

HOUSE BILL NO. 114

INTRODUCED BY M. MILLER

BY REQUEST OF THE DEPARTMENT OF REVENUE

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5 A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING LAWS RELATED TO THE USAGE OF TAX  
6 INCREMENT REMITTANCES TO SCHOOL DISTRICTS TO ENSURE A REDUCTION IN LOCAL PROPERTY  
7 TAXES; ~~ALLOWING FUND TRANSFERS BETWEEN CERTAIN SCHOOL DISTRICT ACCOUNTS; PROVIDING~~  
8 A TRANSITION SECTION FOR A SCHOOL DISTRICT WITH AN EXISTING AGREEMENT WITH A LOCAL  
9 GOVERNMENT; PROVIDING A TIME PERIOD FOR A SCHOOL DISTRICT TO UTILIZE TAX INCREMENT  
10 REMITTANCES; AMENDING SECTIONS 7-15-4291, 20-9-104, AND ~~20-9-208~~, 20-9-141, MCA; AND  
11 PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE DATES."

12  
13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

14  
15 **Section 1.** Section 7-15-4291, MCA, is amended to read:

16 **"7-15-4291. Agreements to remit unused portion of tax increments.** (1) The Subject to subsections  
17 (2) through (4) (5), the local government may also enter into agreements with the other affected taxing bodies  
18 to remit to those taxing bodies any portion of the annual tax increment not currently required for the payment of  
19 the costs listed in 7-15-4288 or pledged to the payment of the principal of premiums, if any, and interest on the  
20 bonds referred to in 7-15-4289.

21 (2) Any portion of the increment remitted to a school district:  
22 (a) must be used to reduce property taxes by the school district receiving the remittance within 3 years  
23 of receipt OR DESIGNATED AS OPERATING RESERVE PURSUANT TO 20-9-104 FOR THE FISCAL YEAR FOLLOWING THE  
24 FISCAL YEAR IN WHICH THE REMITTANCE WAS RECEIVED;

25 (b) must be deposited in one OR MORE of the following funds THAT HAS A MILL LEVY FOR THE CURRENT  
26 SCHOOL YEAR, subject to the provisions of Title 20 and this section:

- 27 (i) general fund;
- 28 (ii) bus depreciation reserve fund;
- 29 (iii) debt service fund;
- 30 (iv) building reserve fund;



- 1 (v) technology acquisition and depreciation fund; and  
 2 (c) may not be transferred to any fund, with the exception of the funds provided for in subsection (2)(b).  
 3 (3) The remittance will not reduce the levy authority of the school district receiving the remittance in years  
 4 subsequent to the 3-year time period established by subsection (2)(a).  
 5 (4) ANY PORTION OF THE INCREMENT REMITTED TO A SCHOOL DISTRICT AND DEPOSITED INTO THE GENERAL FUND  
 6 MUST BE DESIGNATED AS OPERATING RESERVE, PURSUANT TO 20-9-104 OR USED TO REDUCE THE BASE BUDGET LEVY  
 7 OR THE OVER-BASE BUDGET LEVY IN THE FOLLOWING FISCAL YEAR.  
 8 (4)(5) If a school district does not utilize all or a portion of the remitted portion to reduce property taxes  
 9 OR DESIGNATE THE REMITTANCE AS OPERATING RESERVE within the 3-year time period established by subsection  
 10 (2)(a), the unused portion must be remitted as follows:  
 11 (a) if the area or district is in existence at the time of the remittance, the portion is distributed to the  
 12 special fund in 7-15-4286(2)(a), and used as provided in 7-15-4282 through 7-15-4294; or  
 13 (b) if the area or district is not in existence at the time of the remittance, the portion is distributed pursuant  
 14 to 7-15-4292(2)(a)."

15  
 16 **Section 2.** Section 20-9-104, MCA, is amended to read:

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

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

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

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

1 maximum general fund budget.

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

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

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

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

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

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

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

13 (7) The limitation of subsection (1) does not apply when the amount earmarked as operating reserve is  
14 \$10,000 or less.

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

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

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

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

21 **20-9-104. (Effective July 1, 2020) General fund operating reserve.** (1) At the end of each school fiscal  
22 year, the trustees of each district shall designate the portion of the general fund end-of-the-year fund balance that  
23 is to be earmarked as operating reserve for the purpose of paying general fund warrants issued by the district  
24 from July 1 to November 30 of the ensuing school fiscal year. Except as provided in subsections (6) and (7), the  
25 amount of the general fund balance that is earmarked as operating reserve may not exceed 10% of the final  
26 general fund budget for the ensuing school fiscal year.

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

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

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

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

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

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

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

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

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

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

16 (7) The limitation of subsection (1) does not apply when the amount earmarked as operating reserve is  
 17 \$10,000 or less.

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

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

22

23 **SECTION 3. SECTION 20-9-141, MCA, IS AMENDED TO READ:**

24 **"20-9-141. Computation of general fund net levy requirement by county superintendent.** (1) The  
 25 county superintendent shall compute the levy requirement for each district's general fund on the basis of the  
 26 following procedure:

27 (a) Determine the funding required for the district's final general fund budget less the sum of direct state  
 28 aid, the natural resource development K-12 funding payment, and the special education allowable cost payment  
 29 for the district by totaling:

30 (i) the district's nonisolated school BASE budget requirement to be met by a district levy as provided in

1 20-9-303; and

2 (ii) any general fund budget amount adopted by the trustees of the district under the provisions of  
3 20-9-308 and 20-9-353.

4 (b) Determine the money available for the reduction of the property tax on the district for the general fund  
5 by totaling:

6 (i) the general fund balance reappropriated, as established under the provisions of 20-9-104;

7 (ii) amounts received in the last fiscal year for which revenue reporting was required for each of the  
8 following:

9 (A) interest earned by the investment of general fund cash in accordance with the provisions of  
10 20-9-213(4); and

11 (B) any other revenue received during the school fiscal year that may be used to finance the general  
12 fund, excluding any guaranteed tax base aid;

13 (iii) anticipated oil and natural gas production taxes;

14 (iv) pursuant to subsection (4), anticipated revenue from coal gross proceeds under 15-23-703; ~~and~~

15 (v) school district block grants distributed under 20-9-630; and

16 (vi) any portion of the increment remitted to a school district under 7-15-4291 used to reduce the BASE  
17 levy budget.

18 (c) Notwithstanding the provisions of subsection (2), subtract the money available to reduce the property  
19 tax required to finance the general fund that has been determined in subsection (1)(b) from any general fund  
20 budget amount adopted by the trustees of the district, up to the BASE budget amount, to determine the general  
21 fund BASE budget levy requirement.

22 (d) Determine the sum of:

23 (i) any amount remaining after the determination in subsection (1)(c);

24 (ii) any portion of the increment remitted to a school district under 7-15-4291 used to reduce the  
25 over-BASE budget levy; and

26 (iii) any tuition payments for out-of-district pupils to be received under the provisions of 20-5-320 through  
27 20-5-324, except the amount of tuition received for a pupil who is a child with a disability in excess of the amount  
28 received for a pupil without disabilities, as calculated under 20-5-323(2).

29 (e) Subtract the amount determined in subsection (1)(d) from any additional funding requirement to be  
30 met by an over-BASE budget amount, a district levy as provided in 20-9-303, and any additional financing as

1 provided in 20-9-353 to determine any additional general fund levy requirements.

2 (2) The county superintendent shall calculate the number of mills to be levied on the taxable property  
3 in the district to finance the general fund levy requirement for any amount that does not exceed the BASE budget  
4 amount for the district by dividing the amount determined in subsection (1)(c) by the sum of:

5 (a) the amount of guaranteed tax base aid that the district will receive for each mill levied, as certified  
6 by the superintendent of public instruction; and

7 (b) the current total taxable valuation of the district, as certified by the department of revenue under  
8 15-10-202, divided by 1,000.

9 (3) The net general fund levy requirement determined in subsections (1)(c) and (1)(d) must be reported  
10 to the county commissioners by the later of the first Tuesday in September or within 30 calendar days after  
11 receiving certified taxable values by the county superintendent as the general fund net levy requirement for the  
12 district, and a levy must be set by the county commissioners in accordance with 20-9-142.

13 (4) For each school district, the department of revenue shall calculate and report to the county  
14 superintendent the amount of revenue anticipated for the ensuing fiscal year from revenue from coal gross  
15 proceeds under 15-23-703."

16

17 ~~Section 3. Section 20-9-208, MCA, is amended to read:~~

18 ~~"20-9-208. Transfers among appropriation items of fund -- transfers from fund to fund. (1)~~

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

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

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

1 funds approved by the voters or with funds raised by a nonvoted levy unless:

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

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

6 ~~—— (ii) Unless otherwise authorized by a specific provision in this title, transfers from the general fund to any~~  
7 ~~other fund and transfers to the general fund from any other fund are prohibited. Subject to 7-15-4291, a transfer~~  
8 ~~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).~~

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

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

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

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

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

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

26  
27 NEW SECTION. SECTION 4. TRANSITION -- EXISTING AGREEMENTS. (1) A SCHOOL DISTRICT THAT HAS  
28 EXECUTED AN AGREEMENT WITH A LOCAL GOVERNMENT PURSUANT TO 7-15-4291 ON OR BEFORE [THE EFFECTIVE DATE  
29 OF THIS ACT] SHALL PREPARE A TRANSITION PLAN.

30 (2) (A) THE TRANSITION PLAN MUST BE LIMITED TO PAYING CONTRACTUAL OBLIGATIONS THAT WERE INCURRED

1 PRIOR TO [THE EFFECTIVE DATE OF THIS ACT] WHEN THE INCREMENT WAS ANTICIPATED AS A FUNDING SOURCE FOR THE  
 2 CONTRACT WHEN THE CONTRACT WAS EXECUTED. IN ORDER TO QUALIFY AS AN OBLIGATION, THERE MUST BE A WRITTEN  
 3 SIGNED CONTRACT MEETING ALL ELEMENTS OF 28-2-102 BETWEEN A SCHOOL DISTRICT AND A THIRD PARTY. EVIDENCE  
 4 OF A CONTRACT DOES NOT INCLUDE THE LISTING OF A CAPITAL PROJECT ON A LIST OR PLAN THAT WAS CREATED BEFORE  
 5 [THE EFFECTIVE DATE OF THIS ACT].

6 (B) (I) IF THE OBLIGATION RELATES TO PAYING BONDED INDEBTEDNESS, A DISTRICT MAY UTILIZE THE REMITTANCE  
 7 FOR THE LIFE OF THE BOND ISSUE.

8 (II) IF THE OBLIGATION RELATES OTHER CONTRACTS, A DISTRICT MAY UTILIZE THE INCREMENT TO PAY FOR THE  
 9 CONTRACTED PROJECT UNTIL THE END OF THE CONTRACT.

10 (3) FOR THE PURPOSE OF SUBSECTION (2), A CONTRACT DOES NOT INCLUDE THE AGREEMENT WITH A LOCAL  
 11 GOVERNMENT PURSUANT TO 7-15-4291.

12 (4) IF A PORTION OF THE INCREMENT DOES NOT SATISFY THE CONDITIONS OF SUBSECTION (2), IT MUST BE  
 13 EXPENDED ACCORDING TO THE PROVISIONS OF [SECTIONS 1 THROUGH 3].

14  
 15 NEW SECTION. Section 5. Effective date. [This act] is effective July 1, 2015 ON PASSAGE AND  
 16 APPROVAL.

17  
 18 NEW SECTION. Section 6. Applicability. ~~[This act]~~ (1) EXCEPT AS PROVIDED IN SUBSECTION (2), [THIS  
 19 ACT] applies to all tax increment financing districts created after December 31, 1979.

20 (2) A SCHOOL DISTRICT THAT HAS EXECUTED AN AGREEMENT WITH A LOCAL GOVERNMENT PURSUANT TO  
 21 7-15-4291 ON OR BEFORE [THE EFFECTIVE DATE OF THIS ACT] IS SUBJECT TO THE PROVISIONS OF [SECTION 4].

22 - END -