



GOVERNOR'S OFFICE OF  
BUDGET AND PROGRAM PLANNING

## Fiscal Note 2025 Biennium

<b>Bill information:</b>	
HB0136 - Adopt Montana Revised Unclaimed Property Act (Bertoglio, Marta )	
<b>Status:</b>	As Introduced

- |                                                           |                                                                  |                                                          |
|-----------------------------------------------------------|------------------------------------------------------------------|----------------------------------------------------------|
| <input type="checkbox"/> Significant Local Gov Impact     | <input checked="" type="checkbox"/> Needs to be included in HB 2 | <input checked="" type="checkbox"/> Technical Concerns   |
| <input type="checkbox"/> Included in the Executive Budget | <input type="checkbox"/> Significant Long-Term Impacts           | <input type="checkbox"/> Dedicated Revenue Form Attached |

### FISCAL SUMMARY

	<u>FY 2024</u> <u>Difference</u>	<u>FY 2025</u> <u>Difference</u>	<u>FY 2026</u> <u>Difference</u>	<u>FY 2027</u> <u>Difference</u>
<b>Expenditures:</b>				
General Fund	\$0	(\$70,000)	(\$17,000)	(\$17,000)
State Special Revenue	\$0	\$0	\$0	\$0
Federal Special Revenue	\$0	\$0	\$0	\$0
Other-Pension	\$6,385,979	\$4,475,601	\$4,475,601	\$4,475,601
Other-TRS Trust	\$9,177,000	\$750,000	\$750,000	\$750,000
<b>Revenue:</b>				
General Fund	\$15,574,420	\$5,225,601	\$5,225,601	\$5,225,601
State Special Revenue	\$0	\$0	\$0	\$0
Federal Special Revenue	\$0	\$0	\$0	\$0
Other-Pension	\$0	\$0	\$0	\$0
Other-TRS Trust	\$0	\$0	\$0	\$0
<b>Net Impact-General Fund Balance:</b>	<u>\$15,574,420</u>	<u>\$5,295,601</u>	<u>\$5,242,601</u>	<u>\$5,242,601</u>

**Description of fiscal impact:** HB 136 makes changes to unclaimed property laws. It defines virtual currency and worthless security, outlines additional categories of abandoned property and when they are presumed abandoned, requires holders to liquidate certain abandoned property and remit cash to the department, and moves the publishing of the existence and sale of unclaimed property from newspapers to online. Assuming the requirements of new section 12 of HB 136 are intended to apply to the state and local government sponsored retirement plans under Title 19 of Montana Code Annotated, there are additional costs to the retirement plans not included in this fiscal note (see Technical Notes).

# FISCAL ANALYSIS

## Assumptions:

### **Department of Revenue**

1. Upon the securities company selling a portion of the reconciled existing stock within the first year of the Montana Department of Revenue (DOR) submitting the request to sell, the DOR will recognize a savings of approximately \$70,000 in FY 2025. For the additional stock that will require extra time for the DOR to reconcile, the DOR will recognize a savings of approximately \$17,000 in FY 2026 and FY 2027 when the remainder of the stock is liquidated.

### **Retirement Systems**

2. Teachers' Retirement System (TRS) would transfer 8,932 current dormant member account balances (member contributions plus accumulated interest) to the DOR in FY 2024 totaling \$9,177,000.
3. Approximately 600 additional member's each year would meet the abandoned property threshold requiring TRS to transfer approximately \$750,000 per year to the DOR in accumulated contributions for member's that would otherwise fall under Teachers' Retirement System dormant member laws.
4. TRS pension administration system would require approximately 100 hours of programming, testing and correspondence updates at \$100 per hour to meet the requirements of HB 136.
5. TRS would require at least 3 hours of tax counsel services at \$480.25 per hour to determine if HB 136 puts our tax qualified status at risk by violating Internal Revenue Service regulations.
6. Montana Public Employee Retirement Administration (MPERA) would transfer 8,479 current dormant member account balances (member contributions plus accumulated interest) for MPERA's 6 systems: Public Employee Retirement System, Sheriffs' Retirement System, Municipal Police Officers' Retirement System, Game Wardens' and Peace Officer Retirement System, Highway Patrol Officers' Retirement System, Judges' Retirement System to the DOR in FY 2024 totaling \$6,385,979.
7. Approximately 1,600 additional member's each year would meet the abandoned property threshold requiring MPERA to transfer approximately \$4,475,601 per year to the DOR in accumulated contributions for member's that would otherwise fall under MPERA dormant member laws.
8. MPERA pension administration system would require approximately 300 hours of programming, testing and correspondence updates at \$100 per hour to meet the requirements of HB 136.
9. MPERA would require at least 3 hours of tax counsel services at \$480.25 per hour to determine if HB 136 puts our tax qualified status at risk by violating IRS regulations.
10. The constitutionality of section 12 of HB 136 would be litigated; it is not possible to determine the length or cost of the litigation.

	<u>FY 2024</u> <u>Difference</u>	<u>FY 2025</u> <u>Difference</u>	<u>FY 2026</u> <u>Difference</u>	<u>FY 2027</u> <u>Difference</u>
<b><u>Fiscal Impact:</u></b>				
FTE	0.00	0.00	0.00	0.00
<b><u>Expenditures:</u></b>				
Personal Services	\$0	\$0	\$0	\$0
Operating Expenses	\$42,841	(\$70,000)	(\$17,000)	(\$17,000)
Equipment	\$0	\$0	\$0	\$0
Benefits	\$0	\$0	\$0	\$0
Transfers	\$15,562,980	\$5,225,601	\$5,225,601	\$5,225,601
<b>TOTAL Expenditures</b>	<b>\$15,605,821</b>	<b>\$5,155,601</b>	<b>\$5,208,601</b>	<b>\$5,208,601</b>
<b><u>Funding of Expenditures:</u></b>				
General Fund (01)	\$0	(\$70,000)	(\$17,000)	(\$17,000)
State Special Revenue (02)	\$0	\$0	\$0	\$0
Federal Special Revenue (03)	\$0	\$0	\$0	\$0
Other-Pension	\$6,417,420	\$4,475,601	\$4,475,601	\$4,475,601
Other-TRS Trust	\$9,188,441	\$750,000	\$750,000	\$750,000
<b>TOTAL Funding of Exp.</b>	<b>\$15,605,861</b>	<b>\$5,155,601</b>	<b>\$5,208,601</b>	<b>\$5,208,601</b>
<b><u>Revenues:</u></b>				
General Fund (01)	\$15,562,980	\$5,225,601	\$5,225,601	\$5,225,601
State Special Revenue (02)	\$0	\$0	\$0	\$0
Federal Special Revenue (03)	\$0	\$0	\$0	\$0
Other-Pension	\$0	\$0	\$0	\$0
Other-TRS Trust	\$0	\$0	\$0	\$0
<b>TOTAL Revenues</b>	<b>\$15,562,980</b>	<b>\$5,225,601</b>	<b>\$5,225,601</b>	<b>\$5,225,601</b>
<b><u>Net Impact to Fund Balance (Revenue minus Funding of Expenditures):</u></b>				
General Fund (01)	\$15,562,980	\$5,295,601	\$5,242,601	\$5,242,601
State Special Revenue (02)	\$0	\$0	\$0	\$0
Federal Special Revenue (03)	\$0	\$0	\$0	\$0
Other-Pension	(\$6,417,420)	(\$4,475,601)	(\$4,475,601)	(\$4,475,601)
Other-TRS Trust	(\$9,188,441)	(\$750,000)	(\$750,000)	(\$750,000)

**Technical Notes:**

1. Article VIII, Section 15, of the Montana Constitution states the following: “(1) Public retirement systems shall be funded on an actuarially sound basis. ***Public retirement system assets, including income and actuarially required contributions, shall not be encumbered, diverted, reduced, or terminated and shall be held in trust to provide benefits to participants and their beneficiaries and to defray the administrative expenses.*** (2) The governing boards of public retirement systems shall administer the system, including actuarial determinations, as fiduciaries of system participants and their beneficiaries.” The constitutional provision was referred by the legislature and passed by the citizens of Montana to prevent the legislature from spending, borrowing against, or diverting the assets of the retirement systems.
2. Application of the Unclaimed Property Act to the retirement system with the result of requiring Teachers’ Retirement System (TRS) to pay over trust assets of the retirement system to the DOR as unclaimed property would, almost certainly violate Article VIII, Section 15 of the Montana Constitution.
3. Application of the Unclaimed Property Act to the retirement system, as written, may violate several Internal Revenue Service qualification standards and requirements applicable to TRS as a tax-qualified pension plan, including the exclusive benefit rule and non-forfeitability provisions.
4. The provisions of the Unclaimed Property Act, if applied to TRS, are inconsistent with current TRS law regarding treatment of what TRS law refers to “dormant accounts.” Because TRS is required to administer the retirement system in conformity with its plan terms, TRS statutes and administrative rules would have to be amended to reflect the Unclaimed Property Act requirements.
5. To the extent that a rightful recipient of “unclaimed” TRS contributions/benefits cannot be found, escheatment to the state of the “unclaimed funds,” the removal of the funds from the investable assets of retirement system to the state general fund would reduce the assets of the retirement system. The extent of the funding impact on the system cannot be reasonably ascertained at this time.

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*Sponsor’s Initials*

\_\_\_\_\_  
*Date*

  
\_\_\_\_\_  
*Budget Director’s Initials*

*1-3-23*  
\_\_\_\_\_  
*Date*