**** Bill No. ****

Introduced By *************

By Request of the Legislative Finance Committee

A Bill for an Act entitled: "An Act generally revising laws governing the long-range building program; eliminating revenue dedications for the long-range building program account; providing a definition of long-range building program-eligible building; requiring the department of administration to compile a statewide facility and condition assessment for certain state-owned buildings and to assess major maintenance rates to maintain buildings that are eligible for funding through the long-range building program; providing for an annual transfer from the general fund to the long-range building program fund based on assessed major maintenance rates; amending sections 15-35-108, 17-7-123, 17-7-201, 17-7-202, 17-7-205, 17-7-206, 53-6-1201, and 90-6-1001, MCA; and providing effective dates and an applicability date."

Be it enacted by the Legislature of the State of Montana:

NEW SECTION. **Section 1. Transfer of major maintenance charges.** By July 15 of each year, the department of administration shall transfer the major maintenance charges calculated pursuant to 17-7-206 from the general fund into the long-range building program account established in 17-7-205.

Section 2. 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 long-range building program account established in 17-7-205.~~

~~(3)~~(2) The amount of 5.46% must be credited to an account in the state special revenue fund to be allocated by the legislature 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, conservation districts, and the Montana Growth Through Agriculture Act. Expenditures of the allocation may be made only from this account. Money may not be transferred from this account to another account other than the general fund. Any unreserved fund balance at the end of each fiscal year must be deposited in the general fund.

~~(4)~~(3) 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.

~~(5)~~(4) 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.

~~(6)~~(5) 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.

~~(7)~~(6) The amount of 5.8% through June 30, 2017, and beginning July 1, 2017, the amount of 2.9% must be credited to the coal natural resource account established in 90-6-1001(2).

~~(8)~~(7) After the allocations are made under subsections (2) through ~~(7)~~ (6), $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.

~~(9)~~(8) (a) Subject to subsection ~~(9)(b)~~ (8)(b), all other revenue from severance taxes collected under the provisions of this chapter must be credited to the general fund of the state and is statutorily appropriated, as provided in 17-7-502, on July 1 each year to the trust fund for the public employees' retirement system defined benefit plan established pursuant to 19-3-103.

(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; and

(iv) except as provided in subsection ~~(9)(c)~~ (8)(c), up to $21 million to the public employees' retirement system defined benefit plan trust fund.

(c) If the legislative finance committee determines that the public employees' retirement board has failed to provide a sufficient report pursuant to 19-3-117, it shall recommend that $5 million be subtracted from the amount allocated in subsection ~~(9)(b)(iv)~~ (8)(b)(iv) subject to legislative approval. (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 long-range building program account established in 17-7-205.~~

~~(3)~~(2) The amount of 5.46% must be credited to an account in the state special revenue fund to be allocated by the legislature 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, conservation districts, and the Montana Growth Through Agriculture Act. Expenditures of the allocation may be made only from this account. Money may not be transferred from this account to another account other than the general fund. Any unreserved fund balance at the end of each fiscal year must be deposited in the general fund.

~~(4)~~(3) 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.

~~(5)~~(4) 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.

~~(6)~~(5) 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.

~~(7)~~(6) The amount of 2.9% must be credited to the coal natural resource account established in 90-6-1001(2).

~~(8)~~(7) After the allocations are made under subsections (2) through ~~(7)~~ (6), $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.

~~(9)~~(8) (a) Subject to subsection ~~(9)(b)~~ (8)(b), all other revenue from severance taxes collected under the provisions of this chapter must be credited to the general fund of the state and is statutorily appropriated, as provided in 17-7-502, on July 1 each year to the trust fund for the public employees' retirement system defined benefit plan pursuant to 19-3-103.

(b) Except as provided in subsection ~~(9)(c)~~ (9)(c), up to $24 million of the interest income from the coal severance tax permanent fund that is deposited in the general fund is statutorily appropriated, as provided in 17-7-502, on July 1 each year to the public employees' retirement system defined benefit plan trust fund.

(c) If the legislative finance committee determines that the public employees' retirement board has failed to provide a sufficient report pursuant to 19-3-117, it shall recommend that $5 million be subtracted from the amount allocated in subsection ~~(9)(b)~~ (8)(b) subject to legislative approval."

{*Internal References to 15-35-108:*
2-17-805 17-7-205 17-7-502 22-2-301
22-2-304 22-2-321 23-1-108 76-15-530
82-4-244 90-6-1001}

Section 3. Section 16-11-119, MCA, is amended to read:

"16-11-119. Disposition of taxes. (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) for fiscal years beginning July 1, 2011, and ending June 30, 2015, 1.2% in the state special revenue fund to the credit of the account established in section 2, Chapter 461, Laws of 2009, for the construction of the state veterans' home in southwestern Montana;~~

~~(c) 2.6% in the long-range building program account provided for in 17-7-205;~~

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

~~(e)~~(c) the remainder to the state general fund.

(2) 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.

(3) 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."

{*Internal References to 16-11-119:*
10-2-417 16-11-114 17-7-205 53-6-1201}

Section 4. Section 17-7-123, MCA, is amended to read:

"17-7-123. Form of executive budget. (1) The budget submitted must set forth a balanced financial plan for funds subject to appropriation, as provided in 17-8-101, for each accounting entity and for the state government for each fiscal year of the ensuing biennium. The budget must consist of:

(a) a consolidated budget summary setting forth the aggregate figures of the budget in a manner that shows 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. The consolidated budget summary must be supported by explanatory schedules or statements.

(b) budget and full-time equivalent personnel position comparisons by agency, program, and appropriated funds for the current and subsequent biennium;

(c) the departmental mission and a statement of goals and objectives for the department;

(d) base budget disbursements for the completed fiscal year of the current biennium, estimated comparable disbursements for the current fiscal year, and the proposed present law base budget plus new proposals, if any, for each department and each program of the department;

(e) a statement containing recommendations of the governor for the ensuing biennium by program and disbursement category, including:

(i) explanations of appropriation and revenue measures included in the budget that involve policy changes;

(ii) matters not included as a part of the budget bill but included as a part of the executive budget, such as the state employee pay plan, programs funded through separate appropriations measures, and other matters considered necessary for comprehensive public and legislative consideration of the state budget; and

(iii) a summary of budget requests that include proposed expenditures on information technology resources. The summary must include funding, program references, and a decision package reference;

(f) a report on:

(i) enterprise funds not subject to the requirements of subsections (1)(a) through (1)(e), including retained earnings and contributed capital, projected operations and charges, and projected fund balances; and

(ii) fees and charges in the internal service fund type <u>and capital projects fund type</u>, including changes in the level of fees and charges, projected use of the fees and charges, and projected fund balances. Fees and charges in the internal service fund type <u>and capital projects fund type</u> must be approved by the legislature in the general appropriations act. Fees and charges in a biennium may not exceed the level approved by the legislature in the general appropriations act effective for that biennium.

(g) energy cost saving information as required by 90-4-616 and energy conservation program information as required by 90-4-606; and

(h) any other financial or budgetary material agreed to by the budget director and the legislative fiscal analyst.

(2) The statement of departmental goals and objectives and the schedule as required in 17-7-111(3)(b) for each fund of the executive budget are not required to be printed but must be available in the office of budget and program planning and on the internet."

{*Internal References to 17-7-123:*
17-7-122 17-7-124 90-4-606}

Section 5. 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) "Construction" includes construction, repair, alteration, and equipping and furnishing during construction, repair, or alteration.

(3) "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.

<u>(4) “Long-range building program-eligible building” means:</u>

(a) a building, facility, or structure owned by a state agency, for which the operation and maintenance is funded with state general fund; or

(b) a building, facility, or structure that supports academic missions of the university system, and for which the operation and maintenance is funded with current unrestricted university funds.

(c) The term does not include:

(i) a building, facility, or structure owned by a state agency, for which the operation and maintenance is entirely funded with state special revenues, federal special revenues, or proprietary revenues; or

(ii) a building, facility or structure that supports non-academic functions of the university system, and for which the operation and maintenance is funded from non-state and non-tuition sources."

{*Internal References to 17-7-201:*
20-15-403}

Section 6. 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, each state agency and institution shall submit to the department of administration, on forms furnished by the department, a proposed long-range building program, if any, for the agency or institution. Each agency and institution shall furnish any additional information requested by the department relating to the utilization of or need for buildings.

(2) (a) Except as provided in subsection (3), the department shall compile and maintain a statewide facility inventory and condition assessment for all state-owned buildings, 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 its per agency use;

(D) identifies whether or not the building is a long-range building program-eligible building as defined in section [5] ;

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

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

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

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

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

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

(e) The department shall consider the statewide facility inventory and condition assessment when determining which projects are recommended in the long-range building program budget.

(f) The department shall provide the statewide facility inventory and condition assessment, including a calculation of the deferred maintenance backlog and overall building deficiency ration of the long-range building program-eligible buildings, to the office of budget and program planning and the legislative fiscal analyst by September 1 of each even-numbered year in an electronic format.

(3) The department 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.

~~(2)~~(4) The department 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. The information compiled by the department shall be submitted to the governor before December 1 of each even-numbered year."

{*Internal References to 17-7-202:*
17-7-213}

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

"17-7-205. Long-range building program account. (1) There is a long-range building program account in the capital projects fund type.

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

~~(3) Coal severance taxes allocated to 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.~~

(3) Major maintenance charges are calculated pursuant to 17-7-206 are transferred pursuant to [section 7] on an annual basis.

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

{*Internal References to 17-7-205:*
15-35-108 16-11-119 90-4-625}

Section 8. Section 17-7-206, MCA, is amended to read:

"17-7-206. Maintenance for state buildings. (1) Subject to legislative determination as provided in subsection (2), a major capital project appropriation by the legislature may include an amount for maintenance as a part of the appropriation. The amount appropriated for maintenance must be deposited in the long-range building account for use in future maintenance.

(2) A state building recommended for construction in the report to the legislature required by 17-7-203 may also be recommended as appropriate for the inclusion of an amount for maintenance. For those buildings recommended for construction, the legislature may allocate an amount not to exceed 2% of the appropriated cost for use in maintenance.

(3) This section does not preclude additional funds, including separate appropriations, donations, grants, or other available funds, from being used for the construction or maintenance of state buildings.

(4) (a) The department of administration shall charge agencies annual major maintenance rates for maintenance costs of buildings or structures the agencies use or occupy that are eligible for funding through the long-range building program. The major maintenance charges for agencies are calculated by the department and must be transferred from the general fund to the long-range building program account pursuant to [section 7] by July 15 of every year.

(b) The major maintenance charges for an agency are based on:

(i) the agency's square footage of occupancy of the building identified in the statewide facility inventory and condition assessment required under 17-7-202; and

(ii) the classification of the building in one of the categories set forth in subsection (4)(c).

(c) Beginning July 1, 2019, the rates are as follows, for:

(i) athletic facilities, $1.01 a square foot;

(ii) student unions and dining halls, $1.67 a square foot;

(iii) medical facilities, $2.41 a square foot;

(iv) correctional facilities, $4.06 a square foot;

(v) basic laboratories and vocational shops, $2.45 a square foot;

(vi) high technology laboratories, $4.70 a square foot;

(vii) monuments and museums, $6.96 a square foot;

(viii) classroom and office buildings, $1.56 a square foot;

(ix) parking facilities, $0.61 a square foot;

(x) central plants and tunnels, $1.00 a square foot;

(xi) dormitories and housing units, $0.92 a square foot;

(xii) warehouses and storage facilities, $0.98 a square foot."

{*Internal References to 17-7-206: None.*}

Section 9. Section 53-6-1201, MCA, is amended to read:

"53-6-1201. Special revenue fund -- health and medicaid initiatives. (1) There is a health and medicaid initiatives account in the state special revenue fund established by 17-2-102. This account is to be administered by the department of public health and human services.

(2) There must be deposited in the account:

(a) money from cigarette taxes deposited under ~~16-11-119(1)(d)~~ 16-11-119(1)(b);

(b) money from taxes on tobacco products other than cigarettes deposited under 16-11-119(3)(b); and

(c) any interest and income earned on the account.

(3) This account may be used only to provide funding for:

(a) the state funds necessary to take full advantage of available federal matching funds in order to administer the plan and maximize enrollment of eligible children under the healthy Montana kids plan, provided for under Title 53, chapter 4, part 11, and to provide outreach to the eligible children;

(b) a new need-based prescription drug program established by the legislature for children, seniors, chronically ill, and disabled persons that does not supplant similar services provided under any existing program;

(c) increased medicaid services and medicaid provider rates. The increased revenue is intended to increase medicaid services and medicaid provider rates and not to supplant the general fund in the trended traditional level of appropriation for medicaid services and medicaid provider rates.

(d) an offset to loss of revenue to the general fund as a result of new tax credits;

(e) funding new programs to assist eligible small employers with the costs of providing health insurance benefits to eligible employees;

(f) the cost of administering the tax credit, the purchasing pool, and the premium incentive payments and premium assistance payments as provided in Title 33, chapter 22, part 20; and

(g) providing a state match for the medicaid program for premium incentive payments or premium assistance payments to the extent that a waiver is granted by federal law as provided in

53-2-216.

(4) (a) On or before July 1, the budget director shall calculate a balance required to sustain each program in subsection (3) for each fiscal year of the biennium. If the budget director certifies that the reserve balance will be sufficient, then the agencies may expend the revenue for the programs as appropriated. If the budget director determines that the reserve balance of the revenue will not support the level of appropriation, the budget director shall notify each agency. Upon receipt of the notification, the agency shall adjust the operating budget for the program to reflect the available revenue as determined by the budget director.

(b) Until the programs or credits described in subsections (3)(b) and (3)(d) through (3)(g) are established, the funding must be used exclusively for the purposes described in subsections (3)(a) and (3)(c).

(5) The phrase "trended traditional level of appropriation", as used in subsection (3)(c), means the appropriation amounts, including supplemental appropriations, as those amounts were set based on eligibility standards, services authorized, and payment amount during the past five biennial budgets.

(6) The department of public health and human services may adopt rules to implement this section."

{*Internal References to 53-6-1201:*
16-11-119 33-22-2001 33-22-2004 33-22-2005
33-22-2009 52-3-115 53-2-217 53-6-1020}

Section 10. Section 90-6-1001, MCA, is amended to read:

"90-6-1001. Oil, gas, and coal natural resource accounts. (1) There is an oil and gas natural resource distribution account in the state special revenue fund. The collections allocated to the account from 15-36-304(7)(b) must be deposited in the account to be used as provided in 15-36-332(7) and (8).

(2) There is a coal natural resource account in the state special revenue fund. The collections allocated to the account from ~~15-35-108(7)~~ 15-35-108(6) must be deposited in the account. The money in the account is allocated to the coal board provided for in 2-15-1821 and may be used only for local impact grants provided for in 90-6-205 through 90-6-207 and costs related to the administration of the grant awards."

{*Internal References to 90-6-1001:*
15-35-108 15-36-304 15-36-331}

NEW SECTION. **Section 11. {standard} Codification instruction.** [Section 1] is 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 [section 1].

NEW SECTION. **Section 12. {standard} Saving clause.** [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

NEW SECTION. **Section 13. {standard} Effective dates.** (1)

Except as provided in subsection (2), [this act] is effective July 1, 2019.

(2) [Sections 4 and 5] are effective July 1, 2017.

NEW SECTION. **Section 14. {standard} Applicability.** [This act] applies to budgets adopted after July 1, 2018.

\- END -

{Name : Julie A. Johnson
Title : Attorney
Agency: Legislative Services Division
Phone : 406-444-4024
E-Mail: juliejohnson@mt.gov}