

SENATE BILL NO. 137

INTRODUCED BY R. LAIBLE

BY REQUEST OF THE LEGISLATIVE FINANCE COMMITTEE AND THE GOVERNOR

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATED TO PROJECTED GENERAL FUND DEFICITS; PROVIDING FOR BUDGET STABILITY BY CREATING A BUDGET STABILIZATION ACCOUNT; PROVIDING THAT ~~AN A GENERAL FUND UNRESERVED~~ ENDING ~~GENERAL FUND~~ BALANCE IN EXCESS OF A STATUTORY AMOUNT IS TRANSFERRED TO THE BUDGET STABILIZATION ACCOUNT; PROVIDING LIMITS ON THE AMOUNT THAT CAN BE MAINTAINED IN THE BUDGET STABILIZATION ACCOUNT; PROVIDING FOR THE USE OF THE BUDGET STABILIZATION ACCOUNT TO OFFSET REDUCTIONS IN SPENDING; CLARIFYING THE APPLICABILITY OF THE REDUCTION IN SPENDING LAW TO BASE AID FOR SCHOOLS; PROVIDING FOR A FUND TRANSFER; AMENDING SECTIONS 17-7-140 AND 20-9-351, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

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

NEW SECTION. **Section 1. Budget stabilization account -- funding -- use.** (1) There is a budget stabilization account within the state general fund. Subject to subsection (2), there is transferred from the state general fund to the budget stabilization account 50% of the amount by which the audited GENERAL FUND UNRESERVED ending ~~general~~ fund balance exceeds 5% of all general fund appropriations and transfers from the general fund for the prior biennium. A transfer from the state general fund to the budget stabilization account must be made by December 31 of each odd-numbered calendar year.

(2) (a) The balance in the budget stabilization account may not exceed 9% of the general fund appropriations and transfers from the general fund for the biennium prior to the year in which a transfer to the budget stabilization account is made.

(b) Once the balance in the account equals 9% of the general fund appropriations and transfers from the general fund for the biennium described in subsection (2)(a), the transfer authorized in subsection (1) may not be made.

(3) The governor may transfer money from the budget stabilization account to the state general fund in order to avoid or offset the amount of a reduction in spending pursuant to 17-7-140. The GOVERNOR MAY NOT USE THE money in the account ~~may not be used~~ for any other purpose. The governor may not transfer more than 80%

of the balance in the account to the state general fund during a biennium and may not transfer an amount that would cause the balance in the account to be less than \$5 million.

(4) The legislature may appropriate money in the budget stabilization account for any public purpose.

Section 2. 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 (2), in the event of a projected general fund budget deficit, the governor may transfer money from the budget stabilization account established in [section 1] to the general fund and if necessary, 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;
- (e) salaries of elected officials during their terms of office; and
- (f) the Montana school for the deaf and blind.

(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:

- (i) 2% of the general fund appropriations for the second fiscal year of the biennium prior to October of the year preceding a legislative session;
- (ii) 3/4 of 1% in October of the year preceding a legislative session;
- (iii) 1/2 of 1% in January of the year in which a legislative session is convened; and
- (iv) 1/4 of 1% in March of the year in which a legislative session is convened.

(b) 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.

(4) If the budget director determines that an amount of actual or projected general fund receipts will result in an amount less than the amount projected to be received ~~in the revenue estimate established pursuant to 5-5-227~~, the budget director shall notify the revenue and transportation interim committee of the estimated amount. In determining the amount projected to be received, the budget director shall take into consideration the revenue estimate established pursuant to 5-5-227 and the revenue impact of legislation enacted during the legislative session in which the revenue estimate was adopted. 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."

Section 3. Section 20-9-351, MCA, is amended to read:

"20-9-351. Funding of deficiency in BASE aid. If the money available for BASE aid ~~is not the result of a reduction in spending under 17-7-140 and~~ is not sufficient to provide the guaranteed tax base aid required under 20-9-366 through 20-9-369 and BASE aid support determined under 20-9-347, the superintendent of public instruction shall request the budget director to submit a request for a supplemental appropriation in the second year of the biennium that is sufficient to complete the funding of BASE aid for the elementary and high school districts for the current biennium."

NEW SECTION. **Section 4. Initial fund transfer.** The office of budget and program planning shall calculate the amount, as of June 30, 2009, by which the anticipated ~~unrestricted~~ GENERAL FUND UNRESERVED ending fund balance is in excess of \$100 million. Subject to [section 1(2)], the department of administration shall transfer the calculated amount to the budget stabilization account on or before January 1, 2009.

NEW SECTION. **Section 5. Codification instruction.** [Section 1] is intended to be codified as an integral part of Title 17, chapter 7, part 1, and the provisions of Title 17, chapter 7, part 1, apply to [section 1].

NEW SECTION. **Section 6. Effective date.** [This act] is effective on passage and approval.

NEW SECTION. **Section 7. Applicability.** Transfers under [section 1(1)] apply beginning December 2009.

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