

HOUSE BILL NO. 114

INTRODUCED BY M. MILLER

BY REQUEST OF THE DEPARTMENT OF REVENUE

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

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

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

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

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

(a) must be used to reduce property taxes by the school district receiving the remittance within 3 years of receipt;

(b) must be deposited in one of the following funds, subject to the provisions of Title 20 and this section:

(i) general fund;

(ii) bus depreciation reserve fund;

(iii) debt service fund;

(iv) building reserve fund;

(v) technology acquisition and depreciation fund; and

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

(3) The remittance will not reduce the levy authority of the school district receiving the remittance in years

1 subsequent to the 3-year time period established by subsection (2)(a).

2 (4) If a school district does not utilize all or a portion of the remitted portion to reduce property taxes within
3 the 3-year time period established by subsection (2)(a), the unused portion must be remitted as follows:

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

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

8

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

10 **"20-9-104. (Temporary) General fund operating reserve.** (1) At the end of each school fiscal year, the
11 trustees of each district shall designate the portion of the general fund end-of-the-year fund balance that is to be
12 earmarked as operating reserve for the purpose of paying general fund warrants issued by the district from July
13 1 to November 30 of the ensuing school fiscal year. Except as provided in subsections (6) and (7), the amount
14 of the general fund balance that is earmarked as operating reserve may not exceed 10% of the final general fund
15 budget for the ensuing school fiscal year.

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

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

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

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

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

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

30 (6) The limitation of subsection (1) does not apply when the amount in excess of the limitation is equal

1 to or less than the unused balance of any amount:

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

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

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

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

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

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

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

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

14 **20-9-104. (Effective July 1, 2020) General fund operating reserve.** (1) At the end of each school fiscal
15 year, the trustees of each district shall designate the portion of the general fund end-of-the-year fund balance that
16 is to be earmarked as operating reserve for the purpose of paying general fund warrants issued by the district
17 from July 1 to November 30 of the ensuing school fiscal year. Except as provided in subsections (6) and (7), the
18 amount of the general fund balance that is earmarked as operating reserve may not exceed 10% of the final
19 general fund budget for the ensuing school fiscal year.

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

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

24 (4) Any portion of the general fund end-of-the-year fund balance that is not reserved under subsection
25 (2) or reappropriated under subsection (3), including any portion attributable to a tax increment remitted under
26 7-15-4291, is fund balance reappropriated and must be used for property tax reduction as provided in
27 20-9-141(1)(b).

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

30 (a) 70% of the excess amount must be remitted to the state to be deposited in the guarantee account

1 provided for in 20-9-622; and

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

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

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

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

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

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

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

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

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

17 **"20-9-208. Transfers among appropriation items of fund -- transfers from fund to fund.** (1)

18 Whenever it appears to the trustees of a district that the appropriated amount of an item of a budgeted fund of
19 the final budget or a budget amendment is in excess of the amount actually required during the school fiscal year
20 for the appropriation item, the trustees may transfer any of the excess appropriation amount to any other
21 appropriation item of the same budgeted fund.

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

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

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

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

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

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

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

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

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

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

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

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

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

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