

1

SENATE BILL NO. 14

2

INTRODUCED BY GAGE

3

BY REQUEST OF THE DEPARTMENT OF ADMINISTRATION

4

5 A BILL FOR AN ACT ENTITLED: "AN ACT CHANGING THE FUND TYPE USED TO ACCOUNT FOR
6 ESCHEAT PROPERTY FROM THE AGENCY FUND TO THE EXPENDABLE TRUST FUND, AS REQUIRED BY
7 GENERALLY ACCEPTED ACCOUNTING PRINCIPLES; AMENDING SECTIONS 17-8-303, 39-3-213,
8 70-9-309, 72-14-204, 72-14-205, 72-14-206, 72-14-207, 72-14-209, 72-14-210, AND 72-14-403, MCA;
9 AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

10

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

12

13 **Section 1.** Section 17-8-303, MCA, is amended to read:

14 **"17-8-303. Warrants -- presentation and cancellation.** (1) State warrants must be presented for
15 payment within the time limits specified as follows:

16 (a) Except as provided in subsection (1)(b), all warrants drawn by the state auditor on the state
17 treasury ~~shall~~ must be presented for payment within 6 months after the date of the issue ~~thereof~~.

18 (b) Warrants issued for the department of social and rehabilitation services that are funded to any
19 extent with federal money ~~shall~~ must be presented for payment within 180 days after the date of issue.

20 (2) ~~Should~~ If the payee or legal holder of any warrant ~~fail~~ fails to present it for payment within the
21 time specified in subsection (1), the state auditor shall ~~enter~~ record the ~~same~~ warrant as canceled ~~on the~~
22 ~~books of his office~~ and the amount ~~shall~~ must be credited to a separate ~~agency~~ expendable trust fund
23 account administered by the state auditor. ~~Should~~ If the payee or legal owner of ~~any~~ a canceled warrant
24 ~~present~~ presents it for payment or ~~present~~ presents a claim for payment within 4 years from the date of
25 issue, the state auditor may, upon proper showing by affidavit, issue a new warrant in lieu ~~thereof~~ of the
26 canceled warrant.

27 (3) Three years and 6 months after cancellation, the warrant ~~shall~~ must be classed as unclaimed
28 property subject to the provisions of Title 70, chapter 9, parts 1 through 3. ~~Should~~ If the payee or legal
29 owner of ~~any~~ a canceled warrant ~~present~~ presents it for payment or ~~present~~ presents a claim for payment,
30 ~~such~~ the presentation ~~shall~~ must be to the department of revenue as provided in 70-9-310."

1 **Section 2.** Section 39-3-213, MCA, is amended to read:

2 **"39-3-213. Disposition of wages.** (1) The commissioner of labor and industry shall deposit wages
3 collected ~~by him~~ under parts 2 and 4 of this chapter into the ~~agency~~ expendable trust fund and shall
4 attempt to make payment of wages to the entitled person. Wages deposited into the ~~agency~~ expendable
5 trust fund ~~are~~ do not bear interest ~~bearing~~. The payment of wages collected may be made by means of
6 state warrants.

7 (2) Warrants issued pursuant to subsection (1) ~~which~~ that remain unclaimed for more than 1 year
8 from the date of issuance ~~shall~~ must be returned to the state auditor for cancellation in accordance with
9 17-8-303."

10

11 **Section 3.** Section 70-9-309, MCA, is amended to read:

12 **"70-9-309. Deposit of money -- record -- deduction of costs.** (1) Except for patronage refunds
13 retained under 35-18-316, all money received under parts 1 through 3, including the proceeds from the sale
14 of abandoned property under 70-9-308, must be immediately deposited by the department of revenue with
15 the state treasurer for credit to the public school nonexpendable trust fund of the state, except that the
16 state treasurer shall retain in the ~~agency~~ expendable trust fund an amount not exceeding \$25,000 from
17 which the treasurer shall make prompt payment of claims allowed by the department as provided in this
18 section.

19 (2) (a) Before making the deposit, the department shall record:

20 (i) the name and last-known address of each person appearing from the holders' reports to be
21 entitled to the abandoned property; and ~~or~~

22 (ii) the name and last-known address of each insured person or annuitant and, with respect to each
23 policy or contract listed in the report of a life insurance corporation, its number, the name of the
24 corporation, and the amount due.

25 (b) The record must be available for public inspection at all reasonable business hours.

26 (3) Before making any deposit to the credit of the public school nonexpendable trust fund, the
27 department may deduct:

28 (a) any costs in connection with sale of abandoned property;

29 (b) any costs of mailing and publication in connection with any abandoned property; and

30 (c) reasonable service charges."

1 **Section 4.** Section 72-14-204, MCA, is amended to read:

2 **"72-14-204. Order directing sale of property upon final settlement of estate.** At the final
3 settlement of any an estate, if there be are no heirs or other claimants thereof, the district judge shall make
4 an order directing the public administrator to sell all property belonging to the estate and pay the proceeds
5 to the county treasurer, who The county treasurer shall keep an account with such estate of all moneys
6 the money received from each estate and paid to him, and the county treasurer and shall forthwith remit
7 all of said the money to the department of revenue with a statement as to the estates of the estate to
8 which the money belongs. The department shall immediately deliver such the money to the state treasurer
9 who shall thereupon for deposit such money so received by him in the agency expendable trust fund of the
10 state of Montana."

11

12 **Section 5.** Section 72-14-205, MCA, is amended to read:

13 **"72-14-205. Unsold intangible personal property -- how disposed of -- auction sale.** (1) If the
14 intangible personal property in an escheated estate was not sold by the personal representative at the final
15 settlement of the estate as by law provided, then it shall be the duty of the personal representative to shall
16 deliver all of such the property to the department of revenue with a statement setting forth the name of
17 the estate to which it belongs, and the. The department must shall, within 1 year of the receipt of such
18 the property, cause the same to be sold sell the property to the highest bidder at a public auction sale at
19 the department's office in Helena, Montana.

20 (2) The department shall give notice of such the sale by publication in a Helena newspaper
21 published in the city of Helena, Montana, once a week for 2 successive weeks, making in all two
22 publications, the The last publication to must be at least 20 days prior to the date of such the sale. Such
23 The notice shall must give the time and place of such the sale and shall must contain a list and description
24 of the stocks, bonds, securities, or other intangible personal property to be sold.

25 (3) All of the expenses of such the sale shall must be deducted from the proceeds thereof of the
26 sale by the department, and the balance of such the proceeds shall must be delivered by the department
27 to the state treasurer for deposit in the agency expendable trust fund of the state of Montana."

28

29 **Section 6.** Section 72-14-206, MCA, is amended to read:

30 **"72-14-206. Unsold real property -- how disposed of -- auction sale.** (1) If the real property was

1 not sold by the personal representative at the final settlement of the estate ~~as by law provided~~, then it shall
2 be the ~~duty of~~ the personal representative to shall make and execute to the state of Montana a deed and
3 to deliver the same deed to the county clerk and recorder of the county ~~wherein such in which the~~ real
4 property is situated, ~~and it shall then become the duty of the~~ The county clerk and recorder to shall file
5 and record said the deed, without charge, and ~~after being so recorded the county clerk and recorder shall~~ mail the deed to the department of revenue, ~~which~~, The department of revenue shall make a record thereof
6 the deed and deliver the deed it to the board of land commissioners.

7
8 (2) Within 1 year after the receipt of such the recorded deed, the board shall ~~cause such sell the~~
9 property ~~to be sold~~ to the highest bidder at a public auction sale to be held at the courthouse in the county
10 where such the real property or any part thereof of the property is situated.

11
12 (3) The board shall give notice of such the sale by publication once a week for 2 weeks in a
13 newspaper published in the county ~~wherein such in which the~~ real estate or any part thereof of the real
14 estate is situated ~~once a week for 2 weeks, making in all two publications, the~~ The last publication to
15 must be at least 20 days prior to the date of such the sale. Such The notice shall must give the time and
place of such the sale and contain a description of the real property to be sold.

16
17 (4) All expenses of such the sale shall must be deducted by the board from the proceeds thereof
18 of the sale, and the balance of such the proceeds shall must be turned over to the state treasurer ~~who shall~~
19 ~~for deposit the same in the agency expendable trust fund of the state of Montana~~. The board shall provide
20 the department with a statement indicating the sale price, expenses, and net proceeds resulting from each
such sale."

21

22 **Section 7.** Section 72-14-207, MCA, is amended to read:

23 **"72-14-207. Unsold tangible personal property -- how disposed of -- auction sale.** (1) If the
24 tangible personal property in an escheated estate was not sold by the personal representative at the final
25 settlement of the estate ~~as provided by law~~, ~~it is the duty of~~ the personal representative to shall deliver
26 such the property to the county treasurer. The county treasurer ~~must~~ shall, within 1 year of the receipt
27 of such the property, ~~cause it to be sold~~ sell it to the highest bidder at a public auction sale at the county
28 seat of the county of administration of the estate.

29
30 (2) The county treasurer shall give notice of such the sale by publication once a week for 2
successive weeks in a newspaper published in the county of administration ~~once a week for 2 successive~~

1 ~~weeks making in all two publications, the.~~ The last publication to ~~must~~ be at least 20 days prior to the date
2 of ~~such~~ the sale. The notice shall give the time and place of such sale and contain a description of the
3 property to be sold.

4 (3) All expenses of ~~such~~ the sale ~~shall~~ ~~must~~ be deducted from the proceeds ~~thereof~~ of the sale by
5 the county treasurer, and the balance of ~~such~~ the proceeds ~~shall~~ ~~must~~ be delivered by the county treasurer
6 to the department of revenue for deposit in the ~~agency~~ expendable trust fund of the state of Montana."

7

8 **Section 8.** Section 72-14-209, MCA, is amended to read:

9 **"72-14-209. Deposit of all sums escheated -- agency expendable trust fund.** All sums escheated
10 under the provisions of parts 1 through 3 of this chapter ~~shall~~ ~~must~~ be delivered by the department of
11 revenue to the state treasurer and deposited by the treasurer in the ~~agency~~ expendable trust fund."

12

13 **Section 9.** Section 72-14-210, MCA, is amended to read:

14 **"72-14-210. Agency Expendable trust fund ~~money~~ money to be held in trust -- deposit in public**
15 **school nonexpendable trust fund. ~~Money~~ Money and ~~properties~~ placed in the ~~agency~~**
16 **expendable trust fund ~~shall~~ ~~must~~ be held in trust for a period of 5 years prior to deposit in the public school**
17 **nonexpendable trust fund by the state treasurer; ~~such~~ The expendable trust being is for the benefit of**
18 **persons ~~claiming~~ who claim property pursuant to part 3 of this chapter. ~~Such~~ A claim may be brought**
19 **for an amount equal to the full amount or value of the property escheated minus the costs and expenses**
20 **incident to reducing the ~~same~~ property to the possession of the state."**

21

22 **Section 10.** Section 72-14-403, MCA, is amended to read:

23 **"72-14-403. Deposit of unclaimed property in state treasury -- escheat.** (1) All money or other
24 property distributed in the administration of an estate of a decedent or as the subject of a trust and
25 deposited before or after July 1, 1947, with the county treasurer to the credit of the distributee or
26 beneficiary and any money remaining on deposit to the credit of an estate after final distribution must,
27 within 1 year of receipt by the county treasurer, be delivered into the state treasury for deposit in the
28 ~~agency~~ expendable trust fund by the county treasurer ~~upon the expiration of 1 year from the day of such~~
29 ~~deposit~~.

30 (2) Money ~~If~~ money or other property ~~is~~ deposited in the state treasury, ~~if~~ is not claimed by the

1 person or persons entitled ~~thereto to the property~~ by bringing an action as provided in part 3 of this
2 chapter, ~~shall escheat the money or property escheats~~ to the state of ~~Montana~~ and ~~must~~ be placed in the
3 public school nonexpendable trust fund ~~as provided therein.~~"

4

5 **NEW SECTION. Section 11. Retroactive applicability.** [This act] applies retroactively, within the
6 meaning of 1-2-109, to July 1, 1994.

7

8 **NEW SECTION. Section 12. Effective date.** [This act] is effective on passage and approval.

9

-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for SB0014, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

An act changing the fund type used to account for escheat property from the agency fund to the expendable trust fund, as required by generally accepted accounting principles.

FISCAL IMPACT:

No fiscal impact.

Dave Lewis 1-3-95
DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

DG DELWYN GAGE PRIMARY SPONSOR

1-3-95 DATE

Fiscal Note for SB0014, as introduced

SB 14

APPROVED BY COMMITTEE
ON TAXATION

1 SENATE BILL NO. 14
2 INTRODUCED BY GAGE
3 BY REQUEST OF THE DEPARTMENT OF ADMINISTRATION
4

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6 ESCHEAT PROPERTY FROM THE AGENCY FUND TO THE EXPENDABLE TRUST FUND, AS REQUIRED BY
7 GENERALLY ACCEPTED ACCOUNTING PRINCIPLES; INCREASING TO \$100,000 THE MAXIMUM AMOUNT
8 ALLOWED TO BE RETAINED FOR PAYMENT OF CLAIMS; AMENDING SECTIONS 17-8-303, 39-3-213,
9 70-9-309, 72-14-204, 72-14-205, 72-14-206, 72-14-207, 72-14-209, 72-14-210, AND 72-14-403, MCA;
10 AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

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14 **Section 1.** Section 17-8-303, MCA, is amended to read:

15 **"17-8-303. Warrants -- presentation and cancellation.** (1) State warrants must be presented for
16 payment within the time limits specified as follows:

17 (a) Except as provided in subsection (1)(b), all warrants drawn by the state auditor on the state
18 treasury ~~shall~~ must be presented for payment within 6 months after the date of the issue ~~thereof~~.

19 (b) Warrants issued for the department of social and rehabilitation services that are funded to any
20 extent with federal money ~~shall~~ must be presented for payment within 180 days after the date of issue.

21 (2) ~~Should~~ If the payee or legal holder of any warrant ~~fail~~ fails to present it for payment within the
22 time specified in subsection (1), the state auditor shall ~~enter~~ record the same warrant as canceled ~~on the~~
23 ~~books of his office~~ and the amount ~~shall~~ must be credited to a separate ~~agency~~ expendable trust fund
24 account administered by the state auditor. ~~Should~~ If the payee or legal owner of ~~any~~ a canceled warrant
25 ~~present~~ presents it for payment or ~~present~~ presents a claim for payment within 4 years from the date of
26 issue, the state auditor may, upon proper showing by affidavit, issue a new warrant in lieu ~~thereof~~ of the
27 canceled warrant.

28 (3) Three years and 6 months after cancellation, the warrant ~~shall~~ must be classed as unclaimed
29 property subject to the provisions of Title 70, chapter 9, parts 1 through 3. ~~Should~~ If the payee or legal
30 owner of ~~any~~ a canceled warrant ~~present~~ presents it for payment or ~~present~~ presents a claim for payment,

1 such the presentation ~~shall~~ must be to the department of revenue as provided in 70-9-310."

2

3 **Section 2.** Section 39-3-213, MCA, is amended to read:

4 **"39-3-213. Disposition of wages.** (1) The commissioner of labor and industry shall deposit wages
5 collected ~~by him~~ under parts 2 and 4 of this chapter into the agency expendable trust fund and shall
6 attempt to make payment of wages to the entitled person. Wages deposited into the agency expendable
7 trust fund ~~are~~ do not bear interest bearing. The payment of wages collected may be made by means of
8 state warrants.

9 (2) Warrants issued pursuant to subsection (1) ~~which~~ that remain unclaimed for more than 1 year
10 from the date of issuance ~~shall~~ must be returned to the state auditor for cancellation in accordance with
11 17-8-303."

12

13 **Section 3.** Section 70-9-309, MCA, is amended to read:

14 **"70-9-309. Deposit of money -- record -- deduction of costs.** (1) Except for patronage refunds
15 retained under 35-18-316, all money received under parts 1 through 3, including the proceeds from the sale
16 of abandoned property under 70-9-308, must be immediately deposited by the department of revenue with
17 the state treasurer for credit to the public school nonexpendable trust fund of the state, except that the
18 state treasurer shall retain in the agency expendable trust fund an amount not exceeding \$25,000
19 \$100,000 from which the treasurer shall make prompt payment of claims allowed by the department as
20 provided in this section.

21 (2) (a) Before making the deposit, the department shall record:

22 (i) the name and last-known address of each person appearing from the holders' reports to be
23 entitled to the abandoned property; and ~~or~~

24 (ii) the name and last-known address of each insured person or annuitant and, with respect to each
25 policy or contract listed in the report of a life insurance corporation, its number, the name of the
26 corporation, and the amount due.

27 (b) The record must be available for public inspection at all reasonable business hours.

28 (3) Before making any deposit to the credit of the public school nonexpendable trust fund, the
29 department may deduct:

30 (a) any costs in connection with sale of abandoned property;

- (b) any costs of mailing and publication in connection with any abandoned property; and
- (c) reasonable service charges."

Section 4. Section 72-14-204, MCA, is amended to read:

5 "72-14-204. Order directing sale of property upon final settlement of estate. At the final
6 settlement of any an estate, if there be are no heirs or other claimants thereof, the district judge shall make
7 an order directing the public administrator to sell all property belonging to the estate and pay the proceeds
8 to the county treasurer, who The county treasurer shall keep an account with such estate of all moneys
9 the money received from each estate and paid to him, and the county treasurer and shall forthwith remit
10 all of said the money to the department of revenue with a statement as to the estates of the estate to
11 which the money belongs. The department shall immediately deliver such the money to the state treasurer
12 who shall thereupon for deposit such money so received by him in the agency expendable trust fund of the
13 state of Montana."

Section 5. Section 72-14-205, MCA, is amended to read:

16 "72-14-205. Unsold intangible personal property -- how disposed of -- auction sale. (1) If the
17 intangible personal property in an escheated estate was not sold by the personal representative at the final
18 settlement of the estate ~~as by law provided~~, then it shall be the duty of the personal representative to shall
19 deliver all of such the property to the department of revenue with a statement setting forth the name of
20 the estate to which it belongs, ~~and the~~. The department ~~must~~ shall, within 1 year of the receipt of such
21 the property, ~~cause the same to be sold~~ sell the property to the highest bidder at a public auction sale at
22 the department's office in Helena, Montana.

23 (2) The department shall give notice of ~~such the~~ sale by publication in a Helena newspaper
24 ~~published in the city of Helena, Montana~~, once a week for 2 successive weeks, ~~making in all two~~
25 ~~publications, the~~ The last publication ~~to~~ must be at least 20 days prior to the date of ~~such the~~ sale. ~~Such~~
26 The notice ~~shall~~ must give the time and place of ~~such the~~ sale and ~~shall~~ must contain a list and description
27 of the stocks, bonds, securities, or other intangible personal property to be sold.

28 (3) All of the expenses of ~~such~~ the sale ~~shall~~ must be deducted from the proceeds ~~thereof~~ of the
29 sale by the department, and the balance of ~~such~~ the proceeds ~~shall~~ must be delivered by the department
30 to the state treasurer for deposit in the ~~agency~~ expendable trust fund ~~of the state of Montana~~."



1 **Section 6.** Section 72-14-206, MCA, is amended to read:

2 **"72-14-206. Unsold real property -- how disposed of -- auction sale.** (1) If the real property was
3 not sold by the personal representative at the final settlement of the estate ~~as by law provided~~, then it shall
4 be the duty of the personal representative ~~to~~ shall make and execute to the state of Montana a deed and
5 to deliver the same deed to the county clerk and recorder of the county ~~wherein such in which the~~ real
6 property is situated, ~~and it shall then become the duty of the~~ The county clerk and recorder ~~to~~ shall file
7 and record said the deed, without charge, and ~~after being so recorded the county clerk and recorder~~ shall
8 mail the deed to the department of revenue, ~~which~~, The department of revenue shall make a record ~~thereof~~
9 the deed and deliver ~~the~~ deed it to the board of land commissioners.

10 (2) Within 1 year after the receipt of such the recorded deed, the board shall ~~cause such sell the~~
11 property ~~to be sold~~ to the highest bidder at a public auction sale to be held at the courthouse in the county
12 where such the real property or any part thereof of the property is situated.

13 (3) The board shall give notice of such the sale by publication once a week for 2 weeks in a
14 newspaper published in the county ~~wherein such in which the~~ real estate or any part thereof of the real
15 estate is situated ~~once a week for 2 weeks, making in all two publications, the~~ The last publication to
16 must be at least 20 days prior to the date of such the sale. Such The notice shall must give the time and
17 place of such the sale and contain a description of the real property to be sold.

18 (4) All expenses of such the sale shall must be deducted by the board from the proceeds thereof
19 of the sale, and the balance of such the proceeds shall must be turned over to the state treasurer ~~who shall~~
20 for deposit the same in the agency expendable trust fund of the state of Montana. The board shall provide
21 the department with a statement indicating the sale price, expenses, and net proceeds resulting from each
22 such sale."

23

24 **Section 7.** Section 72-14-207, MCA, is amended to read:

25 **"72-14-207. Unsold tangible personal property -- how disposed of -- auction sale.** (1) If the
26 tangible personal property in an escheated estate was not sold by the personal representative at the final
27 settlement of the estate ~~as provided by law, it is the duty of the personal representative to~~ shall deliver
28 such the property to the county treasurer. The county treasurer ~~must~~ shall, within 1 year of the receipt
29 of such the property, ~~cause it to be sold~~ sell it to the highest bidder at a public auction sale at the county
30 seat of the county of administration of the estate.

1 (2) The county treasurer shall give notice of ~~such~~ the sale by publication ~~once a week for 2~~
2 ~~successive weeks~~ in a newspaper published in the county of administration ~~once a week for 2 successive~~
3 ~~weeks making in all two publications, the.~~ The last publication ~~to~~ must be at least 20 days prior to the date
4 of ~~such~~ the sale. The notice shall give the time and place of such sale and contain a description of the
5 property to be sold.

6 (3) All expenses of ~~such~~ the sale ~~shall~~ must be deducted from the proceeds ~~thereof~~ of the sale by
7 the county treasurer, and the balance of ~~such~~ the proceeds ~~shall~~ must be delivered by the county treasurer
8 to the department of revenue for deposit in the ~~agency~~ expendable trust fund ~~of the state of Montana.~~"

9

10 Section 8. Section 72-14-209, MCA, is amended to read:

11 "72-14-209. Deposit of all sums escheated -- ~~agency~~ expendable trust fund. All sums escheated
12 under the provisions of parts 1 through 3 of this chapter ~~shall~~ must be delivered by the department of
13 revenue to the state treasurer and deposited by the treasurer in the ~~agency~~ expendable trust fund."

14

15 Section 9. Section 72-14-210, MCA, is amended to read:

16 "72-14-210. ~~Agency~~ Expendable trust fund ~~money~~ money to be held in trust -- deposit in public
17 school ~~nonexpendable trust fund~~. ~~Money~~ and ~~properties~~ Money and property placed in the ~~agency~~
18 expendable trust fund ~~shall~~ must be held in trust for a period of 5 years prior to deposit in the public school
19 nonexpendable trust fund by the state treasurer, ~~such~~. The expendable trust being ~~is~~ for the benefit of
20 persons ~~claiming~~ who claim property pursuant to part 3 of this chapter. ~~Such a~~ A claim may be brought
21 for an amount equal to the full amount or value of the property escheated minus the costs and expenses
22 incident to reducing the ~~same~~ property to the possession of the state."

23

24 Section 10. Section 72-14-403, MCA, is amended to read:

25 "72-14-403. Deposit of unclaimed property in state treasury -- escheat. (1) All money or other
26 property distributed in the administration of an estate of a decedent or as the subject of a trust and
27 deposited before or after July 1, 1947, with the county treasurer to the credit of the distributee or
28 beneficiary and any money remaining on deposit to the credit of an estate after final distribution must,
29 within 1 year of receipt by the county treasurer, be delivered into the state treasury for deposit in the
30 ~~agency~~ expendable trust fund by the county treasurer ~~upon the expiration of 1 year from the day of such~~

1 deposit.

2 (2) ~~Money if money~~ or other property ~~is~~ deposited in the state treasury, ~~if is~~ not claimed by the
3 person or persons entitled ~~thereto to the property~~ by bringing an action as provided in part 3 of this
4 chapter, ~~shall escheat the money or property escheats~~ to the state ~~of Montana~~ and must be placed in the
5 public school nonexpendable trust fund ~~as provided therein.~~"

6

7 **NEW SECTION. Section 11. Retroactive applicability.** [This act] applies retroactively, within the
8 meaning of 1-2-109, to July 1, 1994.

9

10 **NEW SECTION. Section 12. Effective date.** [This act] is effective on passage and approval.

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18 treasury ~~shall~~ must be presented for payment within 6 months after the date of the issue thereof.19 (b) Warrants issued for the department of social and rehabilitation services that are funded to any
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26 issue, the state auditor may, upon proper showing by affidavit, issue a new warrant in lieu ~~thereof~~ of the
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1 such the presentation shall must be to the department of revenue as provided in 70-9-310."

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4 "39-3-213. Disposition of wages. (1) The commissioner of labor and industry shall deposit wages
5 collected by him under parts 2 and 4 of this chapter into the agency expendable trust fund and shall
6 attempt to make payment of wages to the entitled person. Wages deposited into the agency expendable
7 trust fund are do not bear interest bearing. The payment of wages collected may be made by means of
8 state warrants.

9 (2) Warrants issued pursuant to subsection (1) which that remain unclaimed for more than 1 year
10 from the date of issuance shall must be returned to the state auditor for cancellation in accordance with
11 17-8-303."

12

13 Section 3. Section 70-9-309, MCA, is amended to read:

14 "70-9-309. Deposit of money -- record -- deduction of costs. (1) Except for patronage refunds
15 retained under 35-18-316, all money received under parts 1 through 3, including the proceeds from the sale
16 of abandoned property under 70-9-308, must be immediately deposited by the department of revenue with
17 the state treasurer for credit to the public school nonexpendable trust fund of the state, except that the
18 state treasurer shall retain in the agency expendable trust fund an amount not exceeding \$25,000
19 \$100,000 from which the treasurer shall make prompt payment of claims allowed by the department as
20 provided in this section.

21 (2) (a) Before making the deposit, the department shall record:

22 (i) the name and last-known address of each person appearing from the holders' reports to be
23 entitled to the abandoned property; and or

24 (ii) the name and last-known address of each insured person or annuitant and, with respect to each
25 policy or contract listed in the report of a life insurance corporation, its number, the name of the
26 corporation, and the amount due.

27 (b) The record must be available for public inspection at all reasonable business hours.

28 (3) Before making any deposit to the credit of the public school nonexpendable trust fund, the
29 department may deduct:

30 (a) any costs in connection with sale of abandoned property;

1 (b) any costs of mailing and publication in connection with any abandoned property; and
2 (c) reasonable service charges."

3

4 **Section 4.** Section 72-14-204, MCA, is amended to read:

5 "72-14-204. Order directing sale of property upon final settlement of estate. At the final
6 settlement of ~~any~~ an estate, if there ~~be~~ are no heirs or other claimants ~~thereof~~, the district judge shall make
7 an order ~~directing~~ the public administrator to sell all property belonging to the estate and pay the proceeds
8 to the county treasurer, ~~who~~ The county treasurer shall keep an account ~~with~~ such estate of all moneys
9 the money received from each estate and paid to ~~him~~, and the county treasurer and shall forthwith remit
10 ~~all of said~~ the money to the department of revenue with a statement ~~as to the estates of the estate~~ to
11 which the money belongs. The department shall immediately deliver ~~such~~ the money to the state treasurer
12 ~~who shall thereupon for~~ deposit ~~such~~ the money so received by ~~him~~ in the agency expendable trust fund of the
13 state of Montana."

14

15 Section 5. Section 72-14-205, MCA, is amended to read:

16 **"72-14-205. Unsold intangible personal property -- how disposed of -- auction sale.** (1) If the
17 intangible personal property in an escheated estate was not sold by the personal representative at the final
18 settlement of the estate ~~as by law provided~~, then it shall be the duty of the personal representative to shall
19 deliver all of ~~such~~ the property to the department of revenue with a statement setting forth the name of
20 the estate to which it belongs, ~~and the~~. The department must shall, within 1 year of the receipt of ~~such~~
21 the property, ~~cause the same to be sold~~ sell the property to the highest bidder at a public auction sale at
22 the department's office in Helena, Montana.

23 (2) The department shall give notice of ~~such the~~ sale by publication in a Helena newspaper
24 ~~published in the city of Helena, Montana, once a week for 2 successive weeks, making in all two~~
25 ~~publications, the~~ The last publication ~~to~~ must be at least 20 days prior to the date of ~~such the~~ sale. Such
26 The notice ~~shall~~ must give the time and place of ~~such the~~ sale and ~~shall~~ must contain a list and description
27 of the stocks, bonds, securities, or other intangible personal property to be sold.

28 (3) All of the expenses of such the sale shall must be deducted from the proceeds thereof of the
29 sale by the department, and the balance of such the proceeds shall must be delivered by the department
30 to the state treasurer for deposit in the agency expendable trust fund of the state of Montana."



1 **Section 6.** Section 72-14-206, MCA, is amended to read:

2 **"72-14-206. Unsold real property -- how disposed of -- auction sale.** (1) If the real property was
3 not sold by the personal representative at the final settlement of the estate ~~as by law provided~~, then it shall
4 be the duty of the personal representative to shall make and execute to the state of Montana a deed and
5 to deliver the same deed to the county clerk and recorder of the county ~~wherein such in which the~~ real
6 property is situated, ~~and it shall then become the duty of the~~ The county clerk and recorder to shall file
7 and record said the deed, without charge, and ~~after being so recorded the county clerk and recorder shall~~ mail the deed to the department of revenue, ~~which~~, The department of revenue shall make a record thereof
8 the deed and deliver the deed it to the board of land commissioners.

9
10 (2) Within 1 year after the receipt of such the recorded deed, the board shall cause such sell the
11 property ~~to be sold~~ to the highest bidder at a public auction sale to be held at the courthouse in the county
12 where such the real property or any part thereof of the property is situated.

13 (3) The board shall give notice of such the sale by publication once a week for 2 weeks in a
14 newspaper published in the county ~~wherein such in which the~~ real estate or any part thereof of the real
15 estate is situated ~~once a week for 2 weeks, making in all two publications, the~~, The last publication to
16 must be at least 20 days prior to the date of such the sale. Such The notice shall must give the time and
17 place of such the sale and contain a description of the real property to be sold.

18 (4) All expenses of such the sale shall must be deducted by the board from the proceeds thereof
19 of the sale, and the balance of such the proceeds shall must be turned over to the state treasurer ~~who shall~~
20 for deposit ~~the same in the agency expendable trust fund of the state of Montana~~. The board shall provide
21 the department with a statement indicating the sale price, expenses, and net proceeds resulting from each
22 such sale.

23

24 **Section 7.** Section 72-14-207, MCA, is amended to read:

25 **"72-14-207. Unsold tangible personal property -- how disposed of -- auction sale.** (1) If the
26 tangible personal property in an escheated estate was not sold by the personal representative at the final
27 settlement of the estate ~~as provided by law~~, it is the duty of the personal representative to shall deliver
28 such the property to the county treasurer. The county treasurer ~~must~~ shall, within 1 year of the receipt
29 of such the property, cause it to be sold sell it to the highest bidder at a public auction sale at the county
30 seat of the county of administration of the estate.

1 (2) The county treasurer shall give notice of ~~such the~~ sale by publication once a week for 2
2 successive weeks in a newspaper published in the county of administration ~~once a week for 2 successive~~
3 ~~weeks making in all two publications, the.~~ The last publication to ~~must~~ be at least 20 days prior to the date
4 of ~~such the~~ sale. The notice shall give the time and place of such sale and contain a description of the
5 property to be sold.

6 (3) All expenses of ~~such the~~ sale shall ~~must~~ be deducted from the proceeds ~~thereof of the~~ sale by
7 the county treasurer, and the balance of ~~such the~~ proceeds shall ~~must~~ be delivered by the county treasurer
8 to the department of revenue for deposit in the ~~agency~~ expendable trust fund of the state of Montana."

9

10 Section 8. Section 72-14-209, MCA, is amended to read:

11 "72-14-209. Deposit of all sums escheated -- ~~agency~~ expendable trust fund. All sums escheated
12 under the provisions of parts 1 through 3 of this chapter shall ~~must~~ be delivered by the department of
13 revenue to the state treasurer and deposited by the treasurer in the ~~agency~~ expendable trust fund."

14

15 Section 9. Section 72-14-210, MCA, is amended to read:

16 "72-14-210. ~~Agency~~ Expendable trust fund ~~money~~ money to be held in trust -- deposit in public
17 school nonexpendable trust fund. ~~Money and properties~~ Money and property placed in the ~~agency~~
18 expendable trust fund shall ~~must~~ be held in trust for a period of 5 years prior to deposit in the public school
19 nonexpendable trust fund by the state treasurer; ~~such~~. The expendable trust being ~~is~~ for the benefit of
20 persons claiming who claim property pursuant to part 3 of this chapter. ~~Such a~~ A claim may be brought
21 for an amount equal to the full amount or value of the property escheated minus the costs and expenses
22 incident to reducing the same property to the possession of the state."

23

24 Section 10. Section 72-14-403, MCA, is amended to read:

25 "72-14-403. Deposit of unclaimed property in state treasury -- escheat. (1) All money or other
26 property distributed in the administration of an estate of a decedent or as the subject of a trust and
27 deposited before or after July 1, 1947, with the county treasurer to the credit of the distributee or
28 beneficiary and any money remaining on deposit to the credit of an estate after final distribution must,
29 within 1 year of receipt by the county treasurer, be delivered into the state treasury for deposit in the
30 ~~agency~~ expendable trust fund by the county treasurer ~~upon the expiration of 1 year from the day of such~~

1 deposit.

2 (2) Money if money or other property ~~is~~ deposited in the state treasury, ~~if is~~ not claimed by the
3 person or persons entitled ~~thereto~~ to the property by bringing an action as provided in part 3 of this
4 chapter, ~~shall escheat the money or property escheats~~ to the state of Montana and must be placed in the
5 public school nonexpendable trust fund ~~as provided therein~~."

6

7 **NEW SECTION. Section 11. Retroactive applicability.** [This act] applies retroactively, within the
8 meaning of 1-2-109, to July 1, 1994.

9

10 **NEW SECTION. Section 12. Effective date.** [This act] is effective on passage and approval.

11

-END-

1

SENATE BILL NO. 14

2

INTRODUCED BY GAGE

3

BY REQUEST OF THE DEPARTMENT OF ADMINISTRATION

4

5 A BILL FOR AN ACT ENTITLED: "AN ACT CHANGING THE FUND TYPE USED TO ACCOUNT FOR
6 ESCHEAT PROPERTY FROM THE AGENCY FUND TO THE EXPENDABLE TRUST FUND, AS REQUIRED BY
7 GENERALLY ACCEPTED ACCOUNTING PRINCIPLES; INCREASING TO \$100,000 THE MAXIMUM AMOUNT
8 ALLOWED TO BE RETAINED FOR PAYMENT OF CLAIMS; AMENDING SECTIONS 17-8-303, 39-3-213,
9 70-9-309, 72-14-204, 72-14-205, 72-14-206, 72-14-207, 72-14-209, 72-14-210, AND 72-14-403, MCA;
10 AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

11

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

13

14 **Section 1.** Section 17-8-303, MCA, is amended to read:

15 **"17-8-303. Warrants -- presentation and cancellation.** (1) State warrants must be presented for
16 payment within the time limits specified as follows:

17 (a) Except as provided in subsection (1)(b), all warrants drawn by the state auditor on the state
18 treasury ~~shall~~ must be presented for payment within 6 months after the date of the issue thereof.

19 (b) Warrants issued for the department of social and rehabilitation services that are funded to any
20 extent with federal money ~~shall~~ must be presented for payment within 180 days after the date of issue.

21 (2) Should If the payee or legal holder of any warrant ~~fail~~ fails to present it for payment within the
22 time specified in subsection (1), the state auditor shall enter record the same warrant as canceled ~~on the~~
23 ~~books of his office~~ and the amount ~~shall~~ must be credited to a separate ~~agency~~ expendable trust fund
24 account administered by the state auditor. Should If the payee or legal owner of ~~any~~ a canceled warrant
25 present presents it for payment or present presents a claim for payment within 4 years from the date of
26 issue, the state auditor may, upon proper showing by affidavit, issue a new warrant in lieu ~~thereof~~ of the
27 canceled warrant.

28 (3) Three years and 6 months after cancellation, the warrant ~~shall~~ must be classed as unclaimed
29 property subject to the provisions of Title 70, chapter 9, parts 1 through 3. Should If the payee or legal
30 owner of ~~any~~ a canceled warrant present presents it for payment or present presents a claim for payment,

1 such the presentation ~~shall~~ must be to the department of revenue as provided in 70-9-310."

2

3 **Section 2.** Section 39-3-213, MCA, is amended to read:

4 "39-3-213. **Disposition of wages.** (1) The commissioner of labor and industry shall deposit wages
5 collected ~~by him~~ under parts 2 and 4 of this chapter into the ~~agency~~ expendable trust fund and shall
6 attempt to make payment of wages to the entitled person. Wages deposited into the ~~agency~~ expendable
7 trust fund ~~are do not bear~~ interest ~~bearing~~. The payment of wages collected may be made by means of
8 state warrants.

9 (2) Warrants issued pursuant to subsection (1) ~~which~~ that remain unclaimed for more than 1 year
10 from the date of issuance ~~shall~~ must be returned to the state auditor for cancellation in accordance with
11 17-8-303."

12

13 **Section 3.** Section 70-9-309, MCA, is amended to read:

14 "70-9-309. **Deposit of money -- record -- deduction of costs.** (1) Except for patronage refunds
15 retained under 35-18-316, all money received under parts 1 through 3, including the proceeds from the sale
16 of abandoned property under 70-9-308, must be immediately deposited by the department of revenue with
17 the state treasurer for credit to the public school nonexpendable trust fund of the state, except that the
18 state treasurer shall retain in the ~~agency~~ expendable trust fund an amount not exceeding \$25,000
19 \$100,000 from which the treasurer shall make prompt payment of claims allowed by the department as
20 provided in this section.

21 (2) (a) Before making the deposit, the department shall record:

22 (i) the name and last-known address of each person appearing from the holders' reports to be
23 entitled to the abandoned property; and ~~ef~~

24 (ii) the name and last-known address of each insured person or annuitant and, with respect to each
25 policy or contract listed in the report of a life insurance corporation, its number, the name of the
26 corporation, and the amount due.

27 (b) The record must be available for public inspection at all reasonable business hours.

28 (3) Before making any deposit to the credit of the public school nonexpendable trust fund, the
29 department may deduct:

30 (a) any costs in connection with sale of abandoned property;

- (b) any costs of mailing and publication in connection with any abandoned property; and
- (c) reasonable service charges."

Section 4. Section 72-14-204, MCA, is amended to read:

"72-14-204. Order directing sale of property upon final settlement of estate. At the final settlement of any an estate, if there be are no heirs or other claimants thereof, the district judge shall make order directing the public administrator to sell all property belonging to the estate and pay the proceeds to the county treasurer, who The county treasurer shall keep an account with such estate of all moneys money received from each estate and paid to him, and the county treasurer and shall forthwith remit aid the money to the department of revenue with a statement as to the estates of the estate to the money belongs. The department shall immediately deliver such the money to the state treasurer all thereupon for deposit such money so received by him in the agency expendable trust fund of the Montana."

Section 5. Section 72-14-205, MCA, is amended to read:

"72-14-205. Unsold intangible personal property -- how disposed of -- auction sale. (1) If the
intangible personal property in an escheated estate was not sold by the personal representative at the final
dissolution of the estate as by law provided, then it shall be the duty of the personal representative to shall
sell all of such the property to the department of revenue with a statement setting forth the name of
the state to which it belongs, and the. The department must shall, within 1 year of the receipt of such
property, cause the same to be sold sell the property to the highest bidder at a public auction sale at
the department's office in Helena, Montana.

(2) The department shall give notice of ~~such the~~ sale by publication in a Helena newspaper
~~ed in the city of Helena, Montana, once a week for 2 successive weeks, making in all two~~
~~tions, the~~ The last publication ~~to~~ must be at least 20 days prior to the date of ~~such the~~ sale. Such
notice ~~shall~~ must give the time and place of ~~such the~~ sale and ~~shall~~ must contain a list and description
stocks, bonds, securities, or other intangible personal property to be sold.

(3) All of the expenses of such the sale shall must be deducted from the proceeds thereof of the
the department, and the balance of such the proceeds shall must be delivered by the department
state treasurer for deposit in the ~~agency~~ expendable trust fund of the state of Montana."

1 Section 6. Section 72-14-206, MCA, is amended to read:

2 "72-14-206. ~~Unsold real property -- how disposed of -- auction sale.~~ (1) If the real property was
3 not sold by the personal representative at the final settlement of the estate ~~as by law provided~~, then ~~it shall~~
4 ~~be the duty of~~ the personal representative ~~to~~ shall make and execute to the state of Montana a deed and
5 ~~to~~ deliver the same deed to the county clerk and recorder of the county ~~wherein such in which the~~ real
6 property is situated, ~~and it shall then become the duty of the~~ The county clerk and recorder ~~to~~ shall file
7 and record ~~said~~ the deed, without charge, and ~~after being so recorded the county clerk and recorder~~ shall
8 mail the deed to the department of revenue, ~~which~~ The department of revenue shall make a record thereof
9 the deed and deliver ~~the deed~~ it to the board of land commissioners.

10 (2) Within 1 year after the receipt of ~~such~~ the recorded deed, the board shall ~~cause such sell the~~
11 property ~~to be sold~~ to the highest bidder at a public auction sale to be held at the courthouse in the county
12 where ~~such~~ the real property or any part ~~thereof~~ of the property is situated.

13 (3) The board shall give notice of ~~such~~ the sale by publication once a week for 2 weeks in a
14 newspaper published in the county ~~wherein such in which the~~ real estate or any part ~~thereof~~ of the real
15 estate is situated ~~once a week for 2 weeks, making in all two publications, the~~ The last publication ~~to~~
16 must be at least 20 days prior to the date of ~~such~~ the sale. ~~Such~~ The notice ~~shall~~ must give the time and
17 place of ~~such~~ the sale and contain a description of the real property to be sold.

18 (4) All expenses of ~~such~~ the sale ~~shall~~ must be deducted by the board from the proceeds ~~thereof~~
19 of the sale, and the balance of ~~such~~ the proceeds ~~shall~~ must be turned over to the state treasurer ~~who shall~~
20 for deposit the same in the agency expendable trust fund of the state of Montana. The board shall provide
21 the department with a statement indicating the sale price, expenses, and net proceeds resulting from each
22 such sale."

23

24 Section 7. Section 72-14-207, MCA, is amended to read:

25 "72-14-207. ~~Unsold tangible personal property -- how disposed of -- auction sale.~~ (1) If the
26 tangible personal property in an escheated estate was not sold by the personal representative at the final
27 settlement of the estate ~~as provided by law, it is the duty of~~ the personal representative ~~to~~ shall deliver
28 ~~such~~ the property to the county treasurer. The county treasurer ~~must~~ shall, within 1 year of the receipt
29 of ~~such~~ the property, ~~cause it to be sold~~ sell it to the highest bidder at a public auction sale at the county
30 seat of the county of administration of the estate.

1 (2) The county treasurer shall give notice of ~~such the~~ sale by publication ~~once a week for 2~~
2 ~~successive weeks~~ in a newspaper published in the county of administration ~~once a week for 2 successive~~
3 ~~weeks making in all two publications, the.~~ The last publication ~~to~~ must be at least 20 days prior to the date
4 of ~~such the~~ sale. The notice shall give the time and place of such sale and contain a description of the
5 property to be sold.

6 (3) All expenses of ~~such the~~ sale ~~shall~~ must be deducted from the proceeds ~~thereof of the sale~~ by
7 the county treasurer, and the balance of ~~such the~~ proceeds ~~shall~~ must be delivered by the county treasurer
8 to the department of revenue for deposit in the ~~agency~~ expendable trust fund ~~of the state of Montana.~~"

9

10 **Section 8.** Section 72-14-209, MCA, is amended to read:

11 "**72-14-209. Deposit of all sums escheated -- agency expendable trust fund.** All sums escheated
12 under the provisions of parts 1 through 3 of this chapter ~~shall~~ must be delivered by the department of
13 revenue to the state treasurer and deposited by the treasurer in the ~~agency~~ expendable trust fund."

14

15 **Section 9.** Section 72-14-210, MCA, is amended to read:

16 "**72-14-210. Agency Expendable trust fund ~~money~~ money to be held in trust -- deposit in public**
17 ~~school~~ nonexpendable trust fund. ~~Money and properties~~ Money and property placed in the ~~agency~~
18 expendable trust fund ~~shall~~ must be held in trust for a period of 5 years prior to deposit in the public school
19 nonexpendable trust fund by the state treasurer, ~~such.~~ The expendable trust being is for the benefit of
20 persons ~~claiming~~ who claim property pursuant to part 3 of this chapter. ~~Such a~~ A claim may be brought
21 for an amount equal to the full amount or value of the property escheated minus the costs and expenses
22 incident to reducing the ~~same~~ property to the possession of the state."

23

24 **Section 10.** Section 72-14-403, MCA, is amended to read:

25 "**72-14-403. Deposit of unclaimed property in state treasury -- escheat.** (1) All money or other
26 property distributed in the administration of an estate of a decedent or as the subject of a trust and
27 deposited before or after July 1, 1947, with the county treasurer to the credit of the distributee or
28 beneficiary and any money remaining on deposit to the credit of an estate after final distribution must,
29 within 1 year of receipt by the county treasurer, be delivered into the state treasury for deposit in the
30 ~~agency~~ expendable trust fund by the county treasurer ~~upon the expiration of 1 year from the day of such~~

1 deposit.

2 (2) Money If money or other property ~~so~~ deposited in the state treasury, ~~if~~ is not claimed by the
3 person or persons entitled thereto to the property by bringing an action as provided in part 3 of this
4 chapter, ~~shall escheat the money or property escheats~~ to the state ~~of Montana~~ and must be placed in the
5 public school nonexpendable trust fund ~~as provided therein.~~"

6

7 **NEW SECTION. Section 11. Retroactive applicability.** [This act] applies retroactively, within the
8 meaning of 1-2-109, to July 1, 1994.

9

10 **NEW SECTION. Section 12. Effective date.** [This act] is effective on passage and approval.

11

-END-