

1 / 10

SENATE

BILL NO. 135

Hargrove

Figure 10 -

2 INTRODUCED BY

8

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

10

11 **Section 1.** Section 1-2-112, MCA, is amended to read:

12 **"1-2-112. Statutes imposing new local government duties.** (1) Any law enacted by the legislature
13 after July 1, 1979, which that requires a local government unit to perform an activity or provide a service
14 or facility ~~which will require that requires~~ the direct expenditure of additional funds must provide a specific
15 means to finance the activity, service, or facility other than ~~the existing authorized~~ mill levies or the
16 all-purpose mill levy. Any law that fails to provide a specific means to finance any activity, service, or
17 facility ~~other than the existing authorized mill levies or the all-purpose mill levy~~ is not effective until specific
18 means of financing are provided by the legislature from state or federal funds.

19 (2) The legislature may fulfill the requirements of this section by providing for an increase in the
20 existing authorized mill levies, or the all-purpose mill levy, special mill levies, or the remission of money by
21 the state of Montana to local governments; however, However, an increase in the existing authorized mill
22 levies, or the all-purpose mill levy, or any special mill levy must provide an amount necessary to finance
23 the additional costs, and if financing is provided by remission of funds by the state of Montana, the
24 remission shall must bear a reasonable relationship to the actual cost of performing the activity or providing
25 the service or facility.

26 (3) ~~No subsequent~~ Subsequent legislation shall may not be considered to supersede or modify any
27 provision of this section, whether by implication or otherwise, except to the extent that ~~such~~ the legislation
28 ~~shall do~~ does so expressly.

(4) This section ~~shall~~ does not apply to any law under which the required expenditure of additional local funds is ~~incidental to the main purpose of the law~~ an insubstantial amount that can be readily absorbed



1 into the budget of an existing program."

2

3 **Section 2.** Section 1-2-113, MCA, is amended to read:

4 **"1-2-113. Statutes imposing new duties on a school district to provide means of financing.** (1) Any
5 law enacted by the legislature ~~after July 1, 1981, except any law implementing a federal law or a court~~
6 ~~decision,~~ that requires a school district to perform an activity or provide a service or facility and that will
7 require the direct expenditure of additional funds ~~shall~~ must provide a specific means to finance the activity,
8 service, or facility other than the existing property tax mill levy. Any law that fails to provide a specific
9 means to finance ~~such a~~ the service or facility is not effective until a specific means of financing meeting
10 the requirements of subsection (2) is provided by the legislature.

11 (2) Financing must be by means of a remission of money by the state for the purpose of funding
12 the activity, service, or facility. Financing must bear a reasonable relationship to the actual cost of
13 performing the activity or providing the service or facility.

14 (3) ~~No legislation~~ Legislation passed and approved ~~after October 1, 1981, supersedes or modifies~~
15 may not supersede or modify any provision of this section, except to the extent that the legislation
16 expressly does so.

17 (4) This section does not apply to any law under which the required expenditure of additional funds
18 by the board of trustees is an insubstantial amount that can be readily absorbed into the budget of an
19 existing program."

20

21 **NEW SECTION.** **Section 3. Saving clause.** [This act] does not affect rights and duties that
22 matured, penalties that were incurred, or proceedings that were begun before [the effective date of this
23 act].

24

-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for SB0135, as Introduced

DESCRIPTION OF PROPOSED LEGISLATION: An act clarifying the requirement that activities, services, or facilities that are required of local governments or school districts by the state must contain a method to fully fund the activities, services, or facilities; and amending sections 1-2-112 and 1-2-113, MCA."

ASSUMPTIONS:

1. This bill has no substantial effect upon existing statutory language.

FISCAL IMPACT:

Expenditures: No new expenditures will be required

Revenues: No new revenues will be generated.

Net Impact: None

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES: None

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

TECHNICAL NOTES:

David Lewis 1-19-95
DAVID LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

Jack Cole 1-19-95
MACK COLE, PRIMARY SPONSOR DATE

Fiscal Note for SB0135, as Introduced

SB 135

1 SENATE BILL NO. 135

2 INTRODUCED BY COLE, CLARK, EMERSON, MESAROS, GROSFIELD, HOLDEN, HARGROVE,
3 CRISMORE, MOHL, MILLER, TVEIT, JABS, BARTLETT, SWYSGOOD, SPRAGUE, JENKINS, ESTRADA,
4 KEATING5
6 A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THE REQUIREMENT THAT ACTIVITIES, SERVICES,
7 OR FACILITIES THAT ARE REQUIRED OF LOCAL GOVERNMENTS OR SCHOOL DISTRICTS BY THE STATE
8 MUST CONTAIN A METHOD TO FULLY FUND THE ACTIVITIES, SERVICES, OR FACILITIES; PROHIBITING
9 THE INTRODUCTION OF A BILL VIOLATING SECTION 1-2-112 OR 1-2-113, MCA; PROVIDING FOR
10 ENFORCEMENT AND PAYMENT OF COSTS AND ATTORNEY FEES; AND AMENDING SECTIONS 1-2-112
11 AND 1-2-113, MCA."

12

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

14

15 Section 1. Section 1-2-112, MCA, is amended to read:

16 "1-2-112. Statutes imposing new local government duties. (1) Any law enacted by the legislature
17 ~~after July 1, 1978, which that~~ requires a local government unit to perform an activity or provide a service
18 or facility ~~which will require that requires~~ the direct expenditure of additional funds must provide a specific
19 means to finance the activity, service, or facility other than ~~the existing authorized~~ mill levies or the
20 all-purpose mill levy. Any law that fails to provide a specific means to finance any activity, service, or
21 ~~facility other than the existing authorized mill levies or the all-purpose mill levy~~ is not effective until specific
22 means of financing are provided by the legislature from state or federal funds.23 (2) The legislature may fulfill the requirements of this section by providing for an increase in the
24 existing authorized mill levies, or the all-purpose mill levy, special mill levies, or ~~the~~ remission of money by
25 the state ~~of~~ Montana to local governments; ~~however,~~ However, an increase in the existing authorized mill
26 levies, or the all-purpose mill levy, or any special mill levy must provide an amount necessary to finance
27 the additional costs, and if financing is provided by remission of funds by the state ~~of~~ Montana, the
28 remission ~~shall~~ must bear a reasonable relationship to the actual cost of performing the activity or providing
29 the service or facility.30 (3) No subsequent Subsequent legislation ~~shall~~ may not be considered to supersede or modify any

1 provision of this section, whether by implication or otherwise, except to the extent that ~~such the~~ legislation
2 ~~shall do~~ does so expressly.

3 (4) This section ~~shall~~ does not apply to any law under which the required expenditure of additional
4 local funds is ~~incidental to the main purpose of the law an insubstantial amount that can be readily~~
5 ~~absorbed into the budget of an existing program. A REQUIRED EXPENDITURE OF THE EQUIVALENT OF~~
6 ~~APPROXIMATELY 0.1 MILL OR LESS LEVIED ON TAXABLE PROPERTY OF THE LOCAL GOVERNMENT~~
7 UNIT MAY BE CONSIDERED AN INSUBSTANTIAL AMOUNT."

8

9 **Section 2.** Section 1-2-113, MCA, is amended to read:

10 "1-2-113. **Statutes imposing new duties on a school district to provide means of financing.** (1)
11 Any law enacted by the legislature after July 1, 1981, ~~except any law implementing a federal law or a~~
12 ~~court decision,~~ that requires a school district to perform an activity or provide a service or facility and that
13 will require the direct expenditure of additional funds ~~shall~~ must provide a specific means to finance the
14 activity, service, or facility other than the existing property tax mill levy. Any law that fails to provide a
15 specific means to finance ~~such a~~ the service or facility is not effective until a specific means of financing
16 meeting the requirements of subsection (2) is provided by the legislature.

17 (2) Financing must be by means of a remission of money by the state for the purpose of funding
18 the activity, service, or facility. Financing must bear a reasonable relationship to the actual cost of
19 performing the activity or providing the service or facility.

20 (3) ~~No legislation~~ Legislation passed and approved after October 1, 1981, ~~supersedes or modifies~~
21 may not supersede or modify any provision of this section, except to the extent that the legislation
22 expressly does so.

23 (4) This section does not apply to any law under which the required expenditure of additional
24 funds by the board of trustees is an insubstantial amount that can be readily absorbed into the budget of
25 an existing program."

26

27 NEW SECTION. SECTION 3. BILL RESTRICTION. A BILL MAY NOT BE INTRODUCED ENACTING
28 A NEW LAW OR AMENDING AN EXISTING LAW TO REQUIRE A LOCAL GOVERNMENT UNIT TO
29 PERFORM AN ACTIVITY OR PROVIDE A SERVICE THAT REQUIRES A DIRECT EXPENDITURE OF
30 ADDITIONAL FUNDS WITHOUT A SPECIFIC MEANS TO FINANCE THE ACTIVITY, SERVICE, OR FACILITY

1 IN VIOLATION OF 1-2-112 OR 1-2-113.

2

3 NEW SECTION. SECTION 4. ENFORCEMENT -- COSTS AND FEES. A LOCAL GOVERNMENT
4 UNIT MAY BRING A CIVIL ACTION IN THE DISTRICT COURT OF THE COUNTY IN WHICH THE LOCAL
5 GOVERNMENT UNIT IS LOCATED TO PREVENT THE APPLICATION OF A LAW ENACTED IN VIOLATION
6 OF 1-2-112 OR 1-2-113. THE STATE OF MONTANA MAY BE NAMED AS THE RESPONDENT OR
7 DEFENDANT IN AN ACTION BROUGHT PURSUANT TO THIS SECTION. A LOCAL GOVERNMENT UNIT
8 THAT SUBSTANTIALLY PREVAILS IN AN ACTION BROUGHT PURSUANT TO THIS SECTION MUST BE
9 AWARDED COSTS, INCLUDING ATTORNEY FEES, THAT MUST BE PAID BY WARRANT DRAWN UPON
10 THE STATE GENERAL FUND.

11

12 NEW SECTION. SECTION 5. CODIFICATION INSTRUCTION. [SECTIONS 3 AND 4] ARE
13 INTENDED TO BE CODIFIED AS AN INTEGRAL PART OF TITLE 1, CHAPTER 2, PART 1, AND THE
14 PROVISIONS OF TITLE 1, CHAPTER 2, PART 1, APPLY TO [SECTIONS 3 AND 4].

15

16 NEW SECTION. Section 6. Saving clause. [This act] does not affect OBLIGATIONS THAT WERE
17 CREATED, rights and duties that matured, penalties that were incurred, or proceedings that were begun
18 before [the effective date of this act].

19

-END-

1 SENATE BILL NO. 135
2
3 INTRODUCED BY COLE, CLARK, EMERSON, MESAROS, GROSFIELD, HOLDEN, HARGROVE,
4 CRISMORE, MOHL, MILLER, TVEIT, JABS, BARTLETT, SWYSGOOD, SPRAGUE, JENKINS, ESTRADA,
5 KEATING
6
7 A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THE REQUIREMENT THAT ACTIVITIES, SERVICES,
8 OR FACILITIES THAT ARE REQUIRED OF LOCAL GOVERNMENTS OR SCHOOL DISTRICTS BY THE STATE
9 MUST CONTAIN A METHOD TO FULLY FUND THE ACTIVITIES, SERVICES, OR FACILITIES; PROHIBITING
10 THE INTRODUCTION OF A BILL VIOLATING SECTION 1-2-112 OR 1-2-113, MCA; PROVIDING FOR
11 ENFORCEMENT AND PAYMENT OF COSTS AND ATTORNEY FEES; AND AMENDING SECTIONS 1-2-112
12 AND 1-2-113, MCA."
13
14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
15
16 Section 1. Section 1-2-112, MCA, is amended to read:
17
18 "1-2-112. Statutes imposing new local government duties. (1) Any law enacted by the legislature
19 ~~after July 1, 1970, which~~ that requires a local government unit to perform an activity or provide a service
20 or facility ~~which will require~~ that requires the direct expenditure of additional funds must provide a specific
21 means to finance the activity, service, or facility other than ~~the existing authorized mill levies or the~~ all-purpose mill levy. Any law that fails to provide a specific means to finance any activity, service, or
22 ~~facility other than the existing authorized mill levies or the all-purpose mill levy~~ is not effective until specific
means of financing are provided by the legislature from state or federal funds.
23
24 (2) The legislature may fulfill the requirements of this section by providing for an increase in the
25 existing authorized mill levies, or the all-purpose mill levy, special mill levies, or the remission of money by
26 the state of Montana to local governments; ~~however,~~ However, an increase in the existing authorized mill
27 levies, or the all-purpose mill levy, or any special mill levy must provide an amount necessary to finance
28 the additional costs, and if financing is provided by remission of funds by the state of Montana, the
29 remission ~~shall~~ must bear a reasonable relationship to the actual cost of performing the activity or providing
the service or facility.
30
31 (3) No subsequent Subsequent legislation shall may not be considered to supersede or modify any

 Montana Legislative Council

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THIRD READING

1 provision of this section, whether by implication or otherwise, except to the extent that ~~such the~~ the legislation
2 ~~shall do does~~ so expressly.

3 (4) This section ~~shall does~~ not apply to any law under which the required expenditure of additional
4 local funds is ~~incidental to the main purpose of the law an insubstantial amount that can be readily~~
5 ~~absorbed into the budget of an existing program. A REQUIRED EXPENDITURE OF THE EQUIVALENT OF~~
6 ~~APPROXIMATELY 0.1 MILL OR LESS LEVIED ON TAXABLE PROPERTY OF THE LOCAL GOVERNMENT~~
7 ~~UNIT MAY BE CONSIDERED AN INSUBSTANTIAL AMOUNT."~~

8

9 Section 2. Section 1-2-113, MCA, is amended to read:

10 "1-2-113. Statutes imposing new duties on a school district to provide means of financing. (1)
11 Any law enacted by the legislature ~~after July 1, 1981, except any law implementing a federal law or a~~
12 ~~court decision,~~ that requires a school district to perform an activity or provide a service or facility and that
13 will require the direct expenditure of additional funds ~~shall must~~ provide a specific means to finance the
14 activity, service, or facility other than the existing property tax mill levy. Any law that fails to provide a
15 specific means to finance ~~such a the~~ service or facility is not effective until a specific means of financing
16 meeting the requirements of subsection (2) is provided by the legislature.

17 (2) Financing must be by means of a remission of money by the state for the purpose of funding
18 the activity, service, or facility. Financing must bear a reasonable relationship to the actual cost of
19 performing the activity or providing the service or facility.

20 (3) ~~No legislation~~ Legislation passed and approved ~~after October 1, 1981, supersedes or modifies~~
21 may not supersede or modify any provision of this section, except to the extent that the legislation
22 expressly does so.

23 (4) This section does not apply to any law under which the required expenditure of additional
24 funds by the board of trustees is an insubstantial amount that can be readily absorbed into the budget of
25 an existing program."

26

27 NEW SECTION. SECTION 3. BILL RESTRICTION. A BILL MAY NOT BE INTRODUCED ENACTING
28 A NEW LAW OR AMENDING AN EXISTING LAW TO REQUIRE A LOCAL GOVERNMENT UNIT TO
29 PERFORM AN ACTIVITY OR PROVIDE A SERVICE THAT REQUIRES A DIRECT EXPENDITURE OF
30 ADDITIONAL FUNDS WITHOUT A SPECIFIC MEANS TO FINANCE THE ACTIVITY, SERVICE, OR FACILITY

1 IN VIOLATION OF 1-2-112 OR 1-2-113.

2

3 NEW SECTION. SECTION 4. ENFORCEMENT -- COSTS AND FEES. A LOCAL GOVERNMENT
4 UNIT MAY BRING A CIVIL ACTION IN THE DISTRICT COURT OF THE COUNTY IN WHICH THE LOCAL
5 GOVERNMENT UNIT IS LOCATED TO PREVENT THE APPLICATION OF A LAW ENACTED IN VIOLATION
6 OF 1-2-112 OR 1-2-113. THE STATE OF MONTANA MAY BE NAMED AS THE RESPONDENT OR
7 DEFENDANT IN AN ACTION BROUGHT PURSUANT TO THIS SECTION. A LOCAL GOVERNMENT UNIT
8 THAT SUBSTANTIALLY PREVAILS IN AN ACTION BROUGHT PURSUANT TO THIS SECTION MUST BE
9 AWARDED COSTS, INCLUDING ATTORNEY FEES, THAT MUST BE PAID BY WARRANT DRAWN UPON
10 THE STATE GENERAL FUND.

11

12 NEW SECTION. SECTION 5. CODIFICATION INSTRUCTION. [SECTIONS 3 AND 4] ARE
13 INTENDED TO BE CODIFIED AS AN INTEGRAL PART OF TITLE 1, CHAPTER 2, PART 1, AND THE
14 PROVISIONS OF TITLE 1, CHAPTER 2, PART 1, APPLY TO [SECTIONS 3 AND 4].

15

16 NEW SECTION. Section 6. Saving clause. [This act] does not affect OBLIGATIONS THAT WERE
17 CREATED, rights and duties that matured, penalties that were incurred, or proceedings that were begun
18 before [the effective date of this act].

19

-END-



HOUSE STANDING COMMITTEE REPORT

March 24, 1995

Page 1 of 3

Mr. Speaker: We, the committee on Local Government report that Senate Bill 135 (third reading copy -- blue) be concurred in as amended.

Wm E Boharski

Signed: _____
Bill Boharski, Chair

Carried by: Rep. Clark

And, that such amendments read:

1. Title, line 9.

Following: "MCA;"

Insert: "REQUIRING AN ESTIMATE OF THE FISCAL IMPACT OF A BILL
BEFORE INTRODUCTION OF THE BILL;"

2. Title, line 10.

Strike: "AND PAYMENT OF COSTS AND ATTORNEY FEES"

3. Page 2, line 27.

Following: "RESTRICTION."

Insert: "(1)"

4. Page 2, line 29.

Following: "SERVICE"

Insert: "or facility"

5. Page 3.

Following: line 1

Insert: "(2) The estimate of fiscal impact provided in
accordance with [section 4] must be considered in
determination of whether a bill is introduced in violation
of subsection (1)."

NEW SECTION. Section 4. Estimate of fiscal impact on local

Committee Vote:

Yes 18, No 2.

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government required. (1) A bill that, if enacted, may require a local government unit to perform an activity or provide a service or facility that requires a direct expenditure of additional funds without a specific means to finance the activity, service, or facility in violation of 1-2-112 or 1-2-113 must be accompanied, at the time that the bill is presented for introduction to the chief clerk of the house of representatives or the secretary of the senate, by an estimate of all direct and indirect fiscal impacts on a local government unit. The estimate of fiscal impacts must be prepared by the budget director in cooperation with a local government unit affected by the bill. The budget director has 10 days to prepare the estimate.

(2) The estimate must show in dollar amounts the increase in expenditures that may be required by the bill. Comment or opinion relative to the merits of the bill may not be included in the estimate. However, technical or mechanical defects may be noted. Upon completion of the estimate, the budget director shall submit the estimate to the requestor of the bill."

Renumber: subsequent sections

6. Page 5, line 3.

Strike: "-- COSTS AND FEES"

Following: "the third"."

Insert: "(1) A local government unit may use a remedy provided in subsection (2), (3), or (4) to prevent the application of a law enacted in violation of 1-2-112 or 1-2-113.

(2) A local government may, with the consent of a state agency charged with the implementation of the law, arbitrate the application of the law pursuant to the Uniform Arbitration Act.

(3) A local government unit may request a hearing before an administrative agency charged with the administration of the law. A hearing held pursuant to this section is a contested case proceeding pursuant to the Montana Administrative Procedure Act. The decision of the agency may be appealed in accordance with Title 2, chapter 4, part 7.

(4)"

7. Page 3, lines 7 through 10.

Strike: "A LOCAL" on line 7 through "FUND." on line 10

8. Page 3, line 12.

Following: "INSTRUCTION."

Insert: "(1)"

Strike: "4"

Insert: "5"

9. Page 3, line 14.

Strike: "4"

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Insert: "5"

10. Page 3.

Following: line 14

Insert: "(2) [Section 4] is intended to be codified as an integral part of Title 5, chapter 4, part 2, and the provisions of Title 5, chapter 4, part 2, apply to [section 4]."

-END-

SENATE BILL NO. 135

INTRODUCED BY COLE, CLARK, EMERSON, MESAROS, GROSFIELD, HOLDEN, HARGROVE,
CRISMORE, MOHL, MILLER, TVEIT, JABS, BARTLETT, SWYSGOOD, SPRAGUE, JENKINS, ESTRADA,
KEATING

6 A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THE REQUIREMENT THAT ACTIVITIES, SERVICES,
7 OR FACILITIES THAT ARE REQUIRED OF LOCAL GOVERNMENTS OR SCHOOL DISTRICTS BY THE STATE
8 MUST CONTAIN A METHOD TO FULLY FUND THE ACTIVITIES, SERVICES, OR FACILITIES; PROHIBITING
9 THE INTRODUCTION OF A BILL VIOLATING SECTION 1-2-112 OR 1-2-113, MCA; REQUIRING AN
10 ESTIMATE OF THE FISCAL IMPACT OF A BILL BEFORE INTRODUCTION OF THE BILL; PROVIDING FOR
11 ENFORCEMENT AND PAYMENT OF COSTS AND ATTORNEY FEES; AND AMENDING SECTIONS 1-2-112
12 AND 1-2-113, MCA."

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

Section 1. Section 1-2-112, MCA, is amended to read:

17 **"1-2-112. Statutes imposing new local government duties.** (1) Any law enacted by the legislature
18 after July 1, 1979, which that requires a local government unit to perform an activity or provide a service
19 or facility which will require that requires the direct expenditure of additional funds must provide a specific
20 means to finance the activity, service, or facility other than the existing authorized mill levies or the
21 all-purpose mill levy. Any law that fails to provide a specific means to finance any activity, service, or
22 facility other than the existing authorized mill levies or the all purpose mill levy is not effective until specific
23 means of financing are provided by the legislature from state or federal funds.

(3) ~~No subsequent~~ Subsequent legislation shall may not be considered to supersede or modify any provision of this section, whether by implication or otherwise, except to the extent that ~~such the~~ the legislation shall ~~do~~ does so expressly.

(4) This section ~~shall~~ does not apply to any law under which the required expenditure of additional local funds is incidental to the main purpose of the law an insubstantial amount that can be readily absorbed into the budget of an existing program. A REQUIRED EXPENDITURE OF THE EQUIVALENT OF APPROXIMATELY 0.1 MILL OR LESS LEVIED ON TAXABLE PROPERTY OF THE LOCAL GOVERNMENT UNIT MAY BE CONSIDERED AN INSUBSTANTIAL AMOUNT."

Section 2. Section 1-2-113, MCA, is amended to read:

"1-2-113. Statutes imposing new duties on a school district to provide means of financing. (1) Any law enacted by the legislature ~~after July 1, 1981, except any law implementing a federal law or a court decision, that requires a school district to perform an activity or provide a service or facility and that will require the direct expenditure of additional funds~~ shall must provide a specific means to finance the activity, service, or facility other than the existing property tax mill levy. Any law that fails to provide a specific means to finance ~~such a~~ the service or facility is not effective until a specific means of financing meeting the requirements of subsection (2) is provided by the legislature.

(2) Financing must be by means of a remission of money by the state for the purpose of funding the activity, service, or facility. Financing must bear a reasonable relationship to the actual cost of performing the activity or providing the service or facility.

(3) ~~No legislation~~ Legislation passed and approved after October 1, 1981, ~~supersedes or modifies~~
may not supersede or modify any provision of this section, except to the extent that the legislation
expressly does so.

(4) This section does not apply to any law under which the required expenditure of additional funds by the board of trustees is an insubstantial amount that can be readily absorbed into the budget of an existing program."

NEW SECTION. SECTION 3. BILL RESTRICTION. (1) A BILL MAY NOT BE INTRODUCED
TING A NEW LAW OR AMENDING AN EXISTING LAW TO REQUIRE A LOCAL GOVERNMENT UNIT
ERFORM AN ACTIVITY OR PROVIDE A SERVICE OR FACILITY THAT REQUIRES A DIRECT



1 EXPENDITURE OF ADDITIONAL FUNDS WITHOUT A SPECIFIC MEANS TO FINANCE THE ACTIVITY,
2 SERVICE, OR FACILITY IN VIOLATION OF 1-2-112 OR 1-2-113.

3 (2) THE ESTIMATE OF FISCAL IMPACT PROVIDED IN ACCORDANCE WITH [SECTION 4] MUST
4 BE CONSIDERED IN DETERMINATION OF WHETHER A BILL IS INTRODUCED IN VIOLATION OF
5 SUBSECTION (1).

6

7 NEW SECTION. SECTION 4. ESTIMATE OF FISCAL IMPACT ON LOCAL GOVERNMENT REQUIRED.

8 (1) A BILL THAT, IF ENACTED, MAY REQUIRE A LOCAL GOVERNMENT UNIT TO PERFORM AN ACTIVITY
9 OR PROVIDE A SERVICE OR FACILITY THAT REQUIRES A DIRECT EXPENDITURE OF ADDITIONAL FUNDS
10 WITHOUT A SPECIFIC MEANS TO FINANCE THE ACTIVITY, SERVICE, OR FACILITY IN VIOLATION OF
11 1-2-112 OR 1-2-113 MUST BE ACCCOMPANIED, AT THE TIME THAT THE BILL IS PRESENTED FOR
12 INTRODUCTION TO THE CHIEF CLERK OF THE HOUSE OF REPRESENTATIVES OR THE SECRETARY OF
13 THE SENATE, BY AN ESTIMATE OF ALL DIRECT AND INDIRECT FISCAL IMPACTS ON A LOCAL
14 GOVERNMENT UNIT. THE ESTIMATE OF FISCAL IMPACTS MUST BE PREPARED BY THE BUDGET
15 DIRECTOR IN COOPERATION WITH A LOCAL GOVERNMENT UNIT AFFECTED BY THE BILL. THE BUDGET
16 DIRECTOR HAS 10 DAYS TO PREPARE THE ESTIMATE.

17 (2) THE ESTIMATE MUST SHOW IN DOLLAR AMOUNTS THE INCREASE IN EXPENDITURES THAT
18 MAY BE REQUIRED BY THE BILL. COMMENT OR OPINION RELATIVE TO THE MERITS OF THE BILL MAY
19 NOT BE INCLUDED IN THE ESTIMATE. HOWEVER, TECHNICAL OR MECHANICAL DEFECTS MAY BE
20 NOTED. UPON COMPLETION OF THE ESTIMATE, THE BUDGET DIRECTOR SHALL SUBMIT THE ESTIMATE
21 TO THE REQUESTOR OF THE BILL.

22

23 NEW SECTION. SECTION 5. ENFORCEMENT — COSTS AND FEES. (1) A LOCAL GOVERNMENT
24 UNIT MAY USE A REMEDY PROVIDED IN SUBSECTION (2), (3), OR (4) TO PREVENT THE APPLICATION
25 OF A LAW ENACTED IN VIOLATION OF 1-2-112 OR 1-2-113.

26 (2) A LOCAL GOVERNMENT MAY, WITH THE CONSENT OF A STATE AGENCY CHARGED WITH
27 THE IMPLEMENTATION OF THE LAW, ARBITRATE THE APPLICATION OF THE LAW PURSUANT TO THE
28 UNIFORM ARBITRATION ACT.

29 (3) A LOCAL GOVERNMENT UNIT MAY REQUEST A HEARING BEFORE AN ADMINISTRATIVE
30 AGENCY CHARGED WITH THE ADMINISTRATION OF THE LAW. A HEARING HELD PURSUANT TO THIS

1 SECTION IS A CONTESTED CASE PROCEEDING PURSUANT TO THE MONTANA ADMINISTRATIVE
2 PROCEDURE ACT. THE DECISION OF THE AGENCY MAY BE APPEALED IN ACCORDANCE WITH TITLE
3 2, CHAPTER 4, PART 7.

4 (4) A LOCAL GOVERNMENT UNIT MAY BRING A CIVIL ACTION IN THE DISTRICT COURT OF THE
5 COUNTY IN WHICH THE LOCAL GOVERNMENT UNIT IS LOCATED TO PREVENT THE APPLICATION OF
6 A LAW ENACTED IN VIOLATION OF 1-2-112 OR 1-2-113. THE STATE OF MONTANA MAY BE NAMED
7 AS THE RESPONDENT OR DEFENDANT IN AN ACTION BROUGHT PURSUANT TO THIS SECTION. A
8 LOCAL GOVERNMENT UNIT THAT SUBSTANTIALLY PREVAILS IN AN ACTION BROUGHT PURSUANT TO
9 THIS SECTION MUST BE AWARDED COSTS, INCLUDING ATTORNEY FEES, THAT MUST BE PAID BY
10 WARRANT DRAWN UPON THE STATE GENERAL FUND.

11

12 NEW SECTION. SECTION 6. CODIFICATION INSTRUCTION. (1) [SECTIONS 3 AND 4 5] ARE
13 INTENDED TO BE CODIFIED AS AN INTEGRAL PART OF TITLE 1, CHAPTER 2, PART 1, AND THE
14 PROVISIONS OF TITLE 1, CHAPTER 2, PART 1, APPLY TO [SECTIONS 3 AND 4 5].

15 (2) [SECTION 4] IS INTENDED TO BE CODIFIED AS AN INTEGRAL PART OF TITLE 5, CHAPTER
16 4, PART 2, AND THE PROVISIONS OF TITLE 5, CHAPTER 4, PART 2, APPLY TO [SECTION 4].

17

18 NEW SECTION. Section 7. Saving clause. [This act] does not affect OBLIGATIONS THAT WERE

19 CREATED, rights and duties that matured, penalties that were incurred, or proceedings that were begun

20 before [the effective date of this act].

21

-END-