

HOUSE BILL NO. 134

INTRODUCED BY J. ESSMANN

BY REQUEST OF THE SCHOOL FUNDING INTERIM COMMISSION

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5 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING FUNDING RELATED TO STATE SUPPORT FOR
6 ~~SCHOOL FACILITIES; RENAMING SCHOOLS; REPURPOSING THE SCHOOL FACILITY AND TECHNOLOGY~~
7 ~~ACCOUNT, CREATING A SCHOOL FACILITY MAJOR MAINTENANCE GRANT PROGRAM STATE SPECIAL~~
8 ~~REVENUE ACCOUNT, AND PROVIDING REVENUE FOR BOTH ACCOUNTS; RENAMING THE FACILITY~~
9 ~~REIMBURSEMENT PROGRAM; ELIMINATING THE NATURAL RESOURCE DEVELOPMENT K-12 PAYMENT;~~
10 ~~REDIRECTING LOTTERY PROCEEDS; REQUIRING THAT ANY WORKERS' COMPENSATION DIVIDENDS~~
11 ~~REFUNDED TO A STATE AGENCY BE TRANSFERRED TO THE SCHOOL FACILITY MAJOR MAINTENANCE~~
12 ~~GRANT PROGRAM DEBT SERVICE ASSISTANCE ACCOUNT; UTILIZING THE 95 MILLS LEVIED ON THE~~
13 ~~INCREMENTAL TAXABLE VALUE WITHIN AN URBAN RENEWAL AREA OR TARGETED ECONOMIC~~
14 ~~DEVELOPMENT DISTRICT FOR SCHOOL FACILITY MAJOR MAINTENANCE GRANTS; REVISING THE~~
15 ~~SOURCE OF THE STATUTORY APPROPRIATION FOR THE STATE TECHNOLOGY PAYMENT TO~~
16 ~~SCHOOLS; REVISING AND RENAMING THE QUALITY SCHOOLS FACILITY GRANT PROGRAM;~~
17 ~~ELIMINATING THE STEM SCHOLARSHIP PROGRAM; PROVIDING A STATUTORY APPROPRIATION;~~
18 ~~AMENDING SECTIONS 7-15-4286, 17-3-1003, 17-7-502, 20-9-104, 20-9-141, 20-9-306, 20-9-342, 20-9-343,~~
19 ~~20-9-344, 20-9-367, 20-9-516, AND 20-9-534, 20-9-620, 20-9-622, 20-26-606, 23-7-202, 23-7-402, 39-71-403,~~
20 ~~90-6-801, 90-6-802, 90-6-803, 90-6-809, 90-6-810, AND 90-6-811, MCA; REPEALING SECTIONS 20-26-614,~~
21 ~~20-26-615, 20-26-616, AND 20-26-617, MCA; AND PROVIDING AN EFFECTIVE DATE REVISING THE~~
22 ~~DISTRIBUTION OF EXCESS OIL AND NATURAL GAS REVENUE; AMENDING SECTIONS 17-7-502, 20-9-310,~~
23 ~~AND 20-9-520, MCA; REPEALING SECTIONS 20-9-517 AND 20-9-518, MCA; AND PROVIDING EFFECTIVE~~
24 ~~DATES.~~"

25
26 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

27 (Refer to Third Reading, Blue Bill)

28 Strike everything after the enacting clause and insert:

29
30 **Section 1.** Section 17-7-502, MCA, is amended to read:



1 **"17-7-502. Statutory appropriations -- definition -- requisites for validity.** (1) A statutory
 2 appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the
 3 need for a biennial legislative appropriation or budget amendment.

4 (2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both
 5 of the following provisions:

6 (a) The law containing the statutory authority must be listed in subsection (3).

7 (b) The law or portion of the law making a statutory appropriation must specifically state that a statutory
 8 appropriation is made as provided in this section.

9 (3) The following laws are the only laws containing statutory appropriations: 2-17-105; 5-11-120;
 10 5-11-407; 5-13-403; 7-4-2502; 10-1-108; 10-1-1202; 10-1-1303; 10-2-603; 10-3-203; 10-3-310; 10-3-312;
 11 10-3-314; 10-4-301; 15-1-121; 15-1-218; 15-35-108; 15-36-332; 15-37-117; 15-39-110; 15-65-121; 15-70-101;
 12 15-70-433; 15-70-601; 16-11-509; 17-3-106; 17-3-112; 17-3-212; 17-3-222; 17-3-241; 17-6-101; 17-7-215;
 13 18-11-112; 19-3-319; 19-6-404; 19-6-410; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506;
 14 19-20-604; 19-20-607; 19-21-203; 20-8-107; ~~20-9-517~~; 20-9-520; 20-9-534; 20-9-622; 20-9-905; 20-26-617;
 15 20-26-1503; 22-1-327; 22-3-116; 22-3-117; 22-3-1004; 23-4-105; 23-5-306; 23-5-409; 23-5-612; 23-7-301;
 16 23-7-402; 30-10-1004; 37-43-204; 37-50-209; 37-51-501; 39-71-503; 41-5-2011; 42-2-105; 44-4-1101; 44-12-213;
 17 44-13-102; 50-1-115; 53-1-109; 53-6-1304; 53-9-113; 53-24-108; 53-24-206; 60-11-115; 61-3-415; 69-3-870;
 18 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 76-13-150; 76-13-416; 77-1-108; 77-2-362; 80-2-222; 80-4-416;
 19 80-11-518; 81-1-112; 81-7-106; 81-10-103; 82-11-161; 85-20-1504; 85-20-1505; [85-25-102]; 87-1-603; 90-1-115;
 20 90-1-205; 90-1-504; 90-3-1003; 90-6-331; and 90-9-306.

21 (4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing,
 22 paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued
 23 pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana
 24 to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state
 25 treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory
 26 appropriation authority for the payments. (In subsection (3): pursuant to sec. 10, Ch. 360, L. 1999, the inclusion
 27 of 19-20-604 terminates contingently when the amortization period for the teachers' retirement system's unfunded
 28 liability is 10 years or less; pursuant to sec. 10, Ch. 10, Sp. L. May 2000, secs. 3 and 6, Ch. 481, L. 2003, and
 29 sec. 2, Ch. 459, L. 2009, the inclusion of 15-35-108 terminates June 30, 2019; pursuant to sec. 73, Ch. 44, L.
 30 2007, the inclusion of 19-6-410 terminates contingently upon the death of the last recipient eligible under

1 19-6-709(2) for the supplemental benefit provided by 19-6-709; pursuant to sec. 5, Ch. 442, L. 2009, the inclusion
 2 of 90-6-331 terminates June 30, 2019; pursuant to sec. 16, Ch. 58, L. 2011, the inclusion of 30-10-1004
 3 terminates June 30, 2017; pursuant to sec. 6, Ch. 61, L. 2011, the inclusion of 76-13-416 terminates June 30,
 4 2019; pursuant to sec. 13, Ch. 339, L. 2011, the inclusion of 81-1-112 and 81-7-106 terminates June 30, 2017;
 5 pursuant to sec. 11(2), Ch. 17, L. 2013, the inclusion of 17-3-112 terminates on occurrence of contingency;
 6 pursuant to sec. 5, Ch. 244, L. 2013, the inclusion of 22-1-327 terminates July 1, 2017; pursuant to sec. 27, Ch.
 7 285, L. 2015, and sec. 1, Ch. 292, L. 2015, the inclusion of 53-9-113 terminates June 30, 2021; pursuant to sec.
 8 6, Ch. 291, L. 2015, the inclusion of 50-1-115 terminates June 30, 2021; pursuant to sec. 28, Ch. 368, L. 2015,
 9 the inclusion of 53-6-1304 terminates June 30, 2019; pursuant to sec. 5, Ch. 383, L. 2015, the inclusion of
 10 85-25-102 is effective on occurrence of contingency; pursuant to sec. 5, Ch. 422, L. 2015, the inclusion of
 11 17-7-215 terminates June 30, 2021; pursuant to sec. 6, Ch. 423, L. 2015, the inclusion of 22-3-116 and 22-3-117
 12 terminates June 30, 2025; pursuant to sec. 10, Ch. 427, L. 2015, the inclusion of 37-50-209 terminates
 13 September 30, 2019; and pursuant to sec. 33, Ch. 457, L. 2015, the inclusion of 20-9-905 terminates December
 14 31, 2023.)"

15

16 **Section 2.** Section 20-9-310, MCA, is amended to read:

17 **"20-9-310. (Temporary) Oil and natural gas production taxes for school districts -- allocation and**
 18 **limits.** (1) Except as provided in subsection ~~(6)~~ (5), the maximum amount of oil and natural gas production taxes
 19 that a school district may retain is 130% of the school district's maximum budget, determined in accordance with
 20 20-9-308.

21 (2) Upon receipt of school district budget reports required under 20-9-134, the superintendent of public
 22 instruction shall provide the department of revenue with a list reporting the maximum general fund budget for
 23 each school district.

24 (3) The department of revenue shall make the full quarterly distribution of oil and natural gas production
 25 taxes as required under 15-36-332(6) until the amount distributed reaches the limitation in subsection (1) of this
 26 section. The department of revenue shall deposit any amount exceeding the limitation in subsection (1) in the
 27 ~~state school oil and natural gas distribution account provided for in 20-9-520~~ guarantee account provided for in
 28 20-9-622.

29 ~~(4) (a) By the last day of the month immediately following the month in which the quarterly distribution~~
 30 ~~of oil and natural gas production taxes in subsection (3) is made, the office of public instruction shall distribute~~

1 any amount of oil and natural gas production taxes exceeding the limitation in subsection (1) based on allocations
 2 determined by the department of revenue pursuant to subsection (3) to school districts that are directly impacted
 3 by oil and natural gas development, but that receive insufficient oil and natural gas revenue to address the oil and
 4 natural gas development impacts. The office of public instruction shall adopt administrative rules to establish a
 5 process, criteria, and a mechanism for distribution under this subsection (4), using the negotiated rulemaking
 6 process set forth in the Montana Negotiated Rulemaking Act, Title 2, chapter 5, part 1.

7 ~~_____ (b) In developing administrative rules, the office of public instruction shall establish two independent~~
 8 ~~negotiated rulemaking committees to consider issues for the purpose of reaching a consensus to develop~~
 9 ~~proposed rules for the distribution of the funds under this subsection (4).~~

10 ~~_____ (c) The members of the first negotiated rulemaking committee appointed by the office of public instruction~~
 11 ~~must include public school officials and public school employees from school districts that are located in or are~~
 12 ~~immediately adjacent to a county in which oil and natural gas production taxes are generated and professional~~
 13 ~~organizations representing these public school officials and employees. This committee shall transmit proposed~~
 14 ~~rules regarding distribution of 50% of the funds available under this subsection (4) in accordance with 2-5-108.~~

15 ~~_____ (d) The members of the second negotiated rulemaking committee appointed by the office of public~~
 16 ~~instruction must include public school officials and public school employees from school districts around the state~~
 17 ~~and professional organizations representing these public school officials and employees. This committee shall~~
 18 ~~transmit proposed rules regarding the distribution of the remaining 50% of the funds available under this~~
 19 ~~subsection (4) in accordance with 2-5-108.~~

20 ~~(5)(4)~~ (a) Subject to the limitation in subsection (1) and the conditions in subsection ~~(5)(b)~~ (4)(b), the
 21 trustees shall budget and allocate the oil and natural gas production taxes anticipated by the district in any
 22 budgeted fund at the discretion of the trustees. Oil and natural gas production taxes allocated to the district
 23 general fund may be applied to the BASE or over-BASE portions of the general fund budget at the discretion of
 24 the trustees.

25 (b) Except as provided in subsection ~~(5)(e)~~ (4)(c), if the trustees apply an amount less than 12.5% of the
 26 total oil and natural gas production taxes received by the district in the prior school fiscal year to the district's
 27 general fund BASE budget for the upcoming school fiscal year, then:

28 (i) the trustees shall levy the number of mills required to raise an amount equal to the difference between
 29 12.5% of the oil and natural gas production taxes received by the district in the prior school fiscal year and the
 30 amount of oil and natural gas production taxes the trustees budget in the district's general fund BASE budget for

1 the upcoming school fiscal year;

2 (ii) the mills levied under subsection ~~(5)(b)(i)~~ (4)(b)(i) are not eligible for the guaranteed tax base subsidy
3 under the provisions of 20-9-366 through 20-9-369; and

4 (iii) the general fund BASE budget levy requirement calculated in 20-9-141 must be calculated as though
5 the trustees budgeted 12.5% of the oil and natural gas production taxes received by the district in the prior year
6 and the number of mills calculated in subsection ~~(5)(b)(i)~~ (4)(b)(i) must be added to the number of mills calculated
7 in 20-9-141(2).

8 (c) The provisions of subsection ~~(5)(b)~~ (4)(b) do not apply to the following:

9 (i) a district that has a maximum general fund budget of less than \$1 million;

10 (ii) a district whose oil and natural gas revenue combined with its adopted general fund budget totals
11 105% or less of its maximum general fund budget;

12 (iii) a district that has a maximum general fund budget of \$1 million or more and has had an unusual
13 enrollment increase approved by the superintendent of public instruction as provided in 20-9-314 in the year
14 immediately preceding the fiscal year to which the provisions of this subsection ~~(5)~~ (4) would otherwise apply;
15 or

16 (iv) a district that has issued outstanding oil and natural gas revenue bonds. Funds received pursuant
17 to this section must first be applied by the district to payment of debt service obligations for oil and natural gas
18 revenue bonds for the next 12-month period.

19 ~~(6)(5)~~ The limit on oil and natural gas production taxes that a school district may retain under subsection
20 (1) must be increased for any school district with an unusual enrollment increase approved by the superintendent
21 of public instruction as provided in 20-9-314. The increase in the limit on oil and natural gas production taxes that
22 a school district may retain under subsection (1) applies in the year immediately following the fiscal year in which
23 the office of public instruction has approved the district's unusual enrollment increase and must be calculated by
24 multiplying \$45,000 times each additional ANB approved by the superintendent of public instruction as provided
25 in 20-9-314.

26 ~~(7)(6)~~ In any year in which the actual oil and natural gas production taxes received by a school district
27 are less than 50% of the total oil and natural gas production taxes received by the district in the prior year, the
28 district may transfer money from any budgeted fund to its general fund in an amount not to exceed the amount
29 of the shortfall. (Terminates June 30, 2019--sec. 7, Ch. 433, L. 2015.)

30 **20-9-310. (Effective July 1, 2019) Oil and natural gas production taxes for school districts --**

1 **allocation and limits.** (1) Except as provided in subsection (6), the maximum amount of oil and natural gas
 2 production taxes that a school district may retain is 130% of the school district's maximum budget, determined
 3 in accordance with 20-9-308.

4 (2) Upon receipt of school district budget reports required under 20-9-134, the superintendent of public
 5 instruction shall provide the department of revenue with a list reporting the maximum general fund budget for
 6 each school district.

7 (3) (a) The department of revenue shall make the full quarterly distribution of oil and natural gas
 8 production taxes as required under 15-36-332(6) until the amount distributed reaches the limitation in subsection
 9 (1) of this section.

10 (b) The department of revenue shall deposit any amount exceeding the limitation in subsection (1) ~~in the~~
 11 ~~state school oil and natural gas distribution account provided for in 20-9-520~~ up to \$5 million in the school facility
 12 and technology account provided for in 20-9-516.

13 (c) After \$5 million has been deposited in the school facility and technology account, the department of
 14 revenue shall deposit any amount exceeding the limitation in subsection (1) in the state school oil and natural gas
 15 distribution account provided for in 20-9-520.

16 (4) ~~By the last day of the month immediately following the month in which the quarterly distribution of oil~~
 17 ~~and natural gas production taxes in subsection (3) is made, the office of public instruction shall distribute any~~
 18 ~~amount of oil and natural gas production taxes exceeding the limitation in subsection (1) based on allocations~~
 19 ~~determined by the department of revenue pursuant to subsection (3) as follows:~~

20 ~~—— (a) 70% of the retained amount must be deposited in the guarantee account provided for in 20-9-622;~~

21 ~~—— (b) 5% of the retained amount must be deposited in the state school oil and natural gas impact account~~
 22 ~~provided for in 20-9-517; and~~

23 ~~—— (c) 25% of the retained amount must be distributed to the counties in proportion to a county's oil and~~
 24 ~~natural gas production taxes for the preceding 3 years compared to the total of all counties' oil and natural gas~~
 25 ~~production taxes for the preceding 3 years. Funds distributed must be deposited in a county's county school oil~~
 26 ~~and natural gas impact fund provided for in 20-9-518.~~

27 (4) (a) By the last day of the month immediately following the month in which the deposit of oil and
 28 natural gas production taxes pursuant to subsection (3)(c) is made, the office of public instruction shall distribute
 29 any amount of oil and natural gas production taxes exceeding the limitation in subsection (1) based on allocations
 30 determined by the department of revenue pursuant to subsection (3)(c) to school districts that are directly

1 impacted by oil and natural gas development but that receive insufficient oil and natural gas revenue to address
2 the oil and natural gas development impacts. The office of public instruction shall adopt administrative rules to
3 establish a process, criteria, and a mechanism for distribution under this subsection (4), using the negotiated
4 rulemaking process set forth in the Montana Negotiated Rulemaking Act, Title 2, chapter 5, part 1.

5 (b) In developing administrative rules, the office of public instruction shall establish two independent
6 negotiated rulemaking committees to consider issues for the purpose of reaching a consensus to develop
7 proposed rules for the distribution of the funds under this subsection (4).

8 (c) The members of the first negotiated rulemaking committee appointed by the office of public instruction
9 must include public school officials and public school employees from school districts that are located in or are
10 immediately adjacent to a county in which oil and natural gas production taxes are generated and professional
11 organizations representing these public school officials and employees. This committee shall transmit proposed
12 rules regarding distribution of 50% of the funds available under this subsection (4) in accordance with 2-5-108.

13 (d) The members of the second negotiated rulemaking committee appointed by the office of public
14 instruction must include public school officials and public school employees from school districts around the state
15 and professional organizations representing these public school officials and employees. This committee shall
16 transmit proposed rules regarding the distribution of the remaining 50% of the funds available under this
17 subsection (4) in accordance with 2-5-108.

18 (e) For the purposes of this subsection (4), the office of public instruction may use administrative rules
19 adopted for the purposes of Chapter 433, Laws of 2015.

20 (5) (a) Subject to the limitation in subsection (1) and the conditions in subsection (5)(b), the trustees shall
21 budget and allocate the oil and natural gas production taxes anticipated by the district in any budgeted fund at
22 the discretion of the trustees. Oil and natural gas production taxes allocated to the district general fund may be
23 applied to the BASE or over-BASE portions of the general fund budget at the discretion of the trustees.

24 (b) Except as provided in subsection (5)(c), if the trustees apply an amount less than 12.5% of the total
25 oil and natural gas production taxes received by the district in the prior school fiscal year to the district's general
26 fund BASE budget for the upcoming school fiscal year, then:

27 (i) the trustees shall levy the number of mills required to raise an amount equal to the difference between
28 12.5% of the oil and natural gas production taxes received by the district in the prior school fiscal year and the
29 amount of oil and natural gas production taxes the trustees budget in the district's general fund BASE budget for
30 the upcoming school fiscal year;

1 (ii) the mills levied under subsection (5)(b)(i) are not eligible for the guaranteed tax base subsidy under
2 the provisions of 20-9-366 through 20-9-369; and

3 (iii) the general fund BASE budget levy requirement calculated in 20-9-141 must be calculated as though
4 the trustees budgeted 12.5% of the oil and natural gas production taxes received by the district in the prior year
5 and the number of mills calculated in subsection (5)(b)(i) must be added to the number of mills calculated in
6 20-9-141(2).

7 (c) The provisions of subsection (5)(b) do not apply to the following:

8 (i) a district that has a maximum general fund budget of less than \$1 million;

9 (ii) a district whose oil and natural gas revenue combined with its adopted general fund budget totals
10 105% or less of its maximum general fund budget;

11 (iii) a district that has a maximum general fund budget of \$1 million or more and has had an unusual
12 enrollment increase approved by the superintendent of public instruction as provided in 20-9-314 in the year
13 immediately preceding the fiscal year to which the provisions of this subsection (5) would otherwise apply; or

14 (iv) a district that has issued outstanding oil and natural gas revenue bonds. Funds received pursuant
15 to this section must first be applied by the district to payment of debt service obligations for oil and natural gas
16 revenue bonds for the next 12-month period.

17 (6) The limit on oil and natural gas production taxes that a school district may retain under subsection
18 (1) must be increased for any school district with an unusual enrollment increase approved by the superintendent
19 of public instruction as provided in 20-9-314. The increase in the limit on oil and natural gas production taxes that
20 a school district may retain under subsection (1) applies in the year immediately following the fiscal year in which
21 the office of public instruction has approved the district's unusual enrollment increase and must be calculated by
22 multiplying \$45,000 times each additional ANB approved by the superintendent of public instruction as provided
23 in 20-9-314.

24 (7) In any year in which the actual oil and natural gas production taxes received by a school district are
25 less than 50% of the total oil and natural gas production taxes received by the district in the prior year, the district
26 may transfer money from any budgeted fund to its general fund in an amount not to exceed the amount of the
27 shortfall."

28

29 **Section 3.** Section 20-9-520, MCA, is amended to read:

30 **"20-9-520. State school oil and natural gas distribution account.** (1) There is a state school oil and

1 natural gas distribution account in the state special revenue fund provided for in 17-2-102. The purpose of the
 2 account is for distribution of the oil and natural gas production revenue ~~exceeding the limitation in 20-9-310(1)~~
 3 in accordance with 20-9-310~~(4)~~. The funds deposited in this account for distribution to school districts ~~and~~
 4 ~~counties~~ under 20-9-310~~(4)~~ are statutorily appropriated as provided in 17-7-502.

5 (2) The department of revenue shall deposit in the account oil and natural gas production taxes ~~that~~
 6 ~~exceed the limitations in in accordance with~~ 20-9-310.

7 (3) The superintendent of public instruction shall distribute the money from the account in accordance
 8 with 20-9-310~~(4)~~."

9
 10 **NEW SECTION. Section 4. Repealer.** The following sections of the Montana Code Annotated are
 11 repealed:

12 20-9-517. State school oil and natural gas impact account.

13 20-9-518. County school oil and natural gas impact fund.

14
 15 **COORDINATION SECTION. Section 5. Coordination instruction.** (1) If House Bill No. 647 and [this
 16 act] are both passed and approved, then [sections 1, 6, 10, 11, 12, 20, and 27(2)] of House Bill No. 647 are void.

17 (2) If Senate Bill No. 307 and [this act] are both passed and approved, then [section 14] of Senate Bill
 18 No. 307 is void. The Legislature intends that this subsection (2) supersede [section 14] of Senate Bill No. 307.

19
 20 **NEW SECTION. Section 6. Effective dates.** (1) Except as provided in subsection (2), [this act] is
 21 effective July 1, 2017.

22 (2) [Section 5] and this section are effective on passage and approval.

23 - END -