

Amendment - 2nd Reading/2nd House-tan - Requested by: Forrest Mandeville - (S)
Committee of the Whole

- 2025

69th Legislature 2025

Drafter: Julie Johnson,

HB0863.001.013

HOUSE BILL NO. 863

INTRODUCED BY L. JONES, J. ESP, C. GLIMM, D. BEDEY, B. MERCER, E. TILLEMAN, K. WALSH

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING STATE FINANCE LAWS; CAPPING
INVESTMENT COSTS FOR THE BOARD OF INVESTMENTS; PROVIDING AN APPROPRIATION;
AMENDING SECTION SECTIONS 17-6-201 AND 17-7-102, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

Section 1. Section 17-6-201, MCA, is amended to read:

"17-6-201. Unified investment program -- general provisions. (1) The unified investment program directed by Article VIII, section 13, of the Montana constitution to be provided for public funds must be administered by the board of investments in accordance with the prudent expert principle, which requires an investment manager to:

(a) discharge the duties with the care, skill, prudence, and diligence, under the circumstances then prevailing, that a prudent person acting in a like capacity with the same resources and familiar with like matters exercises in the conduct of an enterprise of a like character with like aims;

(b) diversify the holdings of each fund within the unified investment program to minimize the risk of loss and to maximize the rate of return unless, under the circumstances, it is clearly prudent not to do so; and

(c) discharge the duties solely in the interest of and for the benefit of the funds forming the unified investment program.

(2) (a) Retirement funds may be invested in common stocks of any corporation.

(b) Other public funds may not be invested in private corporate capital stock. "Private corporate capital stock" means only the common stock of a corporation.

(3) (a) This section does not prevent investment in any business activity in Montana, including activities that continue existing jobs or create new jobs in Montana.

(b) The board is urged under the prudent expert principle to invest up to 3% of retirement funds in

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1 venture capital companies. Whenever possible, preference should be given to investments in those venture
2 capital companies that demonstrate an interest in making investments in Montana.

3 (c) In discharging its duties, the board shall consider the preservation of purchasing power of
4 capital during periods of high monetary inflation.

5 (d) The board may not make a direct loan to an individual borrower. The purchase of a loan or a
6 portion of a loan originated by a financial institution is not considered a direct loan.

7 (e) This section does not prevent investment in home loan mortgages under the provisions of the
8 Montana veterans' home loan mortgage program provided for in Title 90, chapter 6, part 6.

9 (4) The board has the primary authority to invest state funds. Another agency may not invest state
10 funds unless otherwise provided by law. The board shall direct the investment of state funds in accordance with
11 the laws and constitution of this state. The board has the power to veto investments made under its general
12 supervision.

13 (5) The board shall:

14 (a) assist agencies with public money to determine if, when, and how much surplus cash is
15 available for investment;

16 (b) determine the amount of surplus treasury cash to be invested;

17 (c) determine the type of investment to be made;

18 (d) prepare the claim to pay for the investment; and

19 (e) keep an account of the total of each investment fund and of all the investments belonging to
20 the fund and a record of the participation of each treasury fund account in each investment fund.

21 (6) The board may:

22 (a) execute deeds of conveyance transferring real property obtained through investments. Prior to
23 the transfer of real property directly purchased and held as an investment, the board shall obtain an appraisal
24 by a qualified appraiser.

25 (b) direct the withdrawal of funds deposited by or for the state treasurer pursuant to 17-6-101 and
26 17-6-105;

27 (c) direct the sale of securities in the program at their full and true value when found necessary to

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raise money for payments due from the treasury funds for which the securities have been purchased.

(7) The cost of administering and accounting for each investment fund must be deducted from the income from each fund, other than the fund derived from land granted to the state pursuant to the Morrill Act of 1862, 7 U.S.C. 301 through 308, and the Morrill Act of 1890, 7 U.S.C. 321 through 329. An appropriation to pay the costs of administering and accounting for the Morrill Act fund is provided for in 77-1-108.

(8) The total investment costs of the board associated with the unified investment program for a fiscal year, including board management fees and external management fees, may not exceed 0.27% of the amount reported as total investments in the statement of fiduciary net position as of June 30 of the preceding fiscal year."

Section 2. Section 17-7-102, MCA, is amended to read:

"17-7-102. (Temporary) Definitions. As used in this chapter, the following definitions apply:

(1) "Additional services" means different services or more of the same services.

(2) "Agency" means all offices, departments, boards, commissions, institutions, universities, colleges, and any other person or any other administrative unit of state government that spends or encumbers public money by virtue of an appropriation from the legislature under 17-8-101.

(3) "Approving authority" means:

(a) the governor or the governor's designated representative for executive branch agencies;

(b) the chief justice of the supreme court or the chief justice's designated representative for judicial branch agencies;

(c) the speaker for the house of representatives;

(d) the president for the senate;

(e) appropriate legislative committees or a designated representative for legislative branch agencies; or

(f) the board of regents of higher education or its designated representative for the university system.

(4) (a) "Base budget" means the resources for the operation of state government that are of an

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ongoing and nonextraordinary nature in the current biennium. The base budget for the state general fund and state special revenue funds may not exceed that level of funding authorized by the previous legislature.

(b) The term does not include:

(i) funding for water adjudication if the accountability benchmarks contained in 85-2-271 are not met;

(ii) funding for petroleum storage tank leak prevention if the accountability benchmarks in 75-11-521 are not met.

(5) "Budget amendment" means a temporary appropriation as provided in Title 17, chapter 7, part 4.

(6) "Budget stabilization reserve" means the amount of unappropriated fund balance in the budget stabilization reserve fund up to 16% of all general revenue appropriations in the second year of the biennium.

(7) "Emergency" means a catastrophe, disaster, calamity, or other serious unforeseen and unanticipated circumstance that has occurred subsequent to the time that an agency's appropriation was made, that was clearly not within the contemplation of the legislature and the governor, and that affects one or more functions of a state agency and the agency's expenditure requirements for the performance of the function or functions.

(8) "Funds subject to appropriation" means those funds required to be paid out of the treasury as set forth in 17-8-101.

(9) "General revenue appropriations" means appropriations from the general fund ~~or~~ and the school equalization and property tax reduction account in 20-9-336.

(10) "Necessary" means essential to the public welfare and of a nature that cannot wait until the next legislative session for legislative consideration.

(11) "New proposals" means requests to provide new nonmandated services, to change program services, to eliminate existing services, or to change sources of funding. For purposes of establishing the present law base, the distinction between new proposals and the adjustments to the base budget to develop the present law base is to be determined by the existence of constitutional or statutory requirements for the proposed expenditure. Any proposed increase or decrease that is not based on those requirements is

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1 considered a new proposal.

2 (12) "Operating reserve" means an amount equal to 8.3% of all general revenue appropriations in
3 the second year of the biennium.

4 (13) "Present law base" means that level of funding needed under present law to maintain
5 operations and services at the level authorized by the previous legislature, including but not limited to:

6 (a) changes resulting from legally mandated workload, caseload, or enrollment increases or
7 decreases;

8 (b) changes in funding requirements resulting from constitutional or statutory schedules or
9 formulas;

10 (c) inflationary or deflationary adjustments; and

11 (d) elimination of nonrecurring appropriations.

12 (14) "Program" means a principal organizational or budgetary unit within an agency.

13 (15) "Requesting agency" means the agency of state government that has requested a specific
14 budget amendment.

15 (16) "University system unit" means the board of regents of higher education; office of the
16 commissioner of higher education; university of Montana, with campuses at Missoula, Butte, Dillon, and
17 Helena; Montana state university, with campuses at Bozeman, Billings, Havre, and Great Falls; the agricultural
18 experiment station, with central offices at Bozeman; the forest and conservation experiment station, with central
19 offices at Missoula; the cooperative extension service, with central offices at Bozeman; the bureau of mines and
20 geology, with central offices at Butte; the fire services training school at Great Falls; and the community
21 colleges supervised and coordinated by the board of regents pursuant to 20-15-103. (Terminates June 30,
22 2028--sec. 11, Ch. 269, L. 2015.)

23 **17-7-102. (Effective July 1, 2028) Definitions.** As used in this chapter, the following definitions
24 apply:

25 (1) "Additional services" means different services or more of the same services.

26 (2) "Agency" means all offices, departments, boards, commissions, institutions, universities,
27 colleges, and any other person or any other administrative unit of state government that spends or encumbers

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(c) the speaker for the house of representatives;

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(e) appropriate legislative committees or a designated representative for legislative branch agencies; or

(f) the board of regents of higher education or its designated representative for the university system.

(4) "Base budget" means the resources for the operation of state government that are of an ongoing and nonextraordinary nature in the current biennium. The base budget for the state general fund and state special revenue funds may not exceed that level of funding authorized by the previous legislature.

(5) "Budget amendment" means a temporary appropriation as provided in Title 17, chapter 7, part 4.

(6) "Budget stabilization reserve" means the amount of unappropriated fund balance in the budget stabilization reserve fund up to 16% of all general revenue appropriations in the second year of the biennium.

(7) "Emergency" means a catastrophe, disaster, calamity, or other serious unforeseen and unanticipated circumstance that has occurred subsequent to the time that an agency's appropriation was made, that was clearly not within the contemplation of the legislature and the governor, and that affects one or more functions of a state agency and the agency's expenditure requirements for the performance of the function or functions.

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(12) "Operating reserve" means an amount equal to 8.3% of all general revenue appropriations in the second year of the biennium.

(13) "Present law base" means that level of funding needed under present law to maintain operations and services at the level authorized by the previous legislature, including but not limited to:

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(b) changes in funding requirements resulting from constitutional or statutory schedules or formulas;

(c) inflationary or deflationary adjustments; and

(d) elimination of nonrecurring appropriations.

(14) "Program" means a principal organizational or budgetary unit within an agency.

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(16) "University system unit" means the board of regents of higher education; office of the commissioner of higher education; university of Montana, with campuses at Missoula, Butte, Dillon, and Helena; Montana state university, with campuses at Bozeman, Billings, Havre, and Great Falls; the agricultural experiment station, with central offices at Bozeman; the forest and conservation experiment station, with central offices at Missoula; the cooperative extension service, with central offices at Bozeman; the bureau of mines and geology, with central offices at Butte; the fire services training school at Great Falls; and the community

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1 colleges supervised and coordinated by the board of regents pursuant to 20-15-103."

2

3 NEW SECTION. Section 3. Appropriation. (1) There is appropriated \$100,000 from the Montana-
4 Ireland trade and development special revenue account to the department of commerce for the biennium
5 beginning July 1, 2025, for implementing the provisions of Senate Bill No. 320.

6 (2) It is the intent of the legislature that the appropriation be included in the base budget for the
7 department of commerce for the biennium beginning July 1, 2027.

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9 NEW SECTION. Section 4. Effective date. [This act] is effective July 1, 2025.

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- END -