

2011 Montana Legislature

SENATE BILL NO. 329

INTRODUCED BY R. ZINKE

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING K-12 EDUCATION LAWS; ALLOWING FOR MULTIDISTRICT AGREEMENTS; ALLOWING TRUSTEES TO DECIDE THE DISPOSITION OF INACTIVE TUITION FUNDS; EXEMPTING PARTICIPANTS IN A COOPERATIVE PURCHASING GROUP FROM CERTAIN COMPETITIVE BIDDING REQUIREMENTS; ALLOWING THE TRANSFER OF FUNDS RAISED BY A VOTED OR PERMISSIVE LEVY IF VOTERS APPROVE THE TRANSFER IN AN ELECTION; ALLOWING TRUSTEES TO IMPOSE AN OVER-BASE LEVY IN SUPPORT OF A DISTRICT'S GENERAL FUND BUDGET IN AN AMOUNT NOT TO EXCEED REVENUE AMOUNTS PREVIOUSLY AUTHORIZED BY THE VOTERS IN ANY PRIOR YEAR; REQUIRING THAT INTEREST AND INCOME IN EXCESS OF THE AMOUNT ESTIMATED TO BE DEPOSITED INTO THE GUARANTEE ACCOUNT UNDER THE OFFICIAL REVENUE ESTIMATE BE DEPOSITED IN THE SCHOOL FACILITY AND TECHNOLOGY ACCOUNT; REQUIRING THE SUPERINTENDENT OF PUBLIC INSTRUCTION TO SUBMIT A SCHOOL FACILITY AND TECHNOLOGY BASE FOR THE SCHOOL FACILITY AND TECHNOLOGY ACCOUNT TO BE DISTRIBUTED ON A PER-QUALITY EDUCATOR BASIS; CHANGING THE FORMULAS FOR CERTAIN SCHOOL DISTRICT BLOCK GRANTS; REMOVING THE REQUIREMENT THAT TRUSTEES SUBMIT TO ELECTORS THE PROPOSITION OF TRANSFERRING BUS DEPRECIATION RESERVE FUNDS TO ANOTHER FUND; ELIMINATING THE QUALITY SCHOOLS FACILITY GRANT PROGRAM ACT; AMENDING SECTIONS 20-3-363, 20-9-201, 20-9-204, 20-9-208, 20-9-308, 20-9-342, 20-9-353, 20-9-507, 20-9-516, 20-9-630, AND 20-10-147, MCA; REPEALING SECTIONS 90-6-801, 90-6-802, 90-6-803, 90-6-809, 90-6-810, 90-6-811, 90-6-812, 90-6-818, AND 90-6-819, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. Section 20-3-363, MCA, is amended to read:

"**20-3-363. Interdistrict Multidistrict agreements -- fund transfers.** (1) The boards of trustees of any two or more school districts that have unified pursuant to 20-6-312, any two school districts that have created a joint board of trustees pursuant to 20-3-361, or a high school district and any elementary school district associated with that high school district may enter into an interdistrict a multidistrict agreement to

perform any services, activities, and undertakings of the participating districts and to provide for the joint funding and operation and maintenance of both all participating districts upon the terms and conditions as may be mutually agreed to by the districts subject to the conditions of this section. An agreement must be approved by the board boards of trustees of both all participating districts by February 1 April 1 of the current fiscal year in which the agreement is executed and by April 1 in any subsequent year to which the agreement applies.

(2) All expenditures in support of the interdistrict multidistrict agreement may be made from the interlocal cooperative fund as specified in 20-9-703 and 20-9-704. Each participating district may transfer funds into the interlocal cooperative fund from the general fund or any other budgeted fund of the district. Transfers to the interlocal cooperative fund from each participating school district district's general fund are limited to an amount not to exceed the direct state aid in support of the respective school district's general fund, and All transfers must be completed by February 1 April 1 of the current fiscal year in which the agreement is executed and by April 1 in any subsequent year to which the agreement applies.

(3) Expenditures from the interlocal cooperative fund under this section are limited to those expenditures that are permitted by law and that are within the final budget for the general budgeted fund from which the transfer was made."

Section 2. Section 20-9-201, MCA, is amended to read:

"20-9-201. Definitions and application. (1) As used in this title, unless the context clearly indicates otherwise, "fund" means a separate detailed account of receipts and expenditures for a specific purpose as authorized by law or by the superintendent of public instruction under the provisions of subsection (2). Funds are classified as follows:

(a) A "budgeted fund" means any fund for which a budget must be adopted in order to expend money from the fund. The general fund, transportation fund, bus depreciation reserve fund, tuition fund, retirement fund, debt service fund, building reserve fund, adult education fund, nonoperating fund, and any other funds designated by the legislature are budgeted funds.

(b) A "nonbudgeted fund" means any fund for which a budget is not required in order to expend money on deposit in the fund. The school food services fund, miscellaneous programs fund, building fund, lease or rental agreement fund, traffic education fund, interlocal cooperative fund, internal service fund, impact aid fund, enterprise fund, agency fund, extracurricular fund, metal mines tax reserve fund,

endowment fund, litigation reserve fund, and any other funds designated by the legislature are nonbudgeted funds.

(2) The school financial administration provisions of this title apply to all money of any elementary or high school district. Elementary and high school districts shall record the receipt and disbursement of all money in accordance with generally accepted accounting principles. The superintendent of public instruction has general supervisory authority as prescribed by law over the school financial administration provisions, as they relate to elementary and high school districts. The superintendent of public instruction shall adopt rules necessary to secure compliance with the law.

(3) ~~(a) Except as provided in subsection (3)(b) or as otherwise provided by law, whenever~~ **Whenever EXCEPT AS OTHERWISE PROVIDED BY LAW, WHENEVER** the trustees of a district determine that a fund is inactive and will no longer be used, the trustees shall close the fund by transferring all cash and other account balances to any fund considered appropriate by the trustees if the fund does not have a cash or fund balance deficit.

~~—(b) If the trustees of a district determine that its tuition fund is inactive and will no longer be used, the trustees shall close the fund by transferring any cash and account balances to the district's miscellaneous programs fund if the tuition fund does not have a cash or fund balance deficit."~~

Section 3. Section 20-9-204, MCA, is amended to read:

"20-9-204. Conflicts of interests, letting contracts, and calling for bids -- exceptions. (1) It is unlawful for a trustee to:

(a) have any pecuniary interest, either directly or indirectly, in any contract made by the trustee while acting in that official capacity or by the board of trustees of which the trustee is a member; or

(b) be employed in any capacity by the trustee's own school district, with the exception of officiating at athletic competitions under the auspices of the Montana officials association.

(2) For the purposes of subsection (1):

(a) "contract" does not include:

(i) merchandise sold to the highest bidder at public auctions;

(ii) investments or deposits in financial institutions that are in the business of loaning or receiving money when the investments or deposits are made on a rotating or ratable basis among financial institutions in the community or when there is only one financial institution in the community; or

(iii) contracts for professional services, other than salaried services, or for maintenance or repair services or supplies when the services or supplies are not reasonably available from other sources if the interest of any board member and a determination of the lack of availability are entered in the minutes of the board meeting at which the contract is considered; and

(b) "pecuniary interest" does not include holding an interest of 10% or less in a corporation.

(3) (a) Except for district needs that must be met because of an unforeseen emergency, as defined in 20-3-322(5), or as provided in subsections (4) and ~~(7)~~ (6) of this section, whenever any building, furnishing, repairing, or other work for the benefit of the district or purchasing of supplies for the district is necessary, the work done or the purchase made must be by contract if the sum exceeds \$50,000.

(b) Except as provided in Title 18, chapter 2, part 5, each contract must be let to the lowest responsible bidder after advertisement for bids. The advertisement for bids under this subsection (3)(b) must be published in the newspaper that will give notice to the largest number of people of the district as determined by the trustees. The advertisement must be made once each week for 2 consecutive weeks, and the second publication must be made not less than 5 days or more than 12 days before consideration of bids. A contract not let pursuant to this section is void. The bidding requirements applicable to services performed for the benefit of the district under this section do not apply to:

(i) a registered professional engineer, surveyor, real estate appraiser, or registered architect;

(ii) a physician, dentist, pharmacist, or other medical, dental, or health care provider;

(iii) an attorney;

(iv) a consulting actuary;

(v) a private investigator licensed by any jurisdiction;

(vi) a claims adjuster;

(vii) an accountant licensed under Title 37, chapter 50; or

(viii) a project, as defined in 18-2-501, for which a governing body, as defined in 18-2-501, enters into an alternative project delivery contract pursuant to Title 18, chapter 2, part 5.

(4) A district may enter into a cooperative purchasing contract for the procurement of supplies or services with one or more districts. ~~The award of a contract to a successful bidder must comply with the requirements of subsection (5). The request for bids must be advertised in a daily newspaper of general circulation in each county in which a district participating in the cooperative purchasing contract is located. The advertisement must be made once each week for 2 consecutive weeks, and the second publication~~

~~must be made not less than 5 days or more than 12 days before consideration of bids~~ A district participating in a cooperative purchasing group may purchase supplies and services through the group without complying with the provisions of subsection (3) if the cooperative purchasing group has a publicly available master list of items available with pricing included and provides an opportunity at least twice yearly for any Montana vendor, INCLUDING A MONTANA VENDOR, to compete, based on a lowest responsible bidder standard, for inclusion of their supplies and services on the cooperative purchasing group's master list.

~~(5) Except as provided in Title 18, chapter 2, part 5, whenever bidding is required, the contract must be awarded to the lowest responsible bidder, except that any or all bids may be rejected.~~

~~(6)~~(5) This section may not require the board of trustees to let a contract for any routine and regularly performed maintenance or repair project or service that can be accomplished by district staff whose regular employment with the school district is related to the routine performance of maintenance for the district.

~~(7)~~(6) Subsection (3) does not apply to the solicitation or award of a contract for an investment grade energy audit or an energy performance contract pursuant to Title 90, chapter 4, part 11, including construction and installation of conservation measures pursuant to the energy performance contract."

Section 4. Section 20-9-208, MCA, is amended to read:

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

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

(a) (i) Except as provided in subsection (2)(a)(ii), transfers may be made from one budgeted fund to another budgeted fund or between the final budget and a budget amendment for a budgeted fund whenever the trustees determine, in their discretion, that the transfer of funds is necessary to improve the efficiency of spending within the district or when an action of the trustees results in savings in one

budgeted fund that can be put to more efficient use in another budgeted fund. Transfers may not be made with funds approved by the voters or with funds raised by a nonvoted levy unless:

(A) the transfer is within or directly related to the purposes for which the funds were raised. Before a transfer can occur, the trustees shall ~~and the trustees~~ hold a properly noticed hearing to accept public comment on the transfer; or

(B) the transfer is approved by the qualified electors of the district in an election called for the purpose of approving the transfer. ~~IN WHICH CASE SUCH FUNDS MAY BE SPENT FOR ANY VOTER-APPROVED PURPOSE.~~

(ii) Unless otherwise authorized by a specific provision in this title, transfers from the general fund to any other fund and transfers to the general fund from any other fund are prohibited.

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

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

Section 5. Section 20-9-308, MCA, is amended to read:

"20-9-308. BASE budgets and maximum general fund budgets. (1) (a) The trustees of a district shall adopt a general fund budget that is at least equal to the BASE budget established for the district. The trustees of a district may adopt a general fund budget up to the maximum general fund budget or the previous year's general fund budget, whichever is greater.

(b) For purposes of the budget limitation in subsection (1)(a), the trustees may add any increase in state funding for the general fund payments in 20-9-327 through 20-9-330 to the district's previous year's general fund budget.

(2) Whenever the trustees of a district propose to adopt a general fund budget that exceeds the BASE budget for the district and to increase the over-BASE budget levy ~~over tax levels~~ **REVENUES** previously authorized by the electors of the district in ~~a prior year~~ **ANY OF THE FIVE PREVIOUS YEARS** to support the general fund budget, the trustees shall submit a proposition to the electors of the district, as provided in 20-9-353.

- (3) The BASE budget for the district must be financed by the following sources of revenue:
- (a) state equalization aid, as provided in 20-9-343, including any guaranteed tax base aid for which the district may be eligible, as provided in 20-9-366 through 20-9-369;
 - (b) county equalization aid, as provided in 20-9-331 and 20-9-333;
 - (c) a district levy for support of a school not approved as an isolated school under the provisions of 20-9-302;
 - (d) payments in support of special education programs under the provisions of 20-9-321;
 - (e) nonlevy revenue, as provided in 20-9-141; and
 - (f) a BASE budget levy on the taxable value of all property within the district.
- (4) The over-BASE budget amount of a district must be financed by a levy on the taxable value of all property within the district or other revenue available to the district, as provided in 20-9-141."

~~Section 6. Section 20-9-342, MCA, is amended to read:~~

~~"20-9-342. Deposit of interest and income money by state board of land commissioners — fund transfer. (1) Except as provided in 20-9-516, the state board of land commissioners shall annually deposit into the guarantee account provided for in 20-9-622 the all interest and income money for each calendar year up to but not exceeding the amount of interest and income money estimated to be deposited in the guarantee account under the official revenue estimate developed in the immediate preceding legislative session pursuant to 5-5-227, into the guarantee account, provided for in 20-9-622. The interest and income money deposited into the guarantee account must be used for state equalization aid. The state board of land commissioners shall deposit the interest and income money referred to in this subsection by the last business day of February following the calendar year in which the money was received.~~

~~(2) Any amount of interest and income revenue in excess of the interest and income revenue estimated to be deposited in the guarantee account under the official revenue estimate developed in the immediate preceding legislative session pursuant to 5-5-227 must be deposited by the state board of land commissioners by the last business day of February following the calendar year in which the money was received in the school facility and technology account established in 20-9-516."~~

~~Section 7. Section 20-9-353, MCA, is amended to read:~~

"20-9-353. Additional financing for general fund -- election for authorization to impose. (1) The trustees of a district may propose to adopt an over-BASE budget amount for the district general fund that does not exceed the general fund budget limitations, as provided in 20-9-308.

(2) When the trustees of the district propose to adopt an over-BASE budget under subsection (1), any increase in local property taxes authorized by 20-9-308(4) over tax levels REVENUES previously authorized by the electors of the district in a prior year ANY OF THE FIVE PREVIOUS YEARS must be submitted to a vote of the qualified electors of the district, as provided in 15-10-425. The trustees are not required to submit to the qualified electors any increase in state funding of the basic or per-ANB entitlements or of the general fund payments established in 20-9-327 through 20-9-330 approved by the legislature. When the trustees of a district determine that a voted amount of financing is required for the general fund budget, the trustees shall submit the proposition to finance the voted amount to the electors who are qualified under 20-20-301 to vote upon the proposition. The election must be called and conducted in the manner prescribed by this title for school elections and must conform to the requirements of 15-10-425. The ballot for the election must conform to the requirements of 15-10-425.

(3) If the proposition on any additional financing for the general fund is approved by a majority vote of the electors voting at the election, the proposition carries and the trustees may use any portion or all of the authorized amount in adopting the final general fund budget. The trustees shall certify any additional levy amount authorized by the election on the budget form that is submitted to the county superintendent, and the county commissioners shall levy the authorized number of mills on the taxable value of all taxable property within the district, as prescribed in 20-9-141.

(4) All levies adopted under this section must be authorized by the election conducted before August 1 of the school fiscal year for which it is effective.

(5) If the trustees of a district are required to submit a proposition to finance an over-BASE budget amount, as allowed by 20-9-308, to the electors of the district, the trustees shall comply with the provisions of subsections (2) through (4) of this section."

Section 87. Section 20-9-507, MCA, is amended to read:

"20-9-507. Miscellaneous programs fund. (1) The trustees of a district receiving money from local, state, federal, or other sources provided in 20-5-324, other than money under the provisions of impact aid, as provided in 20 U.S.C. 7701, et seq., or federal money designated for deposit in a specific fund of

the district, shall establish a miscellaneous programs fund for the deposit of the money. The money may be a reimbursement of miscellaneous program fund expenditures already realized by the district, indirect cost recoveries, the transfer of a fund balance from a tuition fund closed under 20-9-204, or a grant of money for the financing of expenditures to be realized by the district for a special, approved program to be operated by the district. When the money is a reimbursement, the transfer of a tuition fund balance, or a local government severance tax payment, the money may be expended at the discretion of the trustees for school purposes. When the money is a grant, the money must be expended according to the conditions of the program approval by the superintendent of public instruction or any other approval agent. Within the miscellaneous programs fund, the trustees shall maintain a separate accounting for each local, state, or federal grant project, funds transferred from a closed tuition fund, and the indirect cost recoveries.

(2) The financial administration of the miscellaneous programs fund must be in accordance with the financial administration provisions of this title for a nonbudgeted fund."

~~Section 9. Section 20-9-516, MCA, is amended to read:~~

~~"20-9-516. School facility and technology account. (1) There is a school facility and technology account in the state special revenue fund provided for in 17-2-102. The purpose of the account is to equitably distribute and provide money to schools for to help defray the costs of:~~

- ~~(a) major deferred maintenance;~~
- ~~(b) improving energy efficiency in school facilities;~~
- ~~(c) critical infrastructure in school districts;~~
- ~~(d) emergency facility needs; and~~
- ~~(e) technological improvements.~~

~~(2) There must be deposited in the account:~~

- ~~(a) an amount of money equal to the income attributable to the difference between the average sale value of 10 million board feet and the total income produced from the annual timber harvest on common school trust lands during the fiscal year;~~
- ~~(b) the mineral royalties transferred from the guarantee account as provided in 20-9-622; and~~
- ~~(c) the rental income received from power site leases as provided in 77-4-208; and~~

(d) the interest and income revenue designated to be deposited into the school facility and technology account as provided in 20-9-342.

(3) In preparing and submitting an agency budget pursuant to 17-7-111 and 17-7-112, the office of the superintendent of public instruction shall include in its calculation of the present law base a school facility and technology present law base. The school facility and technology present law base must consist of all amounts in the school facility and technology account when the superintendent of public instruction completes and submits an agency budget, with a proposed amount to be distributed on a per quality educator basis included in that present law base. The proposed amount to be distributed on a per quality educator basis from the school facility and technology account must be calculated by dividing the total month end balance of the funds in the school facility and technology account at the time the superintendent of public instruction completes and submits an agency budget by the total number of full-time equivalent quality educators as defined in 20-4-502.

(4) A district may expend funds appropriated by the legislature under this section for any of the purposes set forth in this section."

Section 10-B. Section 20-9-630, MCA, is amended to read:

"20-9-630. School district block grants. (1) (a) The office of public instruction shall provide a block grant to each school district based on the revenue received by each district in fiscal year 2001 from vehicle taxes and fees, corporate license taxes paid by financial institutions, aeronautics fees, state land payments in lieu of taxes, and property tax reimbursements pursuant to sections 167(1) through (5) and 169(6), Chapter 584, Laws of 1999.

(b) Block grants must be calculated using the electronic reporting system that is used by the office of public instruction and school districts. The electronic reporting system must be used to allocate the block grant amount into each district's budget as an anticipated revenue source by fund.

(c) With the exception of vehicle taxes and fees, the office of public instruction shall use the amount actually received from the sources listed in subsection (1)(a) in fiscal year 2001 in its calculation of the block grant for fiscal year 2002 budgeting purposes. For vehicle taxes and fees, the office of public instruction shall use 93.4% of the amount actually received in fiscal year 2001 in calculating the block grant for fiscal year 2002.

(2) If the fiscal year 2003 appropriation provided in section 248(1), Chapter 574, Laws of 2001, is insufficient to fund the school district block grants in fiscal year 2003 at the fiscal year 2002 level, the office of public instruction shall prorate the block grants to meet the remaining appropriation. School districts shall anticipate the prorated block grant amounts provided by the office of public instruction in their budgets for fiscal year 2003.

(3) Each year, 70% of each district's block grant must be distributed in November and 30% of each district's block grant must be distributed in May at the same time that guaranteed tax base aid is distributed.

(4) (a) The block grant for the district general fund is equal to the average amount received in fiscal years 2002 and 2003 by the district general fund from the block grants provided for in subsection (1). The block grant must be increased by 0.76% in fiscal year 2004 and in each succeeding fiscal year.

(b) The block grant for the district transportation fund is equal to one-half of the average amount received in fiscal years 2002 and 2003 by the district transportation fund from the block grants provided for in subsection (1). The block grant must be increased by 0.76% in fiscal year 2004 and in each succeeding fiscal year.

(c) (i) The combined fund block grant is equal to the average amount received in fiscal years 2002 and 2003 by the district tuition, bus depreciation reserve, building reserve, nonoperating, and adult education funds from the block grants provided for in subsection (1) and one-half of the average amount received in fiscal years 2002 and 2003 by the district transportation fund from the block grants provided for in subsection (1). The block grant must be increased by 0.76% in fiscal year 2004 and in each succeeding fiscal year.

(ii) The school district may deposit the combined fund block grant into any budgeted fund of the district.

Section 118. Section 20-10-147, MCA, is amended to read:

"20-10-147. Bus depreciation reserve fund. (1) The trustees of a district owning a bus or a two-way radio used for purposes of transportation, as defined in 20-10-101, or for purposes of conveying pupils to and from school functions or activities may establish a bus depreciation reserve fund to be used for the conversion, remodeling, or rebuilding of a bus or for the replacement of a bus or radio. The trustees of a

district may also use the bus depreciation reserve fund to purchase an additional bus for purposes of transportation, as defined in 20-10-101.

(2) Whenever a bus depreciation reserve fund is established, the trustees may include in the district's budget, in accordance with the school budgeting provisions of this title, an amount each year that does not exceed 20% of the original cost of a bus or a two-way radio. The amount budgeted may not, over time, exceed 150% of the original cost of a bus or two-way radio. The annual revenue requirement for each district's bus depreciation reserve fund, determined within the limitations of this section, must be reported by the county superintendent to the county commissioners on the fourth Monday of August as the bus depreciation reserve fund levy requirement for that district, and a levy must be made by the county commissioners in accordance with 20-9-142.

(3) Any expenditure of bus depreciation reserve fund money must be within the limitations of the district's final bus depreciation reserve fund budget and the school financial administration provisions of this title and may be made only to convert, remodel, or rebuild buses, to replace the buses or radios, or for the purchase of an additional bus as provided in subsection (1), for which the bus depreciation reserve fund was created.

~~(4) Whenever the trustees of a district maintaining a bus depreciation reserve fund sell all of the district's buses and consider it to be in the best interest of the district to transfer any portion or all of the bus depreciation reserve fund balance to any other fund maintained by the district, the trustees shall submit the proposition to the electors of the district. The electors qualified to vote at the election shall qualify under 20-20-301, and the election must be called and conducted in the manner prescribed by this title for school elections. If a majority of those electors voting at the election approve the proposed transfer from the bus depreciation reserve fund, the transfer is approved and the trustees shall immediately order the county treasurer to make the approved transfer."~~

~~NEW SECTION. Section 12. Repealer. The following sections of the Montana Code Annotated are~~

~~repealed:~~

~~90-6-801. Short title.~~

~~90-6-802. Purpose.~~

~~90-6-803. Definitions.~~

90-6-809. Quality schools facility grant program — legislature to authorize grants — types of grants available

90-6-810. Procedure for approval of projects — role of department and governor — approval by legislature

90-6-811. Priorities for projects — application of criteria — consideration of project attributes — adjustments for educationally relevant factors.

90-6-812. Conditions for grants

90-6-818. Disbursement of funds — department discretion when actual expenses are less than projected expenses.

90-6-819. Department to adopt rules

NEW SECTION. Section 13-9. Effective date. [This act] is effective on passage and approval **JULY 1, 2011.**

- END -



GOVERNOR'S OFFICE OF
BUDGET AND PROGRAM PLANNING

Fiscal Note 2013 Biennium

To open, right click on "Select a bill", select Worksheet Object/Edit. To exit, click outside the spreadsheet.

Bill #	SB0329	Title:	Generally revise K-12 laws
Primary Sponsor:	Zinke, Ryan	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

To open the fiscal Summary spreadsheet, right click on the spreadsheet, select Worksheet Object/Edit. To exit the spreadsheet, click outside of the spreadsheet.

	<u>FY 2012</u> <u>Difference</u>	<u>FY 2013</u> <u>Difference</u>	<u>FY 2014</u> <u>Difference</u>	<u>FY 2015</u> <u>Difference</u>
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	\$0	\$0	\$0	\$0
State Special Revenue	\$0	\$0	\$0	\$0
Federal Special Revenue	\$0	\$0	\$0	\$0
Other	\$0	\$0	\$0	\$0
Net Impact-General Fund Balance:	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

Description of fiscal impact:

SB 329 does not impact the amount of state support for K-12 public schools. SB 329 is likely to have impacts on local property tax levies (both increases and decreases) because it facilitates transfers among funds. ~~SB 329 eliminates the quality schools facility grant program (competitive grants) and replaces it with direct payments to school districts for facilities and technology.~~

~~SB 329 has a potentially negative impact on state revenues available to support K-12 BASE aid by diverting common school interest and income from the guarantee account to the school facility and technology account. SB 329 only diverts funds if the interest and income revenues exceed the official revenue estimate.~~

FISCAL ANALYSIS

Assumptions:

1. SB 329, Section 1 allows school districts to enter into multi-district agreements to perform any services, activities, and undertakings of the participating districts. This section also authorizes each participating district to transfer funds into the interlocal cooperative fund from the general fund or any other budgeted fund of the district. Under SB 329, there is no limit on the amount that can be transferred from budgeted funds other than the general fund.
2. ~~Section 2 removes the reference to the existing statutory restrictions "as otherwise provided by law" for closing out a district fund. By lifting the existing restrictions, the new language makes so that whenever the trustees of a district determine that a fund is inactive, the district can close out a fund to any other fund.~~
(See technical note #4.)
3. Current law allows districts to enter into a cooperative purchasing contract with other districts for the procurement of supplies or services. Section 3 allows the cooperative purchasing group to develop a publicly available master list of items, with pricing included, that participating schools may purchase. The purchasing group must provide an opportunity at least twice yearly for any Montana vendor to compete based on a lowest responsible bidder standard. ~~Out-of-state vendors would not be able to submit bids to be included on the master list of items.~~
4. Section 4 appears to expand the conditions under which school district funds can be transferred by allowing the school trustees to transfer funds from one budgeted fund to another budgeted fund if the transfer and the intended use are approved by the voters. (See technical note #5.)
5. Sections 5 and 7 provides that, in determining the general fund budget a district may adopt without a vote, the district may include an over-BASE levy amount equal to the highest amount the district has levied to support the over-BASE budget in any previous year.
6. ~~It is assumed that Section 6 intends to allocate any interest and income monies from the common school trust in excess of the HJ2 revenue estimates for the same period to the school facility and technology account.~~
7. Section 8 coordinates with Section 2.
8. ~~It is assumed that Section 9 intends to distribute the balance of the school facility and technology account at some undetermined point in time to schools districts on a per-quality educator basis. The district may expend any funds it receives for any allowable uses of the school facility and technology account defined in 20-9-516.~~
9. ~~Section 10 eliminates the transportation block grant and includes the revenue in the combined fund block grant. This change would increase the number of mills levied in the transportation fund. The increase in the transportation fund levy could be wholly or partially offset by a decrease in the amount levied in another fund. However, the increase in the transportation fund levy would not be offset at all if the combined block grant is placed into the flexibility fund. For FY11 the district transportation block grant totals \$1,856,355, which is equivalent to less than one mill statewide.~~
10. Section 11 eliminates the provision that a school board must sell all its buses in order to close out the bus depreciation fund. It also eliminates the provision that the district must submit a proposition to the electorate to transfer the bus depreciation reserve fund balance to any other fund of the district. Under SB 329, the district trustees would need to comply with the language in Section 4 amending 20-9-208, MCA.
11. ~~Section 12 repeals the quality schools facility grant program. The funding for this grant program comes from the school facility and technology account.~~
12. Under Section 13, the effective date of SB 329 is ~~on passage and approval~~ July 1, 2011.

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(continued)

To open the spreadsheet below, right click on the spreadsheet, select Worksheet Object/Edit. To exit the spreadsheet, click outside of the spreadsheet.

Fiscal Impact:	FY 2012 Difference	FY 2013 Difference	FY 2014 Difference	FY 2015 Difference
FTE	0.00	0.00	0.00	0.00
Expenditures:				
Personal Services	\$0	\$0	\$0	\$0
Operating Expenses	\$0	\$0	\$0	\$0
Equipment	\$0	\$0	\$0	\$0
Benefits	\$0	\$0	\$0	\$0
Transfers	\$0	\$0	\$0	\$0
TOTAL Expenditures	\$0	\$0	\$0	\$0
Funding of Expenditures:				
General Fund (01)	\$0	\$0	\$0	\$0
State Special Revenue (02)	\$0	\$0	\$0	\$0
Federal Special Revenue (03)	\$0	\$0	\$0	\$0
Other	\$0	\$0	\$0	\$0
TOTAL Funding of Exp.	\$0	\$0	\$0	\$0
Revenues:				
General Fund (01)	\$0	\$0	\$0	\$0
State Special Revenue (02)	\$0	\$0	\$0	\$0
Federal Special Revenue (03)	\$0	\$0	\$0	\$0
Other	\$0	\$0	\$0	\$0
TOTAL Revenues	\$0	\$0	\$0	\$0
Net Impact to Fund Balance (Revenue minus Funding of Expenditures):				
General Fund (01)	\$0	\$0	\$0	\$0
State Special Revenue (02)	\$0	\$0	\$0	\$0
Federal Special Revenue (03)	\$0	\$0	\$0	\$0
Other	\$0	\$0	\$0	\$0

Effect on County or Other Local Revenues or Expenditures:

1. Local property taxes could increase by approximately \$1.86 million statewide due to the removal of the transportation block grants to school districts.

Long-Term Impacts:

Technical Notes:

1. The amendments to 20-3-363(1), MCA allowing two or more school districts to enter into a multidistrict agreement to perform any services, activities, and undertakings of the participating districts may already

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be available to school districts under the provisions of 7-11-104, 7-11-105 and 20-9-703, MCA for interlocal agreements.

- 2. Section 1 allows for transfers from a budgeted fund of a school district to the interlocal agreement fund without retaining the original purpose for which the funds were raised. Districts will be able to transfer funds into the interlocal agreement fund without having to comply with Section 4 of SB 329.
- 3. Transportation, bus depreciation, tuition, adult education and non-operating funds are supported by permissive levies. Technology, debt service and building reserve are supported by voter approved levies. In funds that have permissive levies, school district's participating in a multidistrict agreement may be able to inflate their expenditure budgets to include the amount of the agreed upon transfer to the agreement.

4. Section 2 strikes the phrase "or as otherwise provided by law" for trustees determination to close a fund. There are three laws that have specific provisions related to closure of a fund: 20-9-505, MCA (district becomes non-operating); 20-9-443, MCA (closing debt service fund); and 20-9-515(3) (closing the litigation reserve fund).

5. It is unclear as to whether the language in Section 4 accomplishes the intent to allow the school trustees to transfer funds from one budgeted fund to another budgeted fund for any purpose if the transfer and the intended purpose are approved by the voters.

6. Official revenue estimates for the guarantee account are developed on a fiscal year basis. Section 6 states that any amounts of interest and income revenue (collected on a calendar year basis) in excess of the official revenue estimate must be deposited in the school facility and technology account. The discrepancy between the calendar year collections and the fiscal year revenue estimates need to be resolved.

7. In Section 9 indicates that the superintendent of public instruction calculates the present law base. The present law base is defined in 17-7-102 as the level of funding needed under present law to maintain operations and services at the level authorized by the previous legislature, including but not limited to: (a) changes resulting from legally mandated workload, caseload, or enrollment increases or decreases; (b) changes in funding requirements resulting from constitutional or statutory schedules or formulas; (c) inflationary or deflationary adjustments; and (d) elimination of nonrecurring appropriations.

8. The process of preparing and submitting the agency budget pursuant to 17-7-111 and 17-7-112, MCA includes at least two budget submissions, once in late spring and again in August or early September. The intent of Section 9 would be clearer if a specific date were chosen, such as June 30.

9. In Section 9, the balance in the school facility and technology account to be distributed does not include the statutorily appropriated \$1 million to the school districts' technology and acquisition fund in 20-9-534, MCA.

10. In Section 9, SB 329 does not provide direction for: (a) which agency is responsible for distributing the funds (OPI or Dept. of Commerce); (b) timing of payments (i.e. monthly, semi-annually, annual, etc.); (c) which fund the school districts and special education cooperatives must use to account for the revenue and expenditures of the money; and (d) time limit for spending the funds.

11. SB 329 is effective on passage and approval. HB 15 appropriates money to the Dept. of Commerce for the quality school facilities grant program and authorizes grants from the school facility and technology account. If HB 15 is approved, the effective date is July 1, 2011. SB 329 will need coordination instructions with HB 15 in the event that both bills pass.

Sponsor's Initials	Date	Budget Director's Initials	Date
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Fiscal Note Request – As Introduced

(continued)

Fiscal note prepared by: Madalyn Quinlan
Agency: Office of Public Instruction
Phone number: 444-3168

Senate Bill 329 Details and Talking Points:

1. We have reduced the scope of SB 329 to avoid fiscal and technical issues in the bill identified in the fiscal note. We ask that you consider the bill not as introduced but as amended per our suggestions in the grey bill handed out.
2. We have marked up the fiscal note to identify technical and fiscal issues identified in the note that would be gone if you passed the amendments we are suggesting.
3. Even with the amendments we are proposing, SB 329 will enhance local community control, flexibility and efficiency in our public schools.
4. The intent of SB 329 is to enhance the authority and ability of elected school board trustees to work in collaboration with their constituents and fellow trustees in other districts to ensure that resources are used to their maximum positive effect on students educated in each school district.
5. SB 329's key provisions/concepts are as follows:

Current Problem	SB 329 Proposed Solution
<ol style="list-style-type: none"> 1. The authority for school districts to collaborate together is overly-formalized and requires state level approval, long term agreements and sacrifice of local control over spending. 2. In order to collaborate on special education, school districts are limited to participating in one of 23 statewide cooperatives under an agreement that is subject to state-level approval. 	<ol style="list-style-type: none"> 1. Allow for multi-district agreements that allow school districts to cooperate and operate joint services across all budgeted funds of the district. 2. Allows districts to transfer money from all budgeted funds in support of the agreement, which would allow, for example, multi-district agreements on transportation, custodial services and maintenance, technology, purchasing, special education, etc. 3. Safeguard: The limit on what a district could transfer to support a multi-district agreement is 44.9% of its maximum general fund, which is funded exclusively with state, not local, funds in every school district in the state.
<p>Under current law, there are unnecessary restrictions on what trustees can do with fund balances in inactive funds. The general rule is fine in that it allows trustees to transfer all cash to any fund considered appropriate by the trustees. There are two exceptions, however, that need to be eliminated:</p> <ol style="list-style-type: none"> 1. Closure of the tuition fund, which requires a transfer of remaining funds to the miscellaneous programs fund; and 2. Closure of the bus depreciation reserve fund, which requires that the district sell all of its buses <i>and</i> close the fund in order to qualify for a transfer. 	<p>SB 329 eliminates the two exceptions from the law on transferring money from inactive, closed funds and would ensure that trustees can manage the cash balances from closed funds in a manner that best meets local needs without state level restrictions.</p>

<p>Under current law, school districts are overly-restricted in taking advantage of the best possible price on goods available through cooperative purchase groups. These groups operate on a regional and even a national basis to get the best possible price on a variety of goods typically purchased by schools. Under current law, a cooperative purchasing group would have to bid every product on its website in every paper of daily circulation in the state of Montana in order to allow school districts throughout the state of Montana to purchase goods above the bidding threshold.</p>	<ol style="list-style-type: none"> 1. SB 329 proposes a change in the law to match the current technology and purchasing options available through cooperatives. SB 329 allows a school district to purchase from a cooperative if the cooperative allows Montana businesses and others to bid its goods at least twice yearly under a lowest responsible bidder guideline. 2. This provision will allow school districts to save significant sums of money on larger purchases and, in combination with the multi district agreement provisions of Section 1, would allow school districts across the state to combine their purchasing power into a Montana cooperative of their own if they were inclined. 3. Safeguard: Montana businesses have an opportunity to not only maintain but even expand their business through access to nationwide cooperative purchase groups. SB 329 would require nationwide cooperatives that want to sell to school districts in Montana to open up their national markets to Montana businesses, providing greater opportunities for economic expansion in Montana.
<p>Under current law, a district is restricted in transferring money from fund to fund to meet spending needs of the district. A school district might have an excess of funds in one budget and a shortfall of funds in another budget, but current statutory restrictions prevent elected trustees and even local voters from determining what is the most efficient way to spend money of the district.</p>	<ol style="list-style-type: none"> 1. SB 329 proposes to allow trustees to transfer funds that were raised through a local voted or nonvoted levy to another purpose provided that the voters approve the transfer and the new purpose. 2. Safeguard: Voter approval requirement and voter control over how the funds will be spent after transfer.
<p>Under current law, there is no incentive for trustees to reduce voted taxes when possible. If protested taxes or one-time revenues come in to a district, and the trustees want to use those funds to temporarily reduce the voted taxes for the district taxpayers, they have to regain a vote the next year to restore the voted levy to its prior level (no increase, just back to what it was before it was reduced).</p>	<ol style="list-style-type: none"> 1. SB 329 proposes to allow trustees to restore a voted levy up to the highest amount authorized in the preceding 5 years, which will give trustees an incentive to use any one time only funds to reduce taxes without having to run the risk of permanently losing the authority to restore those tax levels absent a vote. 2. Safeguard: No increase in over BASE taxes beyond those levels previously authorized by the voters within the last 5 years.