

HOUSE BILL NO. 24

INTRODUCED BY S. GUNDERSON

BY REQUEST OF THE DEPARTMENT OF MILITARY AFFAIRS

A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING SECTIONS CREATING THE DISASTER RESILIENCY ACCOUNT; PROVIDING FOR A FUND TRANSFER; PROVIDING THAT THE FUNDS IN THE DISASTER RESILIENCY ACCOUNT NOT EXCEED \$10 MILLION; STATUTORILY APPROPRIATING FUNDS TO THE DEPARTMENT OF MILITARY AFFAIRS; AMENDING SECTIONS 10-3-312, 17-7-502, AND 76-13-150, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

**NEW SECTION. Section 1. Disaster resiliency account -- fund transfer.** There is a disaster resiliency account in the state special revenue fund to the credit of the department.

(2) The legislature may transfer money from other funds to the account, and the money in the account is subject to legislative fund transfers.

(3) Money in the account may be used for:

(a) wildfire mitigation projects;

(b) preparedness and mitigation projects for local jurisdictions in good standing with the division;

(c) development and sustainment of emergency management resources and systems;

(d) match for grants for the purchase of hazardous material equipment and training to increase local capacity to respond to hazardous material incidents as defined in 10-3-1204(7);

(e) grants for equipment, training, and planning for local disaster and emergency services programs as provided for by the division;

(f) state level all-hazard disaster mitigation projects.

(4) An amount equal to at least 25% of the funds available for a fiscal year in the account must be used as matching funds for the purposes of subsection (3)(a).

(5) Interest earned on the balance of the account is retained in the account.

1           (6) Except as provided in subsections (7) and (8), by August 15 following the end of each fiscal year,  
2 an amount equal to 50% of the balance of unexpended and unencumbered general fund money appropriated in  
3 excess of 0.5% of the total general fund money appropriated for that fiscal year must be transferred by the state  
4 treasurer from the general fund to the disaster resiliency account. General fund appropriations that continue  
5 from a fiscal year to the next fiscal year and any general fund appropriations made pursuant to 10-3-310 or 10-  
6 3-312 are excluded from the calculation.

7           (7) The provisions of subsection (6) do not apply in a fiscal year in which reductions required by 17-7-  
8 140 occur or if a transfer pursuant to subsection (6) would require reductions pursuant to 17-7-140.

9           (8) If the fund balance in the account exceeds \$10 million at the end of the most recently completed  
10 odd-numbered fiscal year, by August 15 of each odd-numbered year, the excess balance must be transferred  
11 to the fire suppression account provided for in 76-12-150.

12           (9) Money in the account is statutorily appropriated, as provided in 17-7-502, to the department for the  
13 purposes described in subsection (3).

14

15           **Section 2.** Section 10-3-312, MCA, is amended to read:

16           **"10-3-312. Maximum expenditure by governor -- appropriation.** (1) Whenever a disaster or an  
17 emergency, including an energy emergency as defined in 90-4-302 or an invasive species emergency declared  
18 under 80-7-1013, is declared by the governor, there is statutorily appropriated to the office of the governor, as  
19 provided in 17-7-502, and, subject to subsection (2), the governor is authorized to expend from the general fund  
20 an amount not to exceed \$16 million in any biennium, minus any amount appropriated pursuant to 10-3-310 in  
21 the same biennium. The statutory appropriation in this subsection may be used by any state agency designated  
22 by the governor.

23           (2) In the event of the recovery of money expended under this section, the spending authority must be  
24 reinstated to a level reflecting the recovery.

25           (3) If a disaster is declared by the president of the United States, there is statutorily appropriated to  
26 the office of the governor, as provided in 17-7-502, and the governor is authorized to expend from the general  
27 fund an amount not to exceed \$500,000 during the biennium to meet the state's share of the individuals and  
28 households grant programs as provided in 42 U.S.C. 5174. The statutory appropriation in this subsection may

1 be used by any state agency designated by the governor.

2 (4) (a) At Except as provided in subsection (4)(b), at the end of each biennium, the state treasurer  
 3 shall transfer an amount equal to the unexpended and unencumbered balance of the \$16 million statutory  
 4 appropriation in subsection (1), minus any amount appropriated pursuant to 10-3-310 in the same biennium,  
 5 ~~must be transferred by the state treasurer~~ from the state general fund as follows:

6 (i) 50% of the amount to the fire suppression account provided for in 76-13-150; and

7 (ii) 50% of the amount to the disaster resiliency account provided for in [section 1].

8 (b) If the fund balance of the account provided for in 76-13-150 at the end of the most recently  
 9 completed odd-numbered fiscal year is less than \$30 million, an amount equal to 100% of the unexpended and  
 10 unencumbered balance calculated in subsection (4)(a) must be transferred by the state treasurer from the state  
 11 general fund to the fire suppression account provided for in 76-13-150."

12

13 **Section 3.** Section 17-7-502, MCA, is amended to read:

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

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

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

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

22 (3) The following laws are the only laws containing statutory appropriations: 2-17-105; 5-11-120; 5-11-  
 23 407; 5-13-403; 5-13-404; 7-4-2502; 10-1-108; 10-1-1202; 10-1-1303; 10-2-603; 10-2-807; 10-3-203; [section 1];  
 24 10-3-310; 10-3-312; 10-3-314; 10-3-802; 10-3-1304; 10-4-304; 15-1-121; 15-1-218; 15-31-1004; 15-31-1005;  
 25 15-35-108; 15-36-332; 15-37-117; 15-39-110; 15-65-121; 15-70-101; 15-70-130; 15-70-433; 16-11-119; 16-11-  
 26 509; 17-3-106; 17-3-212; 17-3-222; 17-3-241; 17-6-101; 17-7-215; 18-11-112; 19-3-319; 19-3-320; 19-6-404;  
 27 19-6-410; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506; 19-20-604; 19-20-607; 19-21-  
 28 203; 20-8-107; 20-9-534; 20-9-622; 20-9-905; 20-26-617; 20-26-1503; 22-1-327; 22-3-116; 22-3-117; 22-3-

1 1004; 23-4-105; 23-5-306; 23-5-409; 23-5-612; 23-7-301; 23-7-402; 30-10-1004; 37-43-204; 37-50-209; 37-54-  
2 113; 39-71-503; 41-5-2011; 42-2-105; 44-4-1101; 44-12-213; 44-13-102; 50-1-115; 53-1-109; 53-6-148; 53-9-  
3 113; 53-24-108; 53-24-206; 60-11-115; 61-3-321; 61-3-415; 67-1-309; 69-3-870; 69-4-527; 75-1-1101; 75-5-  
4 1108; 75-6-214; 75-11-313; 75-26-308; 76-13-151; 76-13-150; 76-17-103; 76-22-109; 77-1-108; 77-2-362; 80-  
5 2-222; 80-4-416; 80-11-518; 80-11-1006; 81-1-112; 81-1-113; 81-7-106; 81-7-123; 81-10-103; 82-11-161; 85-2-  
6 526; 85-20-1504; 85-20-1505; [ 85-25-102]; 87-1-603; 90-1-115; 90-1-205; 90-1-504; 90-6-331; and 90-9-306.

7 (4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing,  
8 paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued  
9 pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of  
10 Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined  
11 by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have  
12 statutory appropriation authority for the payments. (In subsection (3): pursuant to sec. 10, Ch. 360, L. 1999, the  
13 inclusion of 19-20-604 terminates contingently when the amortization period for the teachers' retirement  
14 system's unfunded liability is 10 years or less; pursuant to sec. 73, Ch. 44, L. 2007, the inclusion of 19-6-410  
15 terminates contingently upon the death of the last recipient eligible under 19-6-709(2) for the supplemental  
16 benefit provided by 19-6-709; pursuant to sec. 27, Ch. 285, L. 2015, and sec. 1, Ch. 292, L. 2015, the inclusion  
17 of 53-9-113 terminates June 30, 2021; pursuant to sec. 6, Ch. 291, L. 2015, the inclusion of 50-1-115  
18 terminates June 30, 2021; pursuant to sec. 5, Ch. 383, L. 2015, the inclusion of 85-25-102 is effective on  
19 occurrence of contingency; pursuant to sec. 6, Ch. 423, L. 2015, the inclusion of 22-3-116 and 22-3-117  
20 terminates June 30, 2025; pursuant to sec. 33, Ch. 457, L. 2015, the inclusion of 20-9-905 terminates  
21 December 31, 2023; pursuant to sec. 12, Ch. 55, L. 2017, the inclusion of 37-54-113 terminates June 30, 2023;  
22 pursuant to sec. 4, Ch. 122, L. 2017, the inclusion of 10-3-1304 terminates September 30, 2025; pursuant to  
23 sec. 55, Ch. 151, L. 2017, the inclusion of 30-10-1004 terminates June 30, 2021; pursuant to sec. 1, Ch. 213, L.  
24 2017, the inclusion of 90-6-331 terminates June 30, 2027; pursuant to secs. 5, 8, Ch. 284, L. 2017, the  
25 inclusion of 81-1-112, 81-1-113, and 81-7-106 terminates June 30, 2023; pursuant to sec. 1, Ch. 340, L. 2017,  
26 the inclusion of 22-1-327 terminates July 1, 2023; pursuant to sec. 10, Ch. 374, L. 2017, the inclusion of 76-17-  
27 103 terminates June 30, 2027; pursuant to sec. 5, Ch. 50, L. 2019, the inclusion of 37-50-209 terminates  
28 September 30, 2023; pursuant to sec. 1, Ch. 408, L. 2019, the inclusion of 17-7-215 terminates June 30, 2029;

1 pursuant to secs. 11, 12, and 14, Ch. 343, L. 2019, the inclusion of 15-35-108 terminates June 30, 2027;  
2 pursuant to sec. 7, Ch. 465, L. 2019, the inclusion of 85-2-526 terminates July 1, 2023; and pursuant to sec. 5,  
3 Ch. 477, L. 2019, the inclusion of 10-3-802 terminates June 30, 2023.)"

4

5 **Section 4.** Section 76-13-150, MCA, is amended to read:

6 **"76-13-150. Fire suppression account -- fund transfer.** (1) There is a fire suppression account in  
7 the state special revenue fund to the credit of the department.

8 (2) The legislature may transfer money from other funds to the account, and the money in the account  
9 is subject to legislative fund transfers.

10 (3) Funds received for restitution by private parties must be deposited in the account.

11 (4) Money in the account may be used only for:

12 (a) fire suppression costs;

13 (b) fuel reduction and mitigation;

14 (c) forest restoration;

15 (d) grants for the purchase of fire suppression equipment for county cooperatives;

16 (e) forest management projects on federal land;

17 (f) support for collaborative groups that include at least one representative of an affected county

18 commission that is engaged with a federal forest project and for local governments engaged in litigation related  
19 to federal forest projects; and

20 (g) road maintenance on federal lands.

21 (5) Interest earned on the balance of the account is retained in the account.

22 (6) Except as provided in subsections (7) and (8), by August 15 following the end of each fiscal year,  
23 an amount equal to 50% of the balance of unexpended and unencumbered general fund money appropriated in  
24 excess of 0.5% of the total general fund money appropriated for that fiscal year must be transferred by the state  
25 treasurer from the general fund to the fire suppression account. General fund appropriations that continue from  
26 a fiscal year to the next fiscal year and any general fund appropriations made pursuant to 10-3-310 or 10-3-312  
27 are excluded from the calculation.

28 (7) The provisions of subsection (6) do not apply in a fiscal year in which reductions required by 17-7-

1 140 occur or if a transfer pursuant to subsection (6) would require reductions pursuant to 17-7-140.

2 (8) The fund balance in the account may not exceed 4% of all general fund appropriations in the  
3 second year of the biennium.

4 (9) By August 15 of each even-numbered fiscal year, if the balance in the account at the end of the  
5 most recently completed odd-numbered fiscal year exceeds \$40 million, the excess, up to \$5 million, must be  
6 used in the biennium for the purposes in subsections (4)(b) through (4)(g). Of that amount, no more than 5%  
7 may be used for the purposes of subsection (4)(f).

8 (10) Money in the account is statutorily appropriated, as provided in 17-7-502, to the department for  
9 the purposes described in subsection (4)."

10  
11 **NEW SECTION. Section 5. Codification instruction.** [Section 1] is intended to be codified as an  
12 integral part of Title 10, chapter 3, part 3, and the provisions of Title 10, chapter 3, part 3, apply to [section 1].

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14 **NEW SECTION. Section 6. Effective date.** [This act] is effective July 1, 2021.

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