

HOUSE BILL NO. 225  
INTRODUCED BY J. LASLOVICH

A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING A BUDGET STABILIZATION TRUST FUND; PROVIDING A FUNDING MECHANISM; DESCRIBING CONDITIONS FOR APPROPRIATING MONEY FROM THE FUND; REQUIRING A TWO-THIRDS MAJORITY VOTE OF EACH HOUSE TO APPROPRIATE FUNDS; LIMITING USES OF THE FUND; LIMITING THE FUND AT 5 PERCENT OF THE GENERAL FUND BIENNIAL BUDGET; GIVING THE LEGISLATURE AN OPTION TO DEAL WITH A BUDGET DEFICIT BEFORE THE GOVERNOR INITIATES CUTS IN SPENDING; REVISING THE DISPOSAL OF UNEXPENDED APPROPRIATIONS; AMENDING SECTIONS 2-4-603, 17-7-140, AND 17-7-304, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

NEW SECTION. **Section 1. Budget stabilization trust fund.** There is a budget stabilization private purpose trust fund as provided for in 17-2-102(3).

NEW SECTION. **Section 2. Source of funds.** The budget stabilization trust fund is funded through:

(1) depositing 50% of the unexpended general fund balance at the end of a biennium after the deductions pursuant to 17-7-304(1)(a). Verification of the general fund surplus is to be made at the end of the biennium by the governor's office of budget and program planning and the legislative fiscal analyst. The office of budget and program planning shall decide the amount to be deposited.

(2) depositing proceeds of litigation that come to the state through one-time judgments, awards, or settlements that are not otherwise encumbered or dedicated by law for deposit in a different fund. The amount to be deposited directly into the budget stabilization trust fund is the amount from litigation proceeds minus the reasonable costs for negotiating or obtaining the settlements.

(3) legislative transfers of any amounts that do not exceed the 5% limit on the fund, pursuant to [section 6];

(4) interest income on the budget stabilization trust fund; and

(5) gifts, donations, or other money made available to the budget stabilization trust fund.

**NEW SECTION. Section 3. Distribution -- two-thirds vote required -- conditions for appropriation.**

Appropriation of money from the budget stabilization trust fund requires a two-thirds vote of each house of the legislature. Appropriations may be made:

(1) in a special legislative session when the governor's office of budget and program planning has recommended to the governor that a reduction in spending take place, pursuant to 17-7-140, because of a projected general fund budget deficit. If the governor's call for a special session is to make an appropriation from the budget stabilization trust fund, the governor shall describe which of the purposes listed in [section 4] underlie the proposed use of the budget stabilization trust fund.

(2) when the legislative finance committee, in consultation with the legislative fiscal analyst, determines that a projected general fund budget deficit, as defined in 17-7-140(3)(a), is likely to occur by the end of the biennium. In this circumstance, the legislature may call itself into special session to appropriate money from the budget stabilization trust fund or to take any other actions to address the projected general fund budget deficit. These actions may be independent of whether the governor considers a reduction in funding under 17-7-140 to be necessary. In determining whether a projected general fund budget deficit is likely, the legislative fiscal analyst shall take into account revenue, established levels of appropriation, anticipated supplemental appropriations, and anticipated reversions.

**NEW SECTION. Section 4. Limiting uses of budget stabilization trust fund.** The legislature may make appropriations from the budget stabilization trust fund for the following purposes:

(1) to provide for countercyclical economic and employment programs in periods when the governor's office of budget and program planning has determined that a projected general fund budget deficit is likely, as provided in 17-7-140, or the legislative finance committee and the legislative fiscal analyst have made a similar determination under [section 3(2)];

(2) to maintain levels of programs determined to be essential to public health and safety;

(3) to replace state or local loss of federal funds;

(4) to provide funds intended to restore facilities destroyed or damaged or services disrupted by a natural disaster or by acts of terrorism in any county; or

(5) to meet other emergencies when declared by the governor or determined to be urgent by the legislature.

**NEW SECTION. Section 5. Maintaining budget stabilization trust fund.** (1) If the budget stabilization

trust fund does not have sufficient money for use as an emergency fund, the legislature may transfer money to the fund.

(2) If the legislature appropriates money from the budget stabilization trust fund because of economic conditions as described in [section 4(1)], the office of budget and program planning shall develop within the overall budget proposal a plan for consideration at the next regular legislative session that would maintain the budget stabilization trust fund at no less than 2% of the immediately preceding general fund appropriations for the second fiscal year of the biennium, which is inclusive of the budgetary reserve for the biennium.

(3) No more than 75% of the budget stabilization trust fund may be appropriated in any special legislative session.

NEW SECTION. **Section 6. Limiting budget stabilization trust fund.** Money in the budget stabilization trust fund may not exceed 5% of the immediately preceding general fund biennial budget.

**Section 7.** Section 2-4-603, MCA, is amended to read:

**"2-4-603. Informal disposition and hearings -- waiver of administrative proceedings -- recording and use of settlement proceeds.** (1) (a) Unless precluded by law, informal disposition may be made of any contested case by stipulation, agreed settlement, consent order, or default.

(b) Unless otherwise provided by law, if a stipulation, agreed settlement, consent order, or default results in a monetary settlement involving an agency or the state, settlement proceeds must be deposited in the account or fund in which the penalty, fine, or other payment would be deposited if the contested case had proceeded to final decision. If there is no account or fund designated for the fine, penalty, or payment in the type of action, then the settlement must be deposited in the ~~general~~ budget stabilization trust fund established in [section 1]. However, if the budget stabilization trust fund is at 5% of the immediately preceding general fund biennial budget, the settlement must be deposited in the general fund.

(c) If a stipulation, agreed settlement, consent order, or default results in a nonmonetary settlement involving an agency or the state, settlement proceeds, whether received by the state or a third party, must be recorded in a nonstate, nonfederal state special revenue account established pursuant to 17-2-102(1)(b)(i) for the purpose of recording nonmonetary settlements.

(2) Except as otherwise provided, parties to a contested case may jointly waive in writing a formal proceeding under this part. The parties may then utilize informal proceedings under 2-4-604. Parties to contested case proceedings held under Title 37 or under any other provision relating to licensure to pursue a profession

or occupation may not waive formal proceedings.

(3) If a contested case does not involve a disputed issue of material fact, parties may jointly stipulate in writing to waive contested case proceedings and may directly petition the district court for judicial review pursuant to 2-4-702. The petition must contain an agreed statement of facts and a statement of the legal issues or contentions of the parties upon which the court, together with the additions it may consider necessary to fully present the issues, may make its decision."

**Section 8.** Section 17-7-140, MCA, is amended to read:

**"17-7-140. Reduction in spending.** (1)(a) As the chief budget officer of the state, the governor shall ensure that the expenditure of appropriations does not exceed available revenue. Except as provided in ~~subsection~~ subsections (2) and (4), in the event of a projected general fund budget deficit, the governor, taking into account the criteria provided in subsection (1)(b), shall direct agencies to reduce spending in an amount that ensures that the projected ending general fund balance for the biennium will be at least 1% of all general fund appropriations during the biennium. An agency may not be required to reduce general fund spending for any program, as defined in each general appropriations act, by more than 10% during a biennium. Departments or agencies headed by elected officials or the board of regents may not be required to reduce general fund spending by a percentage greater than the percentage of general fund spending reductions required for the total of all other executive branch agencies. The legislature may exempt from a reduction an appropriation item within a program or may direct that the appropriation item may not be reduced by more than 10%.

(b) The governor shall direct agencies to manage their budgets in order to reduce general fund expenditures. Prior to directing agencies to reduce spending as provided in subsection (1)(a), the governor shall direct each agency to analyze the nature of each program that receives a general fund appropriation to determine whether the program is mandatory or permissive and to analyze the impact of the proposed reduction in spending on the purpose of the program. An agency shall submit its analysis to the office of budget and program planning and shall at the same time provide a copy of the analysis to the legislative fiscal analyst. The office of budget and program planning shall review each agency's analysis, and the budget director shall submit to the governor a copy of the office of budget and program planning's recommendations for reductions in spending. The budget director shall provide a copy of the recommendations to the legislative fiscal analyst at the time that the recommendations are submitted to the governor and shall provide the legislative fiscal analyst with any proposed changes to the recommendations. The legislative finance committee shall meet within 20 days of the date that the proposed changes to the recommendations for reductions in spending are provided to the legislative fiscal

analyst. The legislative fiscal analyst shall provide a copy of the legislative fiscal analyst's review of the proposed reductions in spending to the budget director at least 5 days before the meeting of the legislative finance committee. The committee may make recommendations concerning the proposed reductions in spending. The governor shall consider each agency's analysis and the recommendations of the office of budget and program planning and the legislative finance committee in determining the agency's reduction in spending. Reductions in spending must be designed to have the least adverse impact on the provision of services determined to be most integral to the discharge of the agency's statutory responsibilities.

(2) Reductions in spending for the following may not be directed by the governor:

- (a) payment of interest and principal on state debt;
- (b) the legislative branch;
- (c) the judicial branch;
- (d) the school BASE funding program, including special education; and
- (e) salaries of elected officials during their terms of office.

(3) (a) As used in this section, "projected general fund budget deficit" means an amount, certified by the budget director to the governor, by which the projected ending general fund balance for the biennium is less than 2% of the general fund appropriations for the second fiscal year of the biennium. In determining the amount of the projected general fund budget deficit, the budget director shall take into account revenue, established levels of appropriation, anticipated supplemental appropriations for school equalization aid, and anticipated reversions.

(b) If the budget director determines that an amount of actual or projected receipts will result in an amount less than the amount projected to be received in the revenue estimate established pursuant to 5-18-107, the budget director shall notify the revenue and transportation interim committee of the estimated amount. Within 20 days of notification, the revenue and transportation interim committee shall provide the budget director with any recommendations concerning the amount. The budget director shall consider any recommendations of the revenue and transportation interim committee prior to certifying a projected general fund budget deficit to the governor.

(4) A decision to call the legislature into special session to appropriate money from the budget stabilization trust fund stays the implementation of the procedure described in this section."

**Section 9.** Section 17-7-304, MCA, is amended to read:

**"17-7-304. Disposal of unexpended appropriations.** (1) ~~At~~ Unexpended money appropriated for any specific purpose except that appropriated for the university system units listed in subsection (2) ~~and except as~~

~~provided in subsection (4) must; be distributed~~ after the expiration of the time for which appropriated, in the following order:

(a) After the end of a fiscal year, 30% of the money appropriated to an agency for that year by the general appropriations act for personal services, operating expenses, and equipment, by fund type, and remaining unexpended and unencumbered at the end of the year may be reappropriated to be spent during the following 2 years for any purpose that is consistent with the goals and objectives of the agency. The dollar amount of the 30% amount that may be carried forward and spent must be determined by the office of budget and program planning. If this money is not spent within the following 2 years, the unexpended money ~~revert~~ reverts to the several funds and accounts from which originally appropriated. However, ~~any~~ this portion of the unexpended balance ~~in any specific appropriation may be used for the years for which the appropriation was made or may be used to fund the provisions of 2-18-1203 through 2-18-1205 and 19-2-706 in the succeeding year.~~

(b) After subtracting money under subsection (1)(a), 50% of the remaining unexpended general fund balance at the end of the biennium must be deposited in the budget stabilization trust fund established in [section 1], unless the budget stabilization trust fund equals 5% of the general fund budget for that biennium. If the budget stabilization trust fund has reached its limit of 5% of the general fund budget for that biennium, the unexpended money must remain in the general fund.

(c) The portion of the unexpended general fund balance that is not distributed according to subsection (1)(a) and that is not deposited in the budget stabilization trust fund established in [section 1] remains in the general fund.

(2) Except as provided in 17-2-108 and subsection (3) of this section, all money appropriated for the university of Montana campuses at Missoula, Butte, Dillon, and Helena and the Montana state university 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, and the bureau of mines and geology with central offices in Butte must, after the expiration of the time for which appropriated, revert to an account held by the board of regents. The board of regents is authorized to maintain a fund balance. There is a statutory appropriation, as provided in 17-7-502, to use the funds held in ~~this~~ the board of regents' account in accordance with a long-term plan for major and deferred maintenance expenditures and equipment or fixed assets purchases prepared by the affected university system units and approved by the board of regents. The affected university system units may, with the approval of the board of regents, modify the long-term plan at any time to address changing needs and priorities. The board of regents shall communicate the plan to each legislature, to the finance committee when

requested by the committee, and to the office of budget and program planning.

(3) Subsection (2) does not apply to reversions that are the result of a reduction in spending directed by the governor pursuant to 17-7-140. Any amount that is a result of a reduction in spending directed by the governor must revert to the fund or account from which it was originally appropriated.

~~(4) After the end of a fiscal year, 30% of the money appropriated to an agency for that year by the general appropriations act for personal services, operating expenses, and equipment, by fund type, and remaining unexpended and unencumbered at the end of the year may be reappropriated to be spent during the following 2 years for any purpose that is consistent with the goals and objectives of the agency. The dollar amount of the 30% amount that may be carried forward and spent must be determined by the office of budget and program planning."~~

NEW SECTION. **Section 10. Effective date.** [This act] is effective on passage and approval.

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