	Fiscal Note 2025 Biennium

GOVERNOR'S OFFICE OF
BUDGET AND PROGRAM PLANNING

Bill information:
SB0161 - Revise board of investment laws (Molnar, Brad)

Status:	As Introduced

☐ Significant Local Gov Impact   ☐ Needs to be included in HB 2   ☒ Technical Concerns

☐ Included in the Executive Budget   ☐ Significant Long-Term Impacts   ☐ Dedicated Revenue Form Attached

FISCAL SUMMARY

	FY 2024 Difference	FY 2025 Difference	FY 2026 Difference	FY 2027 Difference
Expenditures:				
General Fund	$0	$0	$0	$0
State Special Revenue	$0	$0	$0	$0
Federal Special Revenue	$0	$0	$0	$0
Other	$0	$0	$0	$0
Revenue:				
General Fund	Unknown	Unknown	Unknown	Unknown
State Special Revenue	Unknown	Unknown	Unknown	Unknown
Federal Special Revenue	Unknown	Unknown	Unknown	Unknown
Other	Unknown	Unknown	Unknown	Unknown
Net Impact-General Fund Balance:	Unknown	Unknown	Unknown	Unknown

Description of fiscal impact: SB 161 revises the Montana Board of Investments (BOI) laws to limit state investment in any security listed on a security exchange in a jurisdiction in which the Public Company Accounting Oversight Board (PCAOB), created by the Sarbanes-Oxley Act of 2002, has not or is prohibited from conducting oversight. It further requires the Board to promote, along with other peer organizations, the creation of investment vehicles promoting the objectives of the bill.
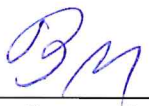
FISCAL ANALYSIS

Assumptions:
1. The Board holds $2.2 billion in securities potentially impacted by this bill through BOI's management of international equities across 22 developed markets and 25 emerging markets countries.
2. These holdings are solely in the Consolidated Asset Pension Pool (CAPP).

3. In order for their securities to be traded in U.S. capital markets, public companies, whether located in the United States or abroad, must comply with certain U.S. legal requirements, including the requirement to periodically file audited financial statements with the U.S. Securities and Exchange Commission (SEC). As required by the Sarbanes-Oxley Act of 2002, the auditor of those financial statements-whether a U.S. auditor or a non-U.S. auditor - must be registered with, and therefore subject to the jurisdiction of, the Public Company Accounting Oversight Board (PCAOB). This includes undergoing regular PCAOB inspections to assess the auditor's compliance with U.S. law and professional standards in connection with its audits of public companies. (Source: PCAOB)
4. The fiscal impact of SB 161 to the invested funds cannot be estimated.

	FY 2024 Difference	FY 2025 Difference	FY 2026 Difference	FY 2027 Difference
Fiscal Impact:				
FTE	0.00	0.00	0.00	0.00
Expenditures:				
TOTAL Expenditures	$0	$0	$0	$0
Funding of Expenditures:				
TOTAL Funding of Exp.	$0	$0	$0	$0
Revenues:				
TOTAL Revenues	Unknown	Unknown	Unknown	Unknown

Net Impact to Fund Balance (Revenue minus Funding of Expenditures):

General Fund (01)	Unknown	Unknown	Unknown	Unknown

Technical Notes:
1. The bill may conflict with the Board's constitutional obligation of acting as a prudent fiduciary. The bill may unconstitutionally encumber the Board's decision abilities regarding pension assets.
2. The US Department of the Treasury, Office of Foreign Assets Control (OFAC) is primarily responsible for administering and enforcing most economic and trade sanctions through civil enforcement. · The US Department of State Office of Economic Sanctions Policy and Implementation, the US Department of Commerce Bureau of Industry and Security, and US Department of Defense advise OF AC on implementation and enforcement of trade sanctions. It is unclear whether the sanctions of the US DOD, SOS or Commerce are civilly enforceable.
3. If SB 161 is passed and approved, BOI would consult with the SEC as required, however, it is assumed they would not respond to BOI compliance inquiries.
4. As of December 15, 2022, the PCAOB was able to secure complete access to inspect and investigate audit firms in China and Hong Kong.

_____	_1-19-23_	_____	_1-18-23_
Sponsor's Initials	*Date*	*Budget Director's Initials*	*Date*