



AN ACT GENERALLY REVISING STATE FINANCE LAWS; REVISING LAWS RELATED TO THE BUDGET STABILIZATION FUND; REVISING THE PURPOSE OF THE BUDGET STABILIZATION FUND; DEFINING TERMS; REVISING THE CAPITAL DEVELOPMENTS LONG-RANGE BUILDING PROGRAM ACCOUNT; CLARIFYING BUDGET AMENDMENT REQUIREMENTS; PROVIDING LEGISLATIVE INTENT; REVISING LAWS RELATING TO THE TRANSFER OF DEFENDANTS AFTER SENTENCING; REQUIRING THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES TO REPORT TO LEGISLATIVE COMMITTEES PRIOR TO TAKING CERTAIN ACTIONS; PROVIDING FOR TRANSFERS AND APPROPRIATIONS; AMENDING SECTION 1, CHAPTER 1, LAWS OF 2019; AMENDING SECTIONS 17-7-130, 17-7-209, 17-7-402, 46-19-101, AND 53-6-101, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

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

Section 1. Section 17-7-130, MCA, is amended to read:

"17-7-130. Budget stabilization reserve fund -- rules for deposits and transfers -- purpose. (1)

There is an account in the state special revenue fund established by 17-2-102 known as the budget stabilization reserve fund.

(2) The purpose of the budget stabilization reserve fund is:

~~(a) to mitigate budget reductions when there is a revenue shortfall; and~~

~~(b) when there are funds in excess of the reserve level, to:~~

~~(i) pay down the debt service on bonds for capital projects previously authorized by the legislature if allowed without penalty by the terms of the bond issuance; and~~

~~(ii) delay, forego, or reduce the amount of an issuance of bonds authorized by the legislature.~~

(3) By August 1 of each year, the department of administration shall certify to the legislative fiscal

analyst and the budget director the following:

(a) the unaudited, unassigned ending fund balance of the general fund for the ~~prior-most~~ most recently completed fiscal year; and

(b) the amount of unaudited general fund revenue and transfers into the general fund received in the prior fiscal year recorded when that fiscal year's statewide accounting, budgeting, and human resource system records are closed. General fund revenue and transfers into the general fund are those recorded in the statewide accounting, budgeting, and human resource system using generally accepted accounting principles in accordance with 17-1-102.

~~(4) For the fiscal years beginning July 1, 2016, through July 1, 2020, if actual general fund revenue exceeds the revenue estimate established pursuant to 5-5-227 for that fiscal year, excess revenue over the amount of revenue that exceeds the revenue estimate by \$15 million is allocated as follows:~~

~~(a) 50% remains in the general fund; and~~

~~(b) 50% is transferred into the budget stabilization reserve fund on or before August 15 of the following fiscal year.~~

~~(5) Starting in the fiscal year beginning July 1, 2021, the~~ The state treasurer shall calculate the operating reserve level of general fund balance defined in 17-7-102(11). The treasurer shall first apply the excess revenue to reach the operating reserve level general fund balance, if necessary. Once the general fund balance is at the reserve level, 75% of the remaining excess revenue is transferred to the budget stabilization reserve fund. state treasurer shall transfer, by August 15 of the following fiscal year, from the general fund to the budget stabilization reserve fund an amount equal to 50% of the excess revenue for the fiscal year.

~~(6)(5)~~ After a transfer is made pursuant to subsection (4) ~~or (5)~~, if the balance of the fund exceeds an amount equal to 4.5% of all general fund appropriations in the second year of the biennium ~~in the subsequent fiscal year~~, then 50% of any funds in excess of that amount must be transferred to the account established in 17-7-208 17-7-209 and 50% to the general fund by August 16 of each fiscal year.

~~(7)(6)~~ For the purposes of this section, the following definitions apply:

(a) "Adjusted compound annual growth rate revenue" means general fund revenue for the fiscal year prior to the ~~prior-most~~ most recently completed fiscal year plus the growth amount.

(b) "Excess revenue" means the amount of general fund revenue, including transfers in, for the most

recently completed fiscal year minus adjusted compound annual growth rate revenue.

(c) "Growth amount" means general fund revenue for the ~~prior~~ fiscal year prior to the most recently completed fiscal year multiplied by the growth rate.

(d) "Growth rate" means the ~~average compound rate of growth of general fund revenue for the most recently completed 6 fiscal years~~ annual compound growth rate of general fund revenue realized over the period 12 years prior to the most recently completed fiscal year, including the most recently completed fiscal year."

Section 2. 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.

(b) If there are funds in excess of the amount needed for appropriations of the capital fund type, then the excess funds:

(i) may be used to pay down the debt service on bonds for capital projects previously authorized by the legislature if allowed without penalty by the terms of the bond issuance; and

(ii) must be used to delay, forego, or reduce the amount of an issuance of bonds authorized by the legislature.

(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 3. Section 17-7-402, MCA, is amended to read:

"17-7-402. Budget amendment requirements. (1) Except as provided in subsection (7), a budget amendment may not be approved:

- (a) by the approving authority, except a budget amendment to spend:
 - (i) additional federal revenue;
 - (ii) additional tuition collected by the Montana university system;
 - (iii) additional revenue deposited in the internal service funds within the department or the office of the commissioner of higher education as a result of increased service demands by state agencies;
 - (iv) Montana historical society enterprise revenue resulting from sales to the public;
 - (v) additional revenue that is deposited in funds other than the general fund and that is from the sale of fuel for those agencies participating in the Montana public vehicle fueling program established by Executive Order 22-91;
 - (vi) revenue resulting from the sale of goods produced or manufactured by the industries program of an institution within the department of corrections;
 - (vii) revenue collected for the administration of the state grain laboratory under the provisions of Title 80, chapter 4, part 7;
 - (viii) revenue collected for the Water Pollution Control State Revolving Fund Act under the provisions of Title 75, chapter 5, part 11;
 - (ix) revenue collected for the Drinking Water State Revolving Fund Act under the provisions of Title 75, chapter 6, part 2;
 - (x) state special revenue adjustments required to allocate costs for leave or terminal leave within an agency in accordance with federal circular A-87; or
 - (xi) revenue generated from fees collected by the department of justice for dissemination of criminal history record information pursuant to Title 44, chapter 5, part 3; or
 - (xii) additional state special funds identified in House Bill No. 2 as being eligible for budget amendments for the fiscal years beginning July 1, 2021, and July 1, 2022;
- (b) by the approving authority if the budget amendment contains any significant ascertainable commitment for any present or future increased general fund support;
- (c) by the approving authority for the expenditure of money in the state special revenue fund unless:

- (i) an emergency justifies the expenditure;
- (ii) the expenditure is authorized under subsection (1)(a); or
- (iii) the expenditure is exempt under subsection (5);
- (d) by the approving authority unless it will provide additional services;
- (e) by the approving authority for any matter of which the requesting agency had knowledge at a time

when the proposal could have been presented to an appropriation subcommittee, the house appropriations committee, or the senate finance and claims committee of the most recent legislative session open to that matter, except when the legislative finance committee is given specific notice by the approving authority that significant identifiable events, specific to Montana and pursuant to provisions or requirements of Montana state law, have occurred since the matter was raised with or presented for consideration by the legislature; or

(f) to extend beyond June 30 of the last year of any biennium, except that budget amendments for federal funds may extend to the end of the federal fiscal year.

(2) A general fund loan made pursuant to 17-2-107 does not constitute a significant ascertainable commitment of present general fund support.

(3) Subject to subsection (1)(f), all budget amendments must itemize planned expenditures by fiscal year.

(4) Each budget amendment must be submitted by the approving authority to the budget director and the legislative fiscal analyst.

(5) Money from nonstate or nonfederal sources that would be deposited in the state special revenue fund and that is restricted by law or by the terms of a written agreement, such as a contract, trust agreement, or donation, is exempt from the requirements of this part.

(6) An appropriation for a nonrecurring item that would usually be the subject of a budget amendment must be submitted to the legislature for approval during a legislative session between January 1 and the senate hearing on the budget amendment bill. The bill may include authority to spend money in the current fiscal year and in both fiscal years of the next biennium.

(7) A budget amendment to spend state funds, other than from the general fund, required for matching funds in order to receive a grant is exempt from the provisions of subsection (1)."

Section 4. Section 53-6-101, MCA, is amended to read:

"53-6-101. Montana medicaid program -- authorization of services. (1) There is a Montana medicaid program established for the purpose of providing necessary medical services to eligible persons who have need for medical assistance. The Montana medicaid program is a joint federal-state program administered under this chapter and in accordance with Title XIX of the Social Security Act, 42 U.S.C. 1396, et seq. The department shall administer the Montana medicaid program.

(2) The department and the legislature shall consider the following funding principles when considering changes in medicaid policy that either increase or reduce services:

(a) protecting those persons who are most vulnerable and most in need, as defined by a combination of economic, social, and medical circumstances;

(b) giving preference to the elimination or restoration of an entire medicaid program or service, rather than sacrifice or augment the quality of care for several programs or services through dilution of funding; and

(c) giving priority to services that employ the science of prevention to reduce disability and illness, services that treat life-threatening conditions, and services that support independent or assisted living, including pain management, to reduce the need for acute inpatient or residential care.

(3) Medical assistance provided by the Montana medicaid program includes the following services:

(a) inpatient hospital services;

(b) outpatient hospital services;

(c) other laboratory and x-ray services, including minimum mammography examination as defined in 33-22-132;

(d) skilled nursing services in long-term care facilities;

(e) physicians' services;

(f) nurse specialist services;

(g) early and periodic screening, diagnosis, and treatment services for persons under 21 years of age, in accordance with federal regulations and subsection (10)(b);

(h) ambulatory prenatal care for pregnant women during a presumptive eligibility period, as provided in 42 U.S.C. 1396a(a)(47) and 42 U.S.C. 1396r-1;

(i) targeted case management services, as authorized in 42 U.S.C. 1396n(g), for high-risk pregnant

women;

(j) services that are provided by physician assistants within the scope of their practice and that are otherwise directly reimbursed as allowed under department rule to an existing provider;

(k) health services provided under a physician's orders by a public health department;

(l) federally qualified health center services, as defined in 42 U.S.C. 1396d(l)(2);

(m) routine patient costs for qualified individuals enrolled in an approved clinical trial for cancer as provided in 33-22-153;

(n) for children 18 years of age and younger, habilitative services as defined in 53-4-1103; and

(o) services provided by a person certified in accordance with 37-2-318 to provide services in accordance with the Indian Health Care Improvement Act, 25 U.S.C. 1601, et seq.

(4) Medical assistance provided by the Montana medicaid program may, as provided by department rule, also include the following services:

(a) medical care or any other type of remedial care recognized under state law, furnished by licensed practitioners within the scope of their practice as defined by state law;

(b) home health care services;

(c) private-duty nursing services;

(d) dental services;

(e) physical therapy services;

(f) mental health center services administered and funded under a state mental health program authorized under Title 53, chapter 21, part 10;

(g) clinical social worker services;

(h) prescribed drugs, dentures, and prosthetic devices;

(i) prescribed eyeglasses;

(j) other diagnostic, screening, preventive, rehabilitative, chiropractic, and osteopathic services;

(k) inpatient psychiatric hospital services for persons under 21 years of age;

(l) services of professional counselors licensed under Title 37, chapter 23;

(m) hospice care, as defined in 42 U.S.C. 1396d(o);

(n) case management services, as provided in 42 U.S.C. 1396d(a) and 1396n(g), including targeted

case management services for the mentally ill;

(o) services of psychologists licensed under Title 37, chapter 17;

(p) inpatient psychiatric services for persons under 21 years of age, as provided in 42 U.S.C.

1396d(h), in a residential treatment facility, as defined in 50-5-101, that is licensed in accordance with 50-5-201;

(q) services of behavioral health peer support specialists certified under Title 37, chapter 38, provided to adults 18 years of age and older with a diagnosis of a mental disorder, as defined in 53-21-102; and

(r) any additional medical service or aid allowable under or provided by the federal Social Security Act.

(5) Services for persons qualifying for medicaid under the medically needy category of assistance, as described in 53-6-131, may be more limited in amount, scope, and duration than services provided to others qualifying for assistance under the Montana medicaid program. The department is not required to provide all of the services listed in subsections (3) and (4) to persons qualifying for medicaid under the medically needy category of assistance.

(6) In accordance with federal law or waivers of federal law that are granted by the secretary of the U.S. department of health and human services, the department may implement limited medicaid benefits, to be known as basic medicaid, for adult recipients who are eligible because they are receiving cash assistance, as defined in 53-4-201, as the specified caretaker relative of a dependent child and for all adult recipients of medical assistance only who are covered under a group related to a program providing cash assistance, as defined in 53-4-201. Basic medicaid benefits consist of all mandatory services listed in subsection (3) but may include those optional services listed in subsections (4)(a) through (4)(r) that the department in its discretion specifies by rule. The department, in exercising its discretion, may consider the amount of funds appropriated by the legislature, whether approval has been received, as provided in 53-1-612, and whether the provision of a particular service is commonly covered by private health insurance plans. However, a recipient who is pregnant, meets the criteria for disability provided in Title II of the Social Security Act, 42 U.S.C. 416, et seq., or is less than 21 years of age is entitled to full medicaid coverage.

(7) The department may implement, as provided for in Title XIX of the Social Security Act, 42 U.S.C. 1396, et seq., as may be amended, a program under medicaid for payment of medicare premiums, deductibles, and coinsurance for persons not otherwise eligible for medicaid.

(8) (a) The department may set rates for medical and other services provided to recipients of medicaid and may enter into contracts for delivery of services to individual recipients or groups of recipients.

(b) The department shall strive to close gaps in services provided to individuals suffering from mental illness and co-occurring disorders by doing the following:

(i) simplifying administrative rules, payment methods, and contracting processes for providing services to individuals of different ages, diagnoses, and treatments. Any adjustments to payments must be cost-neutral for the biennium beginning July 1, 2017.

(ii) publishing a report on an annual basis that describes the process that a mental health center or chemical dependency facility, as those terms are defined in 50-5-101, must utilize in order to receive payment from Montana medicaid for services provided to individuals of different ages, diagnoses, and treatments.

(9) The services provided under this part may be only those that are medically necessary and that are the most efficient and cost-effective.

(10) (a) The amount, scope, and duration of services provided under this part must be determined by the department in accordance with Title XIX of the Social Security Act, 42 U.S.C. 1396, et seq., as may be amended.

(b) The department shall, with reasonable promptness, provide access to all medically necessary services prescribed under the early and periodic screening, diagnosis, and treatment benefit, including access to prescription drugs and durable medical equipment for which the department has not negotiated a rebate.

(11) Services, procedures, and items of an experimental or cosmetic nature may not be provided.

(12) (a) Prior to enacting changes to provider rates, medicaid waivers, or the medicaid state plan, the department shall report the information to:

(i) the children, families, health, and human services interim committee; and

(ii) the legislative finance committee.

(b) In its report to the committees, the department shall provide an explanation for the proposed changes and an estimated budget impact to the department over the next 4 fiscal years.

~~(12)~~(13) If available funds are not sufficient to provide medical assistance for all eligible persons, the department may set priorities to limit, reduce, or otherwise curtail the amount, scope, or duration of the medical services made available under the Montana medicaid program after taking into consideration the funding

principles set forth in subsection (2). (Subsection (3)(o) terminates September 30, 2023--sec. 7, Ch. 412, L. 2019.)"

Section 5. Legislative intent -- medicaid transfers. If, during the 2023 biennium, expenditures in the disabilities and employment transition division, the developmental services division, the health resources division, the senior and long term care division, the addictive and mental disorders division, or the child and family services division are estimated to exceed appropriations, thereby requiring actions under 17-7-301, it is the intent of the legislature that the department of public health and human services may, with prior approval of the office of budget and program planning, transfer budget authority from any division in the department to any other division listed above to eliminate a potential deficit or supplemental request and eliminate the need for actions under 17-7-301. Total transfers to a division may not exceed 10% of the budget of the division receiving the transfer. Such transfers between divisions must be reported by the department to the legislative finance committee at its next regular meeting. For the 2023 biennium, this language supersedes language contained in House Bill No. 341 and House Bill No. 275, if passed and approved.

Section 6. Section 1, Chapter 1, Laws of 2019, is amended to read:

"Section 1. Appropriation. (1) The following amounts are appropriated from the state general fund for fiscal years 2019, 2020, and 2021 for the operation of the 66th legislature and the costs of preparing for the 67th legislature:

LEGISLATIVE BRANCH (1104)

1. Senate \$3,850,818
2. House of Representatives \$6,346,581
3. Legislative Services Division \$1,069,866

(2) The following amounts are appropriated from the state general fund for fiscal year 2021 for the initial costs of the 67th legislature:

LEGISLATIVE BRANCH (1104)

1. Senate \$316,674
2. House \$521,853

3. Legislative Services Division \$16,500

(3) Funds in subsections (1) and (2) appropriated to the Senate and the House of Representatives that are unencumbered and unexpended on June 30, 2021, may be used to support the 67th legislature for the purposes in House Bill No. 483."

Section 7. Transfer of funds. The state treasurer shall transfer \$165 million from the general fund to the capital developments long-range building program account established in 17-7-209 by June 30, 2021.

Section 8. Appropriation. (1) For the biennium beginning July 1, 2021, there is appropriated \$1,500,000 from the general fund to the office of budget and program planning to be allocated to agencies at the discretion of the office of budget and program planning. Funding may be included as part of the base budget for the next legislative session.

(2) For the biennium beginning July 1, 2021, there is appropriated \$1,000,000 from a state special revenue account to the office of budget and program planning to be allocated to agencies at the discretion of the office of budget and program planning. Funding may be included as part of the base budget for the next legislative session.

Section 9. Coordination instruction. If both [this act] and House Bill No. 578 are passed and approved, then 46-19-101 must be amended as follows:

"46-19-101. Commitment of defendant -- transfer of information in possession of sheriff -- notification to court of delay. (1) Upon oral pronouncement of a sentence imposing punishment of imprisonment, commitment to the department of corrections, placement in a prerelease center, community corrections facility, or other place of confinement, or death, the court shall commit the defendant to the custody of the sheriff, who shall deliver the defendant to the place of confinement, commitment, or execution and give that place an order, which must be signed by the sentencing judge on the date of oral pronouncement of sentence, stating that the defendant is sentenced to that place for imprisonment, commitment, placement, or execution, as the case may be. The order is authority for that place to hold the defendant pending receipt by that place of a copy of the written judgment.

(2) When a sheriff delivers the defendant to the place of confinement, commitment, or execution, the sheriff shall deliver at the same time all information in the possession of the sheriff regarding the physical and mental health of the defendant, including health information contained in a presentence investigation report.

(3) If a defendant is sentenced to prison, another place of confinement operated by or under contract with the department of corrections, or committed to the department and the offender is not transported to the placement within 10 days of receipt of sentencing documents, the department shall notify the court in writing of the reason for the delay."

Section 10. Coordination instruction. If both [this act] and House Bill No. 497 are passed and approved, then [section 4 of this act], amending 53-6-101, is void and 53-6-101 must be amended to include a new subsection (12) that reads as follows:

"(12) (a) Prior to enacting changes to provider rates, medicaid waivers, or the medicaid state plan, the department of public health and human services shall report this information to the following committees:

- (i) the children, families, health, and human services interim committee;
- (ii) the legislative finance committee; and
- (iii) the health and human services budget committee.

(b) In its report to the committees, the department shall provide an explanation for the proposed changes and an estimated budget impact to the department over the next 4 fiscal years."

Section 11. Coordination instruction. If both [this act] and House Bill No. 8 are passed and approved, then [section 2(4)(b) of House Bill No. 8] must read:

"(b) The loan in this subsection (4) is contingent on the following:

(i) the forming of a water users' association of Montana users of the waters flowing from the Milk River that includes cities, towns, districts, water users' associations, and other unassociated individuals and entities; and

(ii) the water users' association demonstrating to the satisfaction of the department of natural resources and conservation its financial capacity, through water user fees or other available sources of funding, to pay the annual costs of the loan repayment over the term of the loan."

Section 12. Coordination instruction. If both [this act] and House Bill No. 629 are passed and approved, then [section 20 of House Bill No. 629] must read:

"Section 20. Appropriation. There is appropriated \$271,895 from the general fund to the department of labor and industry for the fiscal year beginning July 1, 2022, for the purposes of complying with [this act]."

Section 13. Effective date. [This act] is effective on passage and approval.

- END -

I hereby certify that the within bill,
SB 191, originated in the Senate.

Secretary of the Senate

President of the Senate

Signed this _____ day
of _____, 2021.

Speaker of the House

Signed this _____ day
of _____, 2021.

SENATE BILL NO. 191

INTRODUCED BY R. OSMUNDSON

AN ACT GENERALLY REVISING STATE FINANCE LAWS; REVISING LAWS RELATED TO THE BUDGET STABILIZATION FUND; REVISING THE PURPOSE OF THE BUDGET STABILIZATION FUND; DEFINING TERMS; REVISING THE CAPITAL DEVELOPMENTS LONG-RANGE BUILDING PROGRAM ACCOUNT; CLARIFYING BUDGET AMENDMENT REQUIREMENTS; PROVIDING LEGISLATIVE INTENT; REVISING LAWS RELATING TO THE TRANSFER OF DEFENDANTS AFTER SENTENCING; REQUIRING THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES TO REPORT TO LEGISLATIVE COMMITTEES PRIOR TO TAKING CERTAIN ACTIONS; PROVIDING FOR TRANSFERS AND APPROPRIATIONS; AMENDING SECTION 1, CHAPTER 1, LAWS OF 2019; AMENDING SECTIONS 17-7-130, 17-7-209, 17-7-402, 46-19-101, AND 53-6-101, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.