

HOUSE BILL NO. 454

INTRODUCED BY COBB, JERGSON, PECK, BRADLEY, BARDANOUE,  
KADAS, KEATING, GRINDE, SWYSGOOD, JACOBSON, SVRCEK,  
PAVLOVICH, VAN VALKENBURG, TVEIT, T. NELSON, THOFT  
BY REQUEST OF THE LEGISLATIVE AUDIT COMMITTEE,  
THE LEGISLATIVE FINANCE COMMITTEE, AND  
THE OFFICE OF BUDGET AND PROGRAM  
PLANNING

IN THE HOUSE

JANUARY 30, 1991                   INTRODUCED AND REFERRED TO COMMITTEE  
                                          ON APPROPRIATIONS.

                                          FIRST READING.

MARCH 25, 1991                    COMMITTEE RECOMMEND BILL  
                                          DO PASS AS AMENDED. REPORT ADOPTED.

MARCH 26, 1991                    PRINTING REPORT.

MARCH 27, 1991                    SECOND READING, DO PASS AS AMENDED.

MARCH 28, 1991                    ENGROSSING REPORT.

                                          THIRD READING, PASSED.  
                                          AYES, 92; NOES, 6.

                                          TRANSMITTED TO SENATE.

IN THE SENATE

MARCH 28, 1991                    INTRODUCED AND REFERRED TO COMMITTEE  
                                          ON FINANCE & CLAIMS.

                                          FIRST READING.

APRIL 12, 1991                    COMMITTEE RECOMMEND BILL BE  
                                          CONCURRED IN AS AMENDED. REPORT  
                                          ADOPTED.

APRIL 13, 1991                    SECOND READING, CONCURRED IN.

APRIL 15, 1991                    THIRD READING, CONCURRED IN.  
                                          AYES, 48; NOES, 0.

                                          RETURNED TO HOUSE WITH AMENDMENTS.

IN THE HOUSE

APRIL 15, 1991

RECEIVED FROM SENATE.

APRIL 17, 1991

SECOND READING, AMENDMENTS NOT  
CONCURRED IN.

APRIL 20, 1991

ON MOTION, CONFERENCE COMMITTEE  
REQUESTED AND APPOINTED.

IN THE SENATE

APRIL 20, 1991

ON MOTION, CONFERENCE COMMITTEE  
REQUESTED AND APPOINTED.

APRIL 29, 1991

CONFERENCE COMMITTEE REPORT  
ADOPTED.

IN THE HOUSE

APRIL 29, 1991

CONFERENCE COMMITTEE REPORTED.

SECOND READING, CONFERENCE COMMITTEE  
REPORT ADOPTED.

THIRD READING, CONFERENCE COMMITTEE  
REPORT ADOPTED.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1  
 2 INTRODUCED BY *Licose* BILL NO. *454*  
*Jorgeson Cobb Peak Bradley Bardenhef*  
 3 BY REQUEST OF THE LEGISLATIVE AUDIT COMMITTEE,  
 4 *Graves* THE LEGISLATIVE FINANCE COMMITTEE, AND *Stacy*  
 5 THE OFFICE OF BUDGET AND PROGRAM *Stacy*

PLANNING

8 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND  
 9 CLARIFY THE LAW RELATING TO APPROPRIATIONS; CODIFYING  
 10 CONDITIONS FOR APPROPRIATIONS USUALLY CONTAINED IN EACH  
 11 GENERAL APPROPRIATIONS ACT; PROVIDING FOR A STATUTORY  
 12 APPROPRIATION OF THE INCOME AND EARNINGS OF COAL SEVERANCE  
 13 TAX FUNDS; AMENDING SECTIONS 5-12-303, 17-1-102, 17-2-108,  
 14 17-5-704, 17-7-102, 17-7-502, AND 75-10-621, MCA; REPEALING  
 15 SECTION 17-7-401, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

**Section 1.** Section 5-12-303, MCA, is amended to read:

19 \*5-12-303. Fiscal analysis information from state  
 20 agencies. (1) The legislative fiscal analyst has the  
 21 authority to investigate and examine the costs and revenues  
 22 of state government activities and may examine and obtain  
 23 copies of the records, books, and files of any state agency,  
 24 including confidential records.

(2) When confidential records and information are

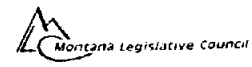
1 obtained from a state agency, the legislative fiscal analyst  
 2 and staff must be subject to the same penalties for  
 3 unauthorized disclosure of such confidential records and  
 4 information provided for under the laws administered by the  
 5 state agency. The legislative fiscal analyst shall develop  
 6 policies to prevent the unauthorized disclosure of  
 7 confidential records and information obtained from state  
 8 agencies.

9 (3) The legislative fiscal analyst may not obtain  
 10 copies of individual income tax records protected under  
 11 15-30-303. The department of revenue shall make individual  
 12 income tax data available by a masking method that conceals  
 13 the identity of the taxpayer. The masking method may not  
 14 destroy the statistical integrity of the individual income  
 15 tax records. The masking method, including how data is  
 16 masked, must be disclosed to the legislative fiscal analyst.

17 (4) Every state agency shall furnish the legislative  
 18 fiscal analyst with copies of all budget requests, at the  
 19 time of submission to the budget director as provided by  
 20 law, and if requested, all underlying and supporting  
 21 documentation.

22 (5) In the year preceding each legislative session, the  
 23 budget director shall furnish the legislative fiscal analyst  
 24 on a confidential basis:

(a) by December 1, a copy of the documents which



-2-  
 INTRODUCED BILL  
 HB 454

1 reflect the anticipated receipts and other means of  
2 financing the budget for each fiscal year of the ensuing  
3 biennium;

4 (b) by December 1, a preliminary budget which shall  
5 meet the statutory requirements for submission of the budget  
6 to the legislature; and

7 (c) by December 3, a paper copy and an electronic copy  
8 of the documents which reflect expenditures to the second  
9 level, as provided in 17-1-102(3), by funding source and  
10 detailed by accounting entity; and

11 ~~(c)~~(d) by December 15, all amendments to the  
12 preliminary budget.

13 (6) Within 1 day after the legislative finance  
14 committee presents its budget analysis to the legislature,  
15 the budget director and the legislative fiscal analyst shall  
16 exchange expenditure and disbursement recommendations by  
17 second-level expenditure detail and by funding sources  
18 detailed by accounting entity. This information must be  
19 filed in the respective offices and be made available to the  
20 legislature and the public.

21 ~~(6)~~(7) This section does not authorize publication or  
22 public disclosure of information if the law prohibits such  
23 publication or disclosure."

24 **Section 2.** Section 17-1-102, MCA, is amended to read:

25 "17-1-102. Uniform accounting system and expenditure

1 control. (1) The department shall establish a system of  
2 financial control so that the functioning of the various  
3 agencies of the state may be improved, duplications of work  
4 by different state agencies and employees eliminated, public  
5 service improved, and the cost of government reduced.

6 (2) The department shall prescribe and install uniform  
7 accounting and reporting for all state agencies and  
8 institutions, showing the receipt, use, and disposition of  
9 all public money and property in accordance with generally  
10 accepted accounting principles, and shall develop plans for  
11 improvements and economies in the organization and operation  
12 thereof, which shall be submitted to the respective heads of  
13 agencies and institutions. Copies of all such plans shall be  
14 delivered to the governor, and additional copies shall be  
15 retained in the office of the department for inspection by  
16 the members of the legislature.

17 (3) The uniform accounting and reporting system must  
18 contain three levels of expenditure. The first level must  
19 include general categories, such as personal services,  
20 operating expenses, equipment, capital outlay, local  
21 assistance, grants, benefits and claims, transfers, and debt  
22 service. The second level of expenditure must include  
23 specific categories of expenditures within each first-level  
24 category. The third level of expenditure must include  
25 specific items of expenditure within each category of the

1 second level.

2 ~~(3)~~(4) The department shall examine all financial  
3 affairs of every state agency and institution for the  
4 purpose of developing plans for improvements and economies  
5 in the organization and operation thereof and for the  
6 purpose of enabling the department to properly perform any  
7 of the duties imposed upon the department by this part.

8 ~~(4)~~(5) All state agencies, including units of the  
9 university system and the vocational-technical centers,  
10 shall input all necessary transactions to the accounting  
11 system prescribed in subsection (2) before the accounts are  
12 closed at the end of the fiscal year in order to present the  
13 receipt, use, and disposition of all money and property for  
14 which the agency is accountable in accordance with generally  
15 accepted accounting principles, except that for budgetary  
16 control purposes, encumbrances which are required by  
17 generally accepted accounting principles to be reported as a  
18 reservation of fund balance shall be recorded as  
19 expenditures and liabilities on the accounting records."

20 **Section 3.** Section 17-2-108, MCA, is amended to read:

21 "17-2-108. Expenditure of nongeneral fund money first.  
22 (1) An office or entity of the executive, legislative, or  
23 judicial branch of state government shall apply expenditures  
24 against appropriated nongeneral fund money whenever possible  
25 before using general fund appropriations.

1 (2) The approving authority, as defined in 17-7-102,  
2 shall authorize the decrease of the general fund  
3 appropriation of an agency by the amount of money received  
4 from federal sources in excess of the appropriation in an  
5 appropriation act unless the decrease is contrary to federal  
6 law, federal rule, or a contract or unless the approving  
7 authority certifies that the services to be funded by the  
8 additional money are significantly different than those for  
9 which the agency received the general fund appropriation. If  
10 directed by an appropriation act, the approving authority  
11 shall decrease the general fund appropriation of an agency  
12 by the amount of money received from nonfederal sources in  
13 excess of the appropriation unless the decrease is contrary  
14 to state law, state rule, or a contract or unless the  
15 approving authority certifies that the services to be funded  
16 by the additional money are significantly different than  
17 those for which the agency received the general fund  
18 appropriation. If the general fund appropriation of an  
19 agency is decreased pursuant to this section, the  
20 appropriation for the fund in which the money is received is  
21 increased in the amount of the general fund decrease."

22 **Section 4.** Section 17-5-704, MCA, is amended to read:

23 "17-5-704. Investment of funds. ~~(i)~~ Money in the coal  
24 severance tax bond fund, the coal severance tax permanent  
25 fund, and the coal severance tax income fund must be

1 invested in accordance with the investment standards for  
 2 coal severance tax funds ~~except as provided in subsection~~  
 3 ~~(2)~~. Income and earnings from all funds ~~must be transferred~~  
 4 ~~to and retained in the coal severance tax income fund until~~  
 5 ~~appropriated by the legislature~~ are statutorily  
 6 appropriated, as provided in 17-7-502, as follows:

7 (1) 15% to the state equalization aid account; and

8 (2) Except as provided in section 17-Chapter 634, Laws  
 9 of 1989, beginning on July 1, 1990, the legislature shall  
 10 appropriate 15% of the income and earnings from all funds to  
 11 be deposited to the state equalization aid account each year  
 12 85% to the state general fund."

13 **Section 5.** Section 17-7-102, MCA, is amended to read:

14 "17-7-102. Definitions. As used in parts 1 through 3 of  
 15 this chapter, the following definitions apply:

16 (1) "Additional services" means different services or  
 17 more of the same services.

18 (2) "Agency" means each state office, department,  
 19 division, board, commission, council, committee,  
 20 institution, university unit, or other entity or  
 21 instrumentality of the executive branch, office of the  
 22 judicial branch, or office of the legislative branch of  
 23 state government.

24 (3) "Approved long-range building program budget  
 25 amendment" means approval by the budget director of a

1 request submitted through the architecture and engineering  
 2 division of the department of administration to transfer  
 3 excess funds appropriated to a capital project within an  
 4 agency to increase the appropriation of another capital  
 5 project within that agency or to obtain financing to expand  
 6 a project with funds that were not available for  
 7 consideration by the legislature.

8 (4) "Approving authority" means:

9 (a) the governor or his designated representative for  
 10 executive branch agencies;

11 (b) the chief justice of the supreme court or his  
 12 designated representative for judicial branch agencies;

13 (c) the speaker for the house of representatives;

14 (d) the president for the senate;

15 (e) appropriate legislative committees or a designated  
 16 representative for legislative branch agencies; or

17 (f) the board of regents of higher education or its  
 18 designated representative for the university system.

19 (5) "Budget amendment" means a legislative  
 20 appropriation to increase spending authority for the special  
 21 revenue fund, proprietary funds, or unrestricted subfund,  
 22 contingent on total compliance with all budget amendment  
 23 procedures.

24 ~~(1)~~ (6) "Current funding level" means that level of  
 25 funding required to maintain operations and services at the

1 level authorized by the previous legislature, after  
2 adjustment for inflation.

3 {2}{7} "Effectiveness measure" means a criterion for  
4 measuring the degree to which the objective sought is  
5 attained.

6 {8} "Emergency" means a catastrophe, disaster,  
7 calamity, or other serious unforeseen and unanticipated  
8 circumstance that has occurred subsequent to the time an  
9 agency's appropriation was made, which was clearly not  
10 within the contemplation of the legislature and the  
11 governor, that affects one or more functions of a state  
12 agency and the agency's expenditure requirements for the  
13 performance of the function or functions.

14 {3}{9} "Modified funding level" means the current  
15 funding level as adjusted to reflect workload increases, the  
16 provision of new services, or changes in authorized funding.

17 {10} "Necessary" means essential to the public welfare  
18 and of a nature that cannot wait until the next legislative  
19 session for legislative consideration.

20 {11} "Priority listing" means a ranking of proposed  
21 expenditures in order of importance.

22 {4}{12} "Program" means a combination of resources and  
23 activities designed to achieve an objective or objectives.

24 {5}{13} "Program size" means the magnitude of a program  
25 such as the size of clientele served, the volume of service

1 in relation to the population or area, etc.

2 {6}{14} "Program size indicator" means a measure to  
3 indicate the magnitude of a program.

4 {7}--"Priority--listing"--means--a--ranking--of--proposed  
5 expenditures--in--order--of--importance--

6 {15} "Requesting agency" means the agency of state  
7 government that has requested a specific budget amendment.

8 {16} "University system unit" means the board of regents  
9 of higher education, office of the commissioner of higher  
10 education, university of Montana at Missoula, Montana state  
11 university at Bozeman, Montana college of mineral science  
12 and technology at Butte, eastern Montana college at  
13 Billings, northern Montana college at Havre, western Montana  
14 college of the university of Montana at Dillon, the  
15 agricultural experiment station with central offices at  
16 Bozeman, the forest and conservation experiment station with  
17 central offices at Missoula, the cooperative extension  
18 service with central offices at Bozeman, the bureau of mines  
19 and geology with central offices at Butte, the  
20 vocational-technical centers at Billings, Butte, Great  
21 Falls, Helena, and Missoula, or the community colleges at  
22 Miles City, Glendive, and Kalispell."

23 **Section 6.** Section 17-7-502, MCA, is amended to read:

24 "17-7-502. Statutory appropriations -- definition --  
25 requisites for validity. (1) A statutory appropriation is an

1 appropriation made by permanent law that authorizes spending  
2 by a state agency without the need for a biennial  
3 legislative appropriation or budget amendment.

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

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

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

12 (3) The following laws are the only laws containing  
13 statutory appropriations: 2-9-202; 2-17-105; 2-18-812;  
14 10-3-203; 10-3-312; 10-3-314; 10-4-301; 13-37-304; 15-1-111;  
15 15-25-123; 15-31-702; 15-36-112; 15-37-117; 15-65-121;  
16 15-70-101; 16-1-404; 16-1-410; 16-1-411; 17-3-212; 17-5-404;  
17 17-5-424; 17-5-704; 17-5-804; 19-8-504; 19-9-702; 19-9-1007;  
18 19-10-205; 19-10-305; 19-10-506; 19-11-512; 19-11-513;  
19 19-11-606; 19-12-301; 19-13-604; 20-6-406; 20-8-111;  
20 20-9-361; 23-5-306; 23-5-409; 23-5-610; 23-5-612; 23-5-1016;  
21 23-5-1027; 27-12-206; 37-51-501; 39-71-2504; 53-6-150;  
22 53-24-206; 61-2-406; 61-5-121; 67-3-205; 75-1-1101;  
23 75-5-1108; 75-11-313; 76-12-123; 80-2-103; 82-11-136;  
24 82-11-161; 90-3-301; 90-4-215; 90-4-613; 90-6-331; 90-9-306;  
25 and section 13, House Bill No. 861, Laws of 1985.

1 (4) There is a statutory appropriation to pay the  
2 principal, interest, premiums, and costs of issuing, paying,  
3 and securing all bonds, notes, or other obligations, as due,  
4 that have been authorized and issued pursuant to the laws of  
5 Montana. Agencies that have entered into agreements  
6 authorized by the laws of Montana to pay the state  
7 treasurer, for deposit in accordance with 17-2-101 through  
8 17-2-107, as determined by the state treasurer, an amount  
9 sufficient to pay the principal and interest as due on the  
10 bonds or notes have statutory appropriation authority for  
11 such payments. (In subsection (3), pursuant to sec. 10, Ch.  
12 664, L. 1987, the inclusion of 39-71-2504 terminates June  
13 30, 1991.)"

14 NEW SECTION. **Section 7. Operating budget.** (1)  
15 Expenditures by a state agency must be made in substantial  
16 compliance with an operating budget approved by an approving  
17 authority. Substantial compliance means that a category in  
18 the operating budget may not be exceeded by more than 5%.  
19 The expenditure of money appropriated in the general  
20 appropriations act is contingent upon approval of an  
21 operating budget by August 1 of each fiscal year. An  
22 approved original operating budget must comply with state  
23 law and statements of intent adopted as part of a bill.

24 (2) The operating budget for money appropriated by the  
25 general appropriations act must be separate from the



1 operating budget for money appropriated by another law  
 2 except a law appropriating money for the state pay plan or  
 3 any portion of the state pay plan. Each operating budget  
 4 must include expenditures for each agency program, detailed  
 5 at least by first-level categories as provided in  
 6 17-1-102(3). Each agency shall record its operating budget  
 7 and any approved changes on the statewide budget and  
 8 accounting system. Forms used for changing an operating  
 9 budget must reference the current, fully complete, and  
 10 approved operating budget, show the proposed changes to the  
 11 operating budget, and reference any other pending documents  
 12 to change the operating budget.

13 NEW SECTION. Section 8. Program transfers. Unless  
 14 prohibited by law, the approving authority may approve  
 15 agency requests to transfer appropriations between programs  
 16 within each fund type within each fiscal year. The transfer  
 17 may not exceed 5% of the total agency appropriation,  
 18 excluding statutory appropriations, administrative  
 19 authorizations, and budget amendments. All program transfers  
 20 must be completed within the same fund from which the  
 21 transfer originated. A request for a transfer accompanied by  
 22 a justification explaining the reason for the transfer must  
 23 be submitted by the requesting agency to the approving  
 24 authority and the office of budget and program planning.  
 25 Upon approval of the transfer, the approving authority shall

1 inform the legislative fiscal analyst of the approved  
 2 transfer and the justification for the transfer.

3 NEW SECTION. Section 9. Reduction of appropriation.

4 (1) Except as provided in subsection (2), in the event of a  
 5 shortfall in revenue, the governor may reduce  
 6 appropriations. An appropriation may not be reduced by more  
 7 than 15%.

8 (2) The appropriations for the following may not be  
 9 reduced:

- 10 (a) payment of interest and principal on state debt;
- 11 (b) the legislative branch;
- 12 (c) the judicial branch;
- 13 (d) the school foundation program, including special  
 14 education; and
- 15 (e) salaries of elected officials during their terms of  
 16 office.

17 NEW SECTION. Section 10. Audit costs. Amounts  
 18 appropriated for audits conducted under Title 5, chapter 13,  
 19 may be transferred between fiscal years. Agencies shall  
 20 reserve enough money in each fund to pay for audit costs and  
 21 to the maximum extent allowable under federal regulations  
 22 shall charge audit costs to federal funds.

23 NEW SECTION. Section 11. Access to records of  
 24 contracting entities. Money may not be spent by a state  
 25 agency under a contract with a nonstate entity unless the

1 contract contains a provision that allows the legislative  
 2 auditor and the legislative fiscal analyst sufficient access  
 3 to the records of the nonstate entity to determine whether  
 4 the parties have complied with the terms of the contract.  
 5 The access to records is necessary to carry out the  
 6 functions provided for in Title 5, chapters 12 and 13. A  
 7 state agency may terminate a contract, without incurring  
 8 liability, for the refusal of a nonstate entity to allow  
 9 access to records as required by this section.

10 NEW SECTION. **Section 12.** Expansion to be authorized.

11 An existing capital project may not be expanded beyond the  
 12 scope of the project approved by the legislature unless the  
 13 expansion of the project is authorized by an approved  
 14 long-range building program budget amendment.

15 NEW SECTION. **Section 13.** Reappropriation of capital  
 16 projects. The remaining balances on capital projects  
 17 previously approved by the legislature are reappropriated  
 18 for the purposes of the original appropriation until the  
 19 project is completed.

20 NEW SECTION. **Section 14.** Administrative authorization  
 21 -- requisites for validity. (1) An administrative  
 22 authorization may be established by the budget director when  
 23 the action is required for the implementation of an  
 24 appropriation made by law as defined in 17-7-501.

25 (2) An administrative authorization is established for

1 management control and accounting purposes and may be  
 2 allowed in budgeted funds when one or more agencies are  
 3 involved.

4 (3) An administrative authorization may not conflict  
 5 with a law or a statement of intent adopted as part of a law  
 6 and may not increase the actual expenditure of funds  
 7 authorized by the legislature for a biennium.

8 **Section 15.** Section 75-10-621, MCA, is amended to read:

9 \*75-10-621. Hazardous waste/CERCLA special revenue  
 10 account. (1) There is a hazardous waste/CERCLA special  
 11 revenue account within the state special revenue fund  
 12 established in 17-2-102.

13 (2) There must be paid into the hazardous waste/CERCLA  
 14 account:

15 (a) revenues obtained from the interest income of the  
 16 resource indemnity trust fund under the provisions of  
 17 15-38-202, together with interest accruing on those  
 18 revenues;

19 (b) all proceeds of bonds or notes issued under  
 20 75-10-623 and all interest earned on proceeds thereof; and

21 (c) revenues from penalties or damages collected under  
 22 the federal Comprehensive Environmental Response,  
 23 Compensation, and Liability Act of 1980, as amended in 1986  
 24 (CERCLA).

25 (3) Appropriations may be made from the hazardous

1 waste/CERCLA account only for the following purposes and  
2 subject to the following conditions:

3 (a) funds are statutorily appropriated, as provided in  
4 17-7-502(4), to the CERCLA match debt service account  
5 necessary to make principal, interest, and premium payments  
6 due on CERCLA bonds;

7 (b) not more than one-half of the interest income  
8 received for any biennium from the resource indemnity trust  
9 fund may be appropriated on a biennial basis for:

10 (i) implementation of the Montana Hazardous Waste Act,  
11 including regulation of underground storage tanks and the  
12 state share to obtain matching federal funds;

13 (ii) implementation of Title 75, chapter 10, part 6,  
14 pertaining to state assistance to and cooperation with the  
15 federal government for remedial action under CERCLA;

16 (iii) expenses of the administration of the  
17 environmental sciences division of the department in  
18 administering and overseeing the implementation of Title 75,  
19 chapter 10, parts 4 and 6; and

20 (iv) state expenses relating to investigation and  
21 remedial action for any hazardous substance defined in  
22 75-10-602; and

23 (c) to the extent funds are available after the  
24 appropriations in subsections (3)(a) and (3)(b), the  
25 department may, as appropriate, seek authorization from the

1 legislature or, when the legislature is not in session,  
2 through the budget amendment process provided for in Title  
3 17, chapter 7, part 4, to spend funds for:

4 (i) state participation in remedial action under  
5 section 104 of CERCLA;

6 (ii) state costs for maintenance of sites at which  
7 remedial action under CERCLA has been completed; and

8 (iii) the state share to obtain matching federal funds  
9 for underground storage tank corrective action.

10 (4) For the purposes of subsection (3)(c), the  
11 legislature finds that a need for state special revenue to  
12 obtain matching federal funds for underground storage tank  
13 corrective action or for remedial action under section 104  
14 of CERCLA constitutes a serious unforeseen and unanticipated  
15 circumstance for the purpose of meeting the definition of  
16 "emergency" in ~~17-7-401~~ 17-7-102. The legislature further  
17 finds that the inability of the department to match such  
18 federal funds as may become available would seriously impair  
19 the functions of the department in carrying out its  
20 responsibilities under Title 75, chapter 10, parts 4 and 6.

21 (5) There is no dollar limit to the hazardous  
22 waste/CERCLA account. Unused balances remain in the account  
23 until such time as appropriated by the legislature for the  
24 purposes specified in this section."

25 **Section 16.** Section 17-6-305, MCA, is amended to read:

1       **"17-6-305.** Investment of twenty-five percent of the  
 2 coal tax trust fund in the Montana economy. (1) Twenty-five  
 3 percent of all revenue deposited after June 30, 1983, into  
 4 the permanent coal tax trust fund established in 17-6-203(5)  
 5 ~~and--15%--of--the--annual--income--and--earnings--on--the--Montana~~  
 6 ~~in--state--investment--fund--appropriated--to--the--coal--severance~~  
 7 ~~tax--permanent--fund--by--17-5-704(2)~~ shall be invested in the  
 8 Montana economy with special emphasis on investments in new  
 9 or expanding locally owned enterprises.

10       (2) In determining the probable income to be derived  
 11 from investment of this revenue, the long-term benefit to  
 12 the Montana economy shall be considered.

13       (3) The legislature may provide additional procedures  
 14 to implement this section."

15       **Section 17.** Section 17-6-306, MCA, is amended to read:

16       **"17-6-306.** Montana in-state investment fund. The  
 17 Montana in-state investment fund consists of:

18       (1) 25% of the revenue deposited after June 30, 1983,  
 19 into the permanent coal tax trust fund established in  
 20 17-6-203(6); and

21       (2) the principal payments on all investments made from  
 22 the Montana in-state investment fund; ~~and~~

23       ~~(3)--15%--of--the--annual--income--and--earnings--on--the~~  
 24 ~~Montana--in--state--investment--fund--appropriated--to--the--coal~~  
 25 ~~severance--tax--permanent--fund--by--17-5-704(2).~~"

1       **Section 18.** Section 20-9-343, MCA, is amended to read:

2       **"20-9-343.** Definition of and revenue for state  
 3 equalization aid. (1) As used in this title, the term "state  
 4 equalization aid" means the money deposited in the state  
 5 special revenue fund as required in this section plus any  
 6 legislative appropriation of money from other sources for  
 7 distribution to the public schools for the purposes of  
 8 payment of guaranteed tax base aid and equalization of the  
 9 foundation program.

10       (2) The superintendent of public instruction may spend  
 11 funds appropriated for state equalization aid as required  
 12 for guaranteed tax base aid and foundation program purposes  
 13 throughout the biennium.

14       (3) The following must be paid into the state special  
 15 revenue fund for state equalization aid to public schools of  
 16 the state:

17       (a) money received from the collection of income taxes  
 18 under chapter 30 of Title 15, as provided by 15-1-501;

19       (b) except as provided in 15-31-702, money received  
 20 from the collection of corporation license and income taxes  
 21 under chapter 31 of Title 15, as provided by 15-1-501;

22       (c) money allocated to state equalization from the  
 23 collection of the severance tax on coal;

24       (d) money received from the treasurer of the United  
 25 States as the state's shares of oil, gas, and other mineral

1 royalties under the federal Mineral Lands Leasing Act, as  
2 amended;

3 (e) interest and income money described in 20-9-341 and  
4 20-9-342;

5 (f) money received from the state equalization aid levy  
6 under 20-9-360;

7 (g) income from the lottery, as provided in 23-5-1027;

8 (h) the surplus revenues collected by the counties for  
9 foundation program support according to 20-9-331 and  
10 20-9-333;

11 (i) investment income earned by investing money in the  
12 state equalization aid account in the state special revenue  
13 fund; and

14 (j) 15% of the income and earnings of all coal  
15 severance tax funds as provided in 17-5-704{2}.

16 (4) The superintendent of public instruction shall  
17 request the board of investments to invest the money in the  
18 state equalization aid account to maximize investment  
19 earnings to the account.

20 (5) Any surplus revenue in the state equalization aid  
21 account in the second year of a biennium may be used to  
22 reduce any appropriation required for the next succeeding  
23 biennium."

24 NEW SECTION. Section 19. Repealer. Section 17-7-401,  
25 MCA, is repealed.

1 NEW SECTION. Section 20. Codification instruction. (1)

2 [Sections 7 through 10] are intended to be codified as an  
3 integral part of Title 17, chapter 7, part 1, and the  
4 provisions of Title 17, chapter 7, part 1, apply to  
5 [sections 7 through 10].

6 (2) [Section 11] is intended to be codified as an  
7 integral part of Title 18, chapter 1, part 1, and the  
8 provisions of Title 18, chapter 1, part 1, apply to [section  
9 11].

10 (3) [Sections 12 and 13] are intended to be codified as  
11 an integral part of Title 17, chapter 7, part 2, and the  
12 provisions of Title 17, chapter 7, part 2, apply to  
13 [sections 12 and 13].

14 (4) [Section 14] is intended to be codified as an  
15 integral part of Title 17, chapter 7, part 5, and the  
16 provisions of Title 17, chapter 7, part 5, apply to [section  
17 14].

18 NEW SECTION. Section 21. Effective date. [This act] is  
19 effective July 1, 1991.

-End-

APPROVED BY COMMITTEE  
ON APPROPRIATIONS

HOUSE BILL NO. 454

INTRODUCED BY COBB, JERGESON, PECK, BRADLEY, BARDANOUE,  
KADAS, KEATING, GRINDE, SWYSGOOD, JACOBSON, SVRCEK,  
PAVLOVICH, VAN VALKENBURG, TVEIT, T. NELSON, THOFT  
BY REQUEST OF THE LEGISLATIVE AUDIT COMMITTEE,  
THE LEGISLATIVE FINANCE COMMITTEE, AND  
THE OFFICE OF BUDGET AND PROGRAM  
PLANNING

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND  
CLARIFY THE LAW RELATING TO APPROPRIATIONS; CODIFYING  
CONDITIONS FOR APPROPRIATIONS USUALLY CONTAINED IN EACH  
GENERAL APPROPRIATIONS ACT; PROVIDING FOR A STATUTORY  
APPROPRIATION OF THE INCOME AND EARNINGS OF COAL SEVERANCE  
TAX FUNDS; AMENDING SECTIONS 5-12-303, 17-1-102, 17-2-108,  
17-5-704, 17-7-102, 17-7-502, AND 75-10-621, MCA; REPEALING  
SECTION 17-7-401, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

**Section 1.** Section 5-12-303, MCA, is amended to read:

"5-12-303. Fiscal analysis information from state  
agencies. (1) The legislative fiscal analyst has the  
authority to investigate and examine the costs and revenues  
of state government activities and may examine and obtain  
copies of the records, books, and files of any state agency,

including confidential records.

(2) When confidential records and information are  
obtained from a state agency, the legislative fiscal analyst  
and staff must be subject to the same penalties for  
unauthorized disclosure of such confidential records and  
information provided for under the laws administered by the  
state agency. The legislative fiscal analyst shall develop  
policies to prevent the unauthorized disclosure of  
confidential records and information obtained from state  
agencies.

(3) The legislative fiscal analyst may not obtain  
copies of individual income tax records protected under  
15-30-303. The department of revenue shall make individual  
income tax data available by a masking method that conceals  
the identity of the taxpayer. The masking method may not  
destroy the statistical integrity of the individual income  
tax records. The masking method, including how data is  
masked, must be disclosed to the legislative fiscal analyst.

(4) Every state agency shall furnish the legislative  
fiscal analyst with copies of all budget requests, at the  
time of submission to the budget director as provided by  
law, and if requested, all underlying and supporting  
documentation.

(5) In the year preceding each legislative session, the  
budget director shall furnish the legislative fiscal analyst



1 on a confidential basis:

2 (a) by December 1, a copy of the documents which  
3 reflect the anticipated receipts and other means of  
4 financing the budget for each fiscal year of the ensuing  
5 biennium;

6 (b) by December 1, a preliminary budget which shall  
7 meet the statutory requirements for submission of the budget  
8 to the legislature; and

9 (c) by December 3, a paper copy and an electronic copy  
10 of the documents which reflect expenditures to the second  
11 level, as provided in 17-1-102(3), by funding source and  
12 detailed by accounting entity; and

13 ~~(c)~~(d) by December 15, all amendments to the  
14 preliminary budget.

15 (6) Within 1 day after the legislative finance  
16 committee presents its budget analysis to the legislature,  
17 the budget director and the legislative fiscal analyst shall  
18 exchange expenditure and disbursement recommendations by  
19 second-level expenditure detail and by funding sources  
20 detailed by accounting entity. This information must be  
21 filed in the respective offices and be made available to the  
22 legislature and the public.

23 ~~(6)~~(7) This section does not authorize publication or  
24 public disclosure of information if the law prohibits such  
25 publication or disclosure."

1 **Section 2.** Section 17-1-102, MCA, is amended to read:

2 \*17-1-102. Uniform accounting system and expenditure  
3 control. (1) The department shall establish a system of  
4 financial control so that the functioning of the various  
5 agencies of the state may be improved, duplications of work  
6 by different state agencies and employees eliminated, public  
7 service improved, and the cost of government reduced.

8 (2) The department shall prescribe and install uniform  
9 accounting and reporting for all state agencies and  
10 institutions, showing the receipt, use, and disposition of  
11 all public money and property in accordance with generally  
12 accepted accounting principles, and shall develop plans for  
13 improvements and economies in the organization and operation  
14 thereof, which shall be submitted to the respective heads of  
15 agencies and institutions. Copies of all such plans shall be  
16 delivered to the governor, and additional copies shall be  
17 retained in the office of the department for inspection by  
18 the members of the legislature.

19 (3) The uniform accounting and reporting system must  
20 contain three levels of expenditure. The first level must  
21 include general categories, such as personal services,  
22 operating expenses, equipment, capital outlay, local  
23 assistance, grants, benefits and claims, transfers, and debt  
24 service. The second level of expenditure must include  
25 specific categories of expenditures within each first-level

1 category. The third level of expenditure must include  
 2 specific items of expenditure within each category of the  
 3 second level.

4 ~~(3)~~(4) The department shall examine all financial  
 5 affairs of every state agency and institution for the  
 6 purpose of developing plans for improvements and economies  
 7 in the organization and operation thereof and for the  
 8 purpose of enabling the department to properly perform any  
 9 of the duties imposed upon the department by this part.

10 ~~(4)~~(5) All state agencies, including units of the  
 11 university system and the vocational-technical centers,  
 12 shall input all necessary transactions to the accounting  
 13 system prescribed in subsection (2) before the accounts are  
 14 closed at the end of the fiscal year in order to present the  
 15 receipt, use, and disposition of all money and property for  
 16 which the agency is accountable in accordance with generally  
 17 accepted accounting principles, except that for budgetary  
 18 control purposes, encumbrances which are required by  
 19 generally accepted accounting principles to be reported as a  
 20 reservation of fund balance shall be recorded as  
 21 expenditures and liabilities on the accounting records."

22 **Section 3.** Section 17-2-108, MCA, is amended to read:

23 "17-2-108. Expenditure of nongeneral fund money first.

24 (1) An office or entity of the executive, legislative, or  
 25 judicial branch of state government shall apply expenditures

1 against appropriated nongeneral fund money whenever possible  
 2 before using general fund appropriations.

3 (2) The approving authority, as defined in 17-7-102,  
 4 shall authorize the decrease of the general fund  
 5 appropriation of an agency by the amount of money received  
 6 from federal sources in excess of the appropriation in an  
 7 appropriation act unless the decrease is contrary to federal  
 8 law, federal rule, or a contract or unless the approving  
 9 authority certifies that the services to be funded by the  
 10 additional money are significantly different than those for  
 11 which the agency received the general fund appropriation. If  
 12 directed by an appropriation act, the approving authority  
 13 shall decrease the general fund appropriation of an agency  
 14 by the amount of money received from nonfederal sources in  
 15 excess of the appropriation unless the decrease is contrary  
 16 to state law, state rule, or a contract or unless the  
 17 approving authority certifies that the services to be funded  
 18 by the additional money are significantly different than  
 19 those for which the agency received the general fund  
 20 appropriation. If the general fund appropriation of an  
 21 agency is decreased pursuant to this section, the  
 22 appropriation for the fund in which the money is received is  
 23 increased in the amount of the general fund decrease."

24 **Section 4.** Section 17-5-704, MCA, is amended to read:

25 "17-5-704. Investment of funds. ~~(1)~~ Money in the coal



1 severance tax bond fund, the coal severance tax permanent  
 2 fund, and the coal severance tax income fund must be  
 3 invested in accordance with the investment standards for  
 4 coal severance tax funds ~~except as provided in subsection~~  
 5 ~~(2)~~. Income and earnings from all funds ~~must be transferred~~  
 6 ~~to and retained in the coal severance tax income fund until~~  
 7 ~~appropriated by the legislature;~~ are statutorily  
 8 appropriated, as provided in 17-7-502, as follows:

- 9 (1) 15% to the state equalization aid account; and
- 10 (2) ~~Except as provided in section 17, Chapter 634, laws~~  
 11 ~~of 1989, beginning on July 1, 1990, the legislature shall~~  
 12 ~~appropriate 15% of the income and earnings from all funds to~~  
 13 ~~be deposited to the state equalization aid account each year~~  
 14 85% to the state general fund."

15 **Section 5.** Section 17-7-102, MCA, is amended to read:  
 16 "17-7-102. Definitions. As used in parts 1 through 3 of  
 17 this chapter, the following definitions apply:

- 18 (1) "Additional services" means different services or  
 19 more of the same services.
- 20 (2) "Agency" means each state office, department,  
 21 division, board, commission, council, committee,  
 22 institution, university unit, or other entity or  
 23 instrumentality of the executive branch, office of the  
 24 judicial branch, or office of the legislative branch of  
 25 state government.

1 (3) "Approved long-range building program budget  
 2 amendment" means approval by the budget director of a  
 3 request submitted through the architecture and engineering  
 4 division of the department of administration to transfer  
 5 excess funds appropriated to a capital project within an  
 6 agency to increase the appropriation of another capital  
 7 project within that agency or to obtain financing to expand  
 8 a project with funds that were not available for  
 9 consideration by the legislature.

- 10 (4) "Approving authority" means:
- 11 (a) the governor or his designated representative for  
 12 executive branch agencies;
- 13 (b) the chief justice of the supreme court or his  
 14 designated representative for judicial branch agencies;
- 15 (c) the speaker for the house of representatives;
- 16 (d) the president for the senate;
- 17 (e) appropriate legislative committees or a designated  
 18 representative for legislative branch agencies; or
- 19 (f) the board of regents of higher education or its  
 20 designated representative for the university system.

21 (5) "Budget amendment" means a legislative  
 22 appropriation to increase spending authority for the special  
 23 revenue fund, proprietary funds, or unrestricted subfund,  
 24 contingent on total compliance with all budget amendment  
 25 procedures.

1       †1†(6) "Current funding level" means that level of  
2 funding required to maintain operations and services at the  
3 level authorized by the previous legislature, after  
4 adjustment for inflation.

5       †2†(7) "Effectiveness measure" means a criterion for  
6 measuring the degree to which the objective sought is  
7 attained.

8       (8) "Emergency" means a catastrophe, disaster,  
9 calamity, or other serious unforeseen and unanticipated  
10 circumstance that has occurred subsequent to the time an  
11 agency's appropriation was made, which was clearly not  
12 within the contemplation of the legislature and the  
13 governor, that affects one or more functions of a state  
14 agency and the agency's expenditure requirements for the  
15 performance of the function or functions.

16       †3†(9) "Modified funding level" means the current  
17 funding level as adjusted to reflect workload increases, the  
18 provision of new services, or changes in authorized funding.

19       (10) "Necessary" means essential to the public welfare  
20 and of a nature that cannot wait until the next legislative  
21 session for legislative consideration.

22       (11) "Priority listing" means a ranking of proposed  
23 expenditures in order of importance.

24       †4†(12) "Program" means a combination of resources and  
25 activities designed to achieve an objective or objectives.

1       †5†(13) "Program size" means the magnitude of a program  
2 such as the size of clientele served, the volume of service  
3 in relation to the population or area, etc.

4       †6†(14) "Program size indicator" means a measure to  
5 indicate the magnitude of a program.

6       †7†--"Priority listing"--means--a--ranking--of--proposed  
7 expenditures in order of importance:

8       (15) "Requesting agency" means the agency of state  
9 government that has requested a specific budget amendment.

10       (16) "University system unit" means the board of regents  
11 of higher education, office of the commissioner of higher  
12 education, university of Montana at Missoula, Montana state  
13 university at Bozeman, Montana college of mineral science  
14 and technology at Butte, eastern Montana college at  
15 Billings, northern Montana college at Havre, western Montana  
16 college of the university of Montana at Dillon, the  
17 agricultural experiment station with central offices at  
18 Bozeman, the forest and conservation experiment station with  
19 central offices at Missoula, the cooperative extension  
20 service with central offices at Bozeman, the bureau of mines  
21 and geology with central offices at Butte, THE FIRE SERVICES  
22 TRAINING SCHOOL AT GREAT FALLS, the vocational-technical  
23 centers at Billings, Butte, Great Falls, Helena, and  
24 Missoula, or the community colleges at Miles City, Glendive,  
25 and Kalispell."

1       **Section 6.** Section 17-7-502, MCA, is amended to read:  
 2       "17-7-502. **Statutory appropriations -- definition --**  
 3 **requisites for validity.** (1) A statutory appropriation is an  
 4 appropriation made by permanent law that authorizes spending  
 5 by a state agency without the need for a biennial  
 6 legislative appropriation or budget amendment.  
 7       (2) Except as provided in subsection (4), to be  
 8 effective, a statutory appropriation must comply with both  
 9 of the following provisions:  
 10       (a) The law containing the statutory authority must be  
 11 listed in subsection (3).  
 12       (b) The law or portion of the law making a statutory  
 13 appropriation must specifically state that a statutory  
 14 appropriation is made as provided in this section.  
 15       (3) The following laws are the only laws containing  
 16 statutory appropriations: 2-9-202; 2-17-105; 2-18-812;  
 17 10-3-203; 10-3-312; 10-3-314; 10-4-301; 13-37-304; 15-1-111;  
 18 15-25-123; 15-31-702; 15-36-112; 15-37-117; 15-65-121;  
 19 15-70-101; 16-1-404; 16-1-410; 16-1-411; 17-3-212; 17-5-404;  
 20 17-5-424; 17-5-704; 17-5-804; 19-8-504; 19-9-702; 19-9-1007;  
 21 19-10-205; 19-10-305; 19-10-506; 19-11-512; 19-11-513;  
 22 19-11-606; 19-12-301; 19-13-604; 20-6-406; 20-8-111;  
 23 20-9-361; 23-5-306; 23-5-409; 23-5-610; 23-5-612; 23-5-1016;  
 24 23-5-1027; 27-12-206; 37-51-501; 39-71-2504; 53-6-150;  
 25 53-24-206; 61-2-406; 61-5-121; 67-3-205; 75-1-1101;

1       75-5-1108; 75-11-313; 76-12-123; 80-2-103; 82-11-136;  
 2       82-11-161; 90-3-301; 90-4-215; 90-4-613; 90-6-331; 90-9-306;  
 3       and section 13, House Bill No. 861, Laws of 1985.  
 4       (4) There is a statutory appropriation to pay the  
 5 principal, interest, premiums, and costs of issuing, paying,  
 6 and securing all bonds, notes, or other obligations, as due,  
 7 that have been authorized and issued pursuant to the laws of  
 8 Montana. Agencies that have entered into agreements  
 9 authorized by the laws of Montana to pay the state  
 10 treasurer, for deposit in accordance with 17-2-101 through  
 11 17-2-107, as determined by the state treasurer, an amount  
 12 sufficient to pay the principal and interest as due on the  
 13 bonds or notes have statutory appropriation authority for  
 14 such payments. (In subsection (3), pursuant to sec. 10, Ch.  
 15 664, L. 1987, the inclusion of 39-71-2504 terminates June  
 16 30, 1991.)"  
 17       **NEW SECTION. Section 7. Operating budget.** (1)  
 18 Expenditures by a state agency must be made in substantial  
 19 compliance with an operating budget approved by an approving  
 20 authority. Substantial compliance means that a category in  
 21 the operating budget may not be exceeded by more than 5%.  
 22 **The EXCEPT AS PROVIDED IN SUBSECTION (2), THE** expenditure of  
 23 money appropriated in the general appropriations act is  
 24 contingent upon approval of an operating budget by August 1  
 25 of each fiscal year. An approved original operating budget

1 must comply with state law and statements of intent adopted  
2 as part of a bill.

3 (2) THE EXPENDITURE OF MONEY APPROPRIATED IN THE  
4 GENERAL APPROPRIATIONS ACT TO THE UNIVERSITY SYSTEM UNITS,  
5 AS DEFINED IN [SECTION 5], IS CONTINGENT UPON APPROVAL OF AN  
6 OPERATING BUDGET BY OCTOBER 1 OF EACH FISCAL YEAR. ALL OTHER  
7 REQUIREMENTS IN THIS SECTION APPLY TO THE UNIVERSITY SYSTEM.

8 ~~†2~~(3) The operating budget for money appropriated by  
9 the general appropriations act must be separate from the  
10 operating budget for money appropriated by another law  
11 except a law appropriating money for the state pay plan or  
12 any portion of the state pay plan. Each operating budget  
13 must include expenditures for each agency program, detailed  
14 at least by first-level categories as provided in  
15 17-1-102(3). Each agency shall record its operating budget  
16 and any approved changes on the statewide budget and  
17 accounting system. Forms used for changing an operating  
18 budget must reference the current, fully complete, and  
19 approved operating budget, show the proposed changes to the  
20 operating budget, and reference any other pending documents  
21 to change the operating budget.

22 NEW SECTION. Section 8. Program transfers. Unless  
23 prohibited by law, the approving authority may approve  
24 agency requests to transfer appropriations between programs  
25 within each fund type within each fiscal year. The transfer

1 may not exceed 5% of the total agency appropriation,  
2 excluding statutory appropriations, administrative  
3 authorizations, and budget amendments. All program transfers  
4 must be completed within the same fund from which the  
5 transfer originated. A request for a transfer accompanied by  
6 a justification explaining the reason for the transfer must  
7 be submitted by the requesting agency to the approving  
8 authority and the office of budget and program planning.  
9 Upon approval of the transfer, the approving authority shall  
10 inform the legislative fiscal analyst of the approved  
11 transfer and the justification for the transfer.

12 NEW SECTION. Section 9. Reduction of appropriation.

13 (1) Except as provided in subsection (2), in the event of a  
14 shortfall in revenue, the governor may reduce  
15 appropriations. An appropriation may not be reduced by more  
16 than 15%.

17 (2) The appropriations for the following may not be  
18 reduced:

- 19 (a) payment of interest and principal on state debt;
- 20 (b) the legislative branch;
- 21 (c) the judicial branch;
- 22 (d) the school foundation program, including special  
23 education; and
- 24 (e) salaries of elected officials during their terms of  
25 office.

1       **NEW SECTION. Section 10. Audit costs.** Amounts  
 2 appropriated for audits conducted under Title 5, chapter 13,  
 3 may be transferred between fiscal years. Agencies shall  
 4 reserve enough money in each fund to pay for audit costs and  
 5 to the maximum extent allowable under federal regulations  
 6 shall charge audit costs to federal funds.

7       **NEW SECTION. Section 11. Access to records of**  
 8 **contracting entities.** Money may not be spent by a state  
 9 agency under a contract with a nonstate entity unless the  
 10 contract contains a provision that allows the legislative  
 11 auditor and the legislative fiscal analyst sufficient access  
 12 to the records of the nonstate entity to determine whether  
 13 the parties have complied with the terms of the contract.  
 14 The access to records is necessary to carry out the  
 15 functions provided for in Title 5, chapters 12 and 13. A  
 16 state agency may terminate a contract, without incurring  
 17 liability, for the refusal of a nonstate entity to allow  
 18 access to records as required by this section.

19       **NEW SECTION. Section 12. Expansion to be authorized.**  
 20 An existing capital project may not be expanded beyond the  
 21 scope of the project approved by the legislature unless the  
 22 expansion of the project is authorized by an approved  
 23 long-range building program budget amendment.

24       **NEW SECTION. Section 13. Reappropriation of capital**  
 25 **projects.** The remaining balances on capital projects

1 previously approved by the legislature are reappropriated  
 2 for the purposes of the original appropriation until the  
 3 project is completed.

4       ~~**NEW SECTION. Section 14. Administrative authorization**~~  
 5 ~~---requisites---for---validity---(1)---An---administrative~~  
 6 ~~authorization---may---be---established---by---the---budget---director---when~~  
 7 ~~the---action---is---required---for---the---implementation---of---an~~  
 8 ~~appropriation---made---by---law---as---defined---in---17-7-501.~~

9       ~~(2)---An---administrative---authorization---is---established---for~~  
 10 ~~management---control---and---accounting---purposes---and---may---be~~  
 11 ~~allowed---in---budgeted---funds---when---one---or---more---agencies---are~~  
 12 ~~involved.~~

13       ~~(3)---An---administrative---authorization---may---not---conflict~~  
 14 ~~with---a---law---or---a---statement---of---intent---adopted---as---part---of---a---law~~  
 15 ~~and---may---not---increase---the---actual---expenditure---of---funds~~  
 16 ~~authorized---by---the---legislature---for---a---biennium.~~

17       **Section 14.** Section 75-10-621, MCA, is amended to read:  
 18       "75-10-621. Hazardous waste/CERCLA special revenue  
 19 account. (1) There is a hazardous waste/CERCLA special  
 20 revenue account within the state special revenue fund  
 21 established in 17-2-102.

22       (2) There must be paid into the hazardous waste/CERCLA  
 23 account:

24       (a) revenues obtained from the interest income of the  
 25 resource indemnity trust fund under the provisions of

1 15-38-202, together with interest accruing on those  
2 revenues;

3 (b) all proceeds of bonds or notes issued under  
4 75-10-623 and all interest earned on proceeds thereof; and

5 (c) revenues from penalties or damages collected under  
6 the federal Comprehensive Environmental Response,  
7 Compensation, and Liability Act of 1980, as amended in 1986  
8 (CERCLA).

9 (3) Appropriations may be made from the hazardous  
10 waste/CERCLA account only for the following purposes and  
11 subject to the following conditions:

12 (a) funds are statutorily appropriated, as provided in  
13 17-7-502(4), to the CERCLA match debt service account  
14 necessary to make principal, interest, and premium payments  
15 due on CERCLA bonds;

16 (b) not more than one-half of the interest income  
17 received for any biennium from the resource indemnity trust  
18 fund may be appropriated on a biennial basis for:

19 (i) implementation of the Montana Hazardous Waste Act,  
20 including regulation of underground storage tanks and the  
21 state share to obtain matching federal funds;

22 (ii) implementation of Title 75, chapter 10, part 6,  
23 pertaining to state assistance to and cooperation with the  
24 federal government for remedial action under CERCLA;

25 (iii) expenses of the administration of the

1 environmental sciences division of the department in  
2 administering and overseeing the implementation of Title 75,  
3 chapter 10, parts 4 and 6; and

4 (iv) state expenses relating to investigation and  
5 remedial action for any hazardous substance defined in  
6 75-10-602; and

7 (c) to the extent funds are available after the  
8 appropriations in subsections (3)(a) and (3)(b), the  
9 department may, as appropriate, seek authorization from the  
10 legislature or, when the legislature is not in session,  
11 through the budget amendment process provided for in Title  
12 17, chapter 7, part 4, to spend funds for:

13 (i) state participation in remedial action under  
14 section 104 of CERCLA;

15 (ii) state costs for maintenance of sites at which  
16 remedial action under CERCLA has been completed; and

17 (iii) the state share to obtain matching federal funds  
18 for underground storage tank corrective action.

19 (4) For the purposes of subsection (3)(c), the  
20 legislature finds that a need for state special revenue to  
21 obtain matching federal funds for underground storage tank  
22 corrective action or for remedial action under section 104  
23 of CERCLA constitutes a serious unforeseen and unanticipated  
24 circumstance for the purpose of meeting the definition of  
25 "emergency" in ~~17-7-401~~ 17-7-102. The legislature further

1 finds that the inability of the department to match such  
 2 federal funds as may become available would seriously impair  
 3 the functions of the department in carrying out its  
 4 responsibilities under Title 75, chapter 10, parts 4 and 6.

5 (5) There is no dollar limit to the hazardous  
 6 waste/CERCLA account. Unused balances remain in the account  
 7 until such time as appropriated by the legislature for the  
 8 purposes specified in this section."

9 **Section 15.** Section 17-6-305, MCA, is amended to read:

10 "17-6-305. Investment of twenty-five percent of the  
 11 coal tax trust fund in the Montana economy. (1) Twenty-five  
 12 percent of all revenue deposited after June 30, 1983, into  
 13 the permanent coal tax trust fund established in 17-6-203(5)  
 14 ~~and--15%--of--the--annual--income--and--earnings--on--the--Montana~~  
 15 ~~in--state--investment--fund--appropriated--to--the--coal--severance~~  
 16 ~~tax--permanent--fund--by--17-5-704(2)~~ shall be invested in the  
 17 Montana economy with special emphasis on investments in new  
 18 or expanding locally owned enterprises.

19 (2) In determining the probable income to be derived  
 20 from investment of this revenue, the long-term benefit to  
 21 the Montana economy shall be considered.

22 (3) The legislature may provide additional procedures  
 23 to implement this section."

24 **Section 16.** Section 17-6-306, MCA, is amended to read:

25 "17-6-306. Montana in-state investment fund. The

1 Montana in-state investment fund consists of:

2 (1) 25% of the revenue deposited after June 30, 1983,  
 3 into the permanent coal tax trust fund established in  
 4 17-6-203(6); and

5 (2) the principal payments on all investments made from  
 6 the Montana in-state investment fund; ~~and~~

7 ~~{3}--15%--of--the--annual--income--and--earnings--on--the~~  
 8 ~~Montana--in--state--investment--fund--appropriated--to--the--coal~~  
 9 ~~severance--tax--permanent--fund--by--17-5-704(2)."~~

10 **Section 17.** Section 20-9-343, MCA, is amended to read:

11 "20-9-343. Definition of and revenue for state  
 12 equalization aid. (1) As used in this title, the term "state  
 13 equalization aid" means the money deposited in the state  
 14 special revenue fund as required in this section plus any  
 15 legislative appropriation of money from other sources for  
 16 distribution to the public schools for the purposes of  
 17 payment of guaranteed tax base aid and equalization of the  
 18 foundation program.

19 (2) The superintendent of public instruction may spend  
 20 funds appropriated for state equalization aid as required  
 21 for guaranteed tax base aid and foundation program purposes  
 22 throughout the biennium.

23 (3) The following must be paid into the state special  
 24 revenue fund for state equalization aid to public schools of  
 25 the state:

1 (a) money received from the collection of income taxes  
2 under chapter 30 of Title 15, as provided by 15-1-501;

3 (b) except as provided in 15-31-702, money received  
4 from the collection of corporation license and income taxes  
5 under chapter 31 of Title 15, as provided by 15-1-501;

6 (c) money allocated to state equalization from the  
7 collection of the severance tax on coal;

8 (d) money received from the treasurer of the United  
9 States as the state's shares of oil, gas, and other mineral  
10 royalties under the federal Mineral Lands Leasing Act, as  
11 amended;

12 (e) interest and income money described in 20-9-341 and  
13 20-9-342;

14 (f) money received from the state equalization aid levy  
15 under 20-9-360;

16 (g) income from the lottery, as provided in 23-5-1027;

17 (h) the surplus revenues collected by the counties for  
18 foundation program support according to 20-9-331 and  
19 20-9-333;

20 (i) investment income earned by investing money in the  
21 state equalization aid account in the state special revenue  
22 fund; and

23 (j) 15% of the income and earnings of all coal  
24 severance tax funds as provided in 17-5-704(2).

25 (4) The superintendent of public instruction shall

1 request the board of investments to invest the money in the  
2 state equalization aid account to maximize investment  
3 earnings to the account.

4 (5) Any surplus revenue in the state equalization aid  
5 account in the second year of a biennium may be used to  
6 reduce any appropriation required for the next succeeding  
7 biennium."

8 NEW SECTION. **Section 18.** Repealer. Section 17-7-401,  
9 MCA, is repealed.

10 NEW SECTION. **Section 19.** Codification instruction. (1)  
11 [Sections 7 through 10] are intended to be codified as an  
12 integral part of Title 17, chapter 7, part 1, and the  
13 provisions of Title 17, chapter 7, part 1, apply to  
14 [sections 7 through 10].

15 (2) [Section 11] is intended to be codified as an  
16 integral part of Title 18, chapter 1, part 1, and the  
17 provisions of Title 18, chapter 1, part 1, apply to [section  
18 11].

19 (3) [Sections 12 and 13] are intended to be codified as  
20 an integral part of Title 17, chapter 7, part 2, and the  
21 provisions of Title 17, chapter 7, part 2, apply to  
22 [sections 12 and 13].

23 ~~{4}--{Section--14}--is--intended--to--be--codified--as--an~~  
24 ~~integral-part-of-Title--17--chapter--7--part--5--and--the~~  
25 ~~provisions-of-Title-17--chapter-7--part-5--apply-to-[section~~



HB 0454/02

1 ~~147~~  
2 NEW SECTION. Section 20. Effective date. [This act] is  
3 effective July 1, 1991.

-End-

## 1 HOUSE BILL NO. 454

2 INTRODUCED BY COBB, JERGESON, PECK, BRADLEY, BARDANOUE,

3 KADAS, KEATING, GRINDE, SWYSGOOD, JACOBSON, SVRCEK,

4 PAVLOVICH, VAN VALKENBURG, TVEIT, T. NELSON, THOFT

5 BY REQUEST OF THE LEGISLATIVE AUDIT COMMITTEE,

6 THE LEGISLATIVE FINANCE COMMITTEE, AND

7 THE OFFICE OF BUDGET AND PROGRAM

## 8 PLANNING

9  
10 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND  
11 CLARIFY THE LAW RELATING TO APPROPRIATIONS; CODIFYING  
12 CONDITIONS FOR APPROPRIATIONS USUALLY CONTAINED IN EACH  
13 GENERAL APPROPRIATIONS ACT; PROVIDING FOR A STATUTORY  
14 APPROPRIATION OF THE INCOME AND EARNINGS OF COAL SEVERANCE  
15 TAX FUNDS; AMENDING SECTIONS 5-12-303, 17-1-102, 17-2-108,  
16 17-5-704, 17-7-102, 17-7-304, 17-7-502, AND 75-10-621, MCA;  
17 REPEALING SECTION 17-7-401, MCA; AND PROVIDING AN EFFECTIVE  
18 DATE, AN APPLICABILITY PROVISION, AND A TERMINATION DATE."  
19

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

21 **Section 1.** Section 5-12-303, MCA, is amended to read:

22 "5-12-303. Fiscal analysis information from state  
23 agencies. (1) The legislative fiscal analyst has the  
24 authority to investigate and examine the costs and revenues  
25 of state government activities and may examine and obtain

1 copies of the records, books, and files of any state agency,  
2 including confidential records.

3 (2) When confidential records and information are  
4 obtained from a state agency, the legislative fiscal analyst  
5 and staff must be subject to the same penalties for  
6 unauthorized disclosure of such confidential records and  
7 information provided for under the laws administered by the  
8 state agency. The legislative fiscal analyst shall develop  
9 policies to prevent the unauthorized disclosure of  
10 confidential records and information obtained from state  
11 agencies.

12 (3) The legislative fiscal analyst may not obtain  
13 copies of individual income tax records protected under  
14 15-30-303. The department of revenue shall make individual  
15 income tax data available by a masking method that conceals  
16 the identity of the taxpayer. The masking method may not  
17 destroy the statistical integrity of the individual income  
18 tax records. The masking method, including how data is  
19 masked, must be disclosed to the legislative fiscal analyst.

20 (4) Every state agency shall furnish the legislative  
21 fiscal analyst with copies of all budget requests, at the  
22 time of submission to the budget director as provided by  
23 law, and if requested, all underlying and supporting  
24 documentation.

25 (5) In the year preceding each legislative session, the

1 budget director shall furnish the legislative fiscal analyst  
2 on a confidential basis:

3 (a) by December 1, a copy of the documents which  
4 reflect the anticipated receipts and other means of  
5 financing the budget for each fiscal year of the ensuing  
6 biennium;

7 (b) by December 1, a preliminary budget which shall  
8 meet the statutory requirements for submission of the budget  
9 to the legislature; and

10 (c) by December 3, a paper copy and an electronic copy  
11 of the documents which reflect expenditures to the second  
12 level, as provided in 17-1-102(3), by funding source and  
13 detailed by accounting entity; and

14 ~~(c)~~(d) by December 15, all amendments to the  
15 preliminary budget.

16 (6) Within 1 day after the legislative finance  
17 committee presents its budget analysis to the legislature,  
18 the budget director and the legislative fiscal analyst shall  
19 exchange expenditure and disbursement recommendations by  
20 second-level expenditure detail and by funding sources  
21 detailed by accounting entity. This information must be  
22 filed in the respective offices and be made available to the  
23 legislature and the public.

24 ~~(6)~~(7) This section does not authorize publication or  
25 public disclosure of information if the law prohibits such

1 publication or disclosure."

2 **Section 2.** Section 17-1-102, MCA, is amended to read:

3 "17-1-102. Uniform accounting system and expenditure  
4 control. (1) The department shall establish a system of  
5 financial control so that the functioning of the various  
6 agencies of the state may be improved, duplications of work  
7 by different state agencies and employees eliminated, public  
8 service improved, and the cost of government reduced.

9 (2) The department shall prescribe and install uniform  
10 accounting and reporting for all state agencies and  
11 institutions, showing the receipt, use, and disposition of  
12 all public money and property in accordance with generally  
13 accepted accounting principles, and shall develop plans for  
14 improvements and economies in the organization and operation  
15 thereof, which shall be submitted to the respective heads of  
16 agencies and institutions. Copies of all such plans shall be  
17 delivered to the governor, and additional copies shall be  
18 retained in the office of the department for inspection by  
19 the members of the legislature.

20 (3) The uniform accounting and reporting system must  
21 contain three levels of expenditure. The first level must  
22 include general categories, such as personal services,  
23 operating expenses, equipment, capital outlay, local  
24 assistance, grants, benefits and claims, transfers, and debt  
25 service. The second level of expenditure must include

1 specific categories of expenditures within each first-level  
 2 category. The third level of expenditure must include  
 3 specific items of expenditure within each category of the  
 4 second level.

5 ~~(3)~~(4) The department shall examine all financial  
 6 affairs of every state agency and institution for the  
 7 purpose of developing plans for improvements and economies  
 8 in the organization and operation thereof and for the  
 9 purpose of enabling the department to properly perform any  
 10 of the duties imposed upon the department by this part.

11 ~~(4)~~(5) All state agencies, including units of the  
 12 university system and the vocational-technical centers,  
 13 shall input all necessary transactions to the accounting  
 14 system prescribed in subsection (2) before the accounts are  
 15 closed at the end of the fiscal year in order to present the  
 16 receipt, use, and disposition of all money and property for  
 17 which the agency is accountable in accordance with generally  
 18 accepted accounting principles, except that for budgetary  
 19 control purposes, encumbrances which are required by  
 20 generally accepted accounting principles to be reported as a  
 21 reservation of fund balance shall be recorded as  
 22 expenditures and liabilities on the accounting records.

23 (6) NOTWITHSTANDING THE PROVISIONS OF SUBSECTION (5),  
 24 AN AGENCY MAY NOT RECORD ENCUMBRANCES AS EXPENDITURES  
 25 AGAINST APPROPRIATIONS CONTAINED IN [THIS ACT]:

1 (A) IF THE OPERATING BUDGET FOR THE EXPENDITURE  
 2 CATEGORY TO WHICH THE EXPENDITURE WOULD BE CHARGED HAS BEEN  
 3 INCREASED BY MORE THAN 5% ABOVE THE AMOUNT RECORDED FOR THAT  
 4 CATEGORY ON THE STATEWIDE BUDGETING AND ACCOUNTING SYSTEM AT  
 5 THE END OF FEBRUARY OF THE AFFECTED FISCAL YEAR, UNLESS AN  
 6 EMERGENCY EXPENDITURE IS AUTHORIZED BY THE APPROPRIATE  
 7 APPROVING AUTHORITY IN THE SAME MANNER AS BUDGET AMENDMENTS  
 8 FOR EMERGENCIES ARE APPROVED UNDER TITLE 17, CHAPTER 7, PART  
 9 4; AND

10 (B) UNLESS THE TRANSACTIONS ARE AUTHORIZED BY THE  
 11 APPROPRIATE APPROVING AUTHORITY WHEN THE ENCUMBRANCE EXCEEDS  
 12 \$10,000 IN THE EQUIPMENT CATEGORY OR \$20,000 IN ANY OTHER  
 13 EXPENDITURE CATEGORY."

14 **Section 3.** Section 17-2-108, MCA, is amended to read:

15 "17-2-108. Expenditure of nongeneral fund money first.

16 (1) An office or entity of the executive, legislative, or  
 17 judicial branch of state government shall apply expenditures  
 18 against appropriated nongeneral fund money whenever possible  
 19 before using general fund appropriations.

20 (2) The approving authority, as defined in 17-7-102,  
 21 shall authorize the decrease of the general fund  
 22 appropriation of an agency by the amount of money received  
 23 from federal sources in excess of the appropriation in an  
 24 appropriation act unless the decrease is contrary to federal  
 25 law, federal rule, or a contract or unless the approving

1 authority certifies that the services to be funded by the  
 2 additional money are significantly different than those for  
 3 which the agency received the general fund appropriation. If  
 4 directed by an appropriation act, the approving authority  
 5 shall decrease the general fund appropriation of an agency  
 6 by the amount of money received from nonfederal sources in  
 7 excess of the appropriation unless the decrease is contrary  
 8 to state law, state rule, or a contract or unless the  
 9 approving authority certifies that the services to be funded  
 10 by the additional money are significantly different than  
 11 those for which the agency received the general fund  
 12 appropriation. If the general fund appropriation of an  
 13 agency is decreased pursuant to this section, the  
 14 appropriation for the fund in which the money is received is  
 15 increased in the amount of the general fund decrease."

16 **Section 4.** Section 17-5-704, MCA, is amended to read:  
 17 "17-5-704. Investment of funds. (1) Money in the coal  
 18 severance tax bond fund, the coal severance tax permanent  
 19 fund, and the coal severance tax income fund must be  
 20 invested in accordance with the investment standards for  
 21 coal severance tax funds ~~except as provided in subsection~~  
 22 ~~(2).~~ Income and earnings from all funds ~~must be transferred~~  
 23 ~~to and retained in the coal severance tax income fund until~~  
 24 ~~appropriated by the legislature~~ are statutorily  
 25 appropriated, as provided in 17-7-502, as follows:

- 1 (1) 15% to the state equalization aid account; and
- 2 (2) ~~Except as provided in section 17, Chapter 634, Laws~~  
 3 ~~of 1989, beginning on July 1, 1990, the legislature shall~~  
 4 ~~appropriate 15% of the income and earnings from all funds to~~  
 5 ~~be deposited to the state equalization aid account each year~~  
 6 ~~85% to the state general fund."~~

7 **Section 5.** Section 17-7-102, MCA, is amended to read:  
 8 "17-7-102. Definitions. As used in parts 1 through 3 of  
 9 this chapter, the following definitions apply:

- 10 (1) "Additional services" means different services or  
 11 more of the same services.
- 12 (2) "Agency" means each state office, department,  
 13 division, board, commission, council, committee,  
 14 institution, university unit, or other entity or  
 15 instrumentality of the executive branch, office of the  
 16 judicial branch, or office of the legislative branch of  
 17 state government, EXCEPT FOR PURPOSES OF CAPITAL PROJECTS  
 18 ADMINISTERED BY THE DEPARTMENT OF ADMINISTRATION, FOR WHICH  
 19 INSTITUTIONS ARE TREATED AS ONE DEPARTMENT AND UNIVERSITY  
 20 UNITS AS ONE SYSTEM.
- 21 (3) "Approved long-range building program budget  
 22 amendment" means approval by the budget director of a  
 23 request submitted through the architecture and engineering  
 24 division of the department of administration to transfer  
 25 excess funds appropriated to a capital project within an

1 agency to increase the appropriation of another capital  
 2 project within that agency or to obtain financing to expand  
 3 a project with funds that were not available for  
 4 consideration by the legislature.

5 (4) "Approving authority" means:

6 (a) the governor or his designated representative for  
 7 executive branch agencies;

8 (b) the chief justice of the supreme court or his  
 9 designated representative for judicial branch agencies;

10 (c) the speaker for the house of representatives;

11 (d) the president for the senate;

12 (e) appropriate legislative committees or a designated  
 13 representative for legislative branch agencies; or

14 (f) the board of regents of higher education or its  
 15 designated representative for the university system.

16 (5) "Budget amendment" means a legislative  
 17 appropriation to increase spending authority for the special  
 18 revenue fund, proprietary funds, or unrestricted subfund,  
 19 contingent on total compliance with all budget amendment  
 20 procedures.

21 (6) "Current funding level" means that level of  
 22 funding required to maintain operations and services at the  
 23 level authorized by the previous legislature, after  
 24 adjustment for inflation.

25 (7) "Effectiveness measure" means a criterion for

1 measuring the degree to which the objective sought is  
 2 attained.

3 (8) "Emergency" means a catastrophe, disaster,  
 4 calamity, or other serious unforeseen and unanticipated  
 5 circumstance that has occurred subsequent to the time an  
 6 agency's appropriation was made, which was clearly not  
 7 within the contemplation of the legislature and the  
 8 governor, that affects one or more functions of a state  
 9 agency and the agency's expenditure requirements for the  
 10 performance of the function or functions.

11 (9) "Modified funding level" means the current  
 12 funding level as adjusted to reflect workload increases, the  
 13 provision of new services, or changes in authorized funding.

14 (10) "Necessary" means essential to the public welfare  
 15 and of a nature that cannot wait until the next legislative  
 16 session for legislative consideration.

17 (11) "Priority listing" means a ranking of proposed  
 18 expenditures in order of importance.

19 (12) "Program" means a combination of resources and  
 20 activities designed to achieve an objective or objectives.

21 (13) "Program size" means the magnitude of a program  
 22 such as the size of clientele served, the volume of service  
 23 in relation to the population or area, etc.

24 (14) "Program size indicator" means a measure to  
 25 indicate the magnitude of a program.

1 ~~(7) "Priority listing" means a ranking of proposed~~  
 2 ~~expenditures in order of importance.~~

3 (15) "Requesting agency" means the agency of state  
 4 government that has requested a specific budget amendment.

5 (16) "University system unit" means the board of regents  
 6 of higher education, office of the commissioner of higher  
 7 education, university of Montana at Missoula, Montana state  
 8 university at Bozeman, Montana college of mineral science  
 9 and technology at Butte, eastern Montana college at  
 10 Billings, northern Montana college at Havre, western Montana  
 11 college of the university of Montana at Dillon, the  
 12 agricultural experiment station with central offices at  
 13 Bozeman, the forest and conservation experiment station with  
 14 central offices at Missoula, the cooperative extension  
 15 service with central offices at Bozeman, the bureau of mines  
 16 and geology with central offices at Butte, THE FIRE SERVICES  
 17 TRAINING SCHOOL AT GREAT FALLS, the vocational-technical  
 18 centers at Billings, Butte, Great Falls, Helena, and  
 19 Missoula, or the community colleges at Miles City, Glendive,  
 20 and Kalispell."

21 **SECTION 6. SECTION 17-7-304, MCA, IS AMENDED TO READ:**

22 **"17-7-304. Disposal of unexpended appropriations. (1)**  
 23 **All moneys appropriated for any specific purpose except**  
 24 **those appropriated for the university system units listed in**  
 25 **subsection (2) shall, after the expiration of the time for**

1 which so appropriated, revert to the several funds and  
 2 accounts from which originally appropriated. However, any  
 3 unexpended balance in any specific appropriation may be used  
 4 for the years for which the appropriation was made.

5 (2) All moneys appropriated for the university of  
 6 Montana at Missoula, Montana state university at Bozeman,  
 7 Montana college of mineral science and technology at Butte,  
 8 eastern Montana college at Billings, northern Montana  
 9 college at Havre, western Montana college of the university  
 10 of Montana at Dillon, the agricultural experiment station  
 11 with central offices at Bozeman, the forest and conservation  
 12 experiment station with central offices at Missoula, the  
 13 cooperative extension service with central offices at  
 14 Bozeman, the bureau of mines and geology with central  
 15 offices in Butte, and the vocational-technical centers at  
 16 Billings, Butte, Great Falls, Helena, and Missoula shall,  
 17 after the expiration of the time for which appropriated,  
 18 revert to an account held by the board of regents. The board  
 19 of regents is authorized to maintain a fund balance. There  
 20 is a statutory appropriation, as provided in 17-7-502, to  
 21 use the funds held in this account in accordance with a  
 22 long-term plan for major and deferred maintenance  
 23 expenditures and equipment or fixed assets purchases  
 24 prepared by the affected university system units and  
 25 approved by the board of regents. The affected university

1 system units may, with the approval of the board of regents,  
2 modify the long-term plan at any time to address changing  
3 needs and priorities. The board of regents shall communicate  
4 the plan to each legislature and to the finance committee  
5 when requested by the committee.

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

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

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

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

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

20 (3) The following laws are the only laws containing  
21 statutory appropriations: 2-9-202; 2-17-105; 2-18-812;  
22 10-3-203; 10-3-312; 10-3-314; 10-4-301; 13-37-304; 15-1-111;  
23 15-25-123; 15-31-702; 15-36-112; 15-37-117; 15-65-121;  
24 15-70-101; 16-1-404; 16-1-410; 16-1-411; 17-3-212; 17-5-404;  
25 17-5-424; 17-5-704; 17-5-804; 17-7-304; 19-8-504; 19-9-702;

1 19-9-1007; 19-10-205; 19-10-305; 19-10-506; 19-11-512;  
2 19-11-513; 19-11-606; 19-12-301; 19-13-604; 20-6-406;  
3 20-8-111; 20-9-361; 23-5-306; 23-5-409; 23-5-610; 23-5-612;  
4 23-5-1016; 23-5-1027; 27-12-206; 37-51-501; 39-71-2504;  
5 53-6-150; 53-24-206; 61-2-406; 61-5-121; 67-3-205;  
6 75-1-1101; 75-5-1108; 75-11-313; 76-12-123; 80-2-103;  
7 82-11-136; 82-11-161; 90-3-301; 90-4-215; 90-4-613;  
8 90-6-331; 90-9-306; and section 13, House Bill No. 861, Laws  
9 of 1985.

10 (4) There is a statutory appropriation to pay the  
11 principal, interest, premiums, and costs of issuing, paying,  
12 and securing all bonds, notes, or other obligations, as due,  
13 that have been authorized and issued pursuant to the laws of  
14 Montana. Agencies that have entered into agreements  
15 authorized by the laws of Montana to pay the state  
16 treasurer, for deposit in accordance with 17-2-101 through  
17 17-2-107, as determined by the state treasurer, an amount  
18 sufficient to pay the principal and interest as due on the  
19 bonds or notes have statutory appropriation authority for  
20 such payments. (In subsection (3), pursuant to sec. 10, Ch.  
21 664, L. 1987, the inclusion of 39-71-2504 terminates June  
22 30, 1991.)"

23 **NEW SECTION. Section 8. Operating budget.** (1)  
24 Expenditures by a state agency must be made in substantial  
25 compliance with an operating budget approved by an approving



1 authority. Substantial compliance means that a category in  
 2 the operating budget may not be exceeded by more than 5%.  
 3 The EXCEPT AS PROVIDED IN SUBSECTION (2), THE expenditure of  
 4 money appropriated in the general appropriations act is  
 5 contingent upon approval of an operating budget by August 1  
 6 of each fiscal year. An approved original operating budget  
 7 must comply with state law and statements of intent adopted  
 8 as part of a bill.

9 (2) THE EXPENDITURE OF MONEY APPROPRIATED IN THE  
 10 GENERAL APPROPRIATIONS ACT TO THE UNIVERSITY SYSTEM UNITS,  
 11 AS DEFINED IN [SECTION 5], IS CONTINGENT UPON APPROVAL OF AN  
 12 OPERATING BUDGET BY OCTOBER 1 OF EACH FISCAL YEAR. ALL OTHER  
 13 REQUIREMENTS IN THIS SECTION APPLY TO THE UNIVERSITY SYSTEM.

14 ~~(2)~~(3) The operating budget for money appropriated by  
 15 the general appropriations act must be separate from the  
 16 operating budget for money appropriated by another law  
 17 except a law appropriating money for the state pay plan or  
 18 any portion of the state pay plan. Each operating budget  
 19 must include expenditures for each agency program, detailed  
 20 at least by first-level categories as provided in  
 21 17-1-102(3). Each agency shall record its operating budget  
 22 and any approved changes on the statewide budget and  
 23 accounting system. Forms used for changing an operating  
 24 budget must reference the current, fully complete, and  
 25 approved operating budget, show the proposed changes to the

1 operating budget, and reference any other pending documents  
 2 to change the operating budget.

3 NEW SECTION. Section 9. Program transfers. Unless  
 4 prohibited by law, the approving authority may approve  
 5 agency requests to transfer appropriations between programs  
 6 within each fund type within each fiscal year. The transfer  
 7 may not exceed 5% of the total agency appropriation,  
 8 excluding statutory appropriations, administrative  
 9 authorizations, and budget amendments. All program transfers  
 10 must be completed within the same fund from which the  
 11 transfer originated. A request for a transfer accompanied by  
 12 a justification explaining the reason for the transfer must  
 13 be submitted by the requesting agency to the approving  
 14 authority and the office of budget and program planning.  
 15 Upon approval of the transfer, the approving authority shall  
 16 inform the legislative fiscal analyst of the approved  
 17 transfer and the justification for the transfer.

18 NEW SECTION. Section 10. Reduction of appropriation.  
 19 (1) Except as provided in subsection (2), in the event of a  
 20 shortfall in revenue, the governor may reduce  
 21 appropriations. An appropriation may not be reduced by more  
 22 than 15%.

23 (2) The appropriations for the following may not be  
 24 reduced:

- 25 (a) payment of interest and principal on state debt;

- 1 (b) the legislative branch;
- 2 (c) the judicial branch;
- 3 (d) the school foundation program, including special
- 4 education; and
- 5 (e) salaries of elected officials during their terms of
- 6 office.

7 NEW SECTION. Section 11. Audit costs. Amounts  
 8 appropriated for audits conducted under Title 5, chapter 13,  
 9 may be transferred between fiscal years. Agencies shall  
 10 reserve enough money in each fund to pay for audit costs and  
 11 to the maximum extent allowable under federal regulations  
 12 shall charge audit costs to federal funds.

13 NEW SECTION. Section 12. Access to records of  
 14 contracting entities. Money may not be spent by a state  
 15 agency under a contract with a nonstate entity unless the  
 16 contract contains a provision that allows the legislative  
 17 auditor and the legislative fiscal analyst sufficient access  
 18 to the records of the nonstate entity to determine whether  
 19 the parties have complied with the terms of the contract.  
 20 The access to records is necessary to carry out the  
 21 functions provided for in Title 5, chapters 12 and 13. A  
 22 state agency may terminate a contract, without incurring  
 23 liability, for the refusal of a nonstate entity to allow  
 24 access to records as required by this section.

25 NEW SECTION. Section 13. Expansion to be authorized.

1 An existing capital project may not be expanded beyond the  
 2 scope of the project approved by the legislature unless the  
 3 expansion of the project is authorized by an approved  
 4 long-range building program budget amendment.

5 NEW SECTION. Section 14. Reappropriation of capital  
 6 projects. The remaining balances on capital projects  
 7 previously approved by the legislature are reappropriated  
 8 for the purposes of the original appropriation until the  
 9 project is completed.

10 ~~NEW SECTION. Section 14. Administrative authorization~~  
 11 ~~requisites for validity: (1) An administrative~~  
 12 ~~authorization may be established by the budget director when~~  
 13 ~~the action is required for the implementation of an~~  
 14 ~~appropriation made by law as defined in 17-7-501.~~

15 ~~(2) An administrative authorization is established for~~  
 16 ~~management control and accounting purposes and may be~~  
 17 ~~allowed in budgeted funds when one or more agencies are~~  
 18 ~~involved.~~

19 ~~(3) An administrative authorization may not conflict~~  
 20 ~~with a law or a statement of intent adopted as part of a law~~  
 21 ~~and may not increase the actual expenditure of funds~~  
 22 ~~authorized by the legislature for a biennium.~~

23 Section 15. Section 75-10-621, MCA, is amended to read:

24 "75-10-621. Hazardous waste/CERCLA special revenue  
 25 account. (1) There is a hazardous waste/CERCLA special

1 revenue account within the state special revenue fund  
2 established in 17-2-102.

3 (2) There must be paid into the hazardous waste/CERCLA  
4 account:

5 (a) revenues obtained from the interest income of the  
6 resource indemnity trust fund under the provisions of  
7 15-38-202, together with interest accruing on those  
8 revenues;

9 (b) all proceeds of bonds or notes issued under  
10 75-10-623 and all interest earned on proceeds thereof; and

11 (c) revenues from penalties or damages collected under  
12 the federal Comprehensive Environmental Response,  
13 Compensation, and Liability Act of 1980, as amended in 1986  
14 (CERCLA).

15 (3) Appropriations may be made from the hazardous  
16 waste/CERCLA account only for the following purposes and  
17 subject to the following conditions:

18 (a) funds are statutorily appropriated, as provided in  
19 17-7-502(4), to the CERCLA match debt service account  
20 necessary to make principal, interest, and premium payments  
21 due on CERCLA bonds;

22 (b) not more than one-half of the interest income  
23 received for any biennium from the resource indemnity trust  
24 fund may be appropriated on a biennial basis for:

25 (i) implementation of the Montana Hazardous Waste Act,

1 including regulation of underground storage tanks and the  
2 state share to obtain matching federal funds;

3 (ii) implementation of Title 75, chapter 10, part 6,  
4 pertaining to state assistance to and cooperation with the  
5 federal government for remedial action under CERCLA;

6 (iii) expenses of the administration of the  
7 environmental sciences division of the department in  
8 administering and overseeing the implementation of Title 75,  
9 chapter 10, parts 4 and 6; and

10 (iv) state expenses relating to investigation and  
11 remedial action for any hazardous substance defined in  
12 75-10-602; and

13 (c) to the extent funds are available after the  
14 appropriations in subsections (3)(a) and (3)(b), the  
15 department may, as appropriate, seek authorization from the  
16 legislature or, when the legislature is not in session,  
17 through the budget amendment process provided for in Title  
18 17, chapter 7, part 4, to spend funds for:

19 (i) state participation in remedial action under  
20 section 104 of CERCLA;

21 (ii) state costs for maintenance of sites at which  
22 remedial action under CERCLA has been completed; and

23 (iii) the state share to obtain matching federal funds  
24 for underground storage tank corrective action.

25 (4) For the purposes of subsection (3)(c), the

1 legislature finds that a need for state special revenue to  
 2 obtain matching federal funds for underground storage tank  
 3 corrective action or for remedial action under section 104  
 4 of CERCLA constitutes a serious unforeseen and unanticipated  
 5 circumstance for the purpose of meeting the definition of  
 6 "emergency" in ~~17-7-401~~ 17-7-102. The legislature further  
 7 finds that the inability of the department to match such  
 8 federal funds as may become available would seriously impair  
 9 the functions of the department in carrying out its  
 10 responsibilities under Title 75, chapter 10, parts 4 and 6.

11 (5) There is no dollar limit to the hazardous  
 12 waste/CERCLA account. Unused balances remain in the account  
 13 until such time as appropriated by the legislature for the  
 14 purposes specified in this section."

15 **Section 16.** Section 17-6-305, MCA, is amended to read:

16 "17-6-305. Investment of twenty-five percent of the  
 17 coal tax trust fund in the Montana economy. (1) Twenty-five  
 18 percent of all revenue deposited after June 30, 1983, into  
 19 the permanent coal tax trust fund established in 17-6-203(5)  
 20 ~~and 15% of the annual income and earnings on the Montana~~  
 21 ~~in-state investment fund appropriated to the coal severance~~  
 22 ~~tax permanent fund by 17-5-704(2)~~ shall be invested in the  
 23 Montana economy with special emphasis on investments in new  
 24 or expanding locally owned enterprises.

25 (2) In determining the probable income to be derived

1 from investment of this revenue, the long-term benefit to  
 2 the Montana economy shall be considered.

3 (3) The legislature may provide additional procedures  
 4 to implement this section."

5 **Section 17.** Section 17-6-306, MCA, is amended to read:

6 "17-6-306. Montana in-state investment fund. The  
 7 Montana in-state investment fund consists of:

8 (1) 25% of the revenue deposited after June 30, 1983,  
 9 into the permanent coal tax trust fund established in  
 10 17-6-203(6); and

11 (2) the principal payments on all investments made from  
 12 the Montana in-state investment fund, and

13 ~~(3) 15% of the annual income and earnings on the~~  
 14 ~~Montana in-state investment fund appropriated to the coal~~  
 15 ~~severance tax permanent fund by 17-5-704(2).~~"

16 **Section 18.** Section 20-9-343, MCA, is amended to read:

17 "20-9-343. Definition of and revenue for state  
 18 equalization aid. (1) As used in this title, the term "state  
 19 equalization aid" means the money deposited in the state  
 20 special revenue fund as required in this section plus any  
 21 legislative appropriation of money from other sources for  
 22 distribution to the public schools for the purposes of  
 23 payment of guaranteed tax base aid and equalization of the  
 24 foundation program.

25 (2) The superintendent of public instruction may spend

1 funds appropriated for state equalization aid as required  
2 for guaranteed tax base aid and foundation program purposes  
3 throughout the biennium.

4 (3) The following must be paid into the state special  
5 revenue fund for state equalization aid to public schools of  
6 the state:

7 (a) money received from the collection of income taxes  
8 under chapter 30 of Title 15, as provided by 15-1-501;

9 (b) except as provided in 15-31-702, money received  
10 from the collection of corporation license and income taxes  
11 under chapter 31 of Title 15, as provided by 15-1-501;

12 (c) money allocated to state equalization from the  
13 collection of the severance tax on coal;

14 (d) money received from the treasurer of the United  
15 States as the state's shares of oil, gas, and other mineral  
16 royalties under the federal Mineral Lands Leasing Act, as  
17 amended;

18 (e) interest and income money described in 20-9-341 and  
19 20-9-342;

20 (f) money received from the state equalization aid levy  
21 under 20-9-360;

22 (g) income from the lottery, as provided in 23-5-1027;

23 (h) the surplus revenues collected by the counties for  
24 foundation program support according to 20-9-331 and  
25 20-9-333;

1 (i) investment income earned by investing money in the  
2 state equalization aid account in the state special revenue  
3 fund; and

4 (j) 15% of the income and earnings of all coal  
5 severance tax funds as provided in 17-5-704~~+~~2+.

6 (4) The superintendent of public instruction shall  
7 request the board of investments to invest the money in the  
8 state equalization aid account to maximize investment  
9 earnings to the account.

10 (5) Any surplus revenue in the state equalization aid  
11 account in the second year of a biennium may be used to  
12 reduce any appropriation required for the next succeeding  
13 biennium."

14 NEW SECTION. Section 19. Repealer. Section 17-7-401,  
15 MCA, is repealed.

16 NEW SECTION. Section 20. Codification instruction. (1)  
17 [~~Sections 7-through-10~~ 8 THROUGH 11] are intended to be  
18 codified as an integral part of Title 17, chapter 7, part 1,  
19 and the provisions of Title 17, chapter 7, part 1, apply to  
20 [~~sections 7-through-10~~ 8 THROUGH 11].

21 (2) [Section ~~11~~ 12] is intended to be codified as an  
22 integral part of Title 18, chapter 1, part 1, and the  
23 provisions of Title 18, chapter 1, part 1, apply to [section  
24 ~~11~~ 12].

25 (3) [Sections ~~12-and-13~~ 13 AND 14] are intended to be

1 codified as an integral part of Title 17, chapter 7, part 2,  
2 and the provisions of Title 17, chapter 7, part 2, apply to  
3 [sections ~~12 and 13~~ 13 AND 14].

4 ~~{4}--{Section 14} is intended to be codified as an~~  
5 ~~integral part of Title 17, chapter 7, part 5, and the~~  
6 ~~provisions of Title 17, chapter 7, part 5, apply to {section~~  
7 ~~14}.~~

8 NEW SECTION. SECTION 21. APPLICABILITY. [SECTION 6(2)]  
9 APPLIES TO REVERSIONS DUE FROM FISCAL YEAR 1991.

10 NEW SECTION. Section 22. Effective date. [This act] is  
11 effective July 1, 1991.

12 NEW SECTION. SECTION 23. TERMINATION. [SECTION 6(2)]  
13 TERMINATES JUNE 30, 1996.

-End-

SENATE STANDING COMMITTEE REPORT

Page 1 of 1  
April 12, 1991

MR. PRESIDENT:

We, your committee on Finance and Claims having had under consideration House Bill No. 454 (third reading copy as amended - blue), respectfully report that House Bill No. 454 be amended and as so amended be concurred in:

1. Page 2, line 20.

Following: "(4)"

Strike: "Every state agency"

Insert: "The budget director"

2. Page 5, line 12.

Following: "system"

Insert: ", excluding community colleges,"

3. Page 5, line 23 through page 6, line 13.

Strike: subsection (6) in its entirety

4. Page 12, line 5.

Following: "(2)"

Strike: "All"

Insert: "Except as provided in [section 17-2-108], all"

5. Page 13, line 4.

Strike: "and"

Insert: ", "

6. Page 13, line 5.

Strike: " . "

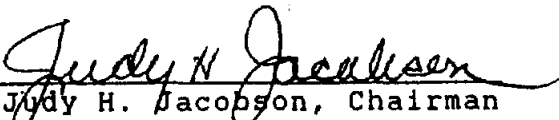
Insert: ", and to the office of budget and program planning."


7. Page 15, line 1.

Following: "that a"

Insert: "first-level"

Signed:

  
Judy H. Jacobson, Chairman

  
Amd. Coord.

  
Sec. of Senate

SENATE  
HB 454

H/29/95  
7:10 pm  
POTB

Conference Committee  
on House Bill 454  
Report No. 1, April 29, 1991

Mr. Speaker and Mr. President:

We, your Conference Committee on House Bill 454 met and considered Senate committee on Finance and Claims amendments, dated April 12, 1991, and recommend that the Senate amendments be accepted in their entirety.

And this Conference Committee report be adopted.

For the House:

For the Senate:

Dorothy Bradley  
Rep. Bradley, Chair

Greg Jergeson  
Sen. Jergeson, Chair

Joe Quilici  
Rep. Quilici

A. Fritz  
Sen. Fritz

Rep. Cobb never

Tom Beck  
Sen. Beck

ADOPT  
REJECT

CC #1  
HB 454  
900849CC.HSF



## 1 HOUSE BILL NO. 454

2 INTRODUCED BY COBB, JERGESON, PECK, BRADLEY, BARDANOUVE,

3 KADAS, KEATING, GRINDE, SWYSGOOD, JACOBSON, SVRCEK,

4 PAVLOVICH, VAN VALKENBURG, TVEIT, T. NELSON, THOFT

5 BY REQUEST OF THE LEGISLATIVE AUDIT COMMITTEE,

6 THE LEGISLATIVE FINANCE COMMITTEE, AND

7 THE OFFICE OF BUDGET AND PROGRAM

8 PLANNING

9  
10 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND  
11 CLARIFY THE LAW RELATING TO APPROPRIATIONS; CODIFYING  
12 CONDITIONS FOR APPROPRIATIONS USUALLY CONTAINED IN EACH  
13 GENERAL APPROPRIATIONS ACT; PROVIDING FOR A STATUTORY  
14 APPROPRIATION OF THE INCOME AND EARNINGS OF COAL SEVERANCE  
15 TAX FUNDS; AMENDING SECTIONS 5-12-303, 17-1-102, 17-2-108,  
16 17-5-704, 17-7-102, 17-7-304, 17-7-502, AND 75-10-621, MCA;  
17 REPEALING SECTION 17-7-401, MCA; AND PROVIDING AN EFFECTIVE  
18 DATE, AN APPLICABILITY PROVISION, AND A TERMINATION DATE."

19  
20 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:21 **Section 1.** Section 5-12-303, MCA, is amended to read:

22 **"5-12-303. Fiscal analysis information from state**  
23 **agencies.** (1) The legislative fiscal analyst has the  
24 authority to investigate and examine the costs and revenues  
25 of state government activities and may examine and obtain

1 copies of the records, books, and files of any state agency,  
2 including confidential records.

3 (2) When confidential records and information are  
4 obtained from a state agency, the legislative fiscal analyst  
5 and staff must be subject to the same penalties for  
6 unauthorized disclosure of such confidential records and  
7 information provided for under the laws administered by the  
8 state agency. The legislative fiscal analyst shall develop  
9 policies to prevent the unauthorized disclosure of  
10 confidential records and information obtained from state  
11 agencies.

12 (3) The legislative fiscal analyst may not obtain  
13 copies of individual income tax records protected under  
14 15-30-303. The department of revenue shall make individual  
15 income tax data available by a masking method that conceals  
16 the identity of the taxpayer. The masking method may not  
17 destroy the statistical integrity of the individual income  
18 tax records. The masking method, including how data is  
19 masked, must be disclosed to the legislative fiscal analyst.

20 (4) ~~Every---state---agency~~ THE BUDGET DIRECTOR shall  
21 furnish the legislative fiscal analyst with copies of all  
22 budget requests, at the time of submission to the budget  
23 director as provided by law, and if requested, all  
24 underlying and supporting documentation.

25 (5) In the year preceding each legislative session, the



1 budget director shall furnish the legislative fiscal analyst  
2 on a confidential basis:

3 (a) by December 1, a copy of the documents which  
4 reflect the anticipated receipts and other means of  
5 financing the budget for each fiscal year of the ensuing  
6 biennium;

7 (b) by December 1, a preliminary budget which shall  
8 meet the statutory requirements for submission of the budget  
9 to the legislature; and

10 (c) by December 3, a paper copy and an electronic copy  
11 of the documents which reflect expenditures to the second  
12 level, as provided in 17-1-102(3), by funding source and  
13 detailed by accounting entity; and

14 ~~(c)(d)~~ by December 15, all amendments to the  
15 preliminary budget.

16 (6) Within 1 day after the legislative finance  
17 committee presents its budget analysis to the legislature,  
18 the budget director and the legislative fiscal analyst shall  
19 exchange expenditure and disbursement recommendations by  
20 second-level expenditure detail and by funding sources  
21 detailed by accounting entity. This information must be  
22 filed in the respective offices and be made available to the  
23 legislature and the public.

24 ~~(6)(7)~~ This section does not authorize publication or  
25 public disclosure of information if the law prohibits such

1 publication or disclosure."

2 **Section 2.** Section 17-1-102, MCA, is amended to read:

3 "17-1-102. **Uniform accounting system and expenditure**  
4 **control.** (1) The department shall establish a system of  
5 financial control so that the functioning of the various  
6 agencies of the state may be improved, duplications of work  
7 by different state agencies and employees eliminated, public  
8 service improved, and the cost of government reduced.

9 (2) The department shall prescribe and install uniform  
10 accounting and reporting for all state agencies and  
11 institutions, showing the receipt, use, and disposition of  
12 all public money and property in accordance with generally  
13 accepted accounting principles, and shall develop plans for  
14 improvements and economies in the organization and operation  
15 thereof, which shall be submitted to the respective heads of  
16 agencies and institutions. Copies of all such plans shall be  
17 delivered to the governor, and additional copies shall be  
18 retained in the office of the department for inspection by  
19 the members of the legislature.

20 (3) The uniform accounting and reporting system must  
21 contain three levels of expenditure. The first level must  
22 include general categories, such as personal services,  
23 operating expenses, equipment, capital outlay, local  
24 assistance, grants, benefits and claims, transfers, and debt  
25 service. The second level of expenditure must include

1 specific categories of expenditures within each first-level  
2 category. The third level of expenditure must include  
3 specific items of expenditure within each category of the  
4 second level.

5 ~~(3)~~(4) The department shall examine all financial  
6 affairs of every state agency and institution for the  
7 purpose of developing plans for improvements and economies  
8 in the organization and operation thereof and for the  
9 purpose of enabling the department to properly perform any  
10 of the duties imposed upon the department by this part.

11 ~~(4)~~(5) All state agencies, including units of the  
12 university system, EXCLUDING COMMUNITY COLLEGES, and the  
13 vocational-technical centers, shall input all necessary  
14 transactions to the accounting system prescribed in  
15 subsection (2) before the accounts are closed at the end of  
16 the fiscal year in order to present the receipt, use, and  
17 disposition of all money and property for which the agency  
18 is accountable in accordance with generally accepted  
19 accounting principles, except that for budgetary control  
20 purposes, encumbrances which are required by generally  
21 accepted accounting principles to be reported as a  
22 reservation of fund balance shall be recorded as  
23 expenditures and liabilities on the accounting records.

24 ~~(6) NOTWITHSTANDING THE PROVISIONS OF SUBSECTION (5) A~~  
25 ~~AN AGENCY MAY NOT RECORD ENCUMBRANCES AS EXPENDITURES~~

1 ~~AGAINST APPROPRIATIONS CONTAINED IN THIS ACT:~~

2 ~~(A) IF THE OPERATING BUDGET FOR THE EXPENDITURE~~  
3 ~~CATEGORY TO WHICH THE EXPENDITURE WOULD BE CHARGED HAS BEEN~~  
4 ~~INCREASED BY MORE THAN 5% ABOVE THE AMOUNT RECORDED FOR THAT~~  
5 ~~CATEGORY ON THE STATEWIDE BUDGETING AND ACCOUNTING SYSTEM AT~~  
6 ~~THE END OF FEBRUARY OF THE AFFECTED FISCAL YEAR, UNLESS AN~~  
7 ~~EMERGENCY EXPENDITURE IS AUTHORIZED BY THE APPROPRIATE~~  
8 ~~APPROVING AUTHORITY IN THE SAME MANNER AS BUDGET AMENDMENTS~~  
9 ~~FOR EMERGENCIES ARE APPROVED UNDER TITLE 17, CHAPTER 7, PART~~  
10 ~~47 AND~~

11 ~~(B) UNLESS THE TRANSACTIONS ARE AUTHORIZED BY THE~~  
12 ~~APPROPRIATE APPROVING AUTHORITY WHEN THE ENCUMBRANCE EXCEEDS~~  
13 ~~\$10,000 IN THE EQUIPMENT CATEGORY OR \$20,000 IN ANY OTHER~~  
14 ~~EXPENDITURE CATEGORY.~~

15 **Section 3.** Section 17-2-108, MCA, is amended to read:

16 "17-2-108. Expenditure of nongeneral fund money first.  
17 (1) An office or entity of the executive, legislative, or  
18 judicial branch of state government shall apply expenditures  
19 against appropriated nongeneral fund money whenever possible  
20 before using general fund appropriations.

21 (2) The approving authority, as defined in 17-7-102,  
22 shall authorize the decrease of the general fund  
23 appropriation of an agency by the amount of money received  
24 from federal sources in excess of the appropriation in an  
25 appropriation act unless the decrease is contrary to federal

1 law, federal rule, or a contract or unless the approving  
 2 authority certifies that the services to be funded by the  
 3 additional money are significantly different than those for  
 4 which the agency received the general fund appropriation. If  
 5 directed by an appropriation act, the approving authority  
 6 shall decrease the general fund appropriation of an agency  
 7 by the amount of money received from nonfederal sources in  
 8 excess of the appropriation unless the decrease is contrary  
 9 to state law, state rule, or a contract or unless the  
 10 approving authority certifies that the services to be funded  
 11 by the additional money are significantly different than  
 12 those for which the agency received the general fund  
 13 appropriation. If the general fund appropriation of an  
 14 agency is decreased pursuant to this section, the  
 15 appropriation for the fund in which the money is received is  
 16 increased in the amount of the general fund decrease."

17 **Section 4.** Section 17-5-704, MCA, is amended to read:

18 "17-5-704. Investment of funds. ~~††~~ Money in the coal  
 19 severance tax bond fund, the coal severance tax permanent  
 20 fund, and the coal severance tax income fund must be  
 21 invested in accordance with the investment standards for  
 22 coal severance tax funds ~~except-as--provided--in--subsection~~  
 23 ~~†‡~~. Income and earnings from all funds ~~must-be-transferred~~  
 24 ~~to-and-retained-in-the-coal-severance-tax-income-fund--until~~  
 25 ~~appropriated---by---the---legislature~~ are statutorily

1 appropriated, as provided in 17-7-502, as follows:

- 2 (1) 15% to the state equalization aid account; and  
 3 (2) ~~Except-as-provided-in-section-17-Chapter-6347--laws~~  
 4 ~~of--1989,--beginning--on-July-17-1990,--the-legislature-shall~~  
 5 ~~appropriate-15%--of--the--income--and--earnings--from--all--funds--to~~  
 6 ~~be-deposited-to-the-state-equalization-aid-account--each-year~~  
 7 85% to the state general fund."

8 **Section 5.** Section 17-7-102, MCA, is amended to read:

9 "17-7-102. Definitions. As used in parts-1-through-3-of  
 10 this chapter, the following definitions apply:

11 (1) "Additional services" means different services or  
 12 more of the same services.

13 (2) "Agency" means each state office, department,  
 14 division, board, commission, council, committee,  
 15 institution, university unit, or other entity or  
 16 instrumentality of the executive branch, office of the  
 17 judicial branch, or office of the legislative branch of  
 18 state government, EXCEPT FOR PURPOSES OF CAPITAL PROJECTS  
 19 ADMINISTERED BY THE DEPARTMENT OF ADMINISTRATION, FOR WHICH  
 20 INSTITUTIONS ARE TREATED AS ONE DEPARTMENT AND UNIVERSITY  
 21 UNITS AS ONE SYSTEM.

22 (3) "Approved long-range building program budget  
 23 amendment" means approval by the budget director of a  
 24 request submitted through the architecture and engineering  
 25 division of the department of administration to transfer

1 excess funds appropriated to a capital project within an  
 2 agency to increase the appropriation of another capital  
 3 project within that agency or to obtain financing to expand  
 4 a project with funds that were not available for  
 5 consideration by the legislature.

6 (4) "Approving authority" means:

7 (a) the governor or his designated representative for  
 8 executive branch agencies;

9 (b) the chief justice of the supreme court or his  
 10 designated representative for judicial branch agencies;

11 (c) the speaker for the house of representatives;

12 (d) the president for the senate;

13 (e) appropriate legislative committees or a designated  
 14 representative for legislative branch agencies; or

15 (f) the board of regents of higher education or its  
 16 designated representative for the university system.

17 (5) "Budget amendment" means a legislative  
 18 appropriation to increase spending authority for the special  
 19 revenue fund, proprietary funds, or unrestricted subfund,  
 20 contingent on total compliance with all budget amendment  
 21 procedures.

22 (6) "Current funding level" means that level of  
 23 funding required to maintain operations and services at the  
 24 level authorized by the previous legislature, after  
 25 adjustment for inflation.

1 (7) "Effectiveness measure" means a criterion for  
 2 measuring the degree to which the objective sought is  
 3 attained.

4 (8) "Emergency" means a catastrophe, disaster,  
 5 calamity, or other serious unforeseen and unanticipated  
 6 circumstance that has occurred subsequent to the time an  
 7 agency's appropriation was made, which was clearly not  
 8 within the contemplation of the legislature and the  
 9 governor, that affects one or more functions of a state  
 10 agency and the agency's expenditure requirements for the  
 11 performance of the function or functions.

12 (9) "Modified funding level" means the current  
 13 funding level as adjusted to reflect workload increases, the  
 14 provision of new services, or changes in authorized funding.

15 (10) "Necessary" means essential to the public welfare  
 16 and of a nature that cannot wait until the next legislative  
 17 session for legislative consideration.

18 (11) "Priority listing" means a ranking of proposed  
 19 expenditures in order of importance.

20 (12) "Program" means a combination of resources and  
 21 activities designed to achieve an objective or objectives.

22 (13) "Program size" means the magnitude of a program  
 23 such as the size of clientele served, the volume of service  
 24 in relation to the population or area, etc.

25 (14) "Program size indicator" means a measure to

1 indicate the magnitude of a program.

2 {7}--"Priority-listing"--means--a--ranking--of--proposed  
3 expenditures-in-order-of-importance:

4 (15) "Requesting agency" means the agency of state  
5 government that has requested a specific budget amendment.

6 (16) "University system unit" means the board of regents  
7 of higher education, office of the commissioner of higher  
8 education, university of Montana at Missoula, Montana state  
9 university at Bozeman, Montana college of mineral science  
10 and technology at Butte, eastern Montana college at  
11 Billings, northern Montana college at Havre, western Montana  
12 college of the university of Montana at Dillon, the  
13 agricultural experiment station with central offices at  
14 Bozeman, the forest and conservation experiment station with  
15 central offices at Missoula, the cooperative extension  
16 service with central offices at Bozeman, the bureau of mines  
17 and geology with central offices at Butte, THE FIRE SERVICES  
18 TRAINING SCHOOL AT GREAT FALLS, the vocational-technical  
19 centers at Billings, Butte, Great Falls, Helena, and  
20 Missoula, or the community colleges at Miles City, Glendive,  
21 and Kalispell."

22 **SECTION 6.** SECTION 17-7-304, MCA, IS AMENDED TO READ:

23 "17-7-304. Disposal of unexpended appropriations. (1)  
24 All moneys appropriated for any specific purpose except  
25 those appropriated for the university system units listed in

1 subsection (2) shall, after the expiration of the time for  
2 which so appropriated, revert to the several funds and  
3 accounts from which originally appropriated. However, any  
4 unexpended balance in any specific appropriation may be used  
5 for the years for which the appropriation was made.

6 (2) ~~All~~ EXCEPT AS PROVIDED IN 17-2-108, ALL money  
7 appropriated for the university of Montana at Missoula,  
8 Montana state university at Bozeman, Montana college of  
9 mineral science and technology at Butte, eastern Montana  
10 college at Billings, northern Montana college at Havre,  
11 western Montana college of the university of Montana at  
12 Dillon, the agricultural experiment station with central  
13 offices at Bozeman, the forest and conservation experiment  
14 station with central offices at Missoula, the cooperative  
15 extension service with central offices at Bozeman, the  
16 bureau of mines and geology with central offices in Butte,  
17 and the vocational-technical centers at Billings, Butte,  
18 Great Falls, Helena, and Missoula shall, after the  
19 expiration of the time for which appropriated, revert to an  
20 account held by the board of regents. The board of regents  
21 is authorized to maintain a fund balance. There is a  
22 statutory appropriation, as provided in 17-7-502, to use the  
23 funds held in this account in accordance with a long-term  
24 plan for major and deferred maintenance expenditures and  
25 equipment or fixed assets purchases prepared by the affected

1 university system units and approved by the board of  
 2 regents. The affected university system units may, with the  
 3 approval of the board of regents, modify the long-term plan  
 4 at any time to address changing needs and priorities. The  
 5 board of regents shall communicate the plan to each  
 6 legislature and, to the finance committee when requested by  
 7 the committee-, AND TO THE OFFICE OF BUDGET AND PROGRAM  
 8 PLANNING.

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

10 "17-7-502. Statutory appropriations -- definition --  
 11 **requisites for validity.** (1) A statutory appropriation is an  
 12 appropriation made by permanent law that authorizes spending  
 13 by a state agency without the need for a biennial  
 14 legislative appropriation or budget amendment.

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

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

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

23 (3) The following laws are the only laws containing  
 24 statutory appropriations: 2-9-202; 2-17-105; 2-18-812;  
 25 10-3-203; 10-3-312; 10-3-314; 10-4-301; 13-37-304; 15-1-111;

1 15-25-123; 15-31-702; 15-36-112; 15-37-117; 15-65-121;  
 2 15-70-101; 16-1-404; 16-1-410; 16-1-411; 17-3-212; 17-5-404;  
 3 17-5-424; 17-5-704; 17-5-804; 17-7-304; 19-8-504; 19-9-702;  
 4 19-9-1007; 19-10-205; 19-10-305; 19-10-506; 19-11-512;  
 5 19-11-513; 19-11-606; 19-12-301; 19-13-604; 20-6-406;  
 6 20-8-111; 20-9-361; 23-5-306; 23-5-409; 23-5-610; 23-5-612;  
 7 23-5-1016; 23-5-1027; 27-12-206; 37-51-501; 39-71-2504;  
 8 53-6-150; 53-24-206; 61-2-406; 61-5-121; 67-3-205;  
 9 75-1-1101; 75-5-1108; 75-11-313; 76-12-123; 80-2-103;  
 10 82-11-136; 82-11-161; 90-3-301; 90-4-215; 90-4-613;  
 11 90-6-331; 90-9-306; and section 13, House Bill No. 861, Laws  
 12 of 1985.

13 (4) There is a statutory appropriation to pay the  
 14 principal, interest, premiums, and costs of issuing, paying,  
 15 and securing all bonds, notes, or other obligations, as due,  
 16 that have been authorized and issued pursuant to the laws of  
 17 Montana. Agencies that have entered into agreements  
 18 authorized by the laws of Montana to pay the state  
 19 treasurer, for deposit in accordance with 17-2-101 through  
 20 17-2-107, as determined by the state treasurer, an amount  
 21 sufficient to pay the principal and interest as due on the  
 22 bonds or notes have statutory appropriation authority for  
 23 such payments. (In subsection (3), pursuant to sec. 10, Ch.  
 24 664, L. 1987, the inclusion of 39-71-2504 terminates June  
 25 30, 1991.)"

1        NEW SECTION. Section 8. Operating budget.        (1)  
 2        Expenditures by a state agency must be made in substantial  
 3        compliance with an operating budget approved by an approving  
 4        authority. Substantial compliance means that a FIRST-LEVEL  
 5        category in the operating budget may not be exceeded by more  
 6        than 5%. The EXCEPT AS PROVIDED IN SUBSECTION (2), THE  
 7        expenditure of money appropriated in the general  
 8        appropriations act is contingent upon approval of an  
 9        operating budget by August 1 of each fiscal year. An  
 10       approved original operating budget must comply with state  
 11       law and statements of intent adopted as part of a bill.

12        (2) THE EXPENDITURE OF MONEY APPROPRIATED IN THE  
 13        GENERAL APPROPRIATIONS ACT TO THE UNIVERSITY SYSTEM UNITS,  
 14        AS DEFINED IN [SECTION 5], IS CONTINGENT UPON APPROVAL OF AN  
 15        OPERATING BUDGET BY OCTOBER 1 OF EACH FISCAL YEAR. ALL OTHER  
 16        REQUIREMENTS IN THIS SECTION APPLY TO THE UNIVERSITY SYSTEM.

17        ~~(2)~~(3) The operating budget for money appropriated by  
 18        the general appropriations act must be separate from the  
 19        operating budget for money appropriated by another law  
 20        except a law appropriating money for the state pay plan or  
 21        any portion of the state pay plan. Each operating budget  
 22        must include expenditures for each agency program, detailed  
 23        at least by first-level categories as provided in  
 24        17-1-102(3). Each agency shall record its operating budget  
 25        and any approved changes on the statewide budget and

1        accounting system. Forms used for changing an operating  
 2        budget must reference the current, fully complete, and  
 3        approved operating budget, show the proposed changes to the  
 4        operating budget, and reference any other pending documents  
 5        to change the operating budget.

6        NEW SECTION. Section 9. Program transfers. Unless  
 7        prohibited by law, the approving authority may approve  
 8        agency requests to transfer appropriations between programs  
 9        within each fund type within each fiscal year. The transfer  
 10       may not exceed 5% of the total agency appropriation,  
 11       excluding statutory appropriations, administrative  
 12       authorizations, and budget amendments. All program transfers  
 13       must be completed within the same fund from which the  
 14       transfer originated. A request for a transfer accompanied by  
 15       a justification explaining the reason for the transfer must  
 16       be submitted by the requesting agency to the approving  
 17       authority and the office of budget and program planning.  
 18       Upon approval of the transfer, the approving authority shall  
 19       inform the legislative fiscal analyst of the approved  
 20       transfer and the justification for the transfer.

21        NEW SECTION. Section 10. Reduction of appropriation.  
 22        (1) Except as provided in subsection (2), in the event of a  
 23        shortfall in revenue, the governor may reduce  
 24        appropriations. An appropriation may not be reduced by more  
 25        than 15%.



1 (2) The appropriations for the following may not be  
2 reduced:

- 3 (a) payment of interest and principal on state debt;
- 4 (b) the legislative branch;
- 5 (c) the judicial branch;
- 6 (d) the school foundation program, including special  
7 education; and
- 8 (e) salaries of elected officials during their terms of  
9 office.

10 NEW SECTION. Section 11. Audit costs. Amounts  
11 appropriated for audits conducted under Title 5, chapter 13,  
12 may be transferred between fiscal years. Agencies shall  
13 reserve enough money in each fund to pay for audit costs and  
14 to the maximum extent allowable under federal regulations  
15 shall charge audit costs to federal funds.

16 NEW SECTION. Section 12. Access to records of  
17 contracting entities. Money may not be spent by a state  
18 agency under a contract with a nonstate entity unless the  
19 contract contains a provision that allows the legislative  
20 auditor and the legislative fiscal analyst sufficient access  
21 to the records of the nonstate entity to determine whether  
22 the parties have complied with the terms of the contract.  
23 The access to records is necessary to carry out the  
24 functions provided for in Title 5, chapters 12 and 13. A  
25 state agency may terminate a contract, without incurring

1 liability, for the refusal of a nonstate entity to allow  
2 access to records as required by this section.

3 NEW SECTION. Section 13. Expansion to be authorized.

4 An existing capital project may not be expanded beyond the  
5 scope of the project approved by the legislature unless the  
6 expansion of the project is authorized by an approved  
7 long-range building program budget amendment.

8 NEW SECTION. Section 14. Reappropriation of capital  
9 projects. The remaining balances on capital projects  
10 previously approved by the legislature are reappropriated  
11 for the purposes of the original appropriation until the  
12 project is completed.

13 ~~NEW SECTION. Section 14. Administrative authorization~~  
14 ~~-----requisites---for---validity---(1)---An---administrative~~  
15 ~~authorization---may---be---established---by---the---budget---director---when~~  
16 ~~the---action---is---required---for---the---implementation---of---an~~  
17 ~~appropriation---made---by---law---as---defined---in---17-7-501.~~

18 ~~(2)---An---administrative---authorization---is---established---for~~  
19 ~~management---control---and---accounting---purposes---and---may---be~~  
20 ~~allowed---in---budgeted---funds---when---one---or---more---agencies---are~~  
21 ~~involved.~~

22 ~~(3)---An---administrative---authorization---may---not---conflict~~  
23 ~~with---a---law---or---a---statement---of---intent---adopted---as---part---of---a---law~~  
24 ~~and---may---not---increase---the---actual---expenditure---of---funds~~  
25 ~~authorized---by---the---legislature---for---a---biennium.~~

1       **Section 15.** Section 75-10-621, MCA, is amended to read:

2       **"75-10-621. Hazardous waste/CERCLA special revenue**  
3       **account.** (1) There is a hazardous waste/CERCLA special  
4       revenue account within the state special revenue fund  
5       established in 17-2-102.

6       (2) There must be paid into the hazardous waste/CERCLA  
7       account:

8       (a) revenues obtained from the interest income of the  
9       resource indemnity trust fund under the provisions of  
10      15-38-202, together with interest accruing on those  
11      revenues;

12      (b) all proceeds of bonds or notes issued under  
13      75-10-623 and all interest earned on proceeds thereof; and

14      (c) revenues from penalties or damages collected under  
15      the federal Comprehensive Environmental Response,  
16      Compensation, and Liability Act of 1980, as amended in 1986  
17      (CERCLA).

18      (3) Appropriations may be made from the hazardous  
19      waste/CERCLA account only for the following purposes and  
20      subject to the following conditions:

21      (a) funds are statutorily appropriated, as provided in  
22      17-7-502(4), to the CERCLA match debt service account  
23      necessary to make principal, interest, and premium payments  
24      due on CERCLA bonds;

25      (b) not more than one-half of the interest income

1      received for any biennium from the resource indemnity trust  
2      fund may be appropriated on a biennial basis for:

3      (i) implementation of the Montana Hazardous Waste Act,  
4      including regulation of underground storage tanks and the  
5      state share to obtain matching federal funds;

6      (ii) implementation of Title 75, chapter 10, part 6,  
7      pertaining to state assistance to and cooperation with the  
8      federal government for remedial action under CERCLA;

9      (iii) expenses of the administration of the  
10     environmental sciences division of the department in  
11     administering and overseeing the implementation of Title 75,  
12     chapter 10, parts 4 and 6; and

13     (iv) state expenses relating to investigation and  
14     remedial action for any hazardous substance defined in  
15     75-10-602; and

16     (c) to the extent funds are available after the  
17     appropriations in subsections (3)(a) and (3)(b), the  
18     department may, as appropriate, seek authorization from the  
19     legislature or, when the legislature is not in session,  
20     through the budget amendment process provided for in Title  
21     17, chapter 7, part 4, to spend funds for:

22     (i) state participation in remedial action under  
23     section 104 of CERCLA;

24     (ii) state costs for maintenance of sites at which  
25     remedial action under CERCLA has been completed; and

1 (iii) the state share to obtain matching federal funds  
2 for underground storage tank corrective action.

3 (4) For the purposes of subsection (3)(c), the  
4 legislature finds that a need for state special revenue to  
5 obtain matching federal funds for underground storage tank  
6 corrective action or for remedial action under section 104  
7 of CERCLA constitutes a serious unforeseen and unanticipated  
8 circumstance for the purpose of meeting the definition of  
9 "emergency" in ~~17-7-401~~ 17-7-102. The legislature further  
10 finds that the inability of the department to match such  
11 federal funds as may become available would seriously impair  
12 the functions of the department in carrying out its  
13 responsibilities under Title 75, chapter 10, parts 4 and 6.

14 (5) There is no dollar limit to the hazardous  
15 waste/CERCLA account. Unused balances remain in the account  
16 until such time as appropriated by the legislature for the  
17 purposes specified in this section."

18 **Section 16.** Section 17-6-305, MCA, is amended to read:

19 "17-6-305. Investment of twenty-five percent of the  
20 coal tax trust fund in the Montana economy. (1) Twenty-five  
21 percent of all revenue deposited after June 30, 1983, into  
22 the permanent coal tax trust fund established in 17-6-203(5)  
23 ~~and 15% of the annual income and earnings on the Montana~~  
24 ~~in-state investment fund appropriated to the coal severance~~  
25 ~~tax permanent fund by 17-5-704(2)~~ shall be invested in the

1 Montana economy with special emphasis on investments in new  
2 or expanding locally owned enterprises.

3 (2) In determining the probable income to be derived  
4 from investment of this revenue, the long-term benefit to  
5 the Montana economy shall be considered.

6 (3) The legislature may provide additional procedures  
7 to implement this section."

8 **Section 17.** Section 17-6-306, MCA, is amended to read:

9 "17-6-306. Montana in-state investment fund. The  
10 Montana in-state investment fund consists of:

11 (1) 25% of the revenue deposited after June 30, 1983,  
12 into the permanent coal tax trust fund established in  
13 17-6-203(6); and

14 (2) the principal payments on all investments made from  
15 the Montana in-state investment fund; ~~and~~  
16 ~~(3) 15% of the annual income and earnings on the~~  
17 ~~Montana in-state investment fund appropriated to the coal~~  
18 ~~severance tax permanent fund by 17-5-704(2).~~"

19 **Section 18.** Section 20-9-343, MCA, is amended to read:

20 "20-9-343. Definition of and revenue for state  
21 equalization aid. (1) As used in this title, the term "state  
22 equalization aid" means the money deposited in the state  
23 special revenue fund as required in this section plus any  
24 legislative appropriation of money from other sources for  
25 distribution to the public schools for the purposes of

1 payment of guaranteed tax base aid and equalization of the  
2 foundation program.

3 (2) The superintendent of public instruction may spend  
4 funds appropriated for state equalization aid as required  
5 for guaranteed tax base aid and foundation program purposes  
6 throughout the biennium.

7 (3) The following must be paid into the state special  
8 revenue fund for state equalization aid to public schools of  
9 the state:

10 (a) money received from the collection of income taxes  
11 under chapter 30 of Title 15, as provided by 15-1-501;

12 (b) except as provided in 15-31-702, money received  
13 from the collection of corporation license and income taxes  
14 under chapter 31 of Title 15, as provided by 15-1-501;

15 (c) money allocated to state equalization from the  
16 collection of the severance tax on coal;

17 (d) money received from the treasurer of the United  
18 States as the state's shares of oil, gas, and other mineral  
19 royalties under the federal Mineral Lands Leasing Act, as  
20 amended;

21 (e) interest and income money described in 20-9-341 and  
22 20-9-342;

23 (f) money received from the state equalization aid levy  
24 under 20-9-360;

25 (g) income from the lottery, as provided in 23-5-1027;

1 (h) the surplus revenues collected by the counties for  
2 foundation program support according to 20-9-331 and  
3 20-9-333;

4 (i) investment income earned by investing money in the  
5 state equalization aid account in the state special revenue  
6 fund; and

7 (j) 15% of the income and earnings of all coal  
8 severance tax funds as provided in 17-5-704~~2~~.

9 (4) The superintendent of public instruction shall  
10 request the board of investments to invest the money in the  
11 state equalization aid account to maximize investment  
12 earnings to the account.

13 (5) Any surplus revenue in the state equalization aid  
14 account in the second year of a biennium may be used to  
15 reduce any appropriation required for the next succeeding  
16 biennium."

17 NEW SECTION. **Section 19.** Repealer. Section 17-7-401,  
18 MCA, is repealed.

19 NEW SECTION. **Section 20.** Codification instruction. (1)  
20 [Sections 7--through--~~10~~ 8 THROUGH 11] are intended to be  
21 codified as an integral part of Title 17, chapter 7, part 1,  
22 and the provisions of Title 17, chapter 7, part 1, apply to  
23 [sections 7--through--~~10~~ 8 THROUGH 11].

24 (2) [Section ~~11~~ 12] is intended to be codified as an  
25 integral part of Title 18, chapter 1, part 1, and the

1 provisions of Title 18, chapter 1, part 1, apply to {section  
2 ~~11~~ 12}.

3 (3) {Sections ~~12--and-13~~ 13 AND 14} are intended to be  
4 codified as an integral part of Title 17, chapter 7, part 2,  
5 and the provisions of Title 17, chapter 7, part 2, apply to  
6 {sections ~~12--and-13~~ 13 AND 14}.

7 ~~{4}--{Section--14}--is--intended--to--be--codified--as--an  
8 integral--part--of--Title--17--chapter--7--part--5--and--the  
9 provisions--of--Title--17--chapter--7--part--5--apply--to--{section  
10 14}.~~

11 NEW SECTION. SECTION 21. APPLICABILITY. {SECTION 6(2)}  
12 APPLIES TO REVERSIONS DUE FROM FISCAL YEAR 1991.

13 NEW SECTION. Section 22. Effective date. [This act] is  
14 effective July 1, 1991.

15 NEW SECTION. SECTION 23. TERMINATION. {SECTION 6(2)}  
16 TERMINATES JUNE 30, 1996.

-End-

1 HOUSE BILL NO. 454  
 2 INTRODUCED BY COBB, JERGESON, PECK, BRADLEY, BARDANOUVE,  
 3 KADAS, KEATING, GRINDE, SWYSGOOD, JACOBSON, SVRCEK,  
 4 PAVLOVICH, VAN VALKENBURG, TVEIT, T. NELSON, THOFT  
 5 BY REQUEST OF THE LEGISLATIVE AUDIT COMMITTEE,  
 6 THE LEGISLATIVE FINANCE COMMITTEE, AND  
 7 THE OFFICE OF BUDGET AND PROGRAM  
 8 PLANNING  
 9

10 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND  
 11 CLARIFY THE LAW RELATING TO APPROPRIATIONS; CODIFYING  
 12 CONDITIONS FOR APPROPRIATIONS USUALLY CONTAINED IN EACH  
 13 GENERAL APPROPRIATIONS ACT; PROVIDING FOR A STATUTORY  
 14 APPROPRIATION OF THE INCOME AND EARNINGS OF COAL SEVERANCE  
 15 TAX FUNDS; AMENDING SECTIONS 5-12-303, 17-1-102, 17-2-108,  
 16 17-5-704, 17-7-102, 17-7-304, 17-7-502, AND 75-10-621, MCA;  
 17 REPEALING SECTION 17-7-401, MCA; AND PROVIDING AN EFFECTIVE  
 18 DATE, AN APPLICABILITY PROVISION, AND A TERMINATION DATE."  
 19

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

21 **Section 1.** Section 5-12-303, MCA, is amended to read:  
 22 **"5-12-303. Fiscal analysis information from state**  
 23 **agencies.** (1) The legislative fiscal analyst has the  
 24 authority to investigate and examine the costs and revenues  
 25 of state government activities and may examine and obtain

1 copies of the records, books, and files of any state agency,  
 2 including confidential records.

3 (2) When confidential records and information are  
 4 obtained from a state agency, the legislative fiscal analyst  
 5 and staff must be subject to the same penalties for  
 6 unauthorized disclosure of such confidential records and  
 7 information provided for under the laws administered by the  
 8 state agency. The legislative fiscal analyst shall develop  
 9 policies to prevent the unauthorized disclosure of  
 10 confidential records and information obtained from state  
 11 agencies.

12 (3) The legislative fiscal analyst may not obtain  
 13 copies of individual income tax records protected under  
 14 15-30-303. The department of revenue shall make individual  
 15 income tax data available by a masking method that conceals  
 16 the identity of the taxpayer. The masking method may not  
 17 destroy the statistical integrity of the individual income  
 18 tax records. The masking method, including how data is  
 19 masked, must be disclosed to the legislative fiscal analyst.

20 (4) ~~Every---state--agency~~ THE BUDGET DIRECTOR shall  
 21 furnish the legislative fiscal analyst with copies of all  
 22 budget requests, at the time of submission to the budget  
 23 director as provided by law, and if requested, all  
 24 underlying and supporting documentation.

25 (5) In the year preceding each legislative session, the



1 budget director shall furnish the legislative fiscal analyst  
2 on a confidential basis:

3 (a) by December 1, a copy of the documents which  
4 reflect the anticipated receipts and other means of  
5 financing the budget for each fiscal year of the ensuing  
6 biennium;

7 (b) by December 1, a preliminary budget which shall  
8 meet the statutory requirements for submission of the budget  
9 to the legislature; and

10 (c) by December 3, a paper copy and an electronic copy  
11 of the documents which reflect expenditures to the second  
12 level, as provided in 17-1-102(3), by funding source and  
13 detailed by accounting entity; and

14 ~~te}(d)~~ by December 15, all amendments to the  
15 preliminary budget.

16 (6) Within 1 day after the legislative finance  
17 committee presents its budget analysis to the legislature,  
18 the budget director and the legislative fiscal analyst shall  
19 exchange expenditure and disbursement recommendations by  
20 second-level expenditure detail and by funding sources  
21 detailed by accounting entity. This information must be  
22 filed in the respective offices and be made available to the  
23 legislature and the public.

24 ~~(6)(7)~~ This section does not authorize publication or  
25 public disclosure of information if the law prohibits such

1 publication or disclosure."

2 **Section 2.** Section 17-1-102, MCA, is amended to read:

3 "17-1-102. **Uniform accounting system and expenditure**  
4 **control.** (1) The department shall establish a system of  
5 financial control so that the functioning of the various  
6 agencies of the state may be improved, duplications of work  
7 by different state agencies and employees eliminated, public  
8 service improved, and the cost of government reduced.

9 (2) The department shall prescribe and install uniform  
10 accounting and reporting for all state agencies and  
11 institutions, showing the receipt, use, and disposition of  
12 all public money and property in accordance with generally  
13 accepted accounting principles, and shall develop plans for  
14 improvements and economies in the organization and operation  
15 thereof, which shall be submitted to the respective heads of  
16 agencies and institutions. Copies of all such plans shall be  
17 delivered to the governor, and additional copies shall be  
18 retained in the office of the department for inspection by  
19 the members of the legislature.

20 (3) The uniform accounting and reporting system must  
21 contain three levels of expenditure. The first level must  
22 include general categories, such as personal services,  
23 operating expenses, equipment, capital outlay, local  
24 assistance, grants, benefits and claims, transfers, and debt  
25 service. The second level of expenditure must include

1 specific categories of expenditures within each first-level  
 2 category. The third level of expenditure must include  
 3 specific items of expenditure within each category of the  
 4 second level.

5 ~~(3)~~(4) The department shall examine all financial  
 6 affairs of every state agency and institution for the  
 7 purpose of developing plans for improvements and economies  
 8 in the organization and operation thereof and for the  
 9 purpose of enabling the department to properly perform any  
 10 of the duties imposed upon the department by this part.

11 ~~(4)~~(5) All state agencies, including units of the  
 12 university system, EXCLUDING COMMUNITY COLLEGES, and the  
 13 vocational-technical centers, shall input all necessary  
 14 transactions to the accounting system prescribed in  
 15 subsection (2) before the accounts are closed at the end of  
 16 the fiscal year in order to present the receipt, use, and  
 17 disposition of all money and property for which the agency  
 18 is accountable in accordance with generally accepted  
 19 accounting principles, except that for budgetary control  
 20 purposes, encumbrances which are required by generally  
 21 accepted accounting principles to be reported as a  
 22 reservation of fund balance shall be recorded as  
 23 expenditures and liabilities on the accounting records.

24 ~~(6) NOTWITHSTANDING THE PROVISIONS OF SUBSECTION (5) A~~  
 25 ~~AN AGENCY MAY NOT RECORD ENCUMBRANCES AS EXPENDITURES~~

1 ~~AGAINST APPROPRIATIONS CONTAINED IN THIS ACT:~~

2 ~~(A) IF THE OPERATING BUDGET FOR THE EXPENDITURE~~  
 3 ~~CATEGORY TO WHICH THE EXPENDITURE WOULD BE CHARGED HAS BEEN~~  
 4 ~~INCREASED BY MORE THAN 5% ABOVE THE AMOUNT RECORDED FOR THAT~~  
 5 ~~CATEGORY ON THE STATEWIDE BUDGETING AND ACCOUNTING SYSTEM AT~~  
 6 ~~THE END OF FEBRUARY OF THE AFFECTED FISCAL YEAR, UNLESS AN~~  
 7 ~~EMERGENCY EXPENDITURE IS AUTHORIZED BY THE APPROPRIATE~~  
 8 ~~APPROVING AUTHORITY IN THE SAME MANNER AS BUDGET AMENDMENTS~~  
 9 ~~FOR EMERGENCIES ARE APPROVED UNDER TITLE 17, CHAPTER 7, PART~~  
 10 ~~4, AND~~

11 ~~(B) UNLESS THE TRANSACTIONS ARE AUTHORIZED BY THE~~  
 12 ~~APPROPRIATE APPROVING AUTHORITY WHEN THE ENCUMBRANCE EXCEEDS~~  
 13 ~~\$10,000 IN THE EQUIPMENT CATEGORY OR \$20,000 IN ANY OTHER~~  
 14 ~~EXPENDITURE CATEGORY."~~

15 **Section 3.** Section 17-2-108, MCA, is amended to read:  
 16 "17-2-108. Expenditure of nongeneral fund money first.  
 17 (1) An office or entity of the executive, legislative, or  
 18 judicial branch of state government shall apply expenditures  
 19 against appropriated nongeneral fund money whenever possible  
 20 before using general fund appropriations.  
 21 (2) The approving authority, as defined in 17-7-102,  
 22 shall authorize the decrease of the general fund  
 23 appropriation of an agency by the amount of money received  
 24 from federal sources in excess of the appropriation in an  
 25 appropriation act unless the decrease is contrary to federal



1 law, federal rule, or a contract or unless the approving  
 2 authority certifies that the services to be funded by the  
 3 additional money are significantly different than those for  
 4 which the agency received the general fund appropriation. If  
 5 directed by an appropriation act, the approving authority  
 6 shall decrease the general fund appropriation of an agency  
 7 by the amount of money received from nonfederal sources in  
 8 excess of the appropriation unless the decrease is contrary  
 9 to state law, state rule, or a contract or unless the  
 10 approving authority certifies that the services to be funded  
 11 by the additional money are significantly different than  
 12 those for which the agency received the general fund  
 13 appropriation. If the general fund appropriation of an  
 14 agency is decreased pursuant to this section, the  
 15 appropriation for the fund in which the money is received is  
 16 increased in the amount of the general fund decrease."

17 **Section 4.** Section 17-5-704, MCA, is amended to read:  
 18 "17-5-704. Investment of funds. (1) Money in the coal  
 19 severance tax bond fund, the coal severance tax permanent  
 20 fund, and the coal severance tax income fund must be  
 21 invested in accordance with the investment standards for  
 22 coal severance tax funds ~~except as provided in subsection~~  
 23 ~~(2).~~ Income and earnings from all funds ~~must be transferred~~  
 24 ~~to and retained in the coal severance tax income fund until~~  
 25 ~~appropriated by the legislature.~~ are statutorily

1 appropriated, as provided in 17-7-502, as follows:  
 2 (1) 15% to the state equalization aid account; and  
 3 (2) ~~Except as provided in section 17-Chapter-634, Laws~~  
 4 ~~of 1989, beginning on July 17, 1990, the legislature shall~~  
 5 ~~appropriate 15% of the income and earnings from all funds to~~  
 6 ~~be deposited to the state equalization aid account each year~~  
 7 85% to the state general fund."

8 **Section 5.** Section 17-7-102, MCA, is amended to read:  
 9 "17-7-102. Definitions. As used in parts 1 through 3 of  
 10 this chapter, the following definitions apply:

11 (1) "Additional services" means different services or  
 12 more of the same services.

13 (2) "Agency" means each state office, department,  
 14 division, board, commission, council, committee,  
 15 institution, university unit, or other entity or  
 16 instrumentality of the executive branch, office of the  
 17 judicial branch, or office of the legislative branch of  
 18 state government, EXCEPT FOR PURPOSES OF CAPITAL PROJECTS  
 19 ADMINISTERED BY THE DEPARTMENT OF ADMINISTRATION, FOR WHICH  
 20 INSTITUTIONS ARE TREATED AS ONE DEPARTMENT AND UNIVERSITY  
 21 UNITS AS ONE SYSTEM.

22 (3) "Approved long-range building program budget  
 23 amendment" means approval by the budget director of a  
 24 request submitted through the architecture and engineering  
 25 division of the department of administration to transfer

1 excess funds appropriated to a capital project within an  
 2 agency to increase the appropriation of another capital  
 3 project within that agency or to obtain financing to expand  
 4 a project with funds that were not available for  
 5 consideration by the legislature.

6 (4) "Approving authority" means:

7 (a) the governor or his designated representative for  
 8 executive branch agencies;

9 (b) the chief justice of the supreme court or his  
 10 designated representative for judicial branch agencies;

11 (c) the speaker for the house of representatives;

12 (d) the president for the senate;

13 (e) appropriate legislative committees or a designated  
 14 representative for legislative branch agencies; or

15 (f) the board of regents of higher education or its  
 16 designated representative for the university system.

17 (5) "Budget amendment" means a legislative  
 18 appropriation to increase spending authority for the special  
 19 revenue fund, proprietary funds, or unrestricted subfund,  
 20 contingent on total compliance with all budget amendment  
 21 procedures.

22 (6) "Current funding level" means that level of  
 23 funding required to maintain operations and services at the  
 24 level authorized by the previous legislature, after  
 25 adjustment for inflation.

1 (7) "Effectiveness measure" means a criterion for  
 2 measuring the degree to which the objective sought is  
 3 attained.

4 (8) "Emergency" means a catastrophe, disaster,  
 5 calamity, or other serious unforeseen and unanticipated  
 6 circumstance that has occurred subsequent to the time an  
 7 agency's appropriation was made, which was clearly not  
 8 within the contemplation of the legislature and the  
 9 governor, that affects one or more functions of a state  
 10 agency and the agency's expenditure requirements for the  
 11 performance of the function or functions.

12 (9) "Modified funding level" means the current  
 13 funding level as adjusted to reflect workload increases, the  
 14 provision of new services, or changes in authorized funding.

15 (10) "Necessary" means essential to the public welfare  
 16 and of a nature that cannot wait until the next legislative  
 17 session for legislative consideration.

18 (11) "Priority listing" means a ranking of proposed  
 19 expenditures in order of importance.

20 (12) "Program" means a combination of resources and  
 21 activities designed to achieve an objective or objectives.

22 (13) "Program size" means the magnitude of a program  
 23 such as the size of clientele served, the volume of service  
 24 in relation to the population or area, etc.

25 (14) "Program size indicator" means a measure to

1 indicate the magnitude of a program.

2 ~~(7) "Priority-listing" means a ranking of proposed~~  
3 ~~expenditures in order of importance:~~

4 (15) "Requesting agency" means the agency of state  
5 government that has requested a specific budget amendment.

6 (16) "University system unit" means the board of regents  
7 of higher education, office of the commissioner of higher  
8 education, university of Montana at Missoula, Montana state  
9 university at Bozeman, Montana college of mineral science  
10 and technology at Butte, eastern Montana college at  
11 Billings, northern Montana college at Havre, western Montana  
12 college of the university of Montana at Dillon, the  
13 agricultural experiment station with central offices at  
14 Bozeman, the forest and conservation experiment station with  
15 central offices at Missoula, the cooperative extension  
16 service with central offices at Bozeman, the bureau of mines  
17 and geology with central offices at Butte, THE FIRE SERVICES  
18 TRAINING SCHOOL AT GREAT FALLS, the vocational-technical  
19 centers at Billings, Butte, Great Falls, Helena, and  
20 Missoula, or the community colleges at Miles City, Glendive,  
21 and Kalispell."

22 **SECTION 6. SECTION 17-7-304, MCA, IS AMENDED TO READ:**

23 **"17-7-304. Disposal of unexpended appropriations. (1)**  
24 **All moneys appropriated for any specific purpose except**  
25 **those appropriated for the university system units listed in**

1 subsection (2) shall, after the expiration of the time for  
2 which so appropriated, revert to the several funds and  
3 accounts from which originally appropriated. However, any  
4 unexpended balance in any specific appropriation may be used  
5 for the years for which the appropriation was made.

6 (2) ~~At~~ EXCEPT AS PROVIDED IN 17-2-108, ALL money  
7 appropriated for the university of Montana at Missoula,  
8 Montana state university at Bozeman, Montana college of  
9 mineral science and technology at Butte, eastern Montana  
10 college at Billings, northern Montana college at Havre,  
11 western Montana college of the university of Montana at  
12 Dillon, the agricultural experiment station with central  
13 offices at Bozeman, the forest and conservation experiment  
14 station with central offices at Missoula, the cooperative  
15 extension service with central offices at Bozeman, the  
16 bureau of mines and geology with central offices in Butte,  
17 and the vocational-technical centers at Billings, Butte,  
18 Great Falls, Helena, and Missoula shall, after the  
19 expiration of the time for which appropriated, revert to an  
20 account held by the board of regents. The board of regents  
21 is authorized to maintain a fund balance. There is a  
22 statutory appropriation, as provided in 17-7-502, to use the  
23 funds held in this account in accordance with a long-term  
24 plan for major and deferred maintenance expenditures and  
25 equipment or fixed assets purchases prepared by the affected

1 university system units and approved by the board of  
 2 regents. The affected university system units may, with the  
 3 approval of the board of regents, modify the long-term plan  
 4 at any time to address changing needs and priorities. The  
 5 board of regents shall communicate the plan to each  
 6 legislature and, to the finance committee when requested by  
 7 the committee-, AND TO THE OFFICE OF BUDGET AND PROGRAM  
 8 PLANNING.

9 **Section 7.** Section 17-7-502, MCA, is amended to read:  
 10 "17-7-502. Statutory appropriations -- definition --  
 11 **requisites for validity.** (1) A statutory appropriation is an  
 12 appropriation made by permanent law that authorizes spending  
 13 by a state agency without the need for a biennial  
 14 legislative appropriation or budget amendment.  
 15 (2) Except as provided in subsection (4), to be  
 16 effective, a statutory appropriation must comply with both  
 17 of the following provisions:  
 18 (a) The law containing the statutory authority must be  
 19 listed in subsection (3).  
 20 (b) The law or portion of the law making a statutory  
 21 appropriation must specifically state that a statutory  
 22 appropriation is made as provided in this section.  
 23 (3) The following laws are the only laws containing  
 24 statutory appropriations: 2-9-202; 2-17-105; 2-18-812;  
 25 10-3-203; 10-3-312; 10-3-314; 10-4-301; 13-37-304; 15-1-111;

1 15-25-123; 15-31-702; 15-36-112; 15-37-117; 15-65-121;  
 2 15-70-101; 16-1-404; 16-1-410; 16-1-411; 17-3-212; 17-5-404;  
 3 17-5-424; 17-5-704; 17-5-804; 17-7-304; 19-8-504; 19-9-702;  
 4 19-9-1007; 19-10-205; 19-10-305; 19-10-506; 19-11-512;  
 5 19-11-513; 19-11-606; 19-12-301; 19-13-604; 20-6-406;  
 6 20-8-111; 20-9-361; 23-5-306; 23-5-409; 23-5-610; 23-5-612;  
 7 23-5-1016; 23-5-1027; 27-12-206; 37-51-501; 39-71-2504;  
 8 53-6-150; 53-24-206; 61-2-406; 61-5-121; 67-3-205;  
 9 75-1-1101; 75-5-1108; 75-11-313; 76-12-123; 80-2-103;  
 10 82-11-136; 82-11-161; 90-3-301; 90-4-215; 90-4-613;  
 11 90-6-331; 90-9-306; and section 13, House Bill No. 861, Laws  
 12 of 1985.  
 13 (4) There is a statutory appropriation to pay the  
 14 principal, interest, premiums, and costs of issuing, paying,  
 15 and securing all bonds, notes, or other obligations, as due,  
 16 that have been authorized and issued pursuant to the laws of  
 17 Montana. Agencies that have entered into agreements  
 18 authorized by the laws of Montana to pay the state  
 19 treasurer, for deposit in accordance with 17-2-101 through  
 20 17-2-107, as determined by the state treasurer, an amount  
 21 sufficient to pay the principal and interest as due on the  
 22 bonds or notes have statutory appropriation authority for  
 23 such payments. (In subsection (3), pursuant to sec. 10, Ch.  
 24 664, L. 1987, the inclusion of 39-71-2504 terminates June  
 25 30, 1991.)"

1 NEW SECTION. Section 8. Operating budget. (1)  
 2 Expenditures by a state agency must be made in substantial  
 3 compliance with an operating budget approved by an approving  
 4 authority. Substantial compliance means that a FIRST-LEVEL  
 5 category in the operating budget may not be exceeded by more  
 6 than 5%. The EXCEPT AS PROVIDED IN SUBSECTION (2), THE  
 7 expenditure of money appropriated in the general  
 8 appropriations act is contingent upon approval of an  
 9 operating budget by August 1 of each fiscal year. An  
 10 approved original operating budget must comply with state  
 11 law and statements of intent adopted as part of a bill.

12 (2) THE EXPENDITURE OF MONEY APPROPRIATED IN THE  
 13 GENERAL APPROPRIATIONS ACT TO THE UNIVERSITY SYSTEM UNITS,  
 14 AS DEFINED IN [SECTION 5], IS CONTINGENT UPON APPROVAL OF AN  
 15 OPERATING BUDGET BY OCTOBER 1 OF EACH FISCAL YEAR. ALL OTHER  
 16 REQUIREMENTS IN THIS SECTION APPLY TO THE UNIVERSITY SYSTEM.

17 ~~f2~~(3) The operating budget for money appropriated by  
 18 the general appropriations act must be separate from the  
 19 operating budget for money appropriated by another law  
 20 except a law appropriating money for the state pay plan or  
 21 any portion of the state pay plan. Each operating budget  
 22 must include expenditures for each agency program, detailed  
 23 at least by first-level categories as provided in  
 24 17-1-102(3). Each agency shall record its operating budget  
 25 and any approved changes on the statewide budget and

1 accounting system. Forms used for changing an operating  
 2 budget must reference the current, fully complete, and  
 3 approved operating budget, show the proposed changes to the  
 4 operating budget, and reference any other pending documents  
 5 to change the operating budget.

6 NEW SECTION. Section 9. Program transfers. Unless  
 7 prohibited by law, the approving authority may approve  
 8 agency requests to transfer appropriations between programs  
 9 within each fund type within each fiscal year. The transfer  
 10 may not exceed 5% of the total agency appropriation,  
 11 excluding statutory appropriations, administrative  
 12 authorizations, and budget amendments. All program transfers  
 13 must be completed within the same fund from which the  
 14 transfer originated. A request for a transfer accompanied by  
 15 a justification explaining the reason for the transfer must  
 16 be submitted by the requesting agency to the approving  
 17 authority and the office of budget and program planning.  
 18 Upon approval of the transfer, the approving authority shall  
 19 inform the legislative fiscal analyst of the approved  
 20 transfer and the justification for the transfer.

21 NEW SECTION. Section 10. Reduction of appropriation.  
 22 (1) Except as provided in subsection (2), in the event of a  
 23 shortfall in revenue, the governor may reduce  
 24 appropriations. An appropriation may not be reduced by more  
 25 than 15%.

1 (2) The appropriations for the following may not be  
2 reduced:

- 3 (a) payment of interest and principal on state debt;
- 4 (b) the legislative branch;
- 5 (c) the judicial branch;
- 6 (d) the school foundation program, including special  
7 education; and
- 8 (e) salaries of elected officials during their terms of  
9 office.

10 NEW SECTION. Section 11. Audit costs. Amounts  
11 appropriated for audits conducted under Title 5, chapter 13,  
12 may be transferred between fiscal years. Agencies shall  
13 reserve enough money in each fund to pay for audit costs and  
14 to the maximum extent allowable under federal regulations  
15 shall charge audit costs to federal funds.

16 NEW SECTION. Section 12. Access to records of  
17 contracting entities. Money may not be spent by a state  
18 agency under a contract with a nonstate entity unless the  
19 contract contains a provision that allows the legislative  
20 auditor and the legislative fiscal analyst sufficient access  
21 to the records of the nonstate entity to determine whether  
22 the parties have complied with the terms of the contract.  
23 The access to records is necessary to carry out the  
24 functions provided for in Title 5, chapters 12 and 13. A  
25 state agency may terminate a contract, without incurring

1 liability, for the refusal of a nonstate entity to allow  
2 access to records as required by this section.

3 NEW SECTION. Section 13. Expansion to be authorized.  
4 An existing capital project may not be expanded beyond the  
5 scope of the project approved by the legislature unless the  
6 expansion of the project is authorized by an approved  
7 long-range building program budget amendment.

8 NEW SECTION. Section 14. Reappropriation of capital  
9 projects. The remaining balances on capital projects  
10 previously approved by the legislature are reappropriated  
11 for the purposes of the original appropriation until the  
12 project is completed.

13 ~~NEW SECTION. Section 14. Administrative authorization~~  
14 ~~-----requisites---for---validity---(1)---An---administrative~~  
15 ~~authorization---may---be---established---by---the---budget---director---when~~  
16 ~~the---action---is---required---for---the---implementation---of---an~~  
17 ~~appropriation---made---by---law---as---defined---in---17-7-501.~~

18 ~~(2)---An---administrative---authorization---is---established---for~~  
19 ~~management---control---and---accounting---purposes---and---may---be~~  
20 ~~allowed---in---budgeted---funds---when---one---or---more---agencies---are~~  
21 ~~involved.~~

22 ~~(3)---An---administrative---authorization---may---not---conflict~~  
23 ~~with---a---law---or---a---statement---of---intent---adopted---as---part---of---a---law~~  
24 ~~and---may---not---increase---the---actual---expenditure---of---funds~~  
25 ~~authorized---by---the---legislature---for---a---biennium.~~

1       **Section 15.** Section 75-10-621, MCA, is amended to read:

2       \*75-10-621. Hazardous waste/CERCLA special revenue  
3 account. (1) There is a hazardous waste/CERCLA special  
4 revenue account within the state special revenue fund  
5 established in 17-2-102.

6       (2) There must be paid into the hazardous waste/CERCLA  
7 account:

8       (a) revenues obtained from the interest income of the  
9 resource indemnity trust fund under the provisions of  
10 15-38-202, together with interest accruing on those  
11 revenues;

12       (b) all proceeds of bonds or notes issued under  
13 75-10-623 and all interest earned on proceeds thereof; and

14       (c) revenues from penalties or damages collected under  
15 the federal Comprehensive Environmental Response,  
16 Compensation, and Liability Act of 1980, as amended in 1986  
17 (CERCLA).

18       (3) Appropriations may be made from the hazardous  
19 waste/CERCLA account only for the following purposes and  
20 subject to the following conditions:

21       (a) funds are statutorily appropriated, as provided in  
22 17-7-502(4), to the CERCLA match debt service account  
23 necessary to make principal, interest, and premium payments  
24 due on CERCLA bonds;

25       (b) not more than one-half of the interest income

1 received for any biennium from the resource indemnity trust  
2 fund may be appropriated on a biennial basis for:

3       (i) implementation of the Montana Hazardous Waste Act,  
4 including regulation of underground storage tanks and the  
5 state share to obtain matching federal funds;

6       (ii) implementation of Title 75, chapter 10, part 6,  
7 pertaining to state assistance to and cooperation with the  
8 federal government for remedial action under CERCLA;

9       (iii) expenses of the administration of the  
10 environmental sciences division of the department in  
11 administering and overseeing the implementation of Title 75,  
12 chapter 10, parts 4 and 6; and

13       (iv) state expenses relating to investigation and  
14 remedial action for any hazardous substance defined in  
15 75-10-602; and

16       (c) to the extent funds are available after the  
17 appropriations in subsections (3)(a) and (3)(b), the  
18 department may, as appropriate, seek authorization from the  
19 legislature or, when the legislature is not in session,  
20 through the budget amendment process provided for in Title  
21 17, chapter 7, part 4, to spend funds for:

22       (i) state participation in remedial action under  
23 section 104 of CERCLA;

24       (ii) state costs for maintenance of sites at which  
25 remedial action under CERCLA has been completed; and

1 (iii) the state share to obtain matching federal funds  
2 for underground storage tank corrective action.

3 (4) For the purposes of subsection (3)(c), the  
4 legislature finds that a need for state special revenue to  
5 obtain matching federal funds for underground storage tank  
6 corrective action or for remedial action under section 104  
7 of CERCLA constitutes a serious unforeseen and unanticipated  
8 circumstance for the purpose of meeting the definition of  
9 "emergency" in ~~17-7-401~~ 17-7-102. The legislature further  
10 finds that the inability of the department to match such  
11 federal funds as may become available would seriously impair  
12 the functions of the department in carrying out its  
13 responsibilities under Title 75, chapter 10, parts 4 and 6.

14 (5) There is no dollar limit to the hazardous  
15 waste/CERCLA account. Unused balances remain in the account  
16 until such time as appropriated by the legislature for the  
17 purposes specified in this section."

18 **Section 16.** Section 17-6-305, MCA, is amended to read:

19 "17-6-305. Investment of twenty-five percent of the  
20 coal tax trust fund in the Montana economy. (1) Twenty-five  
21 percent of all revenue deposited after June 30, 1983, into  
22 the permanent coal tax trust fund established in 17-6-203(5)  
23 ~~and 15% of the annual income and earnings on the Montana~~  
24 ~~in-state investment fund appropriated to the coal severance~~  
25 ~~tax permanent fund by 17-5-704(2)~~ shall be invested in the

1 Montana economy with special emphasis on investments in new  
2 or expanding locally owned enterprises.

3 (2) In determining the probable income to be derived  
4 from investment of this revenue, the long-term benefit to  
5 the Montana economy shall be considered.

6 (3) The legislature may provide additional procedures  
7 to implement this section."

8 **Section 17.** Section 17-6-306, MCA, is amended to read:

9 "17-6-306. Montana in-state investment fund. The  
10 Montana in-state investment fund consists of:

11 (1) 25% of the revenue deposited after June 30, 1983,  
12 into the permanent coal tax trust fund established in  
13 17-6-203(6); and

14 (2) the principal payments on all investments made from  
15 the Montana in-state investment fund ~~and~~

16 ~~(3) 15% of the annual income and earnings on the~~  
17 ~~Montana in-state investment fund appropriated to the coal~~  
18 ~~severance tax permanent fund by 17-5-704(2)."~~

19 **Section 18.** Section 20-9-343, MCA, is amended to read:

20 "20-9-343. Definition of and revenue for state  
21 equalization aid. (1) As used in this title, the term "state  
22 equalization aid" means the money deposited in the state  
23 special revenue fund as required in this section plus any  
24 legislative appropriation of money from other sources for  
25 distribution to the public schools for the purposes of



1 payment of guaranteed tax base aid and equalization of the  
2 foundation program.

3 (2) The superintendent of public instruction may spend  
4 funds appropriated for state equalization aid as required  
5 for guaranteed tax base aid and foundation program purposes  
6 throughout the biennium.

7 (3) The following must be paid into the state special  
8 revenue fund for state equalization aid to public schools of  
9 the state:

10 (a) money received from the collection of income taxes  
11 under chapter 30 of Title 15, as provided by 15-1-501;

12 (b) except as provided in 15-31-702, money received  
13 from the collection of corporation license and income taxes  
14 under chapter 31 of Title 15, as provided by 15-1-501;

15 (c) money allocated to state equalization from the  
16 collection of the severance tax on coal;

17 (d) money received from the treasurer of the United  
18 States as the state's shares of oil, gas, and other mineral  
19 royalties under the federal Mineral Lands Leasing Act, as  
20 amended;

21 (e) interest and income money described in 20-9-341 and  
22 20-9-342;

23 (f) money received from the state equalization aid levy  
24 under 20-9-360;

25 (g) income from the lottery, as provided in 23-5-1027;

1 (h) the surplus revenues collected by the counties for  
2 foundation program support according to 20-9-331 and  
3 20-9-333;

4 (i) investment income earned by investing money in the  
5 state equalization aid account in the state special revenue  
6 fund; and

7 (j) 15% of the income and earnings of all coal  
8 severance tax funds as provided in 17-5-704~~(2)~~.

9 (4) The superintendent of public instruction shall  
10 request the board of investments to invest the money in the  
11 state equalization aid account to maximize investment  
12 earnings to the account.

13 (5) Any surplus revenue in the state equalization aid  
14 account in the second year of a biennium may be used to  
15 reduce any appropriation required for the next succeeding  
16 biennium."

17 NEW SECTION. Section 19. Repealer. Section 17-7-401,  
18 MCA, is repealed.

19 NEW SECTION. Section 20. Codification instruction. (1)  
20 [Sections ~~7--through--10~~ 8 THROUGH 11] are intended to be  
21 codified as an integral part of Title 17, chapter 7, part 1,  
22 and the provisions of Title 17, chapter 7, part 1, apply to  
23 [sections ~~7-through--10~~ 8 THROUGH 11].

24 (2) [Section ~~11~~ 12] is intended to be codified as an  
25 integral part of Title 18, chapter 1, part 1, and the

1 provisions of Title 18, chapter 1, part 1, apply to [section  
2 ~~11~~ 12].

3 (3) [Sections ~~12--and-13~~ 13 AND 14] are intended to be  
4 codified as an integral part of Title 17, chapter 7, part 2,  
5 and the provisions of Title 17, chapter 7, part 2, apply to  
6 [sections ~~12-and-13~~ 13 AND 14].

7 ~~{4}--{Section--14}--is--intended--to--be--codified--as--an~~  
8 ~~integral--part--of--Title--17--chapter--7--part--5--and--the~~  
9 ~~provisions--of--Title--17--chapter--7--part--5--apply--to--{section~~  
10 ~~14}.~~

11 NEW SECTION. SECTION 21. APPLICABILITY. [SECTION 6(2)]  
12 APPLIES TO REVERSIONS DUE FROM FISCAL YEAR 1991.

13 NEW SECTION. Section 22. Effective date. [This act] is  
14 effective July 1, 1991.

15 NEW SECTION. SECTION 23. TERMINATION. [SECTION 6(2)]  
16 TERMINATES JUNE 30, 1996.

-End-



AN ACT TO GENERALLY REVISE AND CLARIFY THE LAW RELATING TO APPROPRIATIONS; CODIFYING CONDITIONS FOR APPROPRIATIONS USUALLY CONTAINED IN EACH GENERAL APPROPRIATIONS ACT; PROVIDING FOR A STATUTORY APPROPRIATION OF THE INCOME AND EARNINGS OF COAL SEVERANCE TAX FUNDS; AMENDING SECTIONS 5-12-303, 17-1-102, 17-2-108, 17-5-704, 17-6-305, 17-6-306, 17-7-102, 17-7-304, 17-7-502, 20-9-343, AND 75-10-621, MCA; REPEALING SECTION 17-7-401, MCA; AND PROVIDING AN EFFECTIVE DATE, AN APPLICABILITY PROVISION, AND A TERMINATION DATE.

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

Section 1. Section 5-12-303, MCA, is amended to read:

"5-12-303. Fiscal analysis information from state agencies.

(1) The legislative fiscal analyst has the authority to investigate and examine the costs and revenues of state government activities and may examine and obtain copies of the records, books, and files of any state agency, including confidential records.

(2) When confidential records and information are obtained from a state agency, the legislative fiscal analyst and staff must be subject to the same penalties for unauthorized disclosure of such confidential records and information provided for under the laws administered by the state agency. The legislative fiscal analyst shall develop policies to prevent the unauthorized disclosure of confidential records and information obtained from

state agencies.

(3) The legislative fiscal analyst may not obtain copies of individual income tax records protected under 15-30-303. The department of revenue shall make individual income tax data available by a masking method that conceals the identity of the taxpayer. The masking method may not destroy the statistical integrity of the individual income tax records. The masking method, including how data is masked, must be disclosed to the legislative fiscal analyst.

(4) ~~Every-state-agency~~ The budget director shall furnish the legislative fiscal analyst with copies of all budget requests, at the time of submission to the budget director as provided by law, and if requested, all underlying and supporting documentation.

(5) In the year preceding each legislative session, the budget director shall furnish the legislative fiscal analyst on a confidential basis:

(a) by December 1, a copy of the documents which reflect the anticipated receipts and other means of financing the budget for each fiscal year of the ensuing biennium;

(b) by December 1, a preliminary budget which shall meet the statutory requirements for submission of the budget to the legislature; and

(c) by December 3, a paper copy and an electronic copy of the documents which reflect expenditures to the second level, as provided in 17-1-102(1), by funding source and detailed by

accounting entity; and

~~†c)†~~(d) by December 15, all amendments to the preliminary budget.

(6) Within 1 day after the legislative finance committee presents its budget analysis to the legislature, the budget director and the legislative fiscal analyst shall exchange expenditure and disbursement recommendations by second-level expenditure detail and by funding sources detailed by accounting entity. This information must be filed in the respective offices and be made available to the legislature and the public.

~~†6)†~~(7) This section does not authorize publication or public disclosure of information if the law prohibits such publication or disclosure."

Section 2. Section 17-1-102, MCA, is amended to read:

"17-1-102. Uniform accounting system and expenditure control.

(1) The department shall establish a system of financial control so that the functioning of the various agencies of the state may be improved, duplications of work by different state agencies and employees eliminated, public service improved, and the cost of government reduced.

(2) The department shall prescribe and install uniform accounting and reporting for all state agencies and institutions, showing the receipt, use, and disposition of all public money and property in accordance with generally accepted accounting principles, and shall develop plans for improvements and economies

in the organization and operation thereof, which shall be submitted to the respective heads of agencies and institutions. Copies of all such plans shall be delivered to the governor, and additional copies shall be retained in the office of the department for inspection by the members of the legislature.

(3) The uniform accounting and reporting system must contain three levels of expenditure. The first level must include general categories, such as personal services, operating expenses, equipment, capital outlay, local assistance, grants, benefits and claims, transfers, and debt service. The second level of expenditure must include specific categories of expenditures within each first-level category. The third level of expenditure must include specific items of expenditure within each category of the second level.

~~†3)†~~(4) The department shall examine all financial affairs of every state agency and institution for the purpose of developing plans for improvements and economies in the organization and operation thereof and for the purpose of enabling the department to properly perform any of the duties imposed upon the department by this part.

~~†4)†~~(5) All state agencies, including units of the university system, excluding community colleges, and the vocational-technical centers, shall input all necessary transactions to the accounting system prescribed in subsection (2) before the accounts are closed at the end of the fiscal year in order to present the receipt,

use, and disposition of all money and property for which the agency is accountable in accordance with generally accepted accounting principles, except that for budgetary control purposes, encumbrances which are required by generally accepted accounting principles to be reported as a reservation of fund balance shall be recorded as expenditures and liabilities on the accounting records."

Section 3. Section 17-2-108, MCA, is amended to read:

"17-2-108. Expenditure of nongeneral fund money first. (1) An office or entity of the executive, legislative, or judicial branch of state government shall apply expenditures against appropriated nongeneral fund money whenever possible before using general fund appropriations.

(2) The approving authority, as defined in 17-7-102, shall authorize the decrease of the general fund appropriation of an agency by the amount of money received from federal sources in excess of the appropriation in an appropriation act unless the decrease is contrary to federal law, federal rule, or a contract or unless the approving authority certifies that the services to be funded by the additional money are significantly different than those for which the agency received the general fund appropriation. If directed by an appropriation act, the approving authority shall decrease the general fund appropriation of an agency by the amount of money received from nonfederal sources in excess of the appropriation unless the decrease is contrary to

state law, state rule, or a contract or unless the approving authority certifies that the services to be funded by the additional money are significantly different than those for which the agency received the general fund appropriation. If the general fund appropriation of an agency is decreased pursuant to this section, the appropriation for the fund in which the money is received is increased in the amount of the general fund decrease."

Section 4. Section 17-5-704, MCA, is amended to read:

"17-5-704. Investment of funds. (1) Money in the coal severance tax bond fund, the coal severance tax permanent fund, and the coal severance tax income fund must be invested in accordance with the investment standards for coal severance tax funds ~~except as provided in subsection (2)~~. Income and earnings from all funds ~~must be transferred to and retained in the coal severance tax income fund until appropriated by the legislature~~ are statutorily appropriated, as provided in 17-7-502, as follows:

(1) 15% to the state equalization aid account; and

(2) ~~Except as provided in section 17-Chapter 6347-baws of 1989 beginning on duty 17-1990, the legislature shall appropriate 15% of the income and earnings from all funds to be deposited to the state equalization aid account each year 85% to the state general fund."~~

Section 5. Section 17-7-102, MCA, is amended to read:

"17-7-102. Definitions. As used in ~~parts 1 through 3 of~~ this chapter, the following definitions apply:

(1) "Additional services" means different services or more of the same services.

(2) "Agency" means each state office, department, division, board, commission, council, committee, institution, university unit, or other entity or instrumentality of the executive branch, office of the judicial branch, or office of the legislative branch of state government, except for purposes of capital projects administered by the department of administration, for which institutions are treated as one department and university units as one system.

(3) "Approved long-range building program budget amendment" means approval by the budget director of a request submitted through the architecture and engineering division of the department of administration to transfer excess funds appropriated to a capital project within an agency to increase the appropriation of another capital project within that agency or to obtain financing to expand a project with funds that were not available for consideration by the legislature.

(4) "Approving authority" means:

(a) the governor or his designated representative for executive branch agencies;

(b) the chief justice of the supreme court or his designated representative for judicial branch agencies;

(c) the speaker for the house of representatives;

(d) the president for the senate;

(e) appropriate legislative committees or a designated representative for legislative branch agencies; or

(f) the board of regents of higher education or its designated representative for the university system.

(5) "Budget amendment" means a legislative appropriation to increase spending authority for the special revenue fund, proprietary funds, or unrestricted subfund, contingent on total compliance with all budget amendment procedures.

+1}(6) "Current funding level" means that level of funding required to maintain operations and services at the level authorized by the previous legislature, after adjustment for inflation.

+2}(7) "Effectiveness measure" means a criterion for measuring the degree to which the objective sought is attained.

(8) "Emergency" means a catastrophe, disaster, calamity, or other serious unforeseen and unanticipated circumstance that has occurred subsequent to the time an agency's appropriation was made, which was clearly not within the contemplation of the legislature and the governor, that affects one or more functions of a state agency and the agency's expenditure requirements for the performance of the function or functions.

+3}(9) "Modified funding level" means the current funding level as adjusted to reflect workload increases, the provision of new services, or changes in authorized funding.

(10) "Necessary" means essential to the public welfare and of

a nature that cannot wait until the next legislative session for legislative consideration.

(11) "Priority listing" means a ranking of proposed expenditures in order of importance.

(12) "Program" means a combination of resources and activities designed to achieve an objective or objectives.

(13) "Program size" means the magnitude of a program such as the size of clientele served, the volume of service in relation to the population or area, etc.

(14) "Program size indicator" means a measure to indicate the magnitude of a program.

(15) "Priority listing" means a ranking of proposed expenditures in order of importance.

(16) "Requesting agency" means the agency of state government that has requested a specific budget amendment.

(17) "University system unit" means the board of regents of higher education, office of the commissioner of higher education, university of Montana at Missoula, Montana state university at Bozeman, Montana college of mineral science and technology at Butte, eastern Montana college at Billings, northern Montana college at Havre, western Montana college of the university of Montana at Dillon, the agricultural experiment station with central offices at Bozeman, the forest and conservation experiment station with central offices at Missoula, the cooperative extension service with central offices at Bozeman, the bureau of

mines and geology with central offices at Butte, the fire services training school at Great Falls, the vocational-technical centers at Billings, Butte, Great Falls, Helena, and Missoula, or the community colleges at Miles City, Glendive, and Kalispell."

Section 6. Section 17-7-304, MCA, is amended to read:

"17-7-304. Disposal of unexpended appropriations. (1) All moneys appropriated for any specific purpose except those appropriated for the university system units listed in subsection (2) shall, after the expiration of the time for which so appropriated, revert to the several funds and accounts from which originally appropriated. However, any unexpended balance in any specific appropriation may be used for the years for which the appropriation was made.

(2) Except as provided in 17-2-108, all money appropriated for the university of Montana at Missoula, Montana state university at Bozeman, Montana college of mineral science and technology at Butte, eastern Montana college at Billings, northern Montana college at Havre, western Montana college of the university of Montana at Dillon, the agricultural experiment station with central offices at Bozeman, the forest and conservation experiment station with central offices at Missoula, the cooperative extension service with central offices at Bozeman, the bureau of mines and geology with central offices in Butte, and the vocational-technical centers at Billings, Butte, Great Falls, Helena, and Missoula shall, after the expiration of the time for

which appropriated, revert to an account held by the board of regents. The board of regents is authorized to maintain a fund balance. There is a statutory appropriation, as provided in 17-7-502, to use the funds held in this account in accordance with a long-term plan for major and deferred maintenance expenditures and equipment or fixed assets purchases prepared by the affected university system units and approved by the board of regents. The affected university system units may, with the approval of the board of regents, modify the long-term plan at any time to address changing needs and priorities. The board of regents shall communicate the plan to each legislature, to the finance committee when requested by the committee, and to the office of budget and program planning."

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), 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: 2-9-202; 2-17-105; 2-18-812; 10-3-203; 10-3-312; 10-3-314; 10-4-301; 13-37-304; 15-1-111; 15-25-123; 15-31-702; 15-36-112; 15-37-117; 15-65-121; 15-70-101; 16-1-404; 16-1-410; 16-1-411; 17-3-212; 17-5-404; 17-5-424; 17-5-704; 17-5-804; 17-7-304; 19-8-504; 19-9-702; 19-9-1007; 19-10-205; 19-10-305; 19-10-506; 19-11-512; 19-11-513; 19-11-606; 19-12-301; 19-13-604; 20-6-406; 20-8-111; 20-9-361; 23-5-306; 23-5-409; 23-5-610; 23-5-612; 23-5-1016; 23-5-1027; 27-12-206; 37-51-501; 39-71-2504; 53-6-150; 53-24-206; 61-2-406; 61-5-121; 67-3-205; 75-1-1101; 75-5-1108; 75-11-313; 76-12-123; 80-2-103; 82-11-136; 82-11-161; 90-3-301; 90-4-215; 90-4-613; 90-6-331; 90-9-306; and section 13, House Bill No. 861, Laws of 1985.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, 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 such payments. (In subsection (3), pursuant to sec. 10, Ch. 664, L.



1987, the inclusion of 39-71-2504 terminates June 30, 1991.)"

Section 8. Operating budget. (1) Expenditures by a state agency must be made in substantial compliance with an operating budget approved by an approving authority. Substantial compliance means that a first-level category in the operating budget may not be exceeded by more than 5%. Except as provided in subsection (2), the expenditure of money appropriated in the general appropriations act is contingent upon approval of an operating budget by August 1 of each fiscal year. An approved original operating budget must comply with state law and statements of intent adopted as part of a bill.

(2) The expenditure of money appropriated in the general appropriations act to the university system units, as defined in [section 5], is contingent upon approval of an operating budget by October 1 of each fiscal year. All other requirements in this section apply to the university system.

(3) The operating budget for money appropriated by the general appropriations act must be separate from the operating budget for money appropriated by another law except a law appropriating money for the state pay plan or any portion of the state pay plan. Each operating budget must include expenditures for each agency program, detailed at least by first-level categories as provided in 17-1-102(3). Each agency shall record its operating budget and any approved changes on the statewide budget and accounting system. Forms used for changing an operating

budget must reference the current, fully complete, and approved operating budget, show the proposed changes to the operating budget, and reference any other pending documents to change the operating budget.

Section 9. Program transfers. Unless prohibited by law, the approving authority may approve agency requests to transfer appropriations between programs within each fund type within each fiscal year. The transfer may not exceed 5% of the total agency appropriation, excluding statutory appropriations, administrative authorizations, and budget amendments. All program transfers must be completed within the same fund from which the transfer originated. A request for a transfer accompanied by a justification explaining the reason for the transfer must be submitted by the requesting agency to the approving authority and the office of budget and program planning. Upon approval of the transfer, the approving authority shall inform the legislative fiscal analyst of the approved transfer and the justification for the transfer.

Section 10. Reduction of appropriation. (1) Except as provided in subsection (2), in the event of a shortfall in revenue, the governor may reduce appropriations. An appropriation may not be reduced by more than 15%.

- (2) The appropriations for the following may not be reduced:
- (a) payment of interest and principal on state debt;
  - (b) the legislative branch;

(c) the judicial branch;

(d) the school foundation program, including special education; and

(e) salaries of elected officials during their terms of office.

Section 11. **Audit costs.** Amounts appropriated for audits conducted under Title 5, chapter 13, may be transferred between fiscal years. Agencies shall reserve enough money in each fund to pay for audit costs and to the maximum extent allowable under federal regulations shall charge audit costs to federal funds.

Section 12. **Access to records of contracting entities.** Money may not be spent by a state agency under a contract with a nonstate entity unless the contract contains a provision that allows the legislative auditor and the legislative fiscal analyst sufficient access to the records of the nonstate entity to determine whether the parties have complied with the terms of the contract. The access to records is necessary to carry out the functions provided for in Title 5, chapters 12 and 13. A state agency may terminate a contract, without incurring liability, for the refusal of a nonstate entity to allow access to records as required by this section.

Section 13. **Expansion to be authorized.** An existing capital project may not be expanded beyond the scope of the project approved by the legislature unless the expansion of the project is authorized by an approved long-range building program budget

amendment.

Section 14. **Reappropriation of capital projects.** The remaining balances on capital projects previously approved by the legislature are reappropriated for the purposes of the original appropriation until the project is completed.

Section 15. Section 75-10-621, MCA, is amended to read:

**\*75-10-621. Hazardous waste/CERCLA special revenue account.**

(1) There is a hazardous waste/CERCLA special revenue account within the state special revenue fund established in 17-2-102.

(2) There must be paid into the hazardous waste/CERCLA account:

(a) revenues obtained from the interest income of the resource indemnity trust fund under the provisions of 15-38-202, together with interest accruing on those revenues;

(b) all proceeds of bonds or notes issued under 75-10-623 and all interest earned on proceeds thereof; and

(c) revenues from penalties or damages collected under the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended in 1986 (CERCLA).

(3) Appropriations may be made from the hazardous waste/CERCLA account only for the following purposes and subject to the following conditions:

(a) funds are statutorily appropriated, as provided in 17-7-502(4), to the CERCLA match debt service account necessary to make principal, interest, and premium payments due on CERCLA

bonds;

(b) not more than one-half of the interest income received for any biennium from the resource indemnity trust fund may be appropriated on a biennial basis for:

(i) implementation of the Montana Hazardous Waste Act, including regulation of underground storage tanks and the state share to obtain matching federal funds;

(ii) implementation of Title 75, chapter 10, part 6, pertaining to state assistance to and cooperation with the federal government for remedial action under CERCLA;

(iii) expenses of the administration of the environmental sciences division of the department in administering and overseeing the implementation of Title 75, chapter 10, parts 4 and 6; and

(iv) state expenses relating to investigation and remedial action for any hazardous substance defined in 75-10-602; and

(c) to the extent funds are available after the appropriations in subsections (3)(a) and (3)(b), the department may, as appropriate, seek authorization from the legislature or, when the legislature is not in session, through the budget amendment process provided for in Title 17, chapter 7, part 4, to spend funds for:

(i) state participation in remedial action under section 104 of CERCLA;

(ii) state costs for maintenance of sites at which remedial

action under CERCLA has been completed; and

(iii) the state share to obtain matching federal funds for underground storage tank corrective action.

(4) For the purposes of subsection (3)(c), the legislature finds that a need for state special revenue to obtain matching federal funds for underground storage tank corrective action or for remedial action under section 104 of CERCLA constitutes a serious unforeseen and unanticipated circumstance for the purpose of meeting the definition of "emergency" in ~~17-7-401~~ 17-7-102. The legislature further finds that the inability of the department to match such federal funds as may become available would seriously impair the functions of the department in carrying out its responsibilities under Title 75, chapter 10, parts 4 and 6.

(5) There is no dollar limit to the hazardous waste/CERCLA account. Unused balances remain in the account until such time as appropriated by the legislature for the purposes specified in this section."

Section 16. Section 17-6-305, MCA, is amended to read:

"17-6-305. Investment of twenty-five percent of the coal tax trust fund in the Montana economy. (1) Twenty-five percent of all revenue deposited after June 30, 1983, into the permanent coal tax trust fund established in 17-6-203(5) ~~and 15% of the annual income and earnings on the Montana in-state investment fund appropriated to the coal severance tax permanent fund by 17-5-704(2)~~ shall be invested in the Montana economy with special emphasis on

investments in new or expanding locally owned enterprises.

(2) In determining the probable income to be derived from investment of this revenue, the long-term benefit to the Montana economy shall be considered.

(3) The legislature may provide additional procedures to implement this section."

Section 17. Section 17-6-306, MCA, is amended to read:

"17-6-306. Montana in-state investment fund. The Montana in-state investment fund consists of:

(1) 25% of the revenue deposited after June 30, 1983, into the permanent coal tax trust fund established in 17-6-203(6); and

(2) the principal payments on all investments made from the Montana in-state investment fund; ~~and~~

~~(3) 15% of the annual income and earnings on the Montana in-state investment fund appropriated to the coal severance tax permanent fund by 17-6-704(2).~~"

Section 18. Section 20-9-343, MCA, is amended to read:

"20-9-343. Definition of and revenue for state equalization aid. (1) As used in this title, the term "state equalization aid" means the money deposited in the state special revenue fund as required in this section plus any legislative appropriation of money from other sources for distribution to the public schools for the purposes of payment of guaranteed tax base aid and equalization of the foundation program.

(2) The superintendent of public instruction may spend funds

appropriated for state equalization aid as required for guaranteed tax base aid and foundation program purposes throughout the biennium.

(3) The following must be paid into the state special revenue fund for state equalization aid to public schools of the state:

(a) money received from the collection of income taxes under chapter 30 of Title 15, as provided by 15-1-501;

(b) except as provided in 15-31-702, money received from the collection of corporation license and income taxes under chapter 31 of Title 15, as provided by 15-1-501;

(c) money allocated to state equalization from the collection of the severance tax on coal;

(d) money received from the treasurer of the United States as the state's shares of oil, gas, and other mineral royalties under the federal Mineral Lands Leasing Act, as amended;

(e) interest and income money described in 20-9-341 and 20-9-342;

(f) money received from the state equalization aid levy under 20-9-360;

(g) income from the lottery, as provided in 23-5-1027;

(h) the surplus revenues collected by the counties for foundation program support according to 20-9-331 and 20-9-333;

(i) investment income earned by investing money in the state equalization aid account in the state special revenue fund; and

(j) 15% of the income and earnings of all coal severance tax

funds as provided in 17-5-704(2).

(4) The superintendent of public instruction shall request the board of investments to invest the money in the state equalization aid account to maximize investment earnings to the account.

(5) Any surplus revenue in the state equalization aid account in the second year of a biennium may be used to reduce any appropriation required for the next succeeding biennium."

Section 19. **Repealer.** Section 17-7-401, MCA, is repealed.

Section 20. **Codification instruction.** (1) [Sections 8 through 11] are intended to be codified as an integral part of Title 17, chapter 7, part 1, and the provisions of Title 17, chapter 7, part 1, apply to [sections 8 through 11].

(2) [Section 12] is intended to be codified as an integral part of Title 18, chapter 1, part 1, and the provisions of Title 18, chapter 1, part 1, apply to [section 12].

(3) [Sections 13 and 14] are 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 [sections 13 and 14].

Section 21. **Applicability.** [Section 6(2)] applies to reversions due from fiscal year 1991.

Section 22. **Effective date.** [This act] is effective July 1, 1991.

Section 23. **Termination.** [Section 6(2)] terminates June 30, 1996.