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IMPLEMENTATION OF SECTION 10 OF  
HOUSE BILL 454  
ENACTED BY THE 52ND MONTANA LEGISLATURE

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WHEREAS, Article VIII, Section 8, of the Montana Constitution provides:

"No state debt shall be created unless authorized by a two-thirds vote of the members of each house of the legislature or a majority of the electors voting thereon. No state debt shall be created to cover deficits incurred because appropriations exceeded anticipated revenues."

WHEREAS, Article VIII, Section 9, of the Montana Constitution provides:

"Appropriations by the legislature shall not exceed anticipated revenue."

WHEREAS, the 52nd Montana Legislature enacted House Bill 454, which was signed and approved by the Governor; and

WHEREAS, House Bill 454 authorizes the Governor to reduce appropriations after their passage in the event of a revenue shortfall; and

WHEREAS, the legislature has historically enacted similar reduction authority since as early as 1971, and has repeatedly provided the Governor with such authority in the event of revenue shortfalls; and

WHEREAS, the legislature has provided specific limitations on the Governor's authority to reduce appropriations, including the following:

Prohibit the Governor from reducing appropriations by more than 15%;

Prohibit the Governor from reducing appropriations on:

- the payment of interest and principal on the state debt;
- the legislative branch of state government;
- the judicial branch of state government;
- the school foundation program, including special education;
- the salaries of elected officials during the terms of office.

WHEREAS, the Office of Budget and Program Planning, through affidavits executed by the Assistant Budget Director of Operations and State Budget Director, copies of which are attached hereto and made a part of this Order, have concluded the state is currently experiencing a revenue shortfall. This current revenue shortfall experience is projected to continue for the course of the biennium; and

WHEREAS, written communication by the Legislative Fiscal Analyst, dated September 9, 1991, confirms state government is experiencing a revenue shortfall; and

WHEREAS, the necessary precondition of a revenue shortfall has been achieved, thus authorizing the Governor to reduce appropriations as provided by law; and

WHEREAS, the Montana Attorney General on February 28, 1986, rendered an opinion concluding the Governor is authorized to reduce appropriations for executive branch agencies headed by other elected officials in the event of a revenue shortfall, citing as authority for this general principle of law State ex rel. Judge v. Legislative Finance Committee, 168 Mont. 470, 543 P.2d 1317 (1975); and

WHEREAS, as directed by the Governor, the Office of Budget and Program Planning has reviewed and consulted with various agencies, departments, bureaus and commissions of state government regarding the priorities and necessary implementation of reduced appropriations and has relied upon those representations in the analysis of the appropriation reductions; and

WHEREAS, the Office of Budget and Program Planning has formulated a directive for appropriation reductions and adjustments by identifying the reductions in compliance with House Bill 454,

a copy of which is attached and made a part hereof; and

WHEREAS, reduced general fund authority may subsequently be replaced with up to a like amount of federal special revenue authority in accordance with 17-2-108, MCA, as amended by House Bill 454 section 3; and

WHEREAS, reduced general fund authority may subsequently be replaced with authorized state special revenue and other revenue authority through an approved program transfer or appropriation transfer, the latter of which shall comply with the criteria contained in 17-7-301, MCA, because the state general fund revenue shortfall is determined to be an unforeseen and unanticipated emergency that has occurred subsequent to the time an agency's appropriation was made; and

WHEREAS, the reductions and adjustments required as a result of the revenue shortfall will necessitate curtailing and managing many expenditures above and beyond non-essential out-of-state travel.

NOW, THEREFORE, I, STAN STEPHENS, Governor of the State of Montana, pursuant to the authority vested in me as Governor under the Constitution of the State of Montana and House Bill 454, enacted by the 52nd Montana Legislature and such other applicable laws, order the following:

1. That as a result of the revenue shortfall currently being experienced by state government of Montana, Section 10, House Bill 454, enacted by the Montana Legislature shall be activated; and

2. That all agencies, bureaus, commissions, boards and all other entities and units of state government, with the exceptions specifically identified and noted in House Bill 454, shall reduce their fiscal year 1992 appropriations and take such other actions as more specifically outlined in the Memorandum of the Office of Budget and Program Planning attached hereto and made a part of this Order; and

3. That Executive Order 8-90 curtailing non-essential out-of-state travel and requiring monthly reports to the Office of

Budget and Program Planning is hereby repealed.

This Order is effective immediately.

GIVEN under my hand and the GREAT SEAL of the State of Montana this 22<sup>nd</sup> day of September in the year of our LORD, One Thousand Nine Hundred and Ninety-one.

*Stan Stephens*

STAN STEPHENS  
Governor

ATTEST:

*Mike Cooney*  
MIKE COONEY, Secretary of State

AFFIDAVIT OF STEVE YEAKEL

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STATE OF MONTANA                    )  
  )  ss.  
County of Lewis & Clark        )

STEVE YEAKEL, a resident of the County of Lewis and Clark, State of Montana, being first duly sworn, upon his oath, deposes and says:

1. That Affiant is currently employed by the State of Montana as Director, Office of Budget and Program Planning.
2. That in the capacity as Director, Affiant is responsible for ascertaining anticipated revenues and expenditures for the operation of state government.
3. That Affiant has been advised by Steve Bender, Assistant Budget Director for Operations, and other budget analysts within the Office of Budget and Program Planning that the state of Montana is experiencing a revenue shortfall and will end fiscal year 1993 with a projected balance of negative fifty-three million dollars.
4. That Affiant has concluded that state government is experiencing a revenue shortfall.
5. That by this affidavit, the Director of the Office of Budget and Program Planning, pursuant to Section 10 of House Bill 454, has advised the Governor of the State of Montana regarding the extent and projected length of the revenue shortfall.

Further, Affiant sayeth not.

DATED this 26<sup>th</sup> day of September, 1991.

Steve Yeakel  
STEVE YEAKEL

SUBSCRIBED AND SWORN TO before me this 26<sup>th</sup> day of  
September, 1991.

Thomas J. Johnson  
Notary Public for the State of Montana  
Residing at Wheat, Montana  
My Commission expires Aug 10, 1993

AFFIDAVIT OF STEVE BENDER

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STATE OF MONTANA                    )  
  ) ss.  
County of Lewis & Clark        )

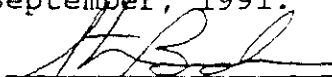
STEVE BENDER, a resident of the County of Lewis and Clark, State of Montana, being first duly sworn, upon his oath, deposes and says:

1. That Affiant is currently employed by the State of Montana as Assistant Budget Director of Operations.
2. That in the capacity as Assistant Budget Director of Operations, Affiant is responsible for determining current and projected revenue receipts of the general fund for the operation of state government.
3. That Affiant, in the exercise of this responsibility, utilizes commonly accepted procedures in estimating revenue, including advanced statistical techniques to estimate relationships of major state revenue sources with underlying economic performance.
4. That Affiant has had an opportunity to carefully examine the data and information currently available, has consulted with the Department of Revenue, the Legislative Fiscal Analyst and other state agencies in the formulation of his conclusions and opinion regarding revenue shortfall.
5. That Affiant has informed Steve Yeakel, Director of the Office of Budget and Program Planning, that in Affiant's opinion

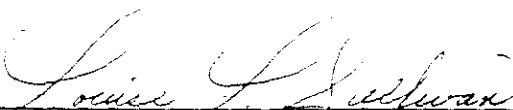
the state of Montana shall experience a \$73 million revenue shortfall for fiscal years 1991 through 1993, that the general fund will end fiscal year 1993 with a projected balance of negative \$53 million and that revenue shortfall has commenced.

Further, Affiant sayeth not.

DATED this 26<sup>th</sup> day of September, 1991.

  
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STEVE BENDER

SUBSCRIBED AND SWORN TO before me this 26<sup>th</sup> day of September, 1991.

  
\_\_\_\_\_  
Notary Public for the State of Montana  
Residing at Wendland, Montana  
My Commission expires Aug 10, 1993