

HOUSE BILL NO. 36

INTRODUCED BY C. BOLAND

BY REQUEST OF THE REVENUE AND TRANSPORTATION INTERIM COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT REMOVING OBSOLETE REFERENCES TO THE REPEALED LOCAL GOVERNMENT SEVERANCE TAX; AND AMENDING SECTIONS 15-16-603, 15-36-315, 20-9-507, 20-10-144, AND 20-10-146, MCA."

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

Section 1. Section 15-16-603, MCA, is amended to read:

"15-16-603. Refund of taxes -- limitations on refunds. (1) Subject to the provisions in subsections (2) and (3), a board of county commissioners shall order a refund:

(a) on a tax, penalty, interest, or cost paid more than once or erroneously or illegally collected if an appeal pursuant to 15-1-402 was not available;

(b) on a tax paid for which a refund is allowed under 15-16-612 or 15-16-613;

(c) on a tax, penalty, or interest collected as a result of an error in the description or location of real property or improvements or for duplicate taxes paid as determined by the department of revenue;

(d) on net or gross proceeds tax, centrally assessed property tax, ~~or local government severance tax,~~ penalty, or interest when the department of revenue notifies the board of county commissioners of an assessment revision completed pursuant to 15-8-601;

(e) upon entry of a decision either by the district court or by the state tax appeal board under 15-2-306 that has not been appealed to a higher court; or

(f) on a decision that a refund is payable as a result of a taxpayer prevailing in a motor vehicle tax or fee proceeding under 15-15-201.

(2) The taxpayer shall prove that a refund is due under subsection (1)(a) or (1)(b).

(3) (a) A refund may not be granted under subsection (1)(a) or (1)(b) unless the taxpayer or a representative of the taxpayer files a written claim with the board of county commissioners within 10 years after the date when the second half of the taxes would have become delinquent if the taxes had not been paid.

(b) The refund required under subsection (1)(c) must be made for 5 tax years or for the duration of the

1 error, whichever period is shorter.

2 (c) A refund may not be made under subsection (1)(c) unless the taxpayer allowed the department of
3 revenue access to the taxpayer's property for the purposes of appraising the property."

4

5 **Section 2.** Section 15-36-315, MCA, is amended to read:

6 **"15-36-315. Credit or refund for overpayment -- refund from county -- interest on overpayment.**

7 (1) If the department determines that the amount of tax, penalty, or interest due for any taxable period is less than
8 the amount paid, the amount of the overpayment must be credited against any tax, penalty, or interest then due
9 from the taxpayer and the balance refunded to the taxpayer or its successor through reorganization, merger, or
10 consolidation or to its shareholders upon dissolution.

11 (2) (a) The amount of an overpayment credited against any tax, penalty, or interest due for any tax period
12 or any refund or portion of a refund, which has not been distributed pursuant to 15-36-332, must be withheld from
13 the current distribution made pursuant to 15-36-332.

14 (b) If the amount of the refund reduces the amount of tax previously distributed pursuant to 15-36-332
15 and if the current distribution, if any, is insufficient to offset the refund, then the department shall demand the
16 amount of the refund from the county to which the tax was originally distributed. The county treasurer shall remit
17 the amount demanded within 30 days of the receipt of notice from the department.

18 ~~(3) A refund that is paid by the department for an overpayment of the local government severance tax~~
19 ~~for oil or natural gas production occurring after December 31, 1988, and before January 1, 1995, must be treated~~
20 ~~as issued for the current distribution period for distribution purposes, and the refund must be apportioned in the~~
21 ~~same manner as taxes are distributed pursuant to 15-36-332.~~

22 ~~(4)~~(3) Except as provided in subsection ~~(5)~~ (4), interest must be allowed on overpayments at the same
23 rate as is charged on unpaid taxes provided in 15-1-216 beginning from the due date of the return or from the
24 date of overpayment, whichever date is later, to the date on which the department approves refunding or crediting
25 of the overpayment.

26 ~~(5)~~(4) (a) Interest may not accrue during any period in which the processing of a claim for refund is
27 delayed more than 30 days by reason of failure of the taxpayer to furnish information requested by the department
28 for the purpose of verifying the amount of the overpayment.

29 (b) Interest is not allowed:

30 (i) if the overpayment is refunded within 6 months from the date on which the return is due or from the

1 date on which the return is filed, whichever is later; or

2 (ii) if the amount of interest is less than \$1."

3

4 **Section 3.** Section 20-9-507, MCA, is amended to read:

5 **"20-9-507. Miscellaneous programs fund.** (1) The trustees of a district receiving money from local,
6 state, federal, or other sources provided in 20-5-324, other than money under the provisions of impact aid, as
7 provided in 20 U.S.C. 7701, et seq., or federal money designated for deposit in a specific fund of the district, shall
8 establish a miscellaneous programs fund for the deposit of the money. The money may be a reimbursement of
9 miscellaneous program fund expenditures already realized by the district, indirect cost recoveries, or a grant of
10 money for the financing of expenditures to be realized by the district for a special, approved program to be
11 operated by the district. ~~When the money is a reimbursement or a local government severance tax payment, the~~
12 ~~money may be expended at the discretion of the trustees for school purposes.~~ When the money is a grant, the
13 money must be expended according to the conditions of the program approval by the superintendent of public
14 instruction or any other approval agent. Within the miscellaneous programs fund, the trustees shall maintain a
15 separate accounting for each local, state, or federal grant project and the indirect cost recoveries.

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

18

19 **Section 4.** Section 20-10-144, MCA, is amended to read:

20 **"20-10-144. Computation of revenue and net tax levy requirements for district transportation fund**
21 **budget.** Before the second Monday of August, the county superintendent shall compute the revenue available
22 to finance the transportation fund budget of each district. The county superintendent shall compute the revenue
23 for each district on the following basis:

24 (1) The "schedule amount" of the budget expenditures that is derived from the rate schedules in
25 20-10-141 and 20-10-142 must be determined by adding the following amounts:

26 (a) the sum of the maximum reimbursable expenditures for all approved school bus routes maintained
27 by the district (to determine the maximum reimbursable expenditure, multiply the applicable rate for each bus mile
28 by the total number of miles to be traveled during the ensuing school fiscal year on each bus route approved by
29 the county transportation committee and maintained by the district); plus

30 (b) the total of all individual transportation per diem reimbursement rates for the district as determined

1 from the contracts submitted by the district multiplied by the number of pupil-instruction days scheduled for the
2 ensuing school attendance year; plus

3 (c) any estimated costs for supervised home study or supervised correspondence study for the ensuing
4 school fiscal year; plus

5 (d) the amount budgeted in the budget for the contingency amount permitted in 20-10-143, except if the
6 amount exceeds 10% of the total of subsections (1)(a), (1)(b), and (1)(c) or \$100, whichever is larger, the
7 contingency amount on the budget must be reduced to the limitation amount and used in this determination of
8 the schedule amount; plus

9 (e) any estimated costs for transporting a child out of district when the child has mandatory approval to
10 attend school in a district outside the district of residence.

11 (2) (a) The schedule amount determined in subsection (1) or the total transportation fund budget,
12 whichever is smaller, is divided by 2 and is used to determine the available state and county revenue to be
13 budgeted on the following basis:

14 (i) one-half is the budgeted state transportation reimbursement; and

15 (ii) one-half is the budgeted county transportation fund reimbursement and must be financed in the
16 manner provided in 20-10-146.

17 (b) When the district has a sufficient amount of fund balance for reappropriation and other sources of
18 district revenue, as determined in subsection (3), to reduce the total district obligation for financing to zero, any
19 remaining amount of district revenue and fund balance reappropriated must be used to reduce the county
20 financing obligation in subsection (2)(a)(ii) and, if the county financing obligations are reduced to zero, to reduce
21 the state financial obligation in subsection (2)(a)(i).

22 (c) The county revenue requirement for a joint district, after the application of any district money under
23 subsection (2)(b), must be prorated to each county incorporated by the joint district in the same proportion as the
24 ANB of the joint district is distributed by pupil residence in each county.

25 (3) The total of the money available for the reduction of property tax on the district for the transportation
26 fund must be determined by totaling:

27 (a) anticipated federal money received under the provisions of 20 U.S.C. 7701, et seq., or other
28 anticipated federal money received in lieu of that federal act;

29 (b) anticipated payments from other districts for providing school bus transportation services for the
30 district;

1 (c) anticipated payments from a parent or guardian for providing school bus transportation services for
2 a child;

3 (d) anticipated or reappropriated interest to be earned by the investment of transportation fund cash in
4 accordance with the provisions of 20-9-213(4);

5 (e) anticipated revenue from coal gross proceeds under 15-23-703;

6 (f) anticipated oil and natural gas production taxes;

7 ~~(g) anticipated local government severance tax payments for calendar year 1995 production;~~

8 ~~(h)~~(g) anticipated transportation payments for out-of-district pupils under the provisions of 20-5-320
9 through 20-5-324;

10 ~~(i)~~(h) school district block grants distributed under 20-9-630;

11 ~~(j)~~(i) any other revenue anticipated by the trustees to be earned during the ensuing school fiscal year
12 that may be used to finance the transportation fund; and

13 ~~(k)~~(j) any fund balance available for reappropriation as determined by subtracting the amount of the
14 end-of-the-year fund balance earmarked as the transportation fund operating reserve for the ensuing school fiscal
15 year by the trustees from the end-of-the-year fund balance in the transportation fund. The operating reserve may
16 not be more than 20% of the final transportation fund budget for the ensuing school fiscal year and is for the
17 purpose of paying transportation fund warrants issued by the district under the final transportation fund budget.

18 (4) The district levy requirement for each district's transportation fund must be computed by:

19 (a) subtracting the schedule amount calculated in subsection (1) from the total preliminary transportation
20 budget amount; and

21 (b) subtracting the amount of money available to reduce the property tax on the district, as determined
22 in subsection (3), from the amount determined in subsection (4)(a).

23 (5) The transportation fund levy requirements determined in subsection (4) for each district must be
24 reported to the county commissioners on or before the later of the first Tuesday in September or within 30
25 calendar days after receiving certified taxable values by the county superintendent as the transportation fund levy
26 requirements for the district, and the levy must be made by the county commissioners in accordance with
27 20-9-142."

28

29 **Section 5.** Section 20-10-146, MCA, is amended to read:

30 **"20-10-146. County transportation reimbursement.** (1) The apportionment of the county transportation

1 reimbursement by the county superintendent for school bus transportation or individual transportation that is
 2 actually rendered by a district in accordance with this title, board of public education transportation policy, and
 3 the transportation rules of the superintendent of public instruction must be the same as the state transportation
 4 reimbursement payment, except that:

5 (a) if any cash was used to reduce the budgeted county transportation reimbursement under the
 6 provisions of 20-10-144(2)(b), the annual apportionment is limited to the budget amount;

7 (b) when the county transportation reimbursement for a school bus has been prorated between two or
 8 more counties because the school bus is conveying pupils of more than one district located in the counties, the
 9 apportionment of the county transportation reimbursement must be adjusted to pay the amount computed under
 10 the proration; and

11 (c) when county transportation reimbursement is required under the mandatory attendance agreement
 12 provisions of 20-5-321.

13 (2) The county transportation net levy requirement for the financing of the county transportation fund
 14 reimbursements to districts is computed by:

15 (a) totaling the net requirement for all districts of the county, including reimbursements to a special
 16 education cooperative or prorated reimbursements to joint districts or reimbursements under the mandatory
 17 attendance agreement provisions of 20-5-321;

18 (b) determining the sum of the money available to reduce the county transportation net levy requirement
 19 by adding:

20 (i) anticipated money that may be realized in the county transportation fund during the ensuing school
 21 fiscal year;

22 (ii) oil and natural gas production taxes;

23 ~~(iii) anticipated local government severance tax payments for calendar year 1995 production;~~

24 ~~(iv)~~(iii) coal gross proceeds taxes under 15-23-703;

25 ~~(v)~~(iv) countywide school transportation block grants distributed under 20-9-632;

26 ~~(vi)~~(v) any fund balance available for reappropriation from the end-of-the-year fund balance in the county
 27 transportation fund;

28 ~~(vii)~~(vi) federal forest reserve funds allocated under the provisions of 17-3-213;

29 ~~(viii)~~(vii) property tax reimbursements made pursuant to 15-1-123(7); and

30 ~~(ix)~~(viii) other revenue anticipated that may be realized in the county transportation fund during the

1 ensuing school fiscal year; and

2 (c) subtracting the money available, as determined in subsection (2)(b), to reduce the levy requirement
3 from the county transportation net levy requirement.

4 (3) The net levy requirement determined in subsection (2)(c) must be reported to the county
5 commissioners on or before the later of the first Tuesday in September or within 30 calendar days after receiving
6 certified taxable values by the county superintendent, and a levy must be set by the county commissioners in
7 accordance with 20-9-142.

8 (4) The county superintendent of each county shall submit a report of the revenue amounts used to
9 establish the levy requirements to the superintendent of public instruction on or before September 15. The report
10 must be completed on forms supplied by the superintendent of public instruction.

11 (5) The county superintendent shall apportion the county transportation reimbursement from the
12 proceeds of the county transportation fund. The county superintendent shall order the county treasurer to make
13 the apportionments in accordance with 20-9-212(2) and after the receipt of the semiannual state transportation
14 reimbursement payments."

15 - END -