



AN ACT REVISING THE GOVERNOR'S POWER TO SPEND CERTAIN UNANTICIPATED FEDERAL FUNDS, ITEMS, AND SERVICES; PROVIDING FOR REVIEW OF THE GOVERNOR'S EMERGENCY AND DISASTER EXPENDITURE PLAN BY THE LEGISLATIVE FINANCE COMMITTEE; LIMITING STATUTORY APPROPRIATION AUTHORITY; PROVIDING FOR A LEGISLATIVE POLLING PROCESS BY THE SECRETARY OF STATE TO VOTE ON WHETHER TO APPROVE THE GOVERNOR'S EXPENDITURE PLAN AND EXCEED THE APPROPRIATION LIMIT; AMENDING SECTION 10-3-203, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

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

Section 1. Statement of policy -- poll of legislature -- expenditure plan for unanticipated funds.

(1) In order to prevent an overly broad delegation of legislative powers to the executive branch, to ensure continuity of government during a period of emergency as provided in Article III, section 2, of the Montana constitution, and to preserve strict accountability of all money spent by the state as provided in Article VIII, section 12, of the Montana constitution, the legislature retains the power to approve the governor's power over large unanticipated funds, items, and services received for purposes of emergency or disaster services while providing a means to provide for a prompt and timely oversight of the funds through an expedited polling process.

(2) As provided in 10-3-203(3)(b), when the legislature is not in session the legislative finance committee shall request that the secretary of state poll the members of the legislature to determine if a majority of the members of the house of representatives and a majority of the members of the senate are in favor of a legislative declaration approving the governor's expenditure plan.

(3) The request must:

(a) state the conditions warranting the poll;

- (b) provide the recommendations of the legislative finance committee as provided in 10-3-203(3)(b);
- and
- (c) provide a legislative declaration to affirm the governor's expenditure plan.
- (4) Within 3 calendar days after receiving a request, the secretary of state shall send a ballot to all legislators by using any reasonable and reliable means, including electronic delivery, that contains the information provided in subsection (3) and the date by which legislators shall return the ballot, which may not be more than 10 calendar days after the date the ballots were sent.
- (5) A legislator may cast and return a vote by delivering the ballot in person, by mailing, or by sending the ballot by facsimile transmission or electronic mail to the office of the secretary of state. A legislator may not change the legislator's vote after the ballot is received by the secretary of state. The secretary of state shall tally the votes within 1 working day after the date for return of the votes. If a majority of the members in each house vote to approve the legislative declaration, then the governor's expenditure plan is approved and the governor is no longer bound to the appropriation limit in 10-3-203(3) for the applicable emergency or disaster.
- (6) A ballot that is not returned by the deadline established by the secretary of state is considered a vote against the declaration.
- (7) If the expenditure plan is not approved, the governor may submit a new expenditure plan under the provisions of 10-3-203(3) for the purpose of a revised poll of the legislature, call a special session of the legislature under the provisions of Article V, section 11, of the Montana constitution to consider the plan, or remain within the appropriation limit in 10-3-203(3).

Section 2. Section 10-3-203, MCA, is amended to read:

"10-3-203. Acceptance of services, gifts, grants, and loans. (1) Whenever the federal government or any agency or officer of the federal government offers to the state, or through the state to any political subdivision of the state, services, equipment, supplies, materials, or funds by way of gift, grant, reimbursement of mutual aid, or loan for purposes of emergency or disaster services, the state, acting through the governor, or the political subdivision, acting through its executive officer or governing body, may accept the offer. Upon the acceptance, the governor of the state or the executive officer or governing body of the political subdivision may authorize any officer of the state or of the political subdivision to receive the services, equipment, supplies,

materials, or funds on behalf of the state or political subdivision and subject to the terms of the offer and the rules, if any, of the agency making the offer.

(2) ~~The~~ Subject to subsection (3), the funds, items, and services set forth in subsection (1) are statutorily appropriated, as provided in 17-7-502, to the governor for the purposes set forth in subsection (1) or to the department of natural resources and conservation for fire suppression purposes or costs.

(3) (a) The statutory appropriation provided in this section is limited to an amount equal to 5% of the general fund appropriations for the second year of the biennium in the most recently adopted general appropriations act for each emergency or disaster, unless the governor receives authorization from the legislature through a joint resolution or a bill during a regular or special session of the legislature or through the polling process in [section 1].

(b) (i) If the legislature is not in session and the funds, items, and services set forth in subsection (1) exceed the appropriation limit in subsection (3)(a), the governor shall submit a copy of the governor's recommendations to expend more than the appropriation limit in this section to the legislative fiscal analyst provided for in 5-12-302 as an expenditure plan. The plan must be provided in an electronic format.

(ii) The legislative finance committee provided for in 5-12-201 shall meet within 20 days of the date that the proposed plan is provided to the legislative fiscal analyst. The legislative finance committee may make recommendations concerning the governor's plan. The governor shall consider the recommendations of the legislative finance committee in determining how the money will be expended and either include or omit finance committee recommendations in the governor's plan.

(iii) The legislative finance committee shall provide a recommendation to the members of the senate and the house of representatives regarding whether to accept the governor's final expenditure plan and request a polling of the legislature pursuant to [section 1] within 10 calendar days of receiving the governor's final plan."

Section 3. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 10, chapter 3, part 2, and the provisions of Title 10, chapter 3, part 2, apply to [section 1].

Section 4. Effective date. [This act] is effective on passage and approval.

- END -

I hereby certify that the within bill,
HB 159, originated in the House.

Chief Clerk of the House

Speaker of the House

Signed this _____ day
of _____, 2021.

President of the Senate

Signed this _____ day
of _____, 2021.

HOUSE BILL NO. 159

INTRODUCED BY L. JONES, D. BEDEY, F. GARNER, K. HOLMLUND, D. LOGE, M. REGIER

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