~department division~~ division shall compile and maintain a

statewide facility inventory and condition assessment that:

(i) for each state-owned building:

(A) identifies its location and total square footage;

(B) identifies the agency or agencies using or occupying the building and how much square footage each agency uses or occupies;

(C) lists the current replacement value of the building in its entirety and each agency's portion of the building;

(D) identifies whether the building is a long-range building program-eligible building;

(ii) for each long-range building program-eligible building:

(A) includes a facility condition assessment of the building and an itemized list of the building's deficiencies; and

(B) compares the building's current building deficiency ratio to its deficiency ratio in the previous biennium.

(b) The ~~department~~ division may contract with a private vendor to collect, analyze, and compile the building information required in this subsection (2).

(c) The facility inventory and condition assessment must be updated as determined by the ~~department~~ division.

(d) The ~~department~~ division may incorporate in the statewide facility inventory and condition assessment any facility condition assessment or similar document compiled by an agency.

(e) The ~~department~~ division shall provide the statewide facility inventory and condition assessment, including a calculation of the deferred maintenance backlog and overall building deficiency ratio of the long-range building program-eligible buildings, to the office of budget and program planning and the legislative finance committee by September 1 of ~~each even-numbered year~~ the year preceding a legislative session in an electronic format.

(3) The ~~department~~ division is not required to include a state-owned building that has a current replacement value of \$150,000 or less in the facility inventory and condition assessment.

(4) The ~~department~~ division shall examine the information furnished by each agency and institution and shall gather whatever additional information is necessary and conduct whatever surveys are necessary in order to provide a factual basis for determining the need for and the feasibility of ~~the construction of buildings~~ major

repair projects and capital developments. The information compiled by the ~~department~~ division shall be submitted to the governor before ~~December~~ October 1 of ~~each even-numbered year~~ the year preceding a legislative session."

Section 13. Section 17-7-203, MCA, is amended to read:

"17-7-203. Submission to legislature. During the first week of each regular legislative session, the governor shall submit to the legislature:

(1) the requests of all state agencies and institutions compiled in the form of a comprehensive, long-range proposed building program for capital developments, including:

- (a) the purpose for which each building would be used;
- (b) the estimated cost of each building, including necessary land acquisition;
- (c) the reasons given by the institution or agency for needing each building;
- (d) a priority order recommended by the agency or institution for each building;
- (e) the recommendation of the institution or agency as to when each building is needed;
- (f) any comments of the governor;

(2) a building program for capital developments proposed by the governor for the forthcoming biennium in the form of a capital ~~construction~~ developments budget, including:

- (a) the purpose for which each building would be used;
- (b) the estimated cost of each building and necessary land acquisition;
- (c) the reasons for the governor's recommendation to construct each building during the forthcoming biennium;
- (d) the proposed method of financing for each building;
- (e) any long-range building plans;
- (f) any changes in the law necessary to insure an effective, well-coordinated building program for the state.

(3) the list of anticipated major repair projects submitted by the architecture and engineering division pursuant to [section 1]."

Section 14. Section 17-7-204, MCA, is amended to read:

"17-7-204. Long-range building program for capital developments. The executive budget for all state agencies must include detailed recommendations for the state long-range building program for capital developments presented in order of importance by fund type. Each recommendation must be presented by agency or branch by funding source, with a description of each proposed ~~project~~ capital development, an explanation of the problem to be addressed by the proposed project, alternative methods of addressing the problem, the rationale for the selection of a particular alternative, and a projection of increased operating costs incident to the project for the next three bienniums."

Section 15. Section 17-7-205, MCA, is amended to read:

"17-7-205. Long-range Major repair long-range building program account. (1) There is a major repair long-range building program account in the capital projects fund type to fund major repair projects. [The account is subject to legislative fund transfer.]

(2) Cigarette tax revenue is deposited in the account pursuant to 16-11-119.

(3) Coal severance taxes are allocated to and deposited in the account under 15-35-108 ~~may be appropriated for the long-range building program or debt service payments on building projects. Coal severance taxes required for general obligation bond debt service may be transferred to the debt service fund.~~

(4) Interest earnings, project carryover funds, administrative fees, and miscellaneous revenue must be retained in the account. (Bracketed language in subsection (1) terminates June 30, 2019--sec. 28, Ch. 6, Sp. L. November 2017.)"

Section 16. Section 90-4-625, MCA, is amended to read:

"90-4-625. Energy conservation program debt service account. (1) There is an energy conservation program debt service account within the debt service fund type established in 17-2-102.

(2) The department shall transfer to the major repair long-range building program account created in 17-7-205 money in the energy conservation debt service account that is in excess of the amount that may be needed to satisfy the principal and interest payments on the energy conservation program bonds."

Section 17. Repealer. The following section of the Montana Code Annotated is repealed:

17-7-206. Maintenance for state buildings.

Section 18. Codification instruction. [Sections 1 through 6] are intended to be codified as an integral part of Title 17, chapter 7, part 2, and the provisions of Title 17, chapter 7, part 2, apply to [sections 1 through 6].

Section 19. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Section 20. Effective date. [This act] is effective July 1, 2019.

- END -

I hereby certify that the within bill,
HB 0553, originated in the House.

Speaker of the House

Signed this _____ day
of _____, 2019.

Chief Clerk of the House

President of the Senate

Signed this _____ day
of _____, 2019.

HOUSE BILL NO. 553

INTRODUCED BY F. MOORE, N. BALLANCE, D. BEDEY, W. GALT, G. HERTZ, K. HOLMLUND,
M. HOPKINS, L. JONES, J. KEANE, R. LYNCH, R. OSMUNDSON, J. SESSO

AN ACT GENERALLY REVISING INFRASTRUCTURE LAWS; CREATING INFRASTRUCTURE POLICY; LIMITING AUTHORITY TO CREATE STATE DEBT; DISTINGUISHING BETWEEN MAJOR REPAIR AND CAPITAL DEVELOPMENT PROJECTS; REQUIRING THE ARCHITECTURE AND ENGINEERING DIVISION OF THE DEPARTMENT OF ADMINISTRATION TO SUBMIT A PRIORITIZED LIST OF ANTICIPATED MAJOR REPAIR PROJECTS PURSUANT TO CRITERIA; REQUIRING THE DIVISION TO REPORT CHANGES OF ALLOCATIONS FOR MAJOR REPAIR PROJECTS; REQUIRING A MINIMUM LEVEL OF FUNDING FOR MAJOR REPAIR PROJECTS PRIOR TO AUTHORIZING CAPITAL DEVELOPMENTS; PROVIDING FOR TRANSFERS FOR CAPITAL DEVELOPMENTS DEPENDING ON ANNUAL DEBT SERVICE; REQUIRING CERTAIN TRANSFERS BE CONSIDERED PRESENT LAW BASE; ESTABLISHING LONG-RANGE BUILDING PROGRAM ACCOUNTS FOR MAJOR REPAIR AND CAPITAL DEVELOPMENTS; REQUIRING INCREASED PROGRAMMATIC AND MAINTENANCE FUNDING BE APPROPRIATED IN CERTAIN CIRCUMSTANCES; PROVIDING DEFINITIONS; AMENDING SECTIONS 15-35-108, 16-11-119, 17-5-802, 17-7-111, 17-7-201, 17-7-202, 17-7-203, 17-7-204, 17-7-205, AND 90-4-625, MCA; REPEALING SECTION 17-7-206, MCA; AND PROVIDING AN EFFECTIVE DATE.