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House BILL NO. 259

INTRODUCED BY *Samuel Houston*

A BILL FOR AN ACT ENTITLED: "AN ACT IMPLEMENTING THE UNIFIED BUDGET REQUEST REQUIRED OF THE STATE BOARD OF EDUCATION BY ARTICLE X, SECTION 9, OF THE MONTANA CONSTITUTION; CLARIFYING THE CONTENT OF A UNIFIED BUDGET; CLARIFYING THE CONTENT OF THE OPERATING BUDGET FOR EACH UNIVERSITY SYSTEM UNIT; CLARIFYING THE RESPONSIBILITY FOR PREPARING THE UNIFIED BUDGET; AMENDING SECTIONS 2-15-1511, 17-7-102, 17-7-111, 17-7-112, 17-7-138, 20-2-101, 20-2-121, 20-3-105, AND 20-25-301, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. Section 2-15-1511, MCA, is amended to read:

"2-15-1511. Agencies allocated to state board of education. The state historical society, the Montana arts council, and the state library commission are allocated to the state board of education for purposes of planning and coordination. Budget requests to the state for these agencies ~~shall~~ must be included with submitted separately from the budget requests of the state board of education; ~~however, the~~ The governance, management, and control of the respective agencies ~~shall be~~ are vested respectively in the board of trustees of the state historical society, the Montana arts council, and the state library commission."

Section 2. Section 17-7-102, MCA, is amended to read:

"17-7-102. Definitions. As used in this chapter, the following definitions apply:

(1) "Additional services" means different services or more of the same services.

(2) "Agency" means each state office, department, division, board, commission, council, committee, institution, university unit, or other entity or instrumentality of the executive branch, office of the judicial branch, or office of the legislative branch of state government, except for purposes of capital projects administered by the department of administration, for which institutions are treated as one department and university units as one system.

(3) "Approved long-range building program budget amendment" means approval by the budget

1 director of a request submitted through the architecture and engineering division of the department of
2 administration to transfer excess funds appropriated to a capital project within an agency to increase the
3 appropriation of another capital project within that agency or to obtain financing to expand a project with
4 funds that were not available for consideration by the legislature.

5 (4) "Approving authority" means:

6 (a) the governor or the governor's designated representative for executive branch agencies;

7 (b) the chief justice of the supreme court or the chief justice's designated representative for judicial
8 branch agencies;

9 (c) the speaker for the house of representatives;

10 (d) the president for the senate;

11 (e) appropriate legislative committees or a designated representative for legislative branch agencies;

12 or

13 (f) the board of regents of higher education or its designated representative for the university
14 system.

15 (5) "Base budget" means that level of funding authorized by the previous legislature.

16 (6) "Budget amendment" means a legislative appropriation to increase spending authority for the
17 special revenue fund, proprietary funds, or unrestricted subfund, contingent on total compliance with all
18 budget amendment procedures.

19 (7) "Effectiveness measure" means a criterion for measuring the degree to which the objective
20 sought is attained.

21 (8) "Emergency" means a catastrophe, disaster, calamity, or other serious unforeseen and
22 unanticipated circumstance that has occurred subsequent to the time that an agency's appropriation was
23 made, that was clearly not within the contemplation of the legislature and the governor, and that affects
24 one or more functions of a state agency and the agency's expenditure requirements for the performance
25 of the function or functions.

26 (9) "Necessary" means essential to the public welfare and of a nature that cannot wait until the
27 next legislative session for legislative consideration.

28 (10) "New proposals" means requests to provide new nonmandated services, to change program
29 services, to eliminate existing services, or to change sources of funding. For purposes of establishing the
30 present law base, the distinction between new proposals and the adjustments to the base budget to

1 develop the present law base is to be determined by the existence of constitutional or statutory
2 requirements for the proposed expenditure. Any proposed increase or decrease that is not based on those
3 requirements is considered a new proposal.

4 (11) "Present law base" means that additional level of funding needed under present law to maintain
5 operations and services at the level authorized by the previous legislature, including but not limited to:

6 (a) changes resulting from legally mandated workload, caseload, or enrollment increases or
7 decreases;

8 (b) changes in funding requirements resulting from constitutional or statutory schedules or
9 formulas;

10 (c) inflationary or deflationary adjustments; and

11 (d) elimination of nonrecurring appropriations.

12 (12) "Priority listing" means a ranking of proposed expenditures in order of importance.

13 (13) "Program" means a combination of resources and activities designed to achieve an objective
14 or objectives.

15 (14) "Program size" means the magnitude of a program, such as the size of clientele served or the
16 volume of service in relation to the population or area.

17 (15) "Program size indicator" means a measure to indicate the magnitude of a program.

18 (16) "Requesting agency" means the agency of state government that has requested a specific
19 budget amendment.

20 (17) "Unified budget" means an integrated, consolidated, single budget for K-12 education and
21 the university system that is submitted by the state board of education.

22 ~~(17)~~(18) "University system unit" means the board of regents of higher education; office of the
23 commissioner of higher education; university of Montana, with campuses at Missoula, Butte, Dillon, and
24 Helena; Montana state university, with campuses at Bozeman, Billings, Havre, and Great Falls; the
25 agricultural experiment station, with central offices at Bozeman; the forest and conservation experiment
26 station, with central offices at Missoula; the cooperative extension service, with central offices at Bozeman;
27 the bureau of mines and geology, with central offices at Butte; the fire services training school at Great
28 Falls; and the community colleges at Miles City, Glendive, and Kalispell."

29

30 **Section 3.** Section 17-7-111, MCA, is amended to read:

1 **"17-7-111. Agency program budgets -- form distribution and contents.** (1) In the preparation of
2 a state budget, the budget director shall, not later than July 1 in the year preceding the convening of the
3 legislature, distribute to all state offices and departments, including the judicial branch and the legislative
4 branch, the proper forms necessary for the preparation of budget estimates. These forms must be
5 prescribed by the budget director to procure the information required by subsection (2).

6 (2) The agency budget requests, when completed by the budget office, must set forth a balanced
7 financial plan for the agency completing the forms for each fiscal year of the ensuing biennium. The plan
8 must consist of:

9 (a) a consolidated agency budget summary for the current base budget expenditures and for each
10 modification request setting forth the aggregate figures of the full-time equivalent personnel positions (FTE)
11 and the budget, showing a balance between the total proposed disbursements and the total anticipated
12 receipts, together with the other means of financing the budget for each fiscal year of the ensuing
13 biennium, contrasted with the corresponding figures for the ~~last completed~~ last-completed fiscal year and
14 the fiscal year in progress. The consolidated budget summary must be supported by schedules classifying
15 receipts and disbursements contained in the summary by fund and, when applicable, organizational unit.

16 (b) a schedule of the actual and projected receipts, disbursements, and solvency of each
17 accounting entity within each fund for the current and subsequent biennium;

18 (c) a detailed schedule of receipts, by accounting entity within each fund, indicating classification
19 and source of funds;

20 (d) an agency schedule summarizing past and proposed spending plans and the means of financing
21 the proposed plan. Information presented must include the following:

22 (i) a statement of agency goals and objectives and a statement of goals and objectives for each
23 program of the agency. The goals and objectives must include, in a concise form, sufficient specific
24 information and quantifiable information to enable the legislature to formulate an appropriations policy
25 regarding the agency and its programs and to allow a determination, at some future date, on whether the
26 agency has succeeded in attaining its goals and objectives. The goals and objectives must contain a list of
27 duties prioritized by the department director to reflect the director's opinion concerning the importance of
28 the duties assigned to the agency by law.

29 (ii) actual FTE and disbursements for the completed fiscal year of the current biennium, estimated
30 FTE and disbursements for the current fiscal year, and the agency's request for the ensuing biennium, by

1 program; and

2 (iii) actual disbursements for the completed fiscal year of the current biennium, estimated
3 disbursements for the current fiscal year, and the agency's recommendations for the ensuing biennium, by
4 disbursement category.

5 (e) a reference, for each program included in the agency budget request, identifying whether the
6 program may be operated at the discretion of the agency or whether the agency is required by federal or
7 state law to operate, administer, or manage the program;

8 (f) other information that the budget director feels is necessary for the preparation of a budget.

9 (3) The budget director shall prepare and submit to the legislative fiscal analyst in accordance with
10 17-7-112:

11 (a) detailed recommendations for the state long-range building program. Each recommendation
12 must be presented by department, institution, agency, or branch by funding source, with a description of
13 each proposed project.

14 (b) the proposed pay plan schedule for all executive branch employees, with the specific cost and
15 funding recommendations for each agency. Submission of a pay plan schedule under this subsection is not
16 an unfair labor practice under 39-31-401.

17 (4) The state board of education shall submit a unified budget request as provided in Article X,
18 section 9, of the Montana constitution. The unified budget request must include ~~The board of regents shall~~
19 ~~submit, with its budget request for each university unit in accordance with 17-7-112,~~ a report on the
20 university system bonded indebtedness and related finances as provided in this subsection (4). The report
21 must include the following information for each year of the biennium, contrasted with the same information
22 for the ~~last-completed~~ last-completed fiscal year and the fiscal year in progress:

23 (a) a schedule of estimated total bonded indebtedness for each university unit by bond indenture;

24 (b) a schedule of estimated revenue, expenditures, and fund balances by fiscal year for each
25 outstanding bond indenture, clearly delineating the accounts relating to each indenture and the minimum
26 legal funding requirements for each bond indenture; and

27 (c) a schedule showing the total funds available from each bond indenture and its associated
28 accounts, with a list of commitments and planned expenditures from ~~such~~ the accounts, itemized by
29 revenue source and project for each year of the current and ensuing bienniums.

30 (5) The budget director may not obtain copies of individual income tax records protected under

1 15-30-303. The department of revenue shall make individual income tax data available by removing names,
2 addresses, occupations, social security numbers, and taxpayer identification numbers. The department of
3 revenue may not alter the data in any other way. The data is subject to the same restrictions on disclosure
4 as are individual income tax returns."
5

6 **Section 4.** Section 17-7-112, MCA, is amended to read:

7 **"17-7-112. Submission deadline.** (1) It is the duty of each department, agency, and office,
8 including the ~~Montana university system~~ state board of education, to submit the information required under
9 17-7-111 to the budget director on or before September 1 in the even year preceding the convening of the
10 legislature. The department of justice shall submit information received from counties concerning the state's
11 share of county attorney salaries.

12 (2) Between August 15 and September 30 in the year preceding the convening of the legislature,
13 the director ~~must~~ shall submit each state agency's budget request required under 17-7-111(2) to the
14 legislative fiscal analyst. The transfer of budget information must be done on a schedule mutually agreed
15 to by the budget director and the legislative fiscal analyst in a manner that facilitates an even transfer of
16 budget information during the month of September and that allows each office to maintain a reasonable
17 staff workflow. Each entity subject to the unified budget request submitted by the state board of education
18 shall provide information required by the board at the time specified by the board in order to allow the board
19 to comply with this section.

20 (3) If any department, institution, ~~university unit~~ board, or agency fails to present the information
21 within the time specified in this section, the budget director shall note that fact in the budget submitted
22 to the governor and the budget director shall prepare and submit to the legislative fiscal analyst and the
23 governor by October 30 a budget request on behalf of the department, institution, ~~university unit~~ board,
24 or agency, based upon the budget director's studies of the operations, plans, and needs of the department,
25 institution, ~~university unit~~ board, or agency.

26 (4) The proposed pay plan schedule required by 17-7-111(3) must be submitted to the legislative
27 fiscal analyst no later than November 15 in the year preceding the convening of the legislature."
28

29 **Section 5.** Section 17-7-138, MCA, is amended to read:

30 **"17-7-138. Operating budget.** (1) Expenditures by a state agency must be made in substantial

1 compliance with an operating budget approved by an approving authority. Substantial compliance means
 2 that a first-level category in the operating budget may not be exceeded by more than 5%. Except as
 3 provided in subsection (2), the expenditure of money appropriated in the general appropriations act is
 4 contingent upon approval of an operating budget by August 1 of each fiscal year. An approved original
 5 operating budget must comply with state law and any statement of intent adopted as part of a bill.

6 (2) The expenditure of money appropriated in the general appropriations act as part of the unified
 7 budget to the university system units, as defined in 17-7-102, is contingent upon approval of an operating
 8 budget by October 1 of each fiscal year. All other requirements in this section apply to the university
 9 system. The operating budget for each university system unit must either implement or reject each
 10 condition contained in the general appropriations act. When appropriate, the board of regents shall specify
 11 the acceptance or rejection of the condition and any funding associated with the condition.

12 (3) The operating budget for money appropriated by the general appropriations act must be
 13 separate from the operating budget for money appropriated by another law except a law appropriating
 14 money for the state pay plan or any portion of the state pay plan. Each operating budget must include
 15 expenditures for each agency program, detailed at least by first-level categories as provided in 17-1-102(3).
 16 Each agency shall record its operating budget and any approved changes on the statewide budget and
 17 accounting system. Forms used for changing an operating budget must reference the current, complete,
 18 and approved operating budget, show the proposed changes to the operating budget, and reference any
 19 other pending documents to change the operating budget."
 20

21 **Section 6.** Section 20-2-101, MCA, is amended to read:

22 **"20-2-101. Combined boards as state board -- budget review -- officers -- meetings -- quorum.**

23 (1) The board of public education and the board of regents meeting together as the state board of education
 24 ~~shall be~~ are responsible for long-range planning and for coordinating and evaluating policies and programs
 25 for the public educational systems of the state. The state board of education shall review and unify the
 26 budget requests of educational entities assigned by law to the board of public education, the board of
 27 regents, or the state board of education and shall submit a unified budget request with recommendations
 28 ~~to the appropriate state agency~~ as required by 17-7-111.

29 (2) The governor is the president of, the superintendent of public instruction is the secretary to,
 30 and the commissioner ~~shall be~~ is a nonvoting participant at all meetings of the state board of education.

1 (3) The state board of education may select a member to chair its meetings in the absence of the
2 governor.

3 (4) A tie vote at any meeting may be broken by the governor.

4 (5) A majority of members appointed to the board of public education and the board of regents
5 shall constitute a quorum for transaction of business as the state board of education.

6 (6) The board of public education and the board of regents shall meet at least twice yearly as the
7 state board of education.

8 (7) Other meetings of the state board of education may be called by the governor, by both the
9 secretary to the board of public education and the secretary to the board of regents, or by joint action of
10 eight appointed members, four each from the board of public education and the board of regents. All
11 meetings of the state board of education shall must be for the purposes set forth in subsection (1) ~~above~~
12 or for the purpose of considering other matters of common concern to the board of public education and
13 the board of regents, but the state board of education may not exercise the powers and duties assigned
14 by the 1972 Montana constitution and by law to the board of public education and the board of regents.

15 (8) The legislature may not consider a budget request from the board of public education or the
16 board of regents unless the request has been submitted as part of the unified budget provided for in
17 17-7-111."

18

19 **Section 7.** Section 20-2-121, MCA, is amended to read:

20 "**20-2-121. Board of public education -- powers and duties.** The board of public education shall:

21 (1) effect an orderly and uniform system for teacher certification and specialist certification and
22 for the issuance of an emergency authorization of employment by adopting the policies prescribed by
23 20-4-102 and 20-4-111;

24 (2) consider the suspension or revocation of teacher or specialist certificates and appeals from the
25 denial of teacher or specialist certification in accordance with the provisions of 20-4-110;

26 (3) administer and order the distribution of BASE aid in accordance with the provisions of
27 20-9-344;

28 (4) adopt and enforce policies to provide uniform standards and regulations for the design,
29 construction, and operation of school buses in accordance with the provisions of 20-10-111;

30 (5) approve or disapprove a reduction of the number of hours in a district's school day in

1 accordance with the provisions of 20-1-302;

2 (6) adopt policies prescribing the conditions when school may be conducted on Saturday and the
3 types of pupil-instruction-related days and approval procedure for ~~such~~ those days in accordance with the
4 provisions of 20-1-303 and 20-1-304;

5 (7) adopt standards of accreditation and establish the accreditation status of every school in
6 accordance with the provisions of 20-7-101 and 20-7-102;

7 (8) approve or disapprove educational media selected by the superintendent of public instruction
8 for the educational media library in accordance with the provisions of 20-7-201;

9 (9) adopt policies for the conduct of special education in accordance with the provisions of
10 20-7-402;

11 (10) adopt rules for issuance of documents certifying equivalency of completion of secondary
12 education in accordance with 20-7-131;

13 (11) adopt policies for the conduct of programs for gifted and talented children in accordance with
14 the provisions of 20-7-903 and 20-7-904;

15 (12) adopt rules for student assessment in the public schools; ~~and~~

16 (13) assist the state board of education in preparing the unified budget as provided for in 17-7-111;

17 and

18 ~~(13)~~(14) perform any other duty prescribed from time to time by this title or any other act of the
19 legislature."

20

21 **Section 8.** Section 20-3-105, MCA, is amended to read:

22 "**20-3-105. Administrative powers and duties.** In administering the affairs of ~~his~~ the office, the
23 superintendent of public instruction shall ~~have the power and it shall be his duty to:~~

24 (1) keep a record of ~~his~~ official acts and all documents applicable to the administration of the office,
25 preserve all official reports ~~submitted to him~~ for the period required by law, and surrender them to ~~his~~ the
26 successor at the expiration of ~~his~~ the term;

27 (2) preserve all books, educational media, instructional equipment, and any other articles of
28 educational interest and value ~~which~~ that come into ~~his~~ the superintendent's possession and surrender them
29 to ~~his~~ the successor at the expiration of ~~his~~ the term;

30 (3) cause the printing and distribution of all reports and forms necessary for the proper conduct

1 of business by a district or school in the manner prescribed by the provisions of this title;

2 (4) provide and keep an official seal of the superintendent of public instruction by which ~~his~~ official
3 acts ~~shall~~ must be authenticated;

4 (5) if ~~he deems~~ the superintendent considers it necessary, cause the printing of a complete and
5 updated volume of the school laws of the state, which ~~shall~~ must be offered and sold at cost of the printing
6 and shipping to any school official or other person;

7 (6) whenever a replacement volume is not printed under the provisions of subsection (5), cause
8 the printing of a cumulative supplement to the most recent volume of school laws immediately after the
9 conclusion of any session of the legislature at which new school laws or amendments to the school laws
10 were adopted. ~~It shall~~ The supplement must be offered and sold at cost of the printing and shipping to any
11 school official or other person.

12 (7) if ~~deemed~~ considered necessary, publish a biennial report of the superintendent of public
13 instruction;

14 (8) counsel with and advise county superintendents on matters involving the welfare of the schools
15 and, when requested, give a county superintendent a written answer to any question concerning school
16 law;

17 (9) call an annual meeting of the county superintendents when ~~he deems it~~ considered advisable;

18 (10) as far as ~~he shall find it~~ practicable, address public assemblies on subjects pertaining to
19 education in Montana; ~~and~~

20 (11) faithfully work in all practical and possible ways for the welfare of the public schools of the
21 state; and

22 (12) assist the state board of education in preparing the unified budget required by 17-7-111."
23

24 **Section 9.** Section 20-25-301, MCA, is amended to read:

25 **"20-25-301. Regents' powers and duties.** The board of regents of higher education shall serve
26 as regents of the Montana university system, shall use and adopt this style in all its dealings with the
27 university system, and:

28 (1) must have general control and supervision of the units of the Montana university system, which
29 is considered for all purposes one university;

30 (2) shall adopt rules for its own government that are consistent with the constitution and the laws

1 of the state and that are proper and necessary for the execution of the powers and duties conferred upon
2 it by law;

3 (3) shall provide, subject to the laws of the state, rules for the government of the system;

4 (4) shall grant diplomas and degrees to the graduates of the system upon the recommendation of
5 the faculties and must have discretion to confer honorary degrees upon persons other than graduates upon
6 the recommendation of the faculty of the institutions;

7 (5) shall keep a record of its proceedings;

8 (6) must have, when not otherwise provided by law, control of all books, records, buildings,
9 grounds, and other property of the system;

10 (7) must receive from the board of land commissioners, from other boards or persons, or from the
11 government of the United States all funds, incomes, and other property that the system may be entitled
12 to and shall use and appropriate the property for the specific purpose of the grant or donation;

13 (8) must have general control of all receipts and disbursements of the system;

14 (9) shall appoint a president or chancellor and faculty for each of the institutions of the system,
15 appoint any other necessary officers, agents, and employees, and fix their compensation;

16 (10) shall confer upon the executive board of each of the units of the system authority that may
17 be considered expedient relating to immediate control and management, other than authority relating to
18 financial matters or the selection of the teachers, employees, and faculty;

19 (11) shall confer, at the regents' discretion, upon the president and faculty of each of the units of
20 the system for the best interest of the unit authority relating to the immediate control and management,
21 other than financial, and the selection of teachers and employees;

22 (12) shall prevent unnecessary duplication of courses at the units of the system;

23 (13) shall appoint a certified professional geologist or registered mining engineer as the director of
24 the Montana state bureau of mines and geology, who is the state geologist, and appoint any other
25 necessary assistants and employees and fix their compensation;

26 (14) shall supervise and control the agricultural experiment station, along with any executive or
27 subordinate board or authority that may be appointed by the governor with the advice and consent of the
28 regents;

29 (15) shall adopt a seal bearing on its face the words "Montana university system", which must be
30 affixed to all diplomas and all other papers, instruments, or documents that may require it;

1 (16) shall ensure an adequate level of security for data and information technology resources, as
2 defined in 2-15-102, within the state university system. In carrying out this responsibility, the board of
3 regents shall, at a minimum, address the responsibilities prescribed in 2-15-114.

4 (17) shall offer courses in vocational-technical education of a type and in a manner considered
5 necessary or practical by the regents; and

6 (18) shall assist the state board of education in preparing the unified budget as required by
7 17-7-111."

8
9 NEW SECTION. Section 10. Effective date. [This act] is effective on passage and approval.

10 -END-

APPROVED BY COM ON
EDUCATION

1 *House* BILL NO. *259*
2 INTRODUCED BY *Senor Homan*

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT IMPLEMENTING THE UNIFIED BUDGET REQUEST REQUIRED OF
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INTRODUCED BY

Sound Horizon

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