_____ BILL NO. _____

INTRODUCED BY _____

BY REQUEST OF THE GOVERNMENT EVIDENCE AND IMPACT COMMISSION

A BILL FOR AN ACT ENTITLED: “AN ACT REVISING BUDGETARY LAWS AND GUIDELINES; REVISING SPECIAL REVENUE DEDICATION PROVISIONS; PROVIDING GUIDANCE FOR THE USE OF STATE SPECIAL REVENUE ACCOUNTS; PROVIDING GUIDANCE FOR THE USE OF STATUTORY APPROPRIATIONS; RESTRICTING THE USE OF STATUTORY APPROPRIATIONS FOR ADMINISTRATIVE COSTS; AMENDING SECTIONS 17-1-501, 17-1-502, 17-1-505, 17-1-506, 17-1-508, 17-7-209, AND 17-7-502, MCA; REPEALING SECTIONS 17-1-503 AND 17-1-507, MCA; AND PROVIDING AN EFFECTIVE DATE.”

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

Section 1. Section 17-1-501, MCA, is amended to read:

"**17-1-501. Legislative intent.** (1) It is the intent of the legislature, by establishing criteria for the review and evaluation of revenue dedication provisions, to ensure that provisions for revenue dedication:

(a) are based on sound principles of revenue dedication as described in ~~17-1-507~~ 17-7-505;

(b) reflect present circumstances and legislative priorities for state spending;

(c) are terminated when they are no longer necessary or appropriate; and

(d) are subject to the same legislative scrutiny as programs or activities funded from the general fund.

(2) It is the intent of the legislature, by establishing criteria for the review and evaluation of statutory appropriation provisions, to ensure that provisions with statutory appropriations:

(a) reflect present circumstances and legislative priorities for state spending;

(b) are terminated when they are no longer necessary or appropriate; and

(c) are subject to the same legislative scrutiny as other appropriations.

(3) When revenue is dedicated to a local government, it is the intent of the legislature that the dedicated revenue provision be reviewed in the context of the policy and purpose expressed in 15-1-120."

Section 2. Section 17-1-502, MCA, is amended to read:

"**17-1-502. Definitions.** As used in this part, unless the context requires otherwise, the following definitions apply:

(1) "Administrative costs" includes:

(a) personal services;

(b) operating expenses, such as travel, supplies, and communication costs; and

(c) capital expenses, such as equipment, building costs, and real property costs.

(2) ~~(a)~~ "Continuing and reliable source of revenue" means a revenue source for which an agency forecasts an annual level of collections based ~~upon~~ on historical data and prepares a budget for expenditures commensurate with the level of collections. Collections may fluctuate based on a one-time variability in revenues but may not change significantly on an annual basis.

~~(b) The term does not include revenue:~~

~~(i) that an agency will receive only as a result of an occurrence that is not a routine part of agency operations;~~

~~(ii) that will vary significantly on an annual basis; or~~

~~(iii) that is unable to be included in the agency budget because of the erratic nature of receipt.~~

(3) "Dedicated revenue provision" means an administrative or legislative action that allocates the revenue from a tax, fee, assessment, or other source to an account in the state special revenue fund, as described in 17-2-102, or to a local government.

(4) "General revenue source" means a source of revenue not governed by established or implied restrictions based on the source or limited use of the revenue. The term includes taxes, interest earnings, investment earnings, fines, and forfeitures.

(5) "Local government" means a municipality, a county, a consolidated government, or a special district.

(6) "State special revenue fund" means a fund in the state treasury consisting of money from state sources that is earmarked for the purposes of defraying particular costs of an agency, program, or function of state government, as provided in 17-2-102."

Section 3. Section 17-1-505, MCA, is amended to read:

"**17-1-505. Review of dedicated revenue provisions.** (1) The legislature recognizes that dedicated revenue provisions are subject to review by:

(a) the office of budget and program planning ~~in the development and implementation of the executive budget and analysis of legislation~~;

(b) the legislative fiscal division ~~in analyzing the executive budget~~;

(c) the legislative services division in drafting legislation;

(d) the legislative auditor in auditing agencies;

(e) the department of administration in performing the functions provided for in 17-2-106; and

(f) the department of revenue in reviewing revenue sources and determining distributions to local governments.

(2) (a) To ~~avoid~~ assist legislators in avoiding unnecessary and unjustified use of dedicated revenue provisions, the entities listed in subsection (1) shall, in the course of current duties, recommend that a legislator consider the principles in ~~17-1-507 and the criteria listed in this subsection~~ this section when requesting legislation:

(i) to create a ~~for each~~ new or revise an existing dedicated revenue provision; or~~. If an entity referred to in subsection (1) determines that the use of a dedicated revenue provision is not justified, the use or proposed use must be reported to the legislative fiscal analyst.~~

(ii) to transfer general fund money into a new or existing dedicated revenue provision.

(b) The legislator may seek assistance from the legislative fiscal division in considering whether the dedicated revenue provision or general fund transfer complies with the provisions of this section.

(3) A dedicated revenue provision should not give a program or activity an unfair advantage for funding. The expenditures from a dedicated revenue provision must be based on requirements for meeting a legislatively established outcome. Statutorily mandated programs or activities funded through dedicated revenue provisions from general revenue sources must be reviewed to the same extent as programs or activities funded from the general fund.

(4) (a) The use of a dedicated revenue provision may be justified if ~~it satisfies one or more of the~~

~~following~~:

(i) it provides for effective fiscal tracking of constitutional mandates, federal mandates, or statutory requirements that cannot be tracked effectively in the general fund; or

(ii) (A) there is a direct benefit for those who pay the tax, fee, or assessment; and

(B) revenues are substantially equal to expenditures, which allows the account to operate without material reliance on support from other funds, including the general fund. However, a general fund transfer into a dedicated revenue account is considered appropriate if it provides long-term sustainability of state finances.

~~(a) The program or activity funded provides direct benefits for those who pay the dedicated tax, fee, or assessment, and the tax, fee, or assessment is commensurate with the costs of the program or activity.~~

~~(b) The use of the dedicated revenue provision provides special information or other advantages that could not be obtained if the revenue were allocated to the general fund.~~

~~(c) The dedicated revenue provision provides program funding at a level equivalent to the expenditures established by the legislature.~~

~~(d) The dedicated revenue provision involves collection and allocation formulas that are appropriate to the present circumstances and current priorities in state government.~~

~~(e)~~ (b) The use of a dedicated revenue provision may also be justified if:

(i) ~~The~~ the dedicated revenue provision does not impair the legislature's ability to scrutinize budgets, control expenditures, and establish priorities for state spending; and~~.~~

~~(f) The dedicated revenue provision results in an appropriate projected ending fund balance.~~

~~(g)~~ (ii) ~~The~~ the dedicated revenue provision fulfills a continuing, legislatively recognized need.

~~(h) The dedicated revenue provision does not result in accounting or auditing inefficiency.~~

~~(3)~~ (5) A local government dedicated revenue provision may be justified if it satisfies any of the following:

(a) The program or activity funded provides direct benefits or services for those who pay the dedicated tax, fee, or assessment, and the tax, fee, or assessment is commensurate with the costs of the program or activity.

(b) The provision provides necessary information or other advantages that could not be obtained if the revenue were allocated to the state general fund.

(c) The provision involves collection and allocation formulas that are appropriate to the present circumstances and current priorities of state and local government.

(d) The provision does not impair the ability of the legislature to scrutinize budgets, control expenditures, and establish state spending priorities.

(e) The provision fulfills a legislatively recognized continuing need.

(f) The provision does not result in accounting or auditing inefficiency or unnecessary complexity and instability of local government funding structures."

Section 4. Section 17-1-506, MCA, is amended to read:

"**17-1-506. Review of legislation.** The office of budget and program planning shall, consistent with the review provisions in 17-1-505, review each piece of legislation that proposes to dedicate revenue. The office shall ~~submit~~ include its findings concerning the dedication of revenue on the fiscal notes accompanying that legislation."

Section 5. Section 17-1-508, MCA, is amended to read:

"**17-1-508. Review of statutory appropriations.** ~~(1) Each biennium, the office of budget and program planning shall, in development of the executive budget, review and identify instances in which statutory appropriations in current law do not appear consistent with the guidelines set forth in subsection (2).~~

~~(2) The review of statutory appropriations must determine whether a statutory appropriation meets the requirements of 17-7-502. Except as provided in [76-17-103,] 77-1-108, and 87-5-909, a~~ (1) A statutory appropriation from a continuing and reliable source of revenue may not be used to fund administrative costs unless authorized in 17-7-502.

(2) In reviewing and establishing statutory appropriations, the legislature shall consider the following guidelines. A proposed or existing statutory appropriation may ~~not~~ be considered appropriate only if:

(a) (i) it contains a formula for expenditures; or

(ii) an expenditure limit; and

(b) (i) except as provided in subsection (3), it has a termination date; and

(ii) the occurrence of revenue or expenditure is not predictable or reliable.

(3) The provisions of subsection (2)(b) do not apply to expenditures related to constitutional obligations or financial liabilities of the state, emergencies, or longstanding reliable funding for local governments.

~~(a) the money is from a continuing, reliable, and estimable source;~~

~~(b) the use of the appropriation or the expenditure occurrence is predictable and reliable;~~

~~(c) the authority exists elsewhere;~~

~~(d) an alternative appropriation method is available, practical, or effective;~~

~~(e) it appropriates state general fund money for purposes other than paying for emergency services;~~

~~(f) the money is used for general purposes;~~

~~(g) the legislature wishes to review expenditure and appropriation levels each biennium; and~~

~~(h) an expenditure cap and sunset date are excluded.~~

~~(3)~~ (4) The office of budget and program planning shall prepare a fiscal note for each piece of legislation that proposes to create or amend a statutory appropriation. It shall, consistent with the guidelines in this section, review each of these pieces of legislation. Its findings concerning the statutory appropriation must be contained in the fiscal note accompanying that legislation. ~~(Bracketed language in subsection (2) terminates June 30, 2027--sec. 10, Ch. 374, L. 2017.)~~"

Section 6. Section 17-7-209, MCA, is amended to read:

"17-7-209. Capital developments long-range building program account. (1) (a) There is a capital developments long-range building program account in the capital projects fund type to fund capital developments and to retire general obligation bonds paid by the general fund.

(b) If there are funds in excess of the amount needed for appropriations from the capital developments long-range building program account in the capital projects fund type, then the excess funds:

(i) may be used to pay down the principal, interest, premiums, and any costs or fees associated with redeeming or defeasing outstanding general obligation bonds paid by the general fund for capital projects previously authorized and issued pursuant to state law; and

(ii) must be used to forego or reduce the amount of an issuance of general obligation bonds paid

by the general fund and authorized pursuant to state law only if the balance in the capital developments long-range building program account established in 17-7-209 is $100 million or more after reducing the account balance by:

(A) the amount needed for appropriations from the account; and

(B) the amount of funds used to forego or reduce the issuance of general obligation bonds paid by the general fund.

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

(3) For the purposes of subsection (1)(b)(i), funds are statutorily appropriated pursuant to 17-7-502~~(4)~~ (5) from this account."

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

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

(2) Except as provided in subsection ~~(4)~~ (5), to be effective, a statutory appropriation must comply with both of the following provisions:

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

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

(3) The following laws are the only laws containing statutory appropriations: 2-17-105; 5-11-120; 5-11-407; 5-13-403; 5-13-404; 7-4-2502; 7-4-2924; 7-32-236; 10-1-108; 10-1-1202; 10-1-1303; 10-2-603; 10-2-807; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-3-316; 10-3-802; 10-4-304; 10-4-310; 15-1-121; 15-1-218; 15-6-407; 15-31-165; 15-31-1004; 15-31-1005; 15-35-108; 15-36-332; 15-37-117; 15-39-110; 15-65-121; 15-70-128; 15-70-131; 15-70-132; 15-70-433; 16-11-119; 16-11-509; 17-3-106; 17-3-212; 17-3-222; 17-3-241; 17-6-101; 17-6-214; 17-7-133; 17-7-215; 18-5-417; 18-11-112; 19-3-319; 19-3-320; 19-6-404; 19-6-410; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506; 19-20-604; 19-20-607; 19-21-203; 20-3-369; 20-7-1709; 20-8-107; 20-9-250; 20-9-516; 20-9-622; 20-15-328; 20-26-617; 20-26-1503; 22-1-327; 22-3-116; 22-3-

117; [22-3-1004]; 23-4-105; 23-5-306; 23-5-409; 23-5-612; 23-7-301; 23-7-402; 30-10-1004; 33-22-1321; 37-1-125; 37-43-204; 37-50-209; 37-54-113; 39-71-503; 41-5-2011; 42-2-105; 44-4-1101; 44-4-1506; 44-12-213; 44-13-102; 53-1-109; 53-6-148; [53-6-152]; 53-9-113; 53-24-108; 53-24-206; 60-5-530; 60-11-115; 61-3-321; 61-3-415; 61-3-416; 67-1-309; 69-4-527; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 75-11-708; 75-26-308; 76-13-150; 76-13-151; 76-13-417; 76-17-103; 77-1-108; 77-2-362; 80-2-222; 80-4-416; 80-11-518; 80-11-1006; 81-1-112; 81-1-113; 81-2-203; 81-7-106; 81-7-123; 81-10-103; 82-11-161; 85-20-1504; 85-20-1505; [85-25-102]; 87-1-603; 87-1-627; 87-5-909; 90-1-205; 90-1-504; 90-6-331; and 90-9-306.

(4) The following laws are the only laws containing statutory appropriations from which administrative costs may be paid: 5-11-120; 5-11-407; 5-13-403; 5-13-404; 10-1-108; 10-2-603; 10-2-807; 10-3-203; 10-3-310; 10-3-312; 10-3-316; 10-4-304; 10-4-310; 15-1-218; 15-6-407; 15-31-165; 15-31-1004; 15-31-1005; 15-65-121; 15-70-131; 15-70-132; 15-70-433; 16-11-119; 16-11-509; 17-3-106; 17-6-214; 17-7-133; 18-11-112; 19-17-301; 20-7-1709; 20-8-107; 20-26-617; 20-26-1503; 22-3-116; 22-3-117; 22-3-1004; 23-4-105; 23-7-301; 23-7-402; 33-22-1321; 37-1-125; 37-43-204; 37-50-209, 37-54-113; 42-2-105; 44-4-1101; 44-12-213; 44-13-102; 53-1-109; 53-6-152; 60-5-530, 60-11-115; 61-3-321; 69-4-527; 75-1-1101; 75-5-1108; 75-11-313; 75-11-708; 75-26-308; 76-13-150; 76-13-151; 76-13-417; 76-17-103; 77-1-108; 77-2-362; 80-4-416; 80-11-518; 80-11-1006; 81-1-113; 81-7-106; 81-7-123; 81-10-103; 82-11-161; 85-20-1504; 85-20-1505; 87-1-603; 87-1-627; 87-5-909; 90-1-205; and 90-1-504.

~~(4)~~ (5) There is a statutory appropriation to pay the principal, interest, premiums, and any costs or fees associated with issuing, paying, securing, redeeming, or defeasing all bonds, notes, or other obligations, as due in the ordinary course or when earlier called for redemption or defeased, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to sec. 10, Ch. 360, L. 1999, the inclusion of 19-20-604 terminates contingently when the amortization period for the teachers' retirement system's unfunded liability is 10 years or less; pursuant to sec. 73, Ch. 44, L. 2007, the inclusion of 19-6-410 terminates contingently upon the death of the last recipient eligible under 19-6-709(2) for the supplemental benefit provided by 19-6-709; pursuant to sec. 5, Ch. 383, L. 2015, the inclusion of 85-25-102 is effective on

occurrence of contingency; pursuant to sec. 10, Ch. 374, L. 2017, the inclusion of 76-17-103 terminates June 30, 2027; pursuant to secs. 11, 12, and 14, Ch. 343, L. 2019, the inclusion of 15-35-108 terminates June 30, 2027; pursuant to sec. 1, Ch. 408, L. 2019, the inclusion of 17-7-215 terminates June 30, 2029; pursuant to secs. 1, 2, 3, Ch. 139, L. 2021, the inclusion of 53-9-113 terminates June 30, 2027; pursuant to sec. 8, Ch. 200, L. 2021, the inclusion of 10-4-310 terminates July 1, 2031; pursuant to secs. 3, 4, Ch. 404, L. 2021, the inclusion of 30-10-1004 terminates June 30, 2027; pursuant to secs. 5 and 12, Ch. 563, L. 2021, the inclusion of 22-3-1004 is effective July 1, 2027; pursuant to sec. 1, Ch. 20, L. 2023, sec. 2, Ch. 20, L. 2023, and sec. 3, Ch. 20, L. 2023, the inclusion of 81-1-112, 81-1-113, and 81-7-106 terminates June 30, 2029; pursuant to sec. 2, Ch. 374, L. 2023, the inclusion of 10-3-802 terminates June 30, 2031; pursuant to sec. 12, Ch. 558, L. 2023, the inclusion of 20-9-250 terminates December 31, 2029; pursuant to sec. 4, Ch. 621, L. 2023, the inclusion of 22-1-327 terminates July 1, 2029; pursuant to sec. 24, Ch. 722, L. 2023, the inclusion of 17-7-133 terminates June 30, 2027; pursuant to sec. 5, Ch. 129, L. 2025, the inclusion of 37-1-125 terminates June 30, 2031; pursuant to sec. 1, Ch. 181, L. 2025, and sec. 3, Ch. 181, L. 2025, the inclusion of 90-6-331 terminates June 30, 2035; pursuant to sec. 19, Ch. 420, L. 2025, the inclusion of 53-6-152 is effective on occurrence of contingency; pursuant to sec. 20, Ch. 420, L. 2025, the inclusion of 53-6-152 is void on occurrence of contingency; pursuant to sec. 21, Ch. 420, L. 2025, the inclusion of 53-6-152 terminates June 30, 2033; and pursuant to sec. 5, Ch. 645, L. 2025, the inclusion of 33-22-1321 terminates June 30, 2031.)"

NEW SECTION. **Section 8. Repealer.** The following sections of the Montana Code Annotated are repealed:

17-1-503. Transfer of fund balances to general fund.

17-1-507. Principles of revenue dedication.

NEW SECTION. **Section 9. Effective date.** [This act] is effective July 1, 2027.

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