

Proposed Budget Clean-Up Legislation:

Background:

Montana Code Annotated currently contains the following language (partial excerpts):

17-2-102. Fund structure. For the purpose of ensuring strict accountability for all revenue received and spent, there are in the state treasury only the following fund categories and types:

(1) the governmental fund category, which includes:

(a) the general fund, which accounts for all financial resources except those required to be accounted for in another fund;

(b) the special revenue fund type, which accounts for the proceeds of specific revenue sources (other than private purpose trusts or major capital projects) that are legally restricted to expenditure for specified purposes. The financial activities of the special revenue fund type are subdivided, for operational purposes, into the following funds to serve the purpose indicated:

(i) The state special revenue fund consists of money and other proceeds from state and other nonfederal sources deposited in the state treasury that is earmarked for the purposes of defraying particular costs of an agency, program, or function of state government and money and other proceeds from other nonstate or nonfederal sources that is restricted by law or by the terms of an agreement, such as a contract, trust agreement, or donation.

(ii) The federal special revenue fund consists of money deposited in the treasury from federal sources, including trust income, that is used for the operation of state government.

17-2-106. Creation and abolition of new accounts. (1) Moneys deposited in each fund except the general fund shall be segregated by the department of administration **by specific accounts** based on source, function, or department. When moneys deposited in the state treasury cannot logically be credited to an existing account or when it is impractical or undesirable for an agency of state government to segregate moneys in its own accounts, the department of administration, in its discretion, may create new accounts consistent with the definitions in [17-2-102](#). However, the department of administration shall create as few new accounts as practicable.

Issue:

- Further, the use of the term account and fund are used interchangeably throughout the MCA, leading to lack of clarity and confusion. This is demonstrated by a small set of examples below.

- **17-3-241. Mineral impact account.** There is a mineral impact account. Money must be deposited in the impact account as provided in [17-3-240](#). *[Does not indicate whether this is state or federal dollars and does not reference 17-2-102.]*
- **17-7-130. Budget stabilization reserve fund -- rules for deposits and transfers - - purpose.** (1) There is an account in the state special revenue fund established by [17-2-102](#) known as the budget stabilization reserve fund. *[Under current statute, this is the correct way to establish a fund.]*
- **23-1-105. Fees and charges -- use of motor vehicle registration fee.** (1) (b) There must be deposited into a state special revenue fund in the state treasury to the credit of the department: *[Does not refer to an account.]*
- **37-45-203. Fees -- education fund -- fines.** (2) The fees collected under this chapter in accordance with [37-1-134](#) must be deposited in a special revenue account for administration and enforcement of this chapter. *[Does not refer to 17-2-102.]*
- **40-15-110. Partner and family member assault intervention and treatment fund account.** (1) There is a partner and family member assault intervention and treatment fund account in the state special revenue fund in the state treasury. The money in the account is allocated to the board of crime control to fund services to victims of partner or family member assault, as provided in subsections (2) and (3). *[Uses both fund and account.]*
- **82-4-438. Opencut fund -- use of fund.** (1) There is an account in the state special revenue fund established by [17-2-102](#) to be known as the opencut fund. *[Uses fund and account interchangeably.]*
- There are additional situations with various combinations of the above scenarios and more.

Proposed Solution:

Staff from OBPP, LFD, and Department of Administration agreed that the following amendment to 17-2-102 and 17-2-106 would provide greater clarity and transparency:

17-2-102. Fund structure. For the purpose of ensuring strict accountability for all revenue received and spent, there are in the state treasury only the following fund categories and types:

(1) the governmental fund category, which includes:

(a) the general fund, which accounts for all financial resources except those required to be accounted for in another fund;

(b) the special revenue fund group, which accounts for the proceeds of specific revenue sources (other than private purpose trusts or major capital projects) that are legally restricted to expenditure for specified purposes. The financial activities of the special revenue fund type are subdivided, for operational purposes, into the following fund types to serve the purpose indicated:

(i) The state special revenue fund type consists of money and other proceeds from state and other nonfederal sources deposited in the state treasury that is earmarked for the purposes of defraying particular costs of an agency, program, or function of state government and money and other

proceeds from other nonstate or nonfederal sources that is restricted by law or by the terms of an agreement, such as a contract, trust agreement, or donation.

(ii) The federal special revenue fund type consists of money deposited in the treasury from federal sources, including trust income, that is used for the operation of state government.

17-2-106. Creation and abolition of new funds. (1) Moneys deposited in each fund type except the general fund shall be segregated by the department of administration by specific funds based on source, function, or department. When moneys deposited in the state treasury cannot logically be credited to an existing funds or when it is impractical or undesirable for an agency of state government to segregate moneys in its own funds, the department of administration, in its discretion, may create new funds consistent with the definitions in [17-2-102](#). However, the department of administration shall create as few new funds as practicable.

Result:

OBPP has been working on identifying all of the statutes that are affected by the proposed change. Currently, OBPP (with the assistance of the LFD and Department of Administration) and working on a bill draft. In its current status the bill is over 500 pages long and amends 528 separate sections of the MCA, although these numbers are subject to change.

Request of the Subcommittee:

The working group made up of staff from OBPP, LFD, and Department of Administration requests the subcommittee to endorse the bill draft concept of clarifying and making consistent statutory language with regard to account and funding terminology.