

Amendment - 2nd Reading/2nd House-tan - Requested by: Pat Flowers - (S) Committee of Whole

- 2023

68th Legislature 2023

Drafter: Julie Johnson, 406-444-4024

HB0251.003.003

1 HOUSE BILL NO. 251

2 INTRODUCED BY L. JONES, S. VINTON, M. REGIER, R. KNUDSEN, J. SMALL, S. FITZPATRICK, D.

3 SALOMON, J. ELLSWORTH, K. BOGNER

4

5 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING STATE FINANCE LAWS; CREATING THE DEBT AND

6 LIABILITY FREE ACCOUNT; PROVIDING FOR A TRANSFER AND ALLOCATIONS OF INTEREST INTO

7 THE DEBT AND LIABILITY FREE ACCOUNT; PROVIDING A TRANSFER TO THE STATEWIDE PUBLIC

8 SAFETY COMMUNICATIONS SYSTEM ACCOUNT; PROVIDING FOR A STATUTORY APPROPRIATION;

9 PROVIDING FOR AN EQUAL TRANSFER OF UNOBLIGATED FUNDS FROM THE DEBT AND LIABILITY

10 FREE ACCOUNT TO THE CAPITAL DEVELOPMENTS LONG-RANGE BUILDING PROGRAM ACCOUNT

11 AND THE GENERAL FUND IN 2027; ESTABLISHING REPORTING REQUIREMENTS; AMENDING

12 SECTIONS 17-6-202, 17-7-502, AND 44-4-1607, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE

13 AND A RETROACTIVE APPLICABILITY DATE."

14

15 WHEREAS, there is a benefit to the citizens of Montana to pay off debts and be debt free in 2023; and

16 WHEREAS, paying off debts and other financial liabilities of the State of Montana is a responsible use

17 of one-time funds; and

18 WHEREAS, issuing and paying off public debt when prudent is and should remain a standard function

19 of state government; and

20 WHEREAS, paying off debt now allows more capacity to responsibly pay for capital expenditures via

21 financing in the future, when desired by the Executive and Legislature.

22

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

24

25 NEW SECTION. **Section 1. Debt and liability free account -- rules for deposits and transfers --**

26 **purpose.** (1) There is an account in the state special revenue fund established by 17-2-102 known as the debt

27 and liability free account.

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(2) The purpose of the debt and liability free account is to:

(a) pay the principal, interest, premiums, and any costs or fees associated with redeeming outstanding bonds, notes, or other obligations that have been authorized and issued pursuant to the laws of Montana and that are currently subject to optional redemption;

(b) pay the principal, interest, premiums, and any costs or fees associated with defeasing outstanding bonds, notes, or other obligations that have been authorized and issued pursuant to the laws of Montana that are not currently subject to optional redemption;

(C) FOREGO OR REDUCE THE AMOUNT OF AN ISSUANCE OF GENERAL OBLIGATION BONDS PAID FROM THE GENERAL FUND AUTHORIZED BY THE LEGISLATURE BUT NOT YET ISSUED BY THE BOARD OF EXAMINERS PRIOR TO USING FUNDS FROM THE ACCOUNT ESTABLISHED IN 17-7-209 FOR THE SAME PURPOSE; AND

~~(e)(D) pay in whole or in part legally resolved nonpension financial liabilities of the state of Montana;~~

~~(d) pay personal services costs of a state agency to avoid or delay incurrence or declaration of a formal exigency; and~~

~~(e) pay in whole or in part the cost of repairs to existing infrastructure within the state that, if made, are likely to prevent catastrophic loss of life or property.~~

~~(3) The legislature may transfer money from other funds to the account, and the money in the account is subject to legislative fund transfers.~~

~~(4)(3) For the fiscal year beginning July 1, 2022, through the fiscal year ending June 30, 2025, interest income received pursuant to 17-6-202(2) is deposited into the account.~~

~~(5)(4) Funds in the debt and liability free account are statutorily appropriated, as provided in 17-7-502, to the governor's office of budget and program planning and must be used in accordance with the requirements of this section.~~

~~(6)(5) Funds expended from the account in this section may not be included in the calculation of annual transfers in 17-7-208~~

(6) THE OFFICE OF BUDGET AND PROGRAM PLANNING SHALL PRIORITIZE THE USE OF FUNDS FOR THE USES OUTLINED IN SUBSECTIONS (1)(A) THROUGH (1)(C)

(7) WITHIN 15 DAYS OF THE CLOSE OF EACH FISCAL QUARTER, THE OFFICE OF BUDGET AND PROGRAM

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PLANNING SHALL SUBMIT A WRITTEN REPORT TO THE LEGISLATIVE FINANCE COMMITTEE IN ACCORDANCE WITH 5-11-210 THAT IDENTIFIES THE AMOUNT AND THE TYPE OF DEBT PAYOFF OR OTHER EXPENDITURE FROM THE ACCOUNT ESTABLISHED IN THIS SECTION FOR THE PREVIOUS FISCAL QUARTER.

Section 2. Section 17-6-202, MCA, is amended to read:

"17-6-202. Investment funds -- general provisions. (1) For each treasury fund account into which state funds are segregated by the department of administration pursuant to 17-2-106, individual transactions and totals of all investments shall be separately recorded to the extent directed by the department.

(2) However, the securities purchased and cash on hand for all treasury fund accounts not otherwise specifically designated by law or by the provisions of a gift, donation, grant, legacy, bequest, or devise from which the fund account originates to be invested shall be pooled in an account to be designated "treasury cash account" and placed in one of the investment funds designated in 17-6-203. The Except for the fiscal year beginning July 1, 2022, through the fiscal year ending June 30, 2025, the share of the income for this account shall be credited to the general fund. For the fiscal year beginning July 1, 2022, through the fiscal year ending June 30, 2025, the share of the income for this account must be credited to the debt and liability free account established in [section 1].

(3) If, within the list in 17-6-203 of separate investment funds, more than one investment fund is included which may be held jointly with others under the same separate listing, all investments purchased for that separate investment fund shall be held jointly for all the accounts participating therein, which shall share all capital gains and losses and income pro rata."

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

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

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

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

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

4 (3) The following laws are the only laws containing statutory appropriations: 2-17-105; 5-11-120; 5-
5 11-407; 5-13-403; 5-13-404; 7-4-2502; 7-4-2924; 7-32-236; 10-1-108; 10-1-1202; 10-1-1303; 10-2-603; 10-2-
6 807; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-3-802; 10-3-1304; 10-4-304; 10-4-310; 15-1-121; 15-1-218;
7 15-31-165; 15-31-1004; 15-31-1005; 15-35-108; 15-36-332; 15-37-117; 15-39-110; 15-65-121; 15-70-101; 15-
8 70-130; 15-70-433; 16-11-119; 16-11-509; 17-3-106; 17-3-212; 17-3-222; 17-3-241; 17-6-101; [section 1]; 17-7-
9 215; 18-11-112; 19-3-319; 19-3-320; 19-6-404; 19-6-410; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-
10 305; 19-19-506; 19-20-604; 19-20-607; 19-21-203; 20-8-107; 20-9-534; 20-9-622; [20-15-328]; 20-26-617; 20-
11 26-1503; 22-1-327; 22-3-116; 22-3-117; [22-3-1004]; 23-4-105; 23-5-306; 23-5-409; 23-5-612; 23-7-301; 23-7-
12 402; 30-10-1004; 37-43-204; 37-50-209; 37-54-113; 39-71-503; 41-5-2011; 42-2-105; 44-4-1101; 44-12-213;
13 44-13-102; 46-32-108; 50-1-115; 53-1-109; 53-6-148; 53-9-113; 53-24-108; 53-24-206; 60-5-530; 60-11-115;
14 61-3-321; 61-3-415; 67-1-309; 69-3-870; 69-4-527; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 75-26-308; 76-
15 13-150; 76-13-151; 76-13-417; 76-17-103; 77-1-108; 77-2-362; 80-2-222; 80-4-416; 80-11-518; 80-11-1006;
16 81-1-112; 81-1-113; 81-7-106; 81-7-123; 81-10-103; 82-11-161; 85-2-526; 85-20-1504; 85-20-1505; [85-25-
17 102]; 87-1-603; 87-5-909; 90-1-115; 90-1-205; 90-1-504; 90-6-331; and 90-9-306.

18 (4) There is a statutory appropriation to pay the principal, interest, premiums, and any costs of or
19 fees associated with issuing, paying, and securing, redeeming, or defeasing all bonds, notes, or other
20 obligations, as due in the ordinary course or when earlier called for redemption or defeased, that have been
21 authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements
22 authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through
23 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on
24 the bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to sec.
25 10, Ch. 360, L. 1999, the inclusion of 19-20-604 terminates contingently when the amortization period for the
26 teachers' retirement system's unfunded liability is 10 years or less; pursuant to sec. 73, Ch. 44, L. 2007, the
27 inclusion of 19-6-410 terminates contingently upon the death of the last recipient eligible under 19-6-709(2) for

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the supplemental benefit provided by 19-6-709; pursuant to sec. 5, Ch. 383, L. 2015, the inclusion of 85-25-102 is effective on occurrence of contingency; pursuant to sec. 6, Ch. 423, L. 2015, the inclusion of 22-3-116 and 22-3-117 terminates June 30, 2025; pursuant to sec. 12, Ch. 55, L. 2017, the inclusion of 37-54-113 terminates June 30, 2023; pursuant to sec. 4, Ch. 122, L. 2017, the inclusion of 10-3-1304 terminates September 30, 2025; pursuant to sec. 1, Ch. 213, L. 2017, the inclusion of 90-6-331 terminates June 30, 2027; pursuant to secs. 5, 8, Ch. 284, L. 2017, the inclusion of 81-1-112, 81-1-113, and 81-7-106 terminates June 30, 2023; pursuant to sec. 1, Ch. 340, L. 2017, the inclusion of 22-1-327 terminates July 1, 2023; pursuant to sec. 10, Ch. 374, L. 2017, the inclusion of 76-17-103 terminates June 30, 2027; pursuant to sec. 5, Ch. 50, L. 2019, the inclusion of 37-50-209 terminates September 30, 2023; pursuant to sec. 1, Ch. 408, L. 2019, the inclusion of 17-7-215 terminates June 30, 2029; pursuant to secs. 11, 12, and 14, Ch. 343, L. 2019, the inclusion of 15-35-108 terminates June 30, 2027; pursuant to sec. 7, Ch. 465, L. 2019, the inclusion of 85-2-526 terminates July 1, 2023; pursuant to sec. 5, Ch. 477, L. 2019, the inclusion of 10-3-802 terminates June 30, 2023; pursuant to secs. 1, 2, 3, Ch. 139, L. 2021, the inclusion of 53-9-113 terminates June 30, 2027; pursuant to sec. 8, Ch. 200, L. 2021, the inclusion of 10-4-310 terminates July 1, 2031; pursuant to secs. 3, 4, Ch. 404, L. 2021, the inclusion of 30-10-1004 terminates June 30, 2027; pursuant to sec. 5, Ch. 548, L. 2021, the inclusion of 50-1-115 terminates June 30, 2025; pursuant to secs. 5 and 12, Ch. 563, L. 2021, the inclusion of 22-3-1004 is effective July 1, 2027; and pursuant to sec. 15, Ch. 574, L. 2021, the inclusion of 46-32-108 terminates June 30, 2023.)"

Section 4. Section 44-4-1607, MCA, is amended to read:

"44-4-1607. Statewide public safety communications system account. (1) There is an account in the state special revenue fund established in 17-2-102 to be known as the statewide public safety communications system account.

(2) There must be deposited in the account:

(a) money received from legislative allocations and general fund transfers;

(b) a transfer of money from a state or local agency for the purposes of this part;

(c) rates, charges, or fees collected by the department in accordance with 44-4-1606(3)(h);

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(d) funds accepted in accordance with 44-4-1606(3)(i) and (3)(j); and

(e) a gift, donation, grant, legacy, bequest, or devise made for the purposes of this part.

(3) There is an account in the federal special revenue fund established in 17-2-102 to be known as the statewide public safety communications system account. There must be deposited in the account money received from the federal government for the purposes of this part.

(4) For each fiscal year beginning July 1, 2019, and ending June 30, ~~2029~~ 2023, there is transferred \$3.75 million from the state general fund to the state special revenue account provided for in this section.

(5) Funds in either account created in this section must be used by the department for the purposes of this part."

NEW SECTION. Section 5. Transfer of funds. (1) By June 30, 2023, the state treasurer shall transfer ~~\$150~~ \$125 million from the general fund to the account provided for in [section 1].

(2) By June 30, 2023, the state treasurer shall transfer ~~\$35~~ \$18.6 million from the general fund to the statewide public safety communications system account provided for in 44-4-1607.

(3) By June 30, 2027, the state treasurer shall transfer any unobligated funds in the account established in [section1] as follows:

(a) 50% to the capital developments long-range building program account established in 17-7-209;

and

(b) 50% to the general fund.

NEW SECTION. Section 6. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 17, chapter 6, and the provisions of Title 17, chapter 6, apply to [section 1].

NEW SECTION. Section 7. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

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~~COORDINATION SECTION. SECTION 8. COORDINATION INSTRUCTION. (1) IF [THIS ACT] IS PASSED AND APPROVED AND DOES NOT CONTAIN A \$125 MILLION TRANSFER IN [SECTION 5(1)], AND IF ANY OF THE FIVE BILLS IDENTIFIED IN SUBSECTION (2) ARE NOT PASSED AND APPROVED, THEN THE TRANSFER AMOUNT IN [SECTION 5(1)] OF [THIS ACT] IS \$62.5 MILLION.~~

~~(2) THE FIVE BILLS ARE:~~

~~(A) HOUSE BILL NO. 192;~~

~~(B) HOUSE BILL NO. 212;~~

~~(C) HOUSE BILL NO. 221;~~

~~(D) HOUSE BILL NO. 222; AND~~

~~(E) HOUSE BILL NO. 267.~~

~~NEW SECTION. Section 8. Effective date.~~ [This act] is effective on passage and approval.

~~NEW SECTION. Section 9. Retroactive applicability.~~ [This act] applies retroactively, within the meaning of 1-2-109, to funds collected pursuant to 17-6-202(2) on or after July 1, 2022.

- END -