

SENATE BILL NO. 9

INTRODUCED BY L. JONES

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4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS TO ONLY PROVIDE BUDGET  
5 STABILIZATION MEASURES; PROVIDING DEPOSIT RULES FOR FUNDS RECEIVED FROM CERTAIN  
6 CONTRACT RENEGOTIATIONS; PROVIDING FOR A CONTINGENT TRANSFER; CREATING A PRIVATE  
7 CORRECTIONAL FACILITY CONTRACT RENEGOTIATION STATE SPECIAL REVENUE ACCOUNT;  
8 PROVIDING FOR CONTINGENT REDUCTIONS TO THE CALCULATION OF THE PROJECTED ENDING  
9 GENERAL FUND BALANCE AND PROJECTED GENERAL FUND BUDGET DEFICIT; PROVIDING  
10 ALLOCATIONS WITH EXCESS REVENUE; ELIMINATING TRANSFERS FOR THE SECRETARY OF STATE,  
11 THE STATE AUDITOR'S OFFICE, AND THE PUBLIC SERVICE COMMISSION IN FISCAL YEAR 2019 IF  
12 EXCESS REVENUES ARE RECEIVED; PROVIDING FOR CONTINGENT VOIDNESS; AMENDING SECTION  
13 17-7-140, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND TERMINATION DATES."

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15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
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17 NEW SECTION. **Section 1. Private correctional facility contract renegotiation -- use of funds --**  
18 **creation of account.** (1) There is a private correctional facility contract renegotiation account in the state special  
19 revenue fund. All money received by the state and any savings realized by the state from contract renegotiations  
20 between the state and private correctional facility contractors must be deposited as follows:

21 (a) up to \$15 million must be deposited in the fire suppression account provided for in 76-13-150; and  
22 (b) after \$15 million has been deposited as provided in subsection (1)(a), all excess money must be  
23 deposited in the private correctional facility contract renegotiation account and may be appropriated by the  
24 legislature to fund essential services.

25 (2) The department of corrections shall report any savings realized by the state during contract  
26 renegotiations to the legislative finance committee and the office of budget and program planning. After notifying  
27 the legislative finance committee of savings realized by the state, the office of budget and program planning shall  
28 reduce general fund appropriation authority for the department of corrections by the amount of reported savings  
29 and transfer an equal amount of money from the general fund to the private correctional facility contract  
30 renegotiation account.

- 1 (3) As used in this section, the following definitions apply:
- 2 (a) (i) "Essential services" means governmental services:
- 3 (A) delivered:
- 4 (I) to the most vulnerable populations;
- 5 (II) to families, children, seniors, and individuals with disabilities; and
- 6 (III) to ensure a continuum of care allowing individuals to remain in the least restrictive environment;
- 7 (B) that were reduced or eliminated through appropriation reductions after introduction of House Bill No.
- 8 2 in the house of representatives.
- 9 (ii) The term does not include governmental services that are funded through an appropriation that is
- 10 greater than the introduced version of House Bill No. 2 in the house of representatives.
- 11 (b) "Private correctional facility" has the meaning provided in 53-30-602.
- 12 (c) "Private correctional facility contractor" means an individual, corporation, partnership, association,
- 13 or other private organization or entity that operates a private correctional facility under Title 53, chapter 30, part
- 14 6.

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16 **NEW SECTION. Section 2. Contingent fund transfer.** By June 30, 2018, the state treasurer shall

17 transfer \$15 million from the general fund to the fire suppression account provided for in 76-13-150 unless the

18 state treasurer certifies to the legislative fiscal analyst by June 30, 2018, that \$15 million was deposited into the

19 fire suppression account provided for in 76-13-150 pursuant to [section 1].

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21 **Section 3.** Section 17-7-140, MCA, is amended to read:

22 **"17-7-140. Reduction in spending.** (1) (a) As the chief budget officer of the state, the governor shall

23 ensure that the expenditure of appropriations does not exceed available revenue. Except as provided in

24 subsection (2), in the event of a projected general fund budget deficit, the governor, taking into account the

25 criteria provided in subsection (1)(c), shall direct agencies to reduce spending in an amount that ensures that the

26 projected ending general fund balance for the biennium will be at least:

- 27 (i) subject to subsection (8), 6% of the general fund appropriations for the second fiscal year of the
- 28 biennium prior to October of the year preceding a legislative session;
- 29 (ii) 3% of the general fund appropriations for the second fiscal year of the biennium in October of the year
- 30 preceding a legislative session;

1 (iii) 2% of the general fund appropriations for the second fiscal year of the biennium in January of the year  
2 in which a legislative session is convened; and

3 (iv) 1% of the general fund appropriations for the second fiscal year of the biennium in March of the year  
4 in which a legislative session is convened.

5 (b) An agency may not be required to reduce general fund spending for any program, as defined in each  
6 general appropriations act, by more than 10% during a biennium. Departments or agencies headed by elected  
7 officials or the board of regents may not be required to reduce general fund spending by a percentage greater  
8 than the percentage of general fund spending reductions required for the total of all other executive branch  
9 agencies. The legislature may exempt from a reduction an appropriation item within a program or may direct that  
10 the appropriation item may not be reduced by more than 10%.

11 (c) The governor shall direct agencies to manage their budgets in order to reduce general fund  
12 expenditures. Prior to directing agencies to reduce spending as provided in subsection (1)(a), the governor shall  
13 direct each agency to analyze the nature of each program that receives a general fund appropriation to determine  
14 whether the program is mandatory or permissive and to analyze the impact of the proposed reduction in spending  
15 on the purpose of the program. An agency shall submit its analysis to the office of budget and program planning  
16 and shall at the same time provide a copy of the analysis to the legislative fiscal analyst. The report must be  
17 submitted in an electronic format. The office of budget and program planning shall review each agency's analysis,  
18 and the budget director shall submit to the governor a copy of the office of budget and program planning's  
19 recommendations for reductions in spending. The budget director shall provide a copy of the recommendations  
20 to the legislative fiscal analyst at the time that the recommendations are submitted to the governor and shall  
21 provide the legislative fiscal analyst with any proposed changes to the recommendations. The recommendations  
22 must be provided in an electronic format. The legislative finance committee shall meet within 20 days of the date  
23 that the proposed changes to the recommendations for reductions in spending are provided to the legislative  
24 fiscal analyst. The legislative fiscal analyst shall provide a copy of the legislative fiscal analyst's review of the  
25 proposed reductions in spending to the budget director at least 5 days before the meeting of the legislative  
26 finance committee. The committee may make recommendations concerning the proposed reductions in spending.  
27 The governor shall consider each agency's analysis and the recommendations of the office of budget and  
28 program planning and the legislative finance committee in determining the agency's reduction in spending.  
29 Reductions in spending must be designed to have the least adverse impact on the provision of services  
30 determined to be most integral to the discharge of the agency's statutory responsibilities.

- 1 (2) Reductions in spending for the following may not be directed by the governor:
- 2 (a) payment of interest and principal on state debt;
- 3 (b) the legislative branch;
- 4 (c) the judicial branch;
- 5 (d) the school BASE funding program, including special education;
- 6 (e) salaries of elected officials during their terms of office; and
- 7 (f) the Montana school for the deaf and blind.
- 8 (3) (a) As used in this section, "projected general fund budget deficit" means an amount, certified by the
- 9 budget director to the governor, by which the projected ending general fund balance for the biennium is less than:
- 10 (i) subject to subsection (8), 5% of the general fund appropriations for the second fiscal year of the
- 11 biennium prior to October of the year preceding a legislative session;
- 12 (ii) 1.875% in October of the year preceding a legislative session;
- 13 (iii) 1.25% in January of the year in which a legislative session is convened; and
- 14 (iv) 0.625% in March of the year in which a legislative session is convened.
- 15 (b) In determining the amount of the projected general fund budget deficit, the budget director shall take
- 16 into account revenue, established levels of appropriation, anticipated supplemental appropriations for school
- 17 equalization aid and the cost of the state's wildland fire suppression activities exceeding the amount statutorily
- 18 appropriated in 10-3-312, and anticipated reversions.
- 19 (4) If the budget director determines that an amount of actual or projected receipts will result in an
- 20 amount less than the amount projected to be received in the revenue estimate established pursuant to 5-5-227,
- 21 the budget director shall notify the revenue and transportation interim committee of the estimated amount. Within
- 22 20 days of notification, the revenue and transportation interim committee shall provide the budget director with
- 23 any recommendations concerning the amount. The budget director shall consider any recommendations of the
- 24 revenue and transportation interim committee prior to certifying a projected general fund budget deficit to the
- 25 governor.
- 26 (5) If the budget director certifies a projected general fund budget deficit, the governor may authorize
- 27 transfers to the general fund from certain accounts as set forth in subsections (6) and (7).
- 28 (6) The governor may authorize transfers from the budget stabilization reserve fund provided for in
- 29 17-7-130. The governor may authorize \$2 of transfers from the fund for each \$1 of reductions in spending.
- 30 (7) If the budget director certifies a projected general fund budget deficit, the governor may authorize

1 transfers to the general fund from the fire suppression account established in 76-13-150. The amount of funds  
2 available for a transfer from this account is up to the sum of the fund balance of the account, plus expected  
3 current year revenue, minus the sum of 1% of the general fund appropriations for the second fiscal year of the  
4 biennium, plus estimated expenditures from the account for the fiscal year. The governor may authorize \$1 of  
5 transfers from the fire suppression account established in 76-13-150 for each \$1 of reductions in spending.

6 (8) For the biennium beginning July 1, 2017, the percentages in subsections (1)(a)(i) and (3)(a)(i) are  
7 both reduced pursuant to [section 4]."

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9 COORDINATION SECTION. **Section 4. Coordination instruction.** (1) The percentage in  
10 17-7-140(1)(a)(i) and the percentage in (3)(a)(i) are amended as follows:

11 (a) If Senate Bill No. 4 is not passed and approved, then the percentages in 17-7-140(1)(a)(i) and  
12 (3)(a)(i) are each reduced by 0.53.

13 (b) If House Bill No. 4 is not passed and approved, then the percentages in 17-7-140(1)(a)(i) and (3)(a)(i)  
14 are each reduced by 0.57.

15 (c) If \$15 million in proceeds from [section 1] is not deposited or transferred into the fire suppression  
16 account established in 76-13-150 by June 30, 2018, then the percentages in 17-7-140(1)(a)(i) and (3)(a)(i) are  
17 each reduced by 0.65.

18 (d) If [LC 19] is not passed and approved, then the percentages in 17-7-140(1)(a)(i) and (3)(a)(i) are each  
19 reduced by 1.51.

20 (2) The reductions to the percentage in 17-7-140(1)(a)(i) made pursuant to subsection (1) are cumulative  
21 but may not exceed a total reduction of 3.

22 (3) The reductions to the percentage in 17-7-140(3)(a)(i) made pursuant to subsection (1) are cumulative  
23 but may not exceed a total reduction of 3.

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25 NEW SECTION. **Section 5. Allocations to state agencies with excess revenues.** (1) The state  
26 treasurer shall notify the budget director, the legislative fiscal analyst, and the code commissioner on or before  
27 August 15, 2018, if the amount of the certified unaudited state general fund revenue and transfers into the general  
28 fund received at the end of fiscal year 2018 is more than \$2,264.9 million and shall indicate the amount by which  
29 the revenue exceeds \$2,264.9 million.

30 (2) If the certified unaudited state general fund revenue exceeds \$2,264.9 million by less than \$20 million,

1 all excess revenue remains in the general fund.

2 (3) (a) If the certified unaudited state general fund revenue exceeds \$2,264.9 million by at least \$20  
3 million and by no more than \$112 million, the excess revenue shall be allocated as follows:

4 (i) \$20 million remains in the general fund;

5 (ii) one-half of the remainder is transferred into the budget stabilization reserve fund provided for in  
6 17-7-130; and

7 (iii) one-half of the remainder is allocated to agencies to offset reductions to general fund appropriations  
8 made in House Bill No. 2.

9 (b) The amount allocated to an agency to offset reductions is the amount identified in subsection (3)(c)  
10 over the total amount of subject to offset multiplied by one-half of the amount that the certified unaudited state  
11 general fund revenue is in excess of \$20 million.

12 (c) Agencies and amount subject to offset are as follows: TABLE

13 (4) If the certified unaudited state general fund revenue exceeds \$2,264.9 million by more than \$112  
14 million, excess funds of \$112 million or less are allocated pursuant to subsection (3) and excess funds of more  
15 than \$112 million remain in the general fund.

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17 COORDINATION SECTION. Section 6. Coordination instruction. If both [this act] and [LC 19] are  
18 passed and approved, and if the certified unaudited state general fund revenue exceeds \$2,264.9 million by \$20  
19 million or more, then:

20 (1) the transfer in [section 1] of [LC 19] from the secretary of state enterprise fund account provided for  
21 in 2-15-405 to the general fund in fiscal year 2019 is void;

22 (2) the transfer in [section 1] of [LC 19] from the public service commission state special revenue account  
23 provided for in 69-1-402 to the general fund in fiscal year 2019 is void; and

24 (3) [section 2] of [LC 19] must read:

25 "NEW SECTION. Section 2. State auditor fund transfers. Notwithstanding any other provision of law  
26 directing use of its state special revenue funds, the state auditor shall remit \$530,825 to the state treasurer by  
27 December 1, 2017, credited to the general fund."

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29 NEW SECTION. Section 7. Severability. If a part of [this act] is invalid, all valid parts that are severable  
30 from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part

1 remains in effect in all valid applications that are severable from the invalid applications.

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3 NEW SECTION. **Section 8. Contingent voidness.** If [this act] is not passed and approved, then [LC

4 19] is void.

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6 NEW SECTION. **Section 9. Effective date.** [This act] is effective on passage and approval.

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8 NEW SECTION. **Section 10. Termination dates.** (1) Except as provided in subsection (2), [this act]

9 terminates June 30, 2019.

10 (2) [Sections 3 and 4] terminate October 1, 2018.

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