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House BILL NO. 576

INTRODUCED BY Brad Zook Julie Menahan

BY REQUEST OF THE HOUSE APPROPRIATIONS COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE TYPES OF FUNDS SUBJECT TO APPROPRIATION; REQUIRING CERTAIN FEES AND CHARGES TO BE COMMENSURATE WITH COSTS; REQUIRING AN AUDIT AND BUDGET ANALYSIS OF CERTAIN FUND TYPES; AMENDING SECTIONS 2-8-304 AND 17-8-101, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

Section 1. Section 2-8-304, MCA, is amended to read:

"2-8-304. Review of privatized programs. (1) If during audits of state agencies, the legislative auditor identifies programs being conducted by an agency under contract that may be administered more cost effectively directly by the agency or identifies services performed by an agency that may be performed more cost effectively by the private sector, ~~he~~ the legislative auditor shall submit this information to the legislative audit committee.

(2) Members of the public, elected bargaining agents or employee representatives, elected officials, legislators, and agency directors may submit to the legislative audit committee a request to review programs being conducted under contract by an agency that may be administered more cost effectively directly by the agency.

(3) The office of budget and program planning shall submit to the legislative audit committee, by July 1 of each odd-numbered year:

(a) a list of all programs accounted for in an enterprise fund or an internal service fund; and

(b) a request for privatization review under subsection (1) of at least two of the programs identified in subsection (3)(a), including any available information and criteria required under 2-8-303.

~~(3)~~(4) The legislative audit committee shall review the information and requests provided under subsections (1) and (2) and may direct the legislative auditor to conduct a review of any contracted program or program administered directly by the agency, or both. The review must include a report to the legislative audit committee that includes the information required in a privatization plan under 2-8-303.

1 ~~(4)~~(5) The report required by subsection ~~(3)~~ (4) must be provided to the legislative audit committee
 2 and released to the public. Not less than 30 days after the release of the report, the legislative audit
 3 committee shall conduct a public hearing on the report at which public comments and testimony must be
 4 received. Upon completion of the hearing on the report, the legislative audit committee may make
 5 recommendations that it believes appropriate concerning the program."
 6

7 Section 2. Section 17-8-101, MCA, is amended to read:

8 "**17-8-101. Appropriation and disbursement of money from treasury.** (1) Money deposited in the
 9 general fund, the special revenue fund type (except money deposited in the treasury from nonstate and
 10 nonfederal sources restricted by law or by the terms of an agreement, such as a contract, trust agreement,
 11 or donation), ~~the enterprise fund type, the internal service fund type,~~ and the capital projects fund type,
 12 with the exception of refunds authorized in subsection (3), must be paid out of the treasury only on
 13 appropriation made by law.

14 (2) Money deposited in the enterprise fund type, the internal service fund type, the debt service
 15 fund type, expendable trust fund type, nonexpendable trust fund type, pension trust fund type, the state
 16 special revenue fund from nonstate and nonfederal sources restricted by law or by the terms of an
 17 agreement, such as a contract, trust agreement, or donation, and agency fund type may be paid out of the
 18 treasury under general laws, or contracts entered into in pursuance of law, permitting the disbursement.

19 (3) ~~Money~~ Subject to the provisions of subsection (10), money paid into the state treasury through
 20 error or under circumstances, such that the state is not legally entitled to retain it and a refund procedure
 21 is not otherwise provided by law, may be refunded upon the submission of a verified claim approved by
 22 the department of administration.

23 (4) Authority to expend appropriated money may be transferred from one state agency to another,
 24 provided that the original purpose of the appropriation is maintained. The office of budget and program
 25 planning shall report semiannually to the legislative finance committee concerning all appropriations
 26 transferred under the provisions of this section.

27 (5) Fees and charges for services deposited in the internal service fund type must be based upon
 28 commensurate costs. The legislative auditor, during regularly scheduled audits of state agencies, shall audit
 29 and report on the reasonableness of internal service fund type fees and charges and on the fund equity
 30 balances.

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0576, as Introduced

DESCRIPTION OF PROPOSED LEGISLATION: An act revising the types of funds subject to appropriation; requiring certain fees and charges to be commensurate with costs; requiring an audit and budget analysis of certain fund types; amending sections 2-8-304 and 17-8-101, MCA; and providing an effective date.

ASSUMPTIONS:

Office of the Legislative Auditor

1. The Legislative Auditor would continue to conduct privatization reviews in accordance with section 2-8-304, MCA and would complete two additional reviews a biennium.
2. The information provided to the office in accordance with section 2-8-304, MCA would include an analysis required by section 2-8-303, MCA. The personal services and operating expense estimate includes an average of 80 hours per privatization review.
3. There would be no increase in total FTE for the Office of the Legislative Auditor. There will be no reduction of required or existing workload and therefore the additional time required to complete this work will be accomplished with compensatory time earned.
4. Operating expenses, which include printing costs and computer time, are based on prior experience and use rates established by the Department of Administration. The funding for the privatization reviews would continue at 100 percent state General Fund.

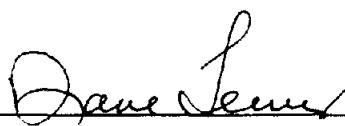
Department of Administration - Accounting

5. OBPP will set target budgets, which will be considered "appropriations" on the state accounting system to allow the use of the state accounting system to record expenditures for management and control purposes and prevent abuses of the flexibility granted in the proposal.
6. The state accounting system will require some programming changes to provide additional flexibility in its internal controls. These programming changes will be made within current appropriation authority.

Office of Budget and Program Planning

7. The bill will significantly reduce legislative appropriations contained in the general appropriation act by elimination double appropriations. Approximately \$208 million of authority will be removed from HB 2 as approved by the appropriation subcommittees upon passage of the proposal.
8. The proposal will not affect budget preparation requirements. Proprietary rates will continue to be established in budget development, but will be given greater scrutiny if they are to be the major control on expenditures.

(Continued)

 3-4-95

DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

ED GRADY, PRIMARY SPONSOR DATE

Fiscal Note for HB0576, as introduced

HB 576

FISCAL IMPACT:

Approximately \$208 million of authority will be removed from HB 2 as approved by the appropriation subcommittees upon passage of the proposal. OBPP will set target budgets, which will be considered "appropriations" on the state accounting system to allow the use of the state accounting system to record expenditures for management and control purposes and prevent abuses of the flexibility granted in the proposal.

Expenditures:

	<u>FY96</u>	<u>FY97</u>
	<u>Difference</u>	<u>Difference</u>
Office of the Legislative Auditor		
Operating Expenses	<u>500</u>	<u>500</u>
Total	500	500
 General Fund (01)	 500	 500

LONG RANGE IMPACTS

Target budgets may be established in future biennia if the legislature determines abuses of the flexibility granted under the proposal has occurred.

TECHNICAL NOTES:

The intent of the proposal is to eliminate significant double counting of appropriations and expenditures to provide a more accurate reflection of the cost of government to the taxpayers of the state (similar to current education cost accounting law and the accounting structure used by many other states).

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0576, second reading

DESCRIPTION OF PROPOSED LEGISLATION:

An act revising the types of funds subject to appropriation; generally revising the law concerning budget amendments; requiring certain fees and charges to be commensurate with costs; requiring an audit and budget analysis of certain fund types; amending sections 2-8-304 and 17-8-101, MCA; and providing an effective date.

ASSUMPTIONS:

Office of the Legislative Auditor

1. The Legislative Auditor would continue to conduct privatization reviews in accordance with section 2-8-304, MCA, and would complete two additional reviews a biennium.
2. The information provided to the office in accordance with section 2-8-304, MCA, would include an analysis required by section 2-8-303, MCA. The personal services and operating expense estimate includes an average of 80 hours per privatization review.
3. There would be no increase in total FTE for the Office of the Legislative Auditor. There will be no reduction of required or existing workload and therefore the additional time required to complete this work will be accomplished with compensatory time earned.
4. Operating expenses, which include printing costs and computer time, are based on prior experience and use rates established by the Department of Administration. The funding for the privatization reviews would continue at 100 percent state General Fund.

Department of Administration - Accounting

5. The state accounting system will require some programming changes to provide additional flexibility in its internal controls. These programming changes will be made within current appropriation authority.

Office of Budget and Program Planning

6. The bill will significantly reduce legislative appropriations contained in the general appropriations act by eliminating double appropriations. Approximately \$208 million of authority will be removed from HB2 as approved by the appropriation subcommittees upon passage of the proposal.
7. The proposal will not affect budget preparation requirements. Proprietary rates will continue to be established during the budget development process, but will be given greater scrutiny because the rates are to be the major control on expenditures.
8. The House Appropriations Committee approved amendments to 17-2-103, MCA, that would require distributions to local governments be accounted for in the fiduciary fund unless the fund type is otherwise specified in statute. Fiduciary funds are not legislatively appropriated and are not treated as "appropriations" on the state

(Continued)

Dave Lewis 3-22-95
DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

ED GRADY, PRIMARY SPONSOR DATE

Fiscal Note for HB0576, second reading

HB 576 # 2

(continued)

ASSUMPTIONS: (8. continued)

accounting system. Affected accounts would include distributions for the following taxes/fees: liquor license tax; beer/wine tax; financial institution corporate tax; gambling license fees; oil and gas local assistance; local government severance tax; video gaming tax; and coal gross proceeds. The distributions all are currently statutorily appropriated in the state special revenue fund and amount to approximately \$65 million per year.

FISCAL IMPACT:

In sum, approximately \$340 million per biennium would be eliminated from appropriations as reflected on the Statewide Budgeting and Accounting System (SBAS):

- o Approximately \$208 million of authority will be removed from HB2; and
- o Approximately \$65 million per year in distributions to local governments currently statutorily appropriated from state special revenue accounts would be accounted for in the fiduciary fund type.

Expenditures:

	<u>FY96</u>	<u>FY97</u>
	<u>Difference</u>	<u>Difference</u>
Office of the Legislative Auditor		
<u>Expenditures:</u>		
Operating Expenses	500	500
<u>Funding:</u>		
General Fund (01)	500	500

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

The proposal would eliminate significant double counting of appropriations and expenditures to provide a more accurate reflection of the cost of government to the taxpayers of the state (similar to the accounting structure used by many other states).

1 HOUSE BILL NO. 576

2 INTRODUCED BY GRADY, ZOOK, QUILICI, MENAHAN

3 BY REQUEST OF THE HOUSE APPROPRIATIONS COMMITTEE

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE TYPES OF FUNDS SUBJECT TO
6 APPROPRIATION; GENERALLY REVISING THE LAW CONCERNING BUDGET AMENDMENTS; REQUIRING
7 CERTAIN FEES AND CHARGES TO BE COMMENSURATE WITH COSTS; REQUIRING AN AUDIT AND
8 BUDGET ANALYSIS OF CERTAIN FUND TYPES; AMENDING SECTIONS 2-8-304, 17-2-103, 17-7-402, AND
9 17-8-101, MCA; AND PROVIDING AN EFFECTIVE DATE."

10
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:12
13 **Section 1.** Section 2-8-304, MCA, is amended to read:

14 **"2-8-304. Review of privatized programs.** (1) If during audits of state agencies, the legislative
15 auditor identifies programs being conducted by an agency under contract that may be administered more
16 cost effectively directly by the agency or identifies services performed by an agency that may be performed
17 more cost effectively by the private sector, ~~he~~ the legislative auditor shall submit this information to the
18 legislative audit committee.

19 (2) Members of the public, elected bargaining agents or employee representatives, elected officials,
20 legislators, and agency directors may submit to the legislative audit committee a request to review
21 programs being conducted under contract by an agency that may be administered more cost effectively
22 directly by the agency.

23 (3) The office of budget and program planning shall submit to the legislative audit committee, by
24 July 1 of each odd-numbered year:

25 (a) a list of all programs accounted for in an enterprise fund or an internal service fund; and

26 (b) a request for privatization review under subsection (1) of at least two of the programs identified
27 in subsection (3)(a), including any available information and criteria required under 2-8-303.

28 ~~(3)~~(4) The legislative audit committee shall review the information and requests provided under
29 subsections (1) and (2) and may direct the legislative auditor to conduct a review of any contracted
30 program or program administered directly by the agency, or both. The review must include a report to the

1 legislative audit committee that includes the information required in a privatization plan under 2-8-303.
 2 ~~(4)~~(5) The report required by subsection ~~(3)~~ (4) must be provided to the legislative audit committee
 3 and released to the public. Not less than 30 days after the release of the report, the legislative audit
 4 committee shall conduct a public hearing on the report at which public comments and testimony must be
 5 received. Upon completion of the hearing on the report, the legislative audit committee may make
 6 recommendations that it believes appropriate concerning the program."

7

8 **SECTION 2. SECTION 17-2-103, MCA, IS AMENDED TO READ:**

9 **"17-2-103. Previous definitions of funds -- identification or segregation of moneys and funds. (1)**

10 It is the intent of the legislature that the definitions in 17-2-102 supersede all previous definitions of public
 11 funds which are inconsistent with the definitions found in this part.

12 (2) Any laws enacted in the future or any contracts entered into in the future in pursuance of law
 13 that require the segregation of moneys in the state treasury by means of a separate treasury fund shall be
 14 interpreted as permitting the segregation of such moneys by means of a subfund or account within one of
 15 the funds created by 17-2-102.

16 (3) Each federal grant or other federal money within any subfund or account of one of the funds
 17 created by 17-2-102(1)(a) through (1)(c) must be identifiable as a separate accounting entity, reporting
 18 center, responsibility center, or revenue identification code, and an account must be made of each such
 19 grant or other money by income and expenditure for each federal grant year or fiscal year as may be
 20 applicable.

21 (4) Unless otherwise specifically provided in the statutes pertaining to the tax, the portion of taxes
 22 collected by the state that, pursuant to a statute, are to be ~~wholly or partially~~ allocated or distributed to
 23 units of local government, school districts, authorities, or other local governmental entities shall be
 24 accounted for in ~~the state special revenue~~ a fiduciary fund, established in 17-2-102, as prescribed by the
 25 department in accordance with generally accepted accounting principles."

26

27 **SECTION 3. SECTION 17-7-402, MCA, IS AMENDED TO READ:**

28 **"17-7-402. Budget amendment requirements. (1)** Except as provided in subsection ~~(6)~~ (5), a budget
 29 amendment may not be approved:

30 (a) by the approving authority, except a budget amendment to spend;

- 1 (i) additional federal revenue;
- 2 (ii) additional tuition collected by the Montana university system;
- 3 (iii) additional revenue deposited in the internal service funds within the department or the office
4 of the commissioner of higher education as a result of increased service demands by state agencies;
- 5 (iv) Montana historical society enterprise revenue resulting from sales to the public; or
- 6 (v) additional revenue deposited in funds, other than the general fund, from the sale of fuel for those
7 agencies participating in the Montana public vehicle fueling program established by Executive Order 22-91,
8 ~~or a new source of revenue that was not available for legislative consideration during the most recent~~
9 ~~legislative session open to that matter;~~
- 10 (b) by the approving authority, ~~which~~ if the budget amendment contains any significant
11 ascertainable commitment for any present or future increased general fund support;
- 12 (c) by the approving authority, for the expenditure of money in the state special revenue fund
13 unless an emergency justifies the expenditure;
- 14 (d) by the approving authority, unless it will provide additional services;
- 15 (e) by the approving authority, for any matter of which the requesting agency had knowledge at
16 a time when the proposal could have been presented to an appropriation subcommittee, the house
17 appropriations committee, or the senate finance and claims committee of the most recent legislative session
18 open to that matter, except when the legislative finance committee is given specific notice by the approving
19 authority that significant identifiable events, specific to Montana and pursuant to provisions or requirements
20 of Montana state law, have occurred since the matter was raised with or presented for consideration by
21 the legislature; or
- 22 (f) to extend beyond June 30 of the last year of any biennium.
- 23 (2) All budget amendments must itemize planned expenditures by fiscal year.
- 24 (3) Each budget amendment must be submitted by the approving authority to the budget director
25 and the office of the legislative fiscal analyst.
- 26 (4) Money from nonstate or nonfederal sources that would be deposited in the state special
27 revenue fund and that is restricted by law or by the terms of a written agreement, such as a contract, trust
28 agreement, or donation, is subject to the review process provided in 17-7-114 and is exempt from the
29 requirements of this part.
- 30 (5) An appropriation that would usually be the subject of a budget amendment that is submitted

1 to the legislature for approval during a legislative session may not include authority to spend money beyond
2 the first fiscal year of the next biennium.

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

5 Section 4. Section 17-8-101, MCA, is amended to read:

6 "**17-8-101. Appropriation and disbursement of money from treasury.** (1) Money deposited in the
7 general fund, the special revenue fund type (except money deposited in the treasury from nonstate and
8 nonfederal sources restricted by law or by the terms of an agreement, such as a contract, trust agreement,
9 or donation), ~~the enterprise fund type, the internal service fund type,~~ and the capital projects fund type,
10 with the exception of refunds authorized in subsection (3), must be paid out of the treasury only on
11 appropriation made by law.

12 (2) Money deposited in the enterprise fund type, the internal service fund type, debt service
13 fund type, expendable trust fund type, nonexpendable trust fund type, pension trust fund type, the state
14 special revenue fund from nonstate and nonfederal sources restricted by law or by the terms of an
15 agreement, such as a contract, trust agreement, or donation, and agency fund type may be paid out of the
16 treasury under general laws, or contracts entered into in pursuance of law, permitting the disbursement.

17 (3) ~~Money~~ Subject to the provisions of subsection (10), money paid into the state treasury through
18 error or under circumstances, such that the state is not legally entitled to retain it and a refund procedure
19 is not otherwise provided by law, may be refunded upon the submission of a verified claim approved by
20 the department of administration.

21 (4) Authority to expend appropriated money may be transferred from one state agency to another,
22 provided that the original purpose of the appropriation is maintained. The office of budget and program
23 planning shall report semiannually to the legislative finance committee concerning all appropriations
24 transferred under the provisions of this section.

25 (5) Fees and charges for services deposited in the internal service fund type must be based upon
26 commensurate costs. The legislative auditor, during regularly scheduled audits of state agencies INTERNAL
27 SERVICE FUNDS, shall audit and report ON THE APPLICATION OF GENERALLY ACCEPTED ACCOUNTING
28 PRINCIPLES IN THE DEVELOPMENT OF FEES AND CHARGES, on the reasonableness of internal service
29 fund type fees and charges, and on the fund equity balances.

30 (6) The office of budget and program planning shall include in the budget submitted to the

1 legislature a report on:

2 (a) enterprise funds, including retained earnings and contributed capital, projected operations and
3 charges, and projected fund balances; and

4 (b) internal service fund type fees and charges, including development of and changes in the level
5 of fees and charges, projected use of the fees and charges, and projected fund balances. INTERNAL
6 SERVICE FUND TYPE FEES AND CHARGES MUST BE APPROVED BY THE LEGISLATURE IN THE GENERAL
7 APPROPRIATIONS ACT.

8 ~~(7) The legislature may examine all enterprise and internal service funds and operations and~~
9 ~~establish in the general appropriations act a targeted spending level and statement of legislative intent as~~
10 ~~to the use of the funds for each individual account.~~

11 ~~(8)(7) Any accounts in the enterprise fund or the internal service fund created after July 1, 1995,~~
12 ~~must be approved by the department, using conformity with generally accepted accounting principles as~~
13 ~~the primary approval criteria. The department shall report annually to the office of budget and program~~
14 ~~planning and the legislative finance committee on the nature, status, and justification for all new accounts~~
15 ~~in the enterprise fund and the internal service fund.~~

16 ~~(9)(8) Without the prior approval of the approving authority, as defined in 17-7-102, expenditures~~
17 ~~from FEES OR CHARGES TO FINANCE an account in the enterprise fund or internal service fund may not~~
18 ~~exceed 110% of each year's target spending level BE INCREASED BY 10% OVER THE LEVEL established~~
19 ~~by the legislature in the most recent legislative session. If the approving authority intends to approve a~~
20 ~~request for expenditures AN INCREASE IN FEES OR CHARGES in excess of 110% of the target spending~~
21 ~~level 10% OF THE LEVEL APPROVED BY THE LEGISLATURE, the approving authority shall forward all~~
22 ~~supporting documentation to the legislative fiscal analyst.~~

23 ~~(10)(9) Enterprise and internal service funds must be appropriated if they are used as a part of a~~
24 ~~program that IS NOT AN ENTERPRISE OR INTERNAL SERVICE FUNCTION AND OTHERWISE requires an~~
25 ~~appropriation."~~

26

27 NEW SECTION. Section 5. Effective date. [This act] is effective July 1, 1995.

28

-END-

1 HOUSE BILL NO. 576

2 INTRODUCED BY GRADY, ZOOK, QUILICI, MENAHAN

3 BY REQUEST OF THE HOUSE APPROPRIATIONS COMMITTEE

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE TYPES OF FUNDS SUBJECT TO
6 APPROPRIATION; GENERALLY REVISING THE LAW CONCERNING BUDGET AMENDMENTS; REQUIRING
7 CERTAIN FEES AND CHARGES TO BE COMMENSURATE WITH COSTS; REQUIRING AN AUDIT AND
8 BUDGET ANALYSIS OF CERTAIN FUND TYPES; AMENDING SECTIONS 2-8-304, 17-2-103, 17-7-402, AND
9 17-8-101, MCA; AND PROVIDING AN EFFECTIVE DATE."

10
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12
13 **Section 1.** Section 2-8-304, MCA, is amended to read:

14 **"2-8-304. Review of privatized programs.** (1) If during audits of state agencies, the legislative
15 auditor identifies programs being conducted by an agency under contract that may be administered more
16 cost effectively directly by the agency or identifies services performed by an agency that may be performed
17 more cost effectively by the private sector, ~~he~~ the legislative auditor shall submit this information to the
18 legislative audit committee.

19 (2) Members of the public, elected bargaining agents or employee representatives, elected officials,
20 legislators, and agency directors may submit to the legislative audit committee a request to review
21 programs being conducted under contract by an agency that may be administered more cost effectively
22 directly by the agency.

23 (3) The office of budget and program planning shall submit to the legislative audit committee, by
24 July 1 of each odd-numbered year:

25 (a) a list of all programs accounted for in an enterprise fund or an internal service fund; and

26 (b) a request for privatization review under subsection (1) of at least two of the programs identified
27 in subsection (3)(a), including any available information and criteria required under 2-8-303.

28 ~~(3)(4)~~ (4) The legislative audit committee shall review the information and requests provided under
29 subsections (1) and (2) and may direct the legislative auditor to conduct a review of any contracted
30 program or program administered directly by the agency, or both. The review must include a report to the

1 legislative audit committee that includes the information required in a privatization plan under 2-8-303.

2 ~~(4)~~(5) The report required by subsection ~~(3)~~ (4) must be provided to the legislative audit committee
3 and released to the public. Not less than 30 days after the release of the report, the legislative audit
4 committee shall conduct a public hearing on the report at which public comments and testimony must be
5 received. Upon completion of the hearing on the report, the legislative audit committee may make
6 recommendations that it believes appropriate concerning the program."

7
8 **SECTION 2. SECTION 17-2-103, MCA, IS AMENDED TO READ:**

9 **"17-2-103. Previous definitions of funds -- identification or segregation of moneys and funds. (1)**

10 It is the intent of the legislature that the definitions in 17-2-102 supersede all previous definitions of public
11 funds which are inconsistent with the definitions found in this part.

12 (2) Any laws enacted in the future or any contracts entered into in the future in pursuance of law
13 that require the segregation of moneys in the state treasury by means of a separate treasury fund shall be
14 interpreted as permitting the segregation of such moneys by means of a subfund or account within one of
15 the funds created by 17-2-102.

16 (3) Each federal grant or other federal money within any subfund or account of one of the funds
17 created by 17-2-102(1)(a) through (1)(c) must be identifiable as a separate accounting entity, reporting
18 center, responsibility center, or revenue identification code, and an account must be made of each such
19 grant or other money by income and expenditure for each federal grant year or fiscal year as may be
20 applicable.

21 (4) Unless otherwise specifically provided in the statutes pertaining to the tax, the portion of taxes
22 collected by the state that, pursuant to a statute, are to be ~~wholly or partially~~ allocated or distributed to
23 units of local government, school districts, authorities, or other local governmental entities shall be
24 accounted for in ~~the state special revenue~~ a fiduciary fund, established in 17-2-102, as prescribed by the
25 department in accordance with generally accepted accounting principles."

26
27 **SECTION 3. SECTION 17-7-402, MCA, IS AMENDED TO READ:**

28 **"17-7-402. Budget amendment requirements. (1)** Except as provided in subsection ~~(6)~~ ~~(5)~~ (6), a
29 budget amendment may not be approved:

30 (a) by the approving authority, except a budget amendment to spend;

- 1 (i) additional federal revenue;
- 2 (ii) additional tuition collected by the Montana university system;
- 3 (iii) additional revenue deposited in the internal service funds within the department or the office
4 of the commissioner of higher education as a result of increased service demands by state agencies;
- 5 (iv) Montana historical society enterprise revenue resulting from sales to the public; or
- 6 (v) additional revenue deposited in funds, other than the general fund, from the sale of fuel for those
7 agencies participating in the Montana public vehicle fueling program established by Executive Order 22-91,
8 ~~or a new source of revenue that was not available for legislative consideration during the most recent~~
9 ~~legislative session open to that matter;~~
- 10 (b) by the approving authority, ~~which~~ if the budget amendment contains any significant
11 ascertainable commitment for any present or future increased general fund support;
- 12 (c) by the approving authority, for the expenditure of money in the state special revenue fund
13 unless an emergency justifies the expenditure;
- 14 (d) by the approving authority, unless it will provide additional services;
- 15 (e) by the approving authority, for any matter of which the requesting agency had knowledge at
16 a time when the proposal could have been presented to an appropriation subcommittee, the house
17 appropriations committee, or the senate finance and claims committee of the most recent legislative session
18 open to that matter, except when the legislative finance committee is given specific notice by the approving
19 authority that significant identifiable events, specific to Montana and pursuant to provisions or requirements
20 of Montana state law, have occurred since the matter was raised with or presented for consideration by
21 the legislature; or
- 22 (f) to extend beyond June 30 of the last year of any biennium.
- 23 (2) All budget amendments must itemize planned expenditures by fiscal year.
- 24 (3) Each budget amendment must be submitted by the approving authority to the budget director
25 and the office of the legislative fiscal analyst.
- 26 (4) Money from nonstate or nonfederal sources that would be deposited in the state special
27 revenue fund and that is restricted by law or by the terms of a written agreement, such as a contract, trust
28 agreement, or donation, is subject to the review process provided in 17-7-114 and is exempt from the
29 requirements of this part.
- 30 (5) An appropriation that would usually be the subject of a budget amendment that is submitted

1 to the legislature for approval during a legislative session may not include authority to spend money beyond
2 the first fiscal year of the next biennium.

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

5
6 **Section 4.** Section 17-8-101, MCA, is amended to read:

7 "**17-8-101. Appropriation and disbursement of money from treasury.** (1) ~~Money~~ EXCEPT AS
8 PROVIDED IN SUBSECTION (5), MONEY deposited in the general fund, the special revenue fund type
9 (except money deposited in the treasury from nonstate and nonfederal sources restricted by law or by the
10 terms of an agreement, such as a contract, trust agreement, or donation), ~~the enterprise fund type, the~~
11 ~~internal service fund type,~~ and the capital projects fund type, with the exception of refunds authorized in
12 subsection (3), must be paid out of the treasury only on appropriation made by law.

13 (2) Money deposited in the enterprise fund type, the internal service fund type, the debt service
14 fund type, expendable trust fund type, nonexpendable trust fund type, pension trust fund type, the state
15 special revenue fund from nonstate and nonfederal sources restricted by law or by the terms of an
16 agreement, such as a contract, trust agreement, or donation, and agency fund type may be paid out of the
17 treasury under general laws, or contracts entered into in pursuance of law, permitting the disbursement.

18 (3) ~~Money~~ Subject to the provisions of subsection (10), money paid into the state treasury through
19 error or under circumstances, such that the state is not legally entitled to retain it and a refund procedure
20 is not otherwise provided by law, may be refunded upon the submission of a verified claim approved by
21 the department of administration.

22 (4) Authority to expend appropriated money may be transferred from one state agency to another,
23 provided that the original purpose of the appropriation is maintained. The office of budget and program
24 planning shall report semiannually to the legislative finance committee concerning all appropriations
25 transferred under the provisions of this section.

26 (5) Fees and charges for services deposited in the internal service fund type must be based upon
27 commensurate costs. The legislative auditor, during regularly scheduled audits of state agencies INTERNAL
28 SERVICE FUNDS, shall audit and report ON THE APPLICATION OF GENERALLY ACCEPTED ACCOUNTING
29 PRINCIPLES IN THE DEVELOPMENT OF FEES AND CHARGES, on the reasonableness of internal service
30 fund type fees and charges, and on the fund equity balances.

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
April 4, 1995

MR. PRESIDENT:

We, your committee on Finance and Claims having had under consideration HB 576 (third reading copy -- blue), respectfully report that HB 576 be amended as follows and as so amended be concurred in.

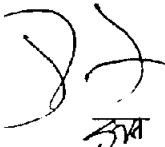
Signed: 
Senator Gary Aklestad, Chair

That such amendments read:

1. Page 4, lines 27 through 30.
Strike: "INTERNAL" on line 27 through "FUNDS" on line 28
Insert: "state agencies"
Strike: "ON" on line 28 through "CHARGES," on line 29
Following: "type" on line 30
Insert: "internal service fund type"
Following: "charges"
Strike: "└"

-END-

HB 576


Amd. Coord.
Sec. of Senate


Senator Carrying Bill

SENATE
771516SC.SRF

SENATE COMMITTEE OF THE WHOLE AMENDMENT

April 6, 1995 1:18 pm

Mr. Chairman: I move to amend HB 576 (third reading copy -- blue).

ADOPT

REJECT

Signed: _____

Ch. Tol
Senator Aklestad

That such amendments read:

1. Page 4, line 18.

Strike: "(10)"

Insert: "(8)"

2. Page 5, line 8.

Following: "ACT."

Insert: "Fees and charges in any biennium may not exceed the level approved by the legislature in the general appropriations act effective for that biennium."

3. Page 5, lines 17 through 23.

Strike: Subsection (8) in its entirety.

Renumber: subsequent subsections

This amendment eliminates the provision that a program may increase fees and charges by no more than 10 percent with the approval of the approving authority, and requires programs to maintain fees and charges at no more than the level established by the last legislature.

-END-

HB 576

SENATE

AS
Amd. Coord.

1 HOUSE BILL NO. 576

2 INTRODUCED BY GRADY, ZOOK, QUILICI, MENAHAN
 3 BY REQUEST OF THE HOUSE APPROPRIATIONS COMMITTEE
 4

5 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE TYPES OF FUNDS SUBJECT TO
 6 APPROPRIATION; GENERALLY REVISING THE LAW CONCERNING BUDGET AMENDMENTS; REQUIRING
 7 CERTAIN FEES AND CHARGES TO BE COMMENSURATE WITH COSTS; REQUIRING AN AUDIT AND
 8 BUDGET ANALYSIS OF CERTAIN FUND TYPES; AMENDING SECTIONS 2-8-304, 17-2-103, 17-7-402, AND
 9 17-8-101, MCA; AND PROVIDING AN EFFECTIVE DATE."

10
 11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 12

13 **Section 1.** Section 2-8-304, MCA, is amended to read:

14 **"2-8-304. Review of privatized programs.** (1) If during audits of state agencies, the legislative
 15 auditor identifies programs being conducted by an agency under contract that may be administered more
 16 cost effectively directly by the agency or identifies services performed by an agency that may be performed
 17 more cost effectively by the private sector, ~~he~~ the legislative auditor shall submit this information to the
 18 legislative audit committee.

19 (2) Members of the public, elected bargaining agents or employee representatives, elected officials,
 20 legislators, and agency directors may submit to the legislative audit committee a request to review
 21 programs being conducted under contract by an agency that may be administered more cost effectively
 22 directly by the agency.

23 (3) The office of budget and program planning shall submit to the legislative audit committee, by
 24 July 1 of each odd-numbered year:

25 (a) a list of all programs accounted for in an enterprise fund or an internal service fund; and

26 (b) a request for privatization review under subsection (1) of at least two of the programs identified
 27 in subsection (3)(a), including any available information and criteria required under 2-8-303.

28 ~~(3)(4)~~ (4) The legislative audit committee shall review the information and requests provided under
 29 subsections (1) and (2) and may direct the legislative auditor to conduct a review of any contracted
 30 program or program administered directly by the agency, or both. The review must include a report to the

1 legislative audit committee that includes the information required in a privatization plan under 2-8-303.

2 ~~(4)~~(5) The report required by subsection ~~(3)~~ (4) must be provided to the legislative audit committee
3 and released to the public. Not less than 30 days after the release of the report, the legislative audit
4 committee shall conduct a public hearing on the report at which public comments and testimony must be
5 received. Upon completion of the hearing on the report, the legislative audit committee may make
6 recommendations that it believes appropriate concerning the program."

7
8 **SECTION 2. SECTION 17-2-103, MCA, IS AMENDED TO READ:**

9 **"17-2-103. Previous definitions of funds -- identification or segregation of moneys and funds. (1)**

10 It is the intent of the legislature that the definitions in 17-2-102 supersede all previous definitions of public
11 funds which are inconsistent with the definitions found in this part.

12 (2) Any laws enacted in the future or any contracts entered into in the future in pursuance of law
13 that require the segregation of moneys in the state treasury by means of a separate treasury fund shall be
14 interpreted as permitting the segregation of such moneys by means of a subfund or account within one of
15 the funds created by 17-2-102.

16 (3) Each federal grant or other federal money within any subfund or account of one of the funds
17 created by 17-2-102(1)(a) through (1)(c) must be identifiable as a separate accounting entity, reporting
18 center, responsibility center, or revenue identification code, and an account must be made of each such
19 grant or other money by income and expenditure for each federal grant year or fiscal year as may be
20 applicable.

21 (4) Unless otherwise specifically provided in the statutes pertaining to the tax, the portion of taxes
22 collected by the state that, pursuant to a statute, are to be ~~wholly or partially~~ allocated or distributed to
23 units of local government, school districts, authorities, or other local governmental entities shall be
24 accounted for in ~~the state special revenue~~ a fiduciary fund, established in 17-2-102, as prescribed by the
25 department in accordance with generally accepted accounting principles."

26
27 **SECTION 3. SECTION 17-7-402, MCA, IS AMENDED TO READ:**

28 **"17-7-402. Budget amendment requirements. (1)** Except as provided in subsection ~~(6)~~ ~~(5)~~ (6), a
29 budget amendment may not be approved:

30 (a) by the approving authority, except a budget amendment to spend;

- 1 (i) additional federal revenue;
- 2 (ii) additional tuition collected by the Montana university system;
- 3 (iii) additional revenue deposited in the internal service funds within the department or the office
 4 of the commissioner of higher education as a result of increased service demands by state agencies;
- 5 (iv) Montana historical society enterprise revenue resulting from sales to the public; or
- 6 (v) additional revenue deposited in funds, other than the general fund, from the sale of fuel for those
 7 agencies participating in the Montana public vehicle fueling program established by Executive Order 22-91,
 8 or a new source of revenue that was not available for legislative consideration during the most recent
 9 legislative session open to that matter;
- 10 (b) by the approving authority, ~~which~~ if the budget amendment contains any significant
 11 ascertainable commitment for any present or future increased general fund support;
- 12 (c) by the approving authority, for the expenditure of money in the state special revenue fund
 13 unless an emergency justifies the expenditure;
- 14 (d) by the approving authority, unless it will provide additional services;
- 15 (e) by the approving authority, for any matter of which the requesting agency had knowledge at
 16 a time when the proposal could have been presented to an appropriation subcommittee, the house
 17 appropriations committee, or the senate finance and claims committee of the most recent legislative session
 18 open to that matter, except when the legislative finance committee is given specific notice by the approving
 19 authority that significant identifiable events, specific to Montana and pursuant to provisions or requirements
 20 of Montana state law, have occurred since the matter was raised with or presented for consideration by
 21 the legislature; or
- 22 (f) to extend beyond June 30 of the last year of any biennium.
- 23 (2) All budget amendments must itemize planned expenditures by fiscal year.
- 24 (3) Each budget amendment must be submitted by the approving authority to the budget director
 25 and the office of the legislative fiscal analyst.
- 26 (4) Money from nonstate or nonfederal sources that would be deposited in the state special
 27 revenue fund and that is restricted by law or by the terms of a written agreement, such as a contract, trust
 28 agreement, or donation, is subject to the review process provided in 17-7-114 and is exempt from the
 29 requirements of this part.
- 30 (5) An appropriation that would usually be the subject of a budget amendment that is submitted

1 to the legislature for approval during a legislative session may not include authority to spend money beyond
2 the first fiscal year of the next biennium.

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

5
6 **Section 4.** Section 17-8-101, MCA, is amended to read:

7 **"17-8-101. Appropriation and disbursement of money from treasury.** (1) ~~Money~~ EXCEPT AS
8 PROVIDED IN SUBSECTION (5), MONEY deposited in the general fund, the special revenue fund type
9 (except money deposited in the treasury from nonstate and nonfederal sources restricted by law or by the
10 terms of an agreement, such as a contract, trust agreement, or donation), ~~the enterprise fund type, the~~
11 ~~internal service fund type,~~ and the capital projects fund type, with the exception of refunds authorized in
12 subsection (3), must be paid out of the treasury only on appropriation made by law.

13 (2) Money deposited in the enterprise fund type, the internal service fund type, the debt service
14 fund type, expendable trust fund type, nonexpendable trust fund type, pension trust fund type, the state
15 special revenue fund from nonstate and nonfederal sources restricted by law or by the terms of an
16 agreement, such as a contract, trust agreement, or donation, and agency fund type may be paid out of the
17 treasury under general laws, or contracts entered into in pursuance of law, permitting the disbursement.

18 (3) ~~Money~~ Subject to the provisions of subsection (4) (8), money paid into the state treasury
19 through error or under circumstances, such that the state is not legally entitled to retain it and a refund
20 procedure is not otherwise provided by law, may be refunded upon the submission of a verified claim
21 approved by the department of administration.

22 (4) Authority to expend appropriated money may be transferred from one state agency to another,
23 provided that the original purpose of the appropriation is maintained. The office of budget and program
24 planning shall report semiannually to the legislative finance committee concerning all appropriations
25 transferred under the provisions of this section.

26 (5) Fees and charges for services deposited in the internal service fund type must be based upon
27 commensurate costs. The legislative auditor, during regularly scheduled audits of state agencies ~~INTERNAL~~
28 ~~SERVICE FUNDS STATE AGENCIES,~~ shall audit and report ~~ON THE APPLICATION OF GENERALLY~~
29 ~~ACCEPTED ACCOUNTING PRINCIPLES IN THE DEVELOPMENT OF FEES AND CHARGES,~~ on the
30 reasonableness of internal service fund type INTERNAL SERVICE FUND TYPE fees and charges, and on the

1 fund equity balances.

2 (6) The office of budget and program planning shall include in the budget submitted to the
3 legislature a report on:

4 (a) enterprise funds, including retained earnings and contributed capital, projected operations and
5 charges, and projected fund balances; and

6 (b) internal service fund type fees and charges, including development of and changes in the level
7 of fees and charges, projected use of the fees and charges, and projected fund balances. INTERNAL
8 SERVICE FUND TYPE FEES AND CHARGES MUST BE APPROVED BY THE LEGISLATURE IN THE GENERAL
9 APPROPRIATIONS ACT. FEES AND CHARGES IN ANY BIENNIUM MAY NOT EXCEED THE LEVEL
10 APPROVED BY THE LEGISLATURE IN THE GENERAL APPROPRIATIONS ACT EFFECTIVE FOR THAT
11 BIENNIUM.

12 ~~(7) The legislature may examine all enterprise and internal service funds and operations and~~
13 ~~establish in the general appropriations act a targeted spending level and statement of legislative intent as~~
14 ~~to the use of the funds for each individual account.~~

15 ~~(8)(7) Any accounts in the enterprise fund or the internal service fund created after July 1, 1995,~~
16 ~~must be approved by the department, using conformity with generally accepted accounting principles as~~
17 ~~the primary approval criteria. The department shall report annually to the office of budget and program~~
18 ~~planning and the legislative finance committee on the nature, status, and justification for all new accounts~~
19 ~~in the enterprise fund and the internal service fund.~~

20 ~~(9)(8) Without the prior approval of the approving authority, as defined in 17-7-102, expenditures~~
21 ~~from FEES OR CHARGES TO FINANCE an account in the enterprise fund or internal service fund may not~~
22 ~~exceed 110% of each year's target spending level BE INCREASED BY 10% OVER THE LEVEL established~~
23 ~~by the legislature in the most recent legislative session. If the approving authority intends to approve a~~
24 ~~request for expenditures AN INCREASE IN FEES OR CHARGES in excess of 110% of the target spending~~
25 ~~level 10% OF THE LEVEL APPROVED BY THE LEGISLATURE, the approving authority shall forward all~~
26 ~~supporting documentation to the legislative fiscal analyst.~~

27 ~~(10)(9)(8) Enterprise and internal service funds must be appropriated if they are used as a part of~~
28 ~~a program that IS NOT AN ENTERPRISE OR INTERNAL SERVICE FUNCTION AND OTHERWISE requires an~~
29 ~~appropriation."~~

30

