

SENATE BILL NO. 95

INTRODUCED BY L. JONES

A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING TRANSFERS AND OTHER NECESSARY MEASURES TO IMPLEMENT THE GENERAL APPROPRIATIONS ACT; CLARIFYING THAT CERTAIN ACCOUNTS ARE SUBJECT TO LEGISLATIVE FUND TRANSFERS; AUTHORIZING THE EXECUTIVE BUDGET TO INCLUDE SOME OR ALL OF THE LEGISLATIVE BRANCH PLAN TO REDUCE ITS BASE BUDGET; CLARIFYING USES OF THE SCHOOL FACILITY AND TECHNOLOGY ACCOUNT; CLARIFYING FUNDING FOR COMMUNITY COLLEGES; CLARIFYING USES OF THE HEALTH AND MEDICAID INITIATIVES ACCOUNT; PROVIDING FOR THE CALCULATION OF PHYSICIAN SERVICES REIMBURSEMENTS; PROVIDING FOR MAXIMUM RATES PAYABLE TO REGIONAL PRISONS; PROVIDING FOR ADDITIONAL USES OF THE FIRE SUPPRESSION ACCOUNT AND SUSPENDING TRANSFERS INTO THE ACCOUNT; CLARIFYING FUNDING SOURCES FOR LIEN PURCHASES; PROVIDING LEGISLATIVE INTENT REGARDING EFFICIENCY SAVINGS IDENTIFIED IN THE BIENNIUM BEGINNING JULY 1, 2017; AMENDING SECTIONS 10-1-108, 10-3-312, 10-4-301, 17-7-122, 20-9-516, 20-15-310, 20-26-1501, 32-2-102, 44-5-306, 44-5-307, 50-46-344, 52-3-115, 53-6-125, 53-6-1201, 53-19-310, 53-30-507, 76-13-150, 85-1-615, AND 90-1-205, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

NEW SECTION. **Section 1. Transfers.** By June 1, 2017, the state treasurer shall transfer to the general fund:

(1) \$10 million from the wireless 911 state special revenue account provided for in 10-4-301(1)(c)(ii) to the general fund;

(2) \$2 million from the junk vehicle state special revenue account provided for in 75-10-532;

(3) \$3 million from the criminal history record information state special revenue account provided for in 44-5-306;

(4) \$1 million from the rural physicians state special revenue account provided for in 20-26-1501;

(5) \$2 million of the fees collected for medical marijuana provided for in 50-46-344(4);

(6) \$1.3 million from the Montana national guard land purchase account provided for in 10-1-108;

(7) \$1.5 million from the telecommunications services and specialized telecommunications equipment account provided for in 53-19-310;

(8) \$500,000 from the economic development special revenue account provided for in 90-1-205; and

(9) \$600,000 from the funds collected pursuant to 32-2-102.

Section 2. Section 10-1-108, MCA, is amended to read:

"10-1-108. Armories -- acquisition and sale -- proceeds -- account. (1) A county, city, or town may convey or lease real property to the state for armories or other military facilities.

(2) A county, city, or town in which a unit of the national guard is organized and regularly stationed may provide any part of the funds to build an armory. The armory must be of sufficient size and suitable for the drill of the unit.

(3) (a) There is a Montana national guard land purchase account in the state special revenue fund. If the state sells an armory, the money from the sale must be deposited in the account.

(b) Money in the account is statutorily appropriated, as provided in 17-7-502, for the purposes described in subsection (4).

(c) Any interest and income accruing on the account must be deposited in the state general fund.

(d) Money in the account is subject to legislative fund transfers.

(4) Money in the account may be used only for preparations to purchase or the purchase of land necessary for the Montana national guard's mission and is expendable solely upon the authorization of the governor."

Section 3. Section 10-3-312, MCA, is amended to read:

"10-3-312. Maximum expenditure by governor -- appropriation. (1) Whenever a disaster or an emergency, including an energy emergency as defined in 90-4-302 or an invasive species emergency declared under 80-7-1013, is declared by the governor, there is statutorily appropriated to the office of the governor, as provided in 17-7-502, and, subject to subsection (2), the governor is authorized to expend from the general fund an amount not to exceed \$16 million in any biennium, minus any amount appropriated pursuant to 10-3-310 in the same biennium. The statutory appropriation in this subsection may be used by any state agency designated by the governor.

(2) In the event of the recovery of money expended under this section, the spending authority must be

1 reinstated to a level reflecting the recovery.

2 (3) If a disaster is declared by the president of the United States, there is statutorily appropriated to the
3 office of the governor, as provided in 17-7-502, and the governor is authorized to expend from the general fund
4 an amount not to exceed \$500,000 during the biennium to meet the state's share of the individuals and
5 households grant programs as provided in 42 U.S.C. 5174. The statutory appropriation in this subsection may
6 be used by any state agency designated by the governor.

7 (4) At the end of each biennium, except for the biennium beginning July 1, 2017, an amount equal to the
8 unexpended and unencumbered balance of the \$16 million statutory appropriation in subsection (1), minus any
9 amount appropriated pursuant to 10-3-310 in the same biennium, must be transferred by the state treasurer from
10 the state general fund to the fire suppression account provided for in 76-13-150."

11
12 **Section 4.** Section 10-4-301, MCA, is amended to read:

13 **"10-4-301. Establishment of emergency telecommunications accounts.** (1) There are established
14 in the state special revenue fund in the state treasury:

15 (a) an account for all fees collected for basic 9-1-1 services pursuant to 10-4-201(1)(a);
16 (b) an account for all fees collected for enhanced 9-1-1 services pursuant to 10-4-201(1)(b); and
17 (c) an account for all fees collected for wireless enhanced 9-1-1 services pursuant to 10-4-201(1)(c). The
18 money is allocated as follows:

19 (i) 50% of the account must be deposited in an account for distribution to the 9-1-1 jurisdictions; and
20 (ii) 50% of the account must be deposited in an account for distribution to wireless providers.

21 (d) Money in the account provided for in subsection (1)(c)(ii), including interest earned from the
22 investment of money in the account, is subject to legislative fund transfers.

23 (2) All money received by the department of revenue pursuant to 10-4-201 must be paid to the state
24 treasurer for deposit in the appropriate account. An amount equal to 2.74% of the money received pursuant to
25 10-4-201 must be deposited in an account in the state special revenue fund to be used for the administration of
26 this chapter. Any remaining funds at the end of a fiscal year must be equally distributed to each of the four
27 accounts provided for in subsection (1).

28 (3) The accounts established in subsection (1) retain interest earned from the investment of money in
29 the accounts.

30 (4) After payment of refunds pursuant to 10-4-205, the balance of the respective accounts must be used

for the purposes described in part 1 of this chapter.

(5) The distribution of funds in the 9-1-1 emergency telecommunications accounts described in subsection (1), as required by 10-4-302, 10-4-311, and 10-4-313, is statutorily appropriated, as provided in 17-7-502, to the department.

(6) Expenditures for actual and necessary expenses required for the efficient administration of the plan must be made from appropriations made for that purpose."

Section 5. Section 17-7-122, MCA, is amended to read:

"17-7-122. Preparation of budget. (1) The governor shall, following the receipt of the preliminary budget from the budget director, have prepared a budget for the ensuing biennium and shall submit the budget to the legislative fiscal analyst in accordance with 17-7-112.

(2) Legislative branch budget proposals must be included in the budget submitted by the governor without changes, except that the governor may include all or part of the legislative branch plan to reduce its proposed base budget submitted in accordance with 17-7-111(3)(f).

(3) Judicial branch budget proposals must be included in the budget submitted by the governor, but expenditures above the current base budget need not be part of the balanced financial plan pursuant to 17-7-123."

Section 6. Section 20-9-516, MCA, is amended to read:

"20-9-516. School facility and technology account. (1) There is a school facility and technology account in the state special revenue fund provided for in 17-2-102. The purpose of the account is to provide money to schools for:

(a) administration of the quality schools grant program or other programs that provide infrastructure assistance to local governments;

~~(a)~~(b) major deferred maintenance;

~~(b)~~(c) improving energy efficiency in school facilities;

~~(c)~~(d) critical infrastructure in school districts;

~~(d)~~(e) emergency facility needs;

~~(e)~~(f) technological improvements; and

~~(f)~~(g) state reimbursement for school facilities as provided in 20-9-371.

(2) There must be deposited in the account:

(a) an amount of money equal to the income attributable to the difference between the average sale value of 18 million board feet and the total income produced from the annual timber harvest on common school trust lands during the fiscal year; and

(b) the income received from certain lands and riverbeds as provided in 17-3-1003(5).

(3) Priority for available funds in the account is given in the order listed in subsection (1)."

Section 7. Section 20-15-310, MCA, is amended to read:

"20-15-310. Appropriation -- definitions. (1) It is the intent of the legislature that all community college spending, other than from restricted funds, designated funds, or funds generated by an optional, voted levy, be governed by the provisions of this part and the state general appropriations act.

(2) (a) The state general fund appropriation must be determined as follows:

(i) multiply the variable cost of education per student by the full-time equivalent student count and add the budget amount for the fixed cost of education; and

(ii) multiply the total in subsection (2)(a)(i) by the state share.

(b) The variable cost of education per student, the budget amount for fixed costs, and the state share must be determined by the legislature. The state share, expressed as a percentage, and the variable cost of education per student must be specified in the appropriations act appropriating funds to the community colleges for each biennium.

(3) The student count may not include those enrolled in community service courses as defined by the board of regents.

(4) As used in this section, the following definitions apply:

(a) "Adjusted cost of education" means the cost of education minus any reversion calculated under 17-7-142, expenditures from one-time-only legislative appropriations, and expenditures funded by local mill levies provided for in 2-9-212 and 20-9-501 in excess of the 2012 mill levy levels.

(b) "Cost of education" means, for the biennium beginning July 1, 2017, \$2,863. For subsequent bienniums, the term means the actual costs incurred by the community colleges during the budget base fiscal year, as reported on the current unrestricted operating fund schedule that is statutorily required to be submitted to the board of regents.

(c) "Fixed cost of education" means that portion of the adjusted cost of education, as determined by the

1 legislature, that is not influenced by increases or decreases in student enrollment.

2 (d) "Variable cost of education per student" means, for the biennium beginning July 1, 2017, that portion
3 of the adjusted cost of education, as determined by the legislature, that is subject to change as a result of
4 increases or decreases in student enrollment, divided by the projected student enrollment during the budget base
5 fiscal year. For subsequent bienniums, the term means that portion of the adjusted cost of education, as
6 determined by the legislature, that is subject to change as a result of increases or decreases in student
7 enrollment, divided by the actual student enrollment during the budget base fiscal year."

8
9 **Section 8.** Section 20-26-1501, MCA, is amended to read:

10 **"20-26-1501. Incentive for physicians practicing in rural areas or medically underserved areas or**
11 **for underserved populations state special revenue account.** (1) There is an incentive for physicians practicing
12 in rural areas or medically underserved areas or for underserved populations state special revenue account.
13 Money is payable into the account as provided in 17-1-511 and 20-26-1502. Income and earnings on the account
14 must be redeposited in the account. The account must be administered by the board of regents as provided in
15 this part.

16 (2) Money in the account is subject to legislative fund transfers."
17

18 **Section 9.** Section 32-2-102, MCA, is amended to read:

19 **"32-2-102. Fees paid into state treasury.** All fees provided for in this chapter and paid to the
20 department or secretary of state ~~shall be by them turned in to~~ must be deposited in the state treasury ~~for to~~ the
21 credit of the state special revenue fund for the use of the department in its examination function and are subject
22 to legislative fund transfers."
23

24 **Section 10.** Section 44-5-306, MCA, is amended to read:

25 **"44-5-306. Criminal history record information account.** (1) There is a criminal history record
26 information account in the state special revenue fund. Money collected pursuant to 44-5-307 must be deposited
27 in the account.

28 (2) The account must be used by the department of justice for the dissemination of criminal history record
29 information.

30 (3) Money in the account is subject to legislative fund transfers."

1

2 **Section 11.** Section 44-5-307, MCA, is amended to read:

3 **"44-5-307. Use of criminal history record information account -- staffing -- funding.** (1) The
4 department of justice may establish fees for the dissemination of criminal history record information. Revenue
5 from the fees must be deposited in the account provided for in 44-5-306.

6 (2) The money in the account provided for in 44-5-306 must be used by the department of justice to pay
7 for the costs associated with the dissemination of criminal history record information. Money in the account is
8 subject to legislative fund transfers.

9 (3) The costs associated with the dissemination of criminal history record information include adequate
10 staffing to provide for the dissemination service. The department of justice may add staff or incur operational
11 costs, or both, pursuant to 17-7-402. The authority to add staff or incur operational costs must be based on the
12 following:

13 (a) an additional 5,000 criminal history record information requests, above the number received in 2001,
14 must be received and must involve fingerprint processing; or

15 (b) an additional 7,500 criminal history record information requests, above the number received in 2001,
16 must be received and must involve screening."

17

18 **Section 12.** Section 50-46-344, MCA, is amended to read:

19 **"50-46-344. Rulemaking authority -- fees.** (1) The department shall adopt rules necessary for the
20 implementation and administration of this part. The rules must include but are not limited to:

21 (a) the manner in which the department will consider applications for registry identification cards [for
22 providers and marijuana-infused products providers and] for individuals with debilitating medical conditions and
23 renewal of registry identification cards;

24 (b) the acceptable forms of proof of Montana residency;

25 (c) the procedures for obtaining fingerprints for the fingerprint and background check required under
26 50-46-307 and 50-46-308;

27 (d) other rules necessary to implement the purposes of this part.

28 (2) License fees for providers and marijuana-infused products providers may not exceed \$1,000 for 10
29 or fewer registered cardholders or \$5,000 for more than 10 registered cardholders. A provider of both marijuana
30 and marijuana-infused products is required to have only one license.

(3) License fees for testing laboratories may not exceed \$1,200.

(4) All fees and civil penalties collected under this part must be deposited in the medical marijuana state special revenue account established in 50-46-345. Money in the account is subject to legislative fund transfers.

(5) The department's rules must establish application and renewal fees that generate revenue sufficient to offset all expenses of implementing and administering this part."

Section 13. Section 52-3-115, MCA, is amended to read:

"52-3-115. Older Montanans trust fund. (1) There is an older Montanans trust fund within the permanent fund type. The trust fund is subject to legislative appropriation as provided in this section.

(2) The money in the fund may be used to create new, innovative services or to expand existing services for the benefit of Montana residents 60 years of age or older that will enable those Montanans to live an independent lifestyle in the least restrictive setting and will promote the dignity of and respect for those Montanans. The interest and income produced by the trust fund and appropriated to the department by the legislature is intended to increase services referred to in this subsection and not to supplant other sources of revenue for those programs in the trended traditional level, ~~as used in 53-6-1201~~, of appropriations for those services.

(3) The department may accept contributions and gifts for the trust fund in money or other forms, and when accepted, the contributions and gifts must be deposited in the trust fund.

(4) Interest and income earned on money in the trust fund must be retained within the fund except as provided in this section. Until the year 2015, if assets in the fund reach the following amounts, money may be appropriated by the legislature and used in the following amounts for the programs specified in subsection (2):

(a) When the fund balance reaches \$20 million, 50% of the interest earned may be appropriated.

(b) When the fund balance reaches \$50 million, 60% of the interest earned may be appropriated.

(c) When the fund balance reaches \$100 million, 80% of the interest earned may be appropriated.

(5) On and after January 1, 2015, 90% of the interest earned on the trust fund may be appropriated for the programs specified in subsection (2).

(6) The department shall provide to the legislature a biennial report of the expenditures of the money appropriated from the older Montanans trust fund as provided in 5-11-210.

(7) As used in this section, "trended traditional level of appropriation" means the appropriation amounts, including supplemental appropriations, as those amounts were set based on eligibility standards, services

1 authorized, and payment amount during the past five biennial budgets."

2
3 **Section 14.** Section 53-6-125, MCA, is amended to read:

4 **"53-6-125. Physician services reimbursement.** (1) The fee for a covered service provided by a
5 physician under the medicaid program is determined by multiplying the conversion factor times the relative value
6 unit for that service times any applicable policy adjusters.

7 (2) ~~(a) For state fiscal years 2011 through 2013, the conversion factor is \$40.09. The conversion factor~~
8 ~~may be adjusted by the department in order to maintain reimbursement, at a minimum, at the fiscal year 2010~~
9 ~~reimbursement rate.~~

10 ~~—— (b) For state fiscal year 2014 and for each subsequent state fiscal year, the The conversion factor must~~
11 ~~be increased, at a minimum, by the same percentage increase as the consumer price index for medical care for~~
12 ~~the previous year, as calculated by the bureau of labor statistics of the United States department of labor by the~~
13 ~~same numerical inflation factor calculated in accordance with 20-9-326."~~

14
15 **Section 15.** Section 53-6-1201, MCA, is amended to read:

16 **"53-6-1201. Special revenue fund -- health and medicaid initiatives.** (1) There is a health and
17 medicaid initiatives account in the state special revenue fund established by 17-2-102. This account is to be
18 administered by the department of public health and human services.

19 (2) There must be deposited in the account:

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

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

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

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

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

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

29 (c) increased medicaid services and medicaid provider rates. ~~The increased revenue is intended to~~
30 ~~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)(5)~~ The department of public health and human services may adopt rules to implement this section."

Section 16. Section 53-19-310, MCA, is amended to read:

"53-19-310. Account for telecommunications services and specialized telecommunications equipment for persons with disabilities. (1) There is an account for telecommunications services and specialized telecommunications equipment for persons with disabilities in the state special revenue fund in the state treasury. The account consists of:

(a) all monetary contributions, gifts, and grants received by the committee as provided in 53-19-309; and

(b) all fees billed and collected pursuant to 53-19-311.

(2) The money in the account is allocated to the committee for purposes of implementing this part.

(3) Money in the account is subject to legislative fund transfers.

1 ~~(3)~~(4) All expenditures of the committee in administering this part must be paid from money deposited
2 in the account."

3
4 **Section 17.** Section 53-30-507, MCA, is amended to read:

5 **"53-30-507. Rulemaking authority.** (1) The department may adopt rules to implement this part,
6 including rules for the determination of how sites are to be chosen for regional correctional facilities. The rules
7 must provide that in selecting a site, the department shall consider the need for a regional correctional facility in
8 the area, the ability and willingness of a local governmental entity or a corporation to enter into a long-term
9 contract with the department, and the availability of rehabilitative services to inmates. The rules must require that
10 a corporation respond to a request for proposals prepared by the department for a regional correctional facility
11 before a contract may be entered with that corporation.

12 (2) The department shall adopt rules that include the minimum applicable standards for the construction,
13 operation, and physical condition of a state correctional facility portion of a regional correctional facility and for
14 the security, safety, health, treatment, and discipline of persons confined in a state correctional facility portion of
15 a regional correctional facility. The rules must require that a privately operated or privately owned and operated
16 state correctional facility portion of a regional correctional facility conform to applicable American correctional
17 association and national commission on correctional health care standards.

18 (3) (a) The department shall adopt rules pursuant to Title 2, chapter 4, that specify a per diem rate that
19 must be paid to a regional correctional facility for the confinement of persons in the state correctional facility
20 portion of the regional correctional facility.

21 (b) The rules adopted pursuant to subsection (3)(a) must include but are not limited to:

22 (i) a definition of per diem rate;

23 (ii) a method of calculating the per diem rate; and

24 (iii) the costs to be included in the per diem rate calculation.

25 (c) At a minimum, the per diem rate must include compensation for:

26 (i) direct costs, including budget expenditures directly attributable to confining inmates;

27 (ii) indirect costs, including budget expenditures that are not directly associated with the confinement of
28 inmates but that are incurred to provide support services for the regional correctional facility;

29 (iii) capital costs, including depreciation or a pro rata portion of capital costs incurred; and

30 (iv) other costs that the department determines are necessary, including medical or transportation costs.

(d) The department shall determine by rule the costs that are not allowable as part of a per diem rate. Unallowable costs must include programs and services that do not have a direct benefit to persons confined in the regional correctional facility and depreciation for capital improvements paid for by the department and depreciation for equipment used in providing support services.

(e) A population factor must be included in the per diem rate to allow for accurate compensation based on the number of inmates confined in the regional correctional facility.

(f) The rules must provide for billing procedures and must allow for review of the per diem rate at least once each fiscal year. When reviewing the per diem rate, the department shall accept public comment that must be considered when the department is determining the accuracy of the per diem rate for the next fiscal year.

(4) For the biennium beginning July 1, 2017, the department may pay to the regional correctional facilities no more than the rate it paid to those facilities on November 15, 2016."

Section 18. Section 76-13-150, MCA, is amended to read:

"76-13-150. Fire suppression account -- fund transfer. (1) There is a fire suppression account in the state special revenue fund to the credit of the department.

(2) The legislature may transfer money from other funds to the account, and the money in the account is subject to legislative fund transfers.

(3) Funds received for restitution by private parties must be deposited in the account.

(4) Money in the account may be used only for the purpose of paying expenses for fire prevention, including fuel reduction and mitigation, forest restoration, grants for the purchase of fire suppression equipment for county cooperatives, operations of the forestry division, and fire suppression costs.

(5) Interest earned on the balance of the account is retained in the account.

(6) Except as provided in subsections (7) ~~and (8)~~ through (9), by August 15 following the end of each fiscal year, an amount equal to the balance of unexpended and unencumbered general fund money appropriated in excess of 0.5% of the total general fund money appropriated for that fiscal year must be transferred by the state treasurer from the general fund to the fire suppression account. General fund appropriations that continue from a fiscal year to the next fiscal year and any general fund appropriations made pursuant to 10-3-310 or 10-3-312 are excluded from the calculation.

(7) The provisions of subsection (6) do not apply in a fiscal year in which reductions required by 17-7-140 occur or if a transfer pursuant to subsection (6) would require reductions pursuant to 17-7-140.

(8) The fund balance in the account may not exceed \$100 million.

(9) For the fiscal year ending June 30, 2017, the state treasurer may not transfer from the general fund to the fire suppression account.

~~(9)(10)~~ Up to \$5 million each biennium may be used for the purpose of fuel reduction and mitigation and forest restoration.

~~(10)(11)~~ Money in the account is statutorily appropriated, as provided in 17-7-502, to the department for the purposes described in subsection (4)."

Section 19. Section 85-1-615, MCA, is amended to read:

"85-1-615. Security interests -- purchase, operation, and resale of encumbered property. (1) The state has a lien upon a project constructed with money from the natural resources projects state special revenue account established in 15-38-302 or the renewable resource loan proceeds account for the amount of the loan and interest due the state. This lien may attach to any project facilities, equipment, easements, real property, shares of stock in a water users' association, revenue of a water users' association, accounts receivable of a water users' association, water purchase agreements, and property of any kind or nature owned by the debtor, including all water rights. The department shall file with the county clerk and recorder of each county in which a part of the project is located either a financing statement or a real estate mortgage covering the loan, its amount, terms, and a description of the security. The county clerk and recorder shall record and index the lien as other liens are required by law to be recorded and indexed. The lien is valid until paid in full or otherwise discharged. The lien must be foreclosed in accordance with applicable state law governing foreclosure of mortgages and liens.

(2) From the funds available under 15-38-301, 85-1-603, or 85-1-617, the state may:

(a) purchase a lien that is prior to the state's lien if:

(i) the director of the department determines that the loan is in default and the prospects for collecting the loan may be materially increased by purchasing the prior lien; and

(ii) the amount to be paid for the prior lien does not exceed the appraised value of the property;

(b) operate property that is subject to the state's lien if the director of the department determines that the loan is in default and that the prospects for collecting the loan may be materially increased by operating the property that is subject to the state's lien; or

(c) purchase a prior lien as provided in subsection (2)(a) and operate property as provided in subsection

1 (2)(b).

2 (3) Any property acquired under the provisions of this section must be resold as expeditiously as possible
3 to recover funds used under this section and funds loaned to the borrower."
4

5 **Section 20.** Section 90-1-205, MCA, is amended to read:

6 **"90-1-205. Economic development special revenue account.** (1) There is an economic development
7 state special revenue account. The account receives earnings from the big sky economic development fund as
8 provided in 17-5-703. ~~The Subject to legislative fund transfers,~~ money in the account may be used only as
9 provided in this part.

10 (2) The money in the account is statutorily appropriated, as provided in 17-7-502, to the department. Of
11 the money that is deposited in the account that is not used for administrative expenses:

12 (a) 75% must be allocated for distribution to local governments and tribal governments to be used for
13 job creation efforts; and

14 (b) 25% must be allocated for distribution to certified regional development corporations, economic
15 development organizations that are located in a county that is not part of a certified regional development
16 corporation, and tribal governments."
17

18 NEW SECTION. **Section 21. Legislative intent.** It is the intent of the legislature that the office of budget
19 and program planning use the statewide accounting, budgeting, and human resource system to capture savings
20 identified in state agencies through efficiency measures in the 2019 biennium.
21

22 NEW SECTION. **Section 22. Severability.** If a part of [this act] is invalid, all valid parts that are
23 severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications,
24 the part remains in effect in all valid applications that are severable from the invalid applications.
25

26 NEW SECTION. **Section 23. Effective date.** [This act] is effective on passage and approval.

27 - END -