

SENATE BILL NO. 260

INTRODUCED BY F. MOORE

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A BILL FOR AN ACT ENTITLED: "AN ACT REVISING DISTRIBUTIONS FROM THE STATE SCHOOL OIL AND NATURAL GAS DISTRIBUTION ACCOUNT; PROVIDING FOR THE DISTRIBUTION OF FUNDS BY THE OFFICE OF PUBLIC INSTRUCTION; GRANTING RULEMAKING AUTHORITY; AMENDING SECTIONS 20-9-310, 20-9-517, 20-9-518, AND 20-9-520, MCA; AND PROVIDING EFFECTIVE DATES AND A TERMINATION DATE."

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

Section 1. Section 20-9-310, MCA, is amended to read:

"20-9-310. (Temporary) Oil and natural gas production taxes for school districts -- allocation and limits. (1) (a) Except as provided in subsections (1)(b) and (8), the maximum amount of oil and natural gas production taxes that a school district may retain is 130% of the school district's maximum budget, determined in accordance with 20-9-308.

(b) For fiscal years 2014 through ~~2017~~ 2016 for a school district with a maximum general fund budget of less than \$1.5 million, the maximum amount of oil and gas production taxes that a school district may retain is 150% of the school district's maximum general fund budget.

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

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

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

1 (i) to the other school district within the unified school system from which the oil and natural gas
2 production revenue originates or to any school district having a joint board status with the district, as provided
3 in 20-3-361, from which the oil and natural gas production revenue originates, up to 130% of the maximum budget
4 of the school district receiving a distribution of revenue under this subsection (4)(a)(i) on a prorated basis;

5 (ii) if funds remain to be distributed after distribution to school districts under subsection (4)(a)(i), to all
6 school districts immediately contiguous to the district from which the oil and natural gas production revenue
7 originates, up to 130% of the maximum budget of each school district receiving a distribution of revenue under
8 this subsection (4)(a)(ii) on a prorated basis. If there is more than one school district from which distributable oil
9 and natural gas production revenue originates and is available for a distribution under this subsection (4)(a)(ii)
10 that is immediately contiguous to a school district qualifying for receipt of a distribution of oil and natural gas
11 revenue under this subsection (4)(a)(ii), the distribution of oil and natural gas production revenue must be
12 prorated from the districts from which oil and natural gas production revenue originates in relative proportion to
13 the amount that the oil and natural gas revenue available for distribution from each school district bears to the
14 total oil and natural gas revenue available for distribution from all school districts from which the distributable
15 revenue originates.

16 (iii) if funds remain to be distributed after distribution to school districts under subsection (4)(a)(ii), to all
17 school districts that are located in whole or in part in the same county as the school district from which the oil and
18 natural gas production revenue originates, up to 130% of the maximum budget of each school district receiving
19 a distribution of revenue under this subsection (4)(a)(iii) on a prorated basis. If there is more than one school
20 district from which distributable oil and natural gas production revenue originates and is available for distribution
21 under this subsection (4)(a)(iii), the distribution of oil and natural gas production revenue must be prorated from
22 the districts from which oil and natural gas production revenue originates in relative proportion to the amount that
23 the oil and natural gas revenue available for distribution from each school district bears to the total oil and natural
24 gas revenue available for distribution from all school districts from which the distributable revenue originates.

25 (iv) if funds remain to be distributed after distribution to school districts under subsection (4)(a)(iii), to all
26 school districts that are located in whole or in part in a county contiguous to a county where a horizontally
27 completed well, as defined in 15-36-303, has been drilled within the last 3 years according to the department of
28 natural resources and conservation, up to 130% of the maximum budget of each school district receiving a
29 distribution under this subsection (4)(a)(iv) on a prorated basis. If there is more than one school district from which
30 distributable oil and natural gas production revenue originates and is available for distribution under this

1 subsection (4)(a)(iv), the distribution of oil and natural gas production revenue must be prorated from the districts
2 from which oil and natural gas production revenue originates in relative proportion to the amount that the oil and
3 natural gas revenue available for distribution from each school district bears to the total oil and natural gas
4 revenue available for distribution from all school districts from which the distributable revenue originates.

5 (b) Any funds remaining after distribution under subsections (4)(a)(i) through (4)(a)(iv) must be deposited
6 as follows:

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

8 (ii) 5% of the retained amount must be deposited in the state school oil and natural gas impact account
9 provided for in 20-9-517; and

10 (iii) 25% of the retained amount must be distributed to the counties for deposit in the county school oil
11 and natural gas impact fund provided for in 20-9-518.

12 (5) Subject to the limitation in subsection (1) and except as provided in subsection (7), the trustees shall
13 budget and allocate the oil and natural gas production taxes received by the district as follows:

14 (a) the trustees shall budget in the general fund an amount of oil and natural gas production taxes equal
15 to the lesser of 25% of the total oil and natural gas production taxes received by the district in the prior year or
16 the general fund levy requirement;

17 (b) oil and natural gas production taxes received by the district must be deposited in the general fund
18 until the limit under subsection (5)(a) is reached; and

19 (c) all remaining oil and natural gas production tax revenue may be deposited in any budgeted fund.

20 (6) Except as provided in subsection (7), 50% of the oil and natural gas production taxes deposited in
21 the general fund pursuant to subsection (5)(a) must be applied to the BASE budget levy. Remaining oil and
22 natural gas production taxes deposited in the general fund may be applied to either the BASE budget levy or the
23 over-BASE budget levy at the discretion of the board of trustees.

24 (7) The provisions of subsections (5) and (6) do not apply to the following:

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

26 (b) a district whose oil and gas revenue combined with its adopted general fund budget totals 105% or
27 less of its maximum general fund budget;

28 (c) a district that has a maximum general fund budget of \$1 million or more and has had an unusual
29 enrollment increase approved by the superintendent of public instruction as provided in 20-9-314 in the year
30 immediately preceding the fiscal year to which subsections (5) and (6) of this section would otherwise apply; or

1 (d) a district that has issued outstanding oil and natural gas revenue bonds. Any funds received pursuant
2 to this section must first be applied by the district to payment of debt service obligations for oil and natural gas
3 revenue bonds for the next 12-month period.

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

11 (9) In any year in which the actual oil and natural gas production taxes received by a school district are
12 less than 50% of the total oil and natural gas production taxes received by the district in the prior year, the district
13 may transfer money from any budgeted fund to its general fund in an amount not to exceed the amount of the
14 shortfall. (Terminates June 30, 2016--sec. 43, Ch. 400, L. 2013.)

15 **20-9-310. (Effective July 1, 2016) Oil and natural gas production taxes for school districts --**
16 **allocation and limits.** (1) Except as provided in subsection (8), the maximum amount of oil and natural gas
17 production taxes that a school district may retain is 130% of the school district's maximum budget, determined
18 in accordance with 20-9-308.

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

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

26 (4) (a) By the last day of the month immediately following the month in which the quarterly distribution
27 of oil and natural gas production taxes in subsection (3) is made, the office of public instruction shall distribute
28 up to 50% of any amount of oil and natural gas production taxes exceeding the limitation in subsection (1) based
29 on allocations determined by the department of revenue pursuant to subsection (3) ~~as follows~~ in the following
30 priority:

1 (i) to the other school district within the unified school system from which the oil and natural gas
2 production revenue originates or to any school district having a joint board status with the district, as provided
3 in 20-3-361, from which the oil and natural gas production revenue originates, up to 130% of the maximum budget
4 of the school district receiving a distribution of revenue under this subsection (4)(a)(i) on a prorated basis;
5 (ii) if funds remain to be distributed after distribution to school districts under subsection (4)(a)(i), to all
6 school districts immediately contiguous to the district from which the oil and natural gas production revenue
7 originates, up to 130% of the maximum budget of each school district receiving a distribution of revenue under
8 this subsection (4)(a)(ii) on a prorated basis. If there is more than one school district from which distributable oil
9 and natural gas production revenue originates and is available for a distribution under this subsection (4)(a)(ii)
10 that is immediately contiguous to a school district qualifying for receipt of a distribution of oil and natural gas
11 revenue under this subsection (4)(a)(ii), the distribution of oil and natural gas production revenue must be
12 prorated from the districts from which oil and natural gas production revenue originates in relative proportion to
13 the amount that the oil and natural gas revenue available for distribution from each school district bears to the
14 total oil and natural gas revenue available for distribution from all school districts from which the distributable
15 revenue originates.
16 (iii) if funds remain to be distributed after distribution to school districts under subsection (4)(a)(ii), to all
17 school districts that are located in whole or in part in the same county as the school district from which the oil and
18 natural gas production revenue originates, up to 130% of the maximum budget of each school district receiving
19 a distribution of revenue under this subsection (4)(a)(iii) on a prorated basis. If there is more than one school
20 district from which distributable oil and natural gas production revenue originates and is available for distribution
21 under this subsection (4)(a)(iii), the distribution of oil and natural gas production revenue must be prorated from
22 the districts from which oil and natural gas production revenue originates in relative proportion to the amount that
23 the oil and natural gas revenue available for distribution from each school district bears to the total oil and natural
24 gas revenue available for distribution from all school districts from which the distributable revenue originates.
25 (iv) if funds remain to be distributed after distribution to school districts under subsection (4)(a)(iii), to all
26 school districts that are located in whole or in part in a county contiguous to a county where a horizontally
27 completed well, as defined in 15-36-303, has been drilled within the last 3 years according to the department of
28 natural resources and conservation, up to 130% of the maximum budget of each school district receiving a
29 distribution under this subsection (4)(a)(iv) on a prorated basis. If there is more than one school district from which
30 distributable oil and natural gas production revenue originates and is available for distribution under this

1 subsection (4)(a)(iv), the distribution of oil and natural gas production revenue must be prorated from the districts
2 from which oil and natural gas production revenue originates in relative proportion to the amount that the oil and
3 natural gas revenue available for distribution from each school district bears to the total oil and natural gas
4 revenue available for distribution from all school districts from which the distributable revenue originates.

5 (b) Any funds remaining after distribution under subsections (4)(a)(i) through (4)(a)(iv) must be
6 distributed by the office of public instruction to school districts that are directly impacted by oil and natural gas
7 development, but that receive insufficient oil and natural gas revenues to address the oil and natural gas
8 development impacts. The office of public instruction shall collaborate with all public school districts to develop
9 administrative rules to establish a process, criteria, and a mechanism for distribution under this subsection (4)(b),
10 using the negotiated rulemaking process set forth in the Montana Negotiated Rulemaking Act, Title 2, chapter
11 5, part 1

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

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

15 ~~—— (c) 25% of the retained amount must be distributed to the counties for deposit in the county school oil~~
16 ~~and natural gas impact fund provided for in 20-9-518.~~

17 (5) Subject to the limitation in subsection (1) and except as provided in subsection (7), the trustees shall
18 budget and allocate the oil and natural gas production taxes received by the district as follows:

19 (a) the trustees shall budget in the general fund an amount of oil and natural gas production taxes equal
20 to the lesser of 25% of the total oil and natural gas production taxes received by the district in the prior year or
21 the general fund levy requirement;

22 (b) oil and natural gas production taxes received by the district must be deposited in the general fund
23 until the limit under subsection (5)(a) is reached; and

24 (c) all remaining oil and natural gas production tax revenue may be deposited in any budgeted fund.

25 (6) Except as provided in subsection (7), 50% of the oil and natural gas production taxes deposited in
26 the general fund pursuant to subsection (5)(a) must be applied to the BASE budget levy. Remaining oil and
27 natural gas production taxes deposited in the general fund may be applied to either the BASE budget levy or the
28 over-BASE budget levy at the discretion of the board of trustees.

29 (7) The provisions of subsections (5) and (6) do not apply to the following:

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

1 (b) a district whose oil and gas revenue combined with its adopted general fund budget totals 105% or
2 less of its maximum general fund budget;

3 (c) a district that has a maximum general fund budget of \$1 million or more and has had an unusual
4 enrollment increase approved by the superintendent of public instruction as provided in 20-9-314 in the year
5 immediately preceding the fiscal year to which subsections (5) and (6) of this section would otherwise apply; or

6 (d) a district that has issued outstanding oil and natural gas revenue bonds. Any funds received pursuant
7 to this section must first be applied by the district to payment of debt service obligations for oil and natural gas
8 revenue bonds for the next 12-month period.

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

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

20

21 **Section 2.** Section 20-9-517, MCA, is amended to read:

22 **"20-9-517. (Temporary) State school oil and natural gas impact account.** (1) There is a state school
23 oil and natural gas impact account in the state special revenue fund provided for in 17-2-102. The purpose of the
24 account is to provide money to schools that are receiving oil and natural gas production taxes under 15-36-331
25 in an amount less than 20% of the district's maximum general fund budget but that are impacted by oil and natural
26 gas development.

27 (2) There must be deposited in the account oil and natural gas production taxes, if any, pursuant to
28 20-9-310(4)(b) ~~and any amounts pursuant to 20-9-104(6).~~

29 (3) A school district may apply to the superintendent of public instruction for funds from the account for
30 circumstances that are directly related to impacts resulting from the development or cessation of development

1 of oil and natural gas as follows:

- 2 (a) an unusual enrollment increase as determined pursuant to 20-9-161 and 20-9-314;
 3 (b) an unusual enrollment decrease;
 4 (c) higher rates of student mobility;
 5 (d) a district's need to hire new teachers or staff as a result of increased enrollment;
 6 (e) the opening or reopening of an elementary or high school approved by the superintendent of public
 7 instruction pursuant to 20-6-502 or 20-6-503; or
 8 (f) major maintenance for a school or district.

9 (4) In reviewing an applicant's request for funding, the superintendent of public instruction shall consider
 10 the following:

- 11 (a) the local district's or school's need;
 12 (b) the severity of the energy development impacts;
 13 (c) availability of funds in the account; and
 14 (d) the applicant district's ability to meet the needs identified in subsection (3).
 15 (5) The superintendent of public instruction shall adopt rules necessary to implement the application and
 16 distribution process.

17 (6) The amount in the account may not exceed \$7.5 million. Any amount over \$7.5 million must be
 18 deposited in the guarantee account and distributed in the same manner as provided in 20-9-622(2). (Terminates
 19 June 30, 2016--sec. 43, Ch. 400, L. 2013.)

20 **20-9-517. (Effective July 1, 2016) State school oil and natural gas impact account.** (1) There is a
 21 state school oil and natural gas impact account in the state special revenue fund provided for in 17-2-102. The
 22 purpose of the account is to provide money to schools that are not receiving oil and natural gas production taxes
 23 under 15-36-331 in an amount sufficient to address oil and natural gas development impacts.

24 ~~(2) There must be deposited in the account oil and natural gas production taxes, if any, pursuant to~~
 25 ~~20-9-310(4) and any amounts pursuant to 20-9-104(6).~~

26 ~~(3)(2)~~ (2) A school district may apply to the superintendent of public instruction for funds from the account
 27 for circumstances that are directly related to impacts resulting from the development or cessation of development
 28 of oil and natural gas as follows:

- 29 (a) an unusual enrollment increase as determined pursuant to 20-9-161 and 20-9-314;
 30 (b) an unusual enrollment decrease;

- 1 (c) higher rates of student mobility;
- 2 (d) a district's need to hire new teachers or staff as a result of increased enrollment;
- 3 (e) the opening or reopening of an elementary or high school approved by the superintendent of public
4 instruction pursuant to 20-6-502 or 20-6-503; or
- 5 (f) major maintenance for a school or district.

6 ~~(4)~~(3) In reviewing an applicant's request for funding, the superintendent of public instruction shall
7 consider the following:

- 8 (a) the local district's or school's need;
- 9 (b) the severity of the energy development impacts;
- 10 (c) availability of funds in the account; and
- 11 (d) the applicant district's ability to meet the needs identified in subsection ~~(3)~~ (2).

12 ~~(5)~~(4) The superintendent of public instruction shall adopt rules necessary to implement the application
13 and distribution process.

14 ~~(6)~~(5) The amount in the account may not exceed \$7.5 million. Any amount over \$7.5 million must be
15 deposited in the guarantee account and distributed in the same manner as provided in 20-9-622(2)."

16

17 **Section 3.** Section 20-9-518, MCA, is amended to read:

18 **"20-9-518. County school oil and natural gas impact fund.** (1) The governing body of a county
19 ~~receiving that has previously received~~ an allocation under 20-9-310~~(4)(b)~~ shall ~~establish~~ maintain a county school
20 oil and natural gas impact fund.

21 (2) Money previously received by a county pursuant to 20-9-310~~(4)(b)~~ must remain in the fund and may
22 not be appropriated by the governing body until:

23 (a) the amount of oil and natural gas production taxes received by a school district for the fiscal year is
24 50% or less of the amount of the average received by the district in the previous 4 fiscal years; or

25 (b) the average price for a barrel of oil as reported in the Wall Street Journal for west Texas intermediate
26 crude oil during a calendar quarter is less than \$65 a barrel. The average price for each barrel must be computed
27 by dividing the sum of the daily price for west Texas intermediate crude oil as reported in the Wall Street Journal
28 for the calendar quarter by the number of days on which the price was reported in the quarter.

29 (3) (a) Within 120 days following the end of the fiscal year, the superintendent of public instruction shall
30 determine if the criteria in subsection (2)(a) have been met and the department of revenue shall determine if the

1 criteria in subsection (2)(b) have been met.

2 (b) If it is determined under subsection (3)(a) that the criteria in subsection (2)(a) or (2)(b) have been
3 met, the superintendent of public instruction or the department of revenue shall notify the county treasurer.

4 (4) Upon notification under subsection (3)(b), the county treasurer shall allocate 80% of the money
5 proportionally to affected high school districts and elementary school districts in the county, which must be
6 calculated by dividing the total funds available for distribution by the total number of quality educators, as defined
7 in 20-4-502, employed by the qualifying school districts in the county in the immediately preceding school fiscal
8 year. The number of quality educators used for the calculation under this subsection in a district with territory in
9 more than one county must be prorated based on the average number belonging of the district residing in school
10 district territory located in each respective county. A school district receiving this money may deposit the funds
11 in any budgeted fund of the district at the discretion of the trustees.

12 (5) The governing body of the county may use 20% of the money in the fund to:

13 (a) pay for outstanding capital project bonds or other expenses incurred prior to the reduction in the price
14 of oil or the reduction in the receipt of oil and natural gas production taxes described in subsection (2);

15 (b) offset property tax levy increases that are directly caused by the cessation or reduction of oil and
16 natural gas activity;

17 (c) promote diversification and development of the economic base within the jurisdiction;

18 (d) attract new industry to the area impacted by changes in oil and natural gas activity leading to the
19 reduction in the price of oil or the reduction in the receipt of oil and natural gas production taxes described in
20 subsection (2); or

21 (e) provide cash incentives for expanding the employment base of the area impacted by the changes
22 in oil and natural gas activity leading to the reduction in the price of oil or the reduction in the receipt of oil and
23 natural gas production taxes described in subsection (2).

24 (6) Except as provided in subsection (5)(b), money held in the fund may not be considered as fund
25 balance for the purpose of reducing mill levies.

26 (7) Money in the fund must be invested as provided by law. Interest and income from the investment of
27 money in the fund must be credited to the fund."

28

29 **Section 4.** 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 ~~to school districts~~ in accordance with 20-9-310(4).

4 (2) The department of revenue shall deposit in the account oil and natural gas production taxes that
5 ~~exceeds 130% of a school district's maximum budget~~ exceed the limitations in 20-9-310.

6 (3) The superintendent of public instruction shall distribute the money from the account in accordance
7 with 20-9-310(4) ~~as long as funds remain in the account.~~

8 ~~—— (4) If funds remain after all of the provisions of 20-9-310(4)(a)(i) through (4)(a)(iv) have occurred, the~~
9 ~~superintendent of public instruction will deposit the remaining funds in accordance with 20-9-310(4)(b)."~~

10
11 NEW SECTION. Section 5. Effective dates. (1) Except as provided in subsection (2), [this act] is
12 effective October 1, 2015.

13 (2) [Section 3] is effective July 1, 2016.

14
15 NEW SECTION. Section 6. Termination. [Sections 1, 2, and 3] terminate June 30, 2024.

16 - END -