

HOUSE BILL NO. 114

INTRODUCED BY M. MILLER

BY REQUEST OF THE DEPARTMENT OF REVENUE

A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING LAWS RELATED TO THE USAGE OF TAX INCREMENT REMITTANCES TO SCHOOL DISTRICTS TO ENSURE A REDUCTION IN LOCAL PROPERTY TAXES; ALLOWING FUND TRANSFERS BETWEEN CERTAIN SCHOOL DISTRICT ACCOUNTS; PROVIDING A TIME PERIOD FOR A SCHOOL DISTRICT TO UTILIZE TAX INCREMENT REMITTANCES; AMENDING SECTIONS 7-15-4291, 20-9-104, AND ~~20-9-208~~, 20-9-141, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE."

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

**Section 1.** Section 7-15-4291, MCA, is amended to read:

**"7-15-4291. Agreements to remit unused portion of tax increments.** (1) The Subject to subsections (2) through (4) (5), the local government may also enter into agreements with the other affected taxing bodies to remit to those taxing bodies any portion of the annual tax increment not currently required for the payment of the costs listed in 7-15-4288 or pledged to the payment of the principal of premiums, if any, and interest on the bonds referred to in 7-15-4289.

(2) Any portion of the increment remitted to a school district:

(a) must be used to reduce property taxes by the school district receiving the remittance within 3 years of receipt OR DESIGNATED AS OPERATING RESERVE PURSUANT TO 20-9-104 FOR THE FISCAL YEAR FOLLOWING THE FISCAL YEAR IN WHICH THE REMITTANCE WAS RECEIVED;

(b) must be deposited in one OR MORE of the following funds THAT HAS A MILL LEVY FOR THE CURRENT SCHOOL YEAR, subject to the provisions of Title 20 and this section:

(i) general fund;

(ii) bus depreciation reserve fund;

(iii) debt service fund;

(iv) building reserve fund;

(v) technology acquisition and depreciation fund; and



1 (c) may not be transferred to any fund, with the exception of the funds provided for in subsection (2)(b).

2 (3) The remittance will not reduce the levy authority of the school district receiving the remittance in years  
 3 subsequent to the 3-year time period established by subsection (2)(a).

4 (4) ANY PORTION OF THE INCREMENT REMITTED TO A SCHOOL DISTRICT AND DEPOSITED INTO THE GENERAL FUND  
 5 MUST BE DESIGNATED AS OPERATING RESERVE, PURSUANT TO 20-9-104 OR USED TO REDUCE THE BASE BUDGET LEVY  
 6 OR THE OVER-BASE BUDGET LEVY IN THE FOLLOWING FISCAL YEAR.

7 (4)(5) If a school district does not utilize all or a portion of the remitted portion to reduce property taxes  
 8 OR DESIGNATE THE REMITTANCE AS OPERATING RESERVE within the 3-year time period established by subsection  
 9 (2)(a), the unused portion must be remitted as follows:

10 (a) if the area or district is in existence at the time of the remittance, the portion is distributed to the  
 11 special fund in 7-15-4286(2)(a), and used as provided in 7-15-4282 through 7-15-4294; or

12 (b) if the area or district is not in existence at the time of the remittance, the portion is distributed pursuant  
 13 to 7-15-4292(2)(a)."

14  
 15 **Section 2.** Section 20-9-104, MCA, is amended to read:

16 **"20-9-104. (Temporary) General fund operating reserve.** (1) At the end of each school fiscal year, the  
 17 trustees of each district shall designate the portion of the general fund end-of-the-year fund balance that is to be  
 18 earmarked as operating reserve for the purpose of paying general fund warrants issued by the district from July  
 19 1 to November 30 of the ensuing school fiscal year. Except as provided in subsections (6) and (7), the amount  
 20 of the general fund balance that is earmarked as operating reserve may not exceed 10% of the final general fund  
 21 budget for the ensuing school fiscal year.

22 (2) The amount held as operating reserve may not be used for property tax reduction in the manner  
 23 permitted by 20-9-141(1)(b) for other receipts.

24 (3) Excess reserves as provided in subsection (6) may be appropriated to reduce the BASE budget levy,  
 25 the over-BASE budget levy, or the additional levy provided by 20-9-353.

26 (4) Any Except as provided in subsection (9), any portion of the general fund end-of-the-year fund  
 27 balance, including any portion attributable to a tax increment remitted under 7-15-4291, that is not reserved under  
 28 subsection (2) or reappropriated under subsection (3) is fund balance reappropriated and must be used for  
 29 property tax reduction as provided in 20-9-141(1)(b) up to an amount not exceeding 15% of a school district's  
 30 maximum general fund budget.

1           (5) Any Except as provided in subsection (9), any unreserved fund balance in excess of 15% of a school  
2 district's maximum general fund budget must be remitted to the state and allocated as follows:

3           (a) 70% of the excess amount must be remitted to the state to be deposited in the guarantee account  
4 provided for in 20-9-622; and

5           (b) 30% of the excess amount must be remitted to the school facility and technology account.

6           (6) The limitation of subsection (1) does not apply when the amount in excess of the limitation is equal  
7 to or less than the unused balance of any amount:

8           (a) received in settlement of tax payments protested in a prior school fiscal year;

9           (b) received in taxes from a prior school fiscal year as a result of a tax audit by the department of  
10 revenue or its agents; or

11           (c) received in delinquent taxes from a prior school fiscal year.

12           (7) The limitation of subsection (1) does not apply when the amount earmarked as operating reserve is  
13 \$10,000 or less.

14           (8) Any amounts remitted to the state under subsection (5) are not considered expenditures to be applied  
15 against budget authority.

16           (9) Any portion of a tax increment remitted under 7-15-4291 and deposited in the district's general fund  
17 is not subject to the:

18           (a) 15% fund balance limit provided for in subsection (4); or

19           (b) provisions of subsection (5). (Terminates June 30, 2020--sec. 38, Ch. 400, L. 2013.)

20           **20-9-104. (Effective July 1, 2020) General fund operating reserve.** (1) At the end of each school fiscal  
21 year, the trustees of each district shall designate the portion of the general fund end-of-the-year fund balance that  
22 is to be earmarked as operating reserve for the purpose of paying general fund warrants issued by the district  
23 from July 1 to November 30 of the ensuing school fiscal year. Except as provided in subsections (6) and (7), the  
24 amount of the general fund balance that is earmarked as operating reserve may not exceed 10% of the final  
25 general fund budget for the ensuing school fiscal year.

26           (2) The amount held as operating reserve may not be used for property tax reduction in the manner  
27 permitted by 20-9-141(1)(b) for other receipts.

28           (3) Excess reserves as provided in subsection (6) may be appropriated to reduce the BASE budget levy,  
29 the over-BASE budget levy, or the additional levy provided by 20-9-353.

30           (4) Any portion of the general fund end-of-the-year fund balance that is not reserved under subsection

1 (2) or reappropriated under subsection (3), including any portion attributable to a tax increment remitted under  
 2 7-15-4291, is fund balance reappropriated and must be used for property tax reduction as provided in  
 3 20-9-141(1)(b).

4 (5) ~~Any~~ Except as provided in subsection (9), any unreserved fund balance in excess of 15% of a school  
 5 district's maximum general fund budget must be remitted to the state and allocated as follows:

6 (a) 70% of the excess amount must be remitted to the state to be deposited in the guarantee account  
 7 provided for in 20-9-622; and

8 (b) 30% of the excess amount must be remitted to the school facility and technology account.

9 (6) The limitation of subsection (1) does not apply when the amount in excess of the limitation is equal  
 10 to or less than the unused balance of any amount:

11 (a) received in settlement of tax payments protested in a prior school fiscal year;

12 (b) received in taxes from a prior school fiscal year as a result of a tax audit by the department of  
 13 revenue or its agents; or

14 (c) received in delinquent taxes from a prior school fiscal year.

15 (7) The limitation of subsection (1) does not apply when the amount earmarked as operating reserve is  
 16 \$10,000 or less.

17 (8) Any amounts remitted to the state under subsection (5) are not considered expenditures to be applied  
 18 against budget authority.

19 (9) Any portion of a tax increment remitted under 7-15-4291 and deposited in the district's general fund  
 20 is not subject to the provisions of subsection (5)."

21

22 **SECTION 3. SECTION 20-9-141, MCA, IS AMENDED TO READ:**

23 **"20-9-141. Computation of general fund net levy requirement by county superintendent.** (1) The  
 24 county superintendent shall compute the levy requirement for each district's general fund on the basis of the  
 25 following procedure:

26 (a) Determine the funding required for the district's final general fund budget less the sum of direct state  
 27 aid, the natural resource development K-12 funding payment, and the special education allowable cost payment  
 28 for the district by totaling:

29 (i) the district's nonisolated school BASE budget requirement to be met by a district levy as provided in  
 30 20-9-303; and

1 (ii) any general fund budget amount adopted by the trustees of the district under the provisions of  
2 20-9-308 and 20-9-353.

3 (b) Determine the money available for the reduction of the property tax on the district for the general fund  
4 by totaling:

5 (i) the general fund balance reappropriated, as established under the provisions of 20-9-104;

6 (ii) amounts received in the last fiscal year for which revenue reporting was required for each of the  
7 following:

8 (A) interest earned by the investment of general fund cash in accordance with the provisions of  
9 20-9-213(4); and

10 (B) any other revenue received during the school fiscal year that may be used to finance the general  
11 fund, excluding any guaranteed tax base aid;

12 (iii) anticipated oil and natural gas production taxes;

13 (iv) pursuant to subsection (4), anticipated revenue from coal gross proceeds under 15-23-703; and

14 (v) school district block grants distributed under 20-9-630; and

15 (vi) any portion of the increment remitted to a school district under 7-15-4291 used to reduce the BASE  
16 levy budget.

17 (c) Notwithstanding the provisions of subsection (2), subtract the money available to reduce the property  
18 tax required to finance the general fund that has been determined in subsection (1)(b) from any general fund  
19 budget amount adopted by the trustees of the district, up to the BASE budget amount, to determine the general  
20 fund BASE budget levy requirement.

21 (d) Determine the sum of:

22 (i) any amount remaining after the determination in subsection (1)(c);

23 (ii) any portion of the increment remitted to a school district under 7-15-4291 used to reduce the  
24 over-BASE budget levy; and

25 (iii) any tuition payments for out-of-district pupils to be received under the provisions of 20-5-320 through  
26 20-5-324, except the amount of tuition received for a pupil who is a child with a disability in excess of the amount  
27 received for a pupil without disabilities, as calculated under 20-5-323(2).

28 (e) Subtract the amount determined in subsection (1)(d) from any additional funding requirement to be  
29 met by an over-BASE budget amount, a district levy as provided in 20-9-303, and any additional financing as  
30 provided in 20-9-353 to determine any additional general fund levy requirements.

1 (2) The county superintendent shall calculate the number of mills to be levied on the taxable property  
 2 in the district to finance the general fund levy requirement for any amount that does not exceed the BASE budget  
 3 amount for the district by dividing the amount determined in subsection (1)(c) by the sum of:

4 (a) the amount of guaranteed tax base aid that the district will receive for each mill levied, as certified  
 5 by the superintendent of public instruction; and

6 (b) the current total taxable valuation of the district, as certified by the department of revenue under  
 7 15-10-202, divided by 1,000.

8 (3) The net general fund levy requirement determined in subsections (1)(c) and (1)(d) must be reported  
 9 to the county commissioners by the later of the first Tuesday in September or within 30 calendar days after  
 10 receiving certified taxable values by the county superintendent as the general fund net levy requirement for the  
 11 district, and a levy must be set by the county commissioners in accordance with 20-9-142.

12 (4) For each school district, the department of revenue shall calculate and report to the county  
 13 superintendent the amount of revenue anticipated for the ensuing fiscal year from revenue from coal gross  
 14 proceeds under 15-23-703."

15

16 ~~Section 3. Section 20-9-208, MCA, is amended to read:~~

17 ~~"20-9-208. Transfers among appropriation items of fund -- transfers from fund to fund. (1)~~  
 18 ~~Whenever it appears to the trustees of a district that the appropriated amount of an item of a budgeted fund of~~  
 19 ~~the final budget or a budget amendment is in excess of the amount actually required during the school fiscal year~~  
 20 ~~for the appropriation item, the trustees may transfer any of the excess appropriation amount to any other~~  
 21 ~~appropriation item of the same budgeted fund.~~

22 ~~(2) Unless otherwise restricted by a specific provision in this title, transfers may be made between~~  
 23 ~~different funds of the same district or between the final budget and a budget amendment under one of the~~  
 24 ~~following circumstances:~~

25 ~~(a) (i) Except as provided in subsections (2)(a)(ii) through (2)(a)(iv) (2)(a)(v), transfers may be made from~~  
 26 ~~one budgeted fund to another budgeted fund or between the final budget and a budget amendment for a~~  
 27 ~~budgeted fund whenever the trustees determine, in their discretion, that the transfer of funds is necessary to~~  
 28 ~~improve the efficiency of spending within the district or when an action of the trustees results in savings in one~~  
 29 ~~budgeted fund that can be put to more efficient use in another budgeted fund. Transfers may not be made with~~  
 30 ~~funds approved by the voters or with funds raised by a nonvoted levy unless:~~

1 ~~—— (A) the transfer is within or directly related to the purposes for which the funds were raised and the~~  
2 ~~trustees hold a properly noticed hearing to accept public comment on the transfer; or~~

3 ~~—— (B) the transfer is approved by the qualified electors of the district in an election called for the purpose~~  
4 ~~of approving the transfer, in which case the funds may be spent for the purpose approved on the ballot.~~

5 ~~—— (ii) Unless otherwise authorized by a specific provision in this title, transfers from the general fund to any~~  
6 ~~other fund and transfers to the general fund from any other fund are prohibited. Subject to 7-15-4291, a transfer~~  
7 ~~of any portion of a tax increment may be made from the general fund to the funds provided for in 7-15-4291(2)(b).~~

8 ~~—— (iii) Unless otherwise authorized by a specific provision in this title, transfers from the retirement fund to~~  
9 ~~any other fund are prohibited.~~

10 ~~—— (iv) Unless otherwise authorized by a specific provision in this title, transfers from the debt service fund~~  
11 ~~to any other fund are prohibited.~~

12 ~~—— (v) Any portion of a tax increment remitted under 7-15-4291 and deposited in the general fund, bus~~  
13 ~~depreciation reserve fund, debt service fund, building reserve fund, or technology acquisition and depreciation~~  
14 ~~fund is subject to the transfer restrictions of 7-15-4291(2)(c).~~

15 ~~—— (b) Transfers may be made from one nonbudgeted fund to another nonbudgeted fund whenever the~~  
16 ~~trustees determine that the transfer of funds is necessary to improve the efficiency of spending within the district.~~  
17 ~~Transfers may not be made with funds restricted by federal law unless the transfer is in compliance with any~~  
18 ~~restrictions or conditions imposed by federal law. Before a transfer can occur, the trustees shall hold a properly~~  
19 ~~noticed hearing to accept public comment on the transfer.~~

20 ~~—— (3) The trustees shall enter the authorized transfers upon the permanent records of the district.~~

21 ~~—— (4) The intent of this section is to increase the flexibility and efficiency of school districts without an~~  
22 ~~increase in local taxes. In furtherance of this intent, if transfers of funds are made from any school district fund~~  
23 ~~supported by a nonvoted levy, the district may not increase its nonvoted levy for the purpose of restoring the~~  
24 ~~amount of funds transferred."~~

25

26 NEW SECTION. Section 4. Effective date. [This act] is effective July 1, 2015.

27

28 NEW SECTION. Section 5. Applicability. [This act] applies to all tax increment financing districts  
29 created after December 31, 1979.

30 - END -

