

HOUSE BILL NO. 66

INTRODUCED BY A. CURTIS, K. KELKER, L. WHITFORD, M. MOE, T. FACEY

BY REQUEST OF THE SCHOOL FUNDING INTERIM COMMISSION

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING FUNDING RELATED TO STATE SUPPORT FOR SCHOOL FACILITIES; CREATING A NEW FORMULA GRANT PROGRAM FOR SCHOOL FACILITIES AND A NEW STATE SPECIAL REVENUE ACCOUNT; PROVIDING AN ANNUAL TRANSFER OF FUNDS TO THE NEW ACCOUNT; REPEALING THE SCHOOL FACILITY AND TECHNOLOGY ACCOUNT AND THE QUALITY SCHOOLS FACILITY GRANT PROGRAM; REVISING THE SOURCE OF THE STATUTORY APPROPRIATION FOR THE STATE TECHNOLOGY PAYMENT TO SCHOOLS; PROVIDING A STATUTORY APPROPRIATION; AMENDING SECTIONS 17-3-1003, 17-7-502, 20-9-104, 20-9-342, 20-9-343, 20-9-534, 20-9-620, AND 77-1-218, MCA; REPEALING SECTIONS 20-9-516, 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 EFFECTIVE DATE."

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

NEW SECTION. **Section 1. Purpose.** The purpose of [sections 1 through 4] is to create a program to provide predictable state funding to supplement local district efforts to address facility projects that:

- (1) enhance the quality of life and protect the health, safety, and welfare of Montana's public school students;
- (2) ensure the successful delivery of an educational system that meets the accreditation standards provided for in 20-7-111;
- (3) extend the life of Montana's existing public school facilities;
- (4) promote energy conservation and reduction;
- (5) integrate technology into Montana's education framework to support student educational needs for the 21st century; and
- (6) are fiscally responsible by considering both long-term and short-term needs of the public school district and the local community.

NEW SECTION. **Section 2. Definitions.** As used in [sections 1 through 4], the following definitions



1 apply:

2 (1) "Account" means the school facility grant program account within the state special revenue fund
3 established in [section 3].

4 (2) "Program" means the school facility grant program created in [section 3].

5 (3) "Public school district" means a district as defined in 20-6-101 or a K-12 school district as defined
6 in 20-6-701.

7 (4) "Qualifying facility project" means a project prioritized in a district's facility inventory and plan for:

8 (a) major repairs or deferred maintenance to an existing school facility; or

9 (b) major improvements or enhancements to an existing school facility, including technology
10 enhancements.

11
12 **NEW SECTION. Section 3. School facility grant program -- account -- statutory appropriation --**

13 **annual transfer.** (1) There is a school facility grant program funded by the school facility grant program account
14 and administered by the office of public instruction.

15 (2) There is a school facility grant program account in the state special revenue fund provided for in
16 17-2-102. Funds in the account are statutorily appropriated as provided for in 17-7-502 to the office of public
17 instruction for funding grants under [section 4]. The account is funded by an annual transfer of the greater of:

18 (a) \$10 million of the interest and income money as defined in 20-9-341; or

19 (b) 20% of the interest and income money as defined in 20-9-341.

20 (3) The state board of land commissioners shall transfer the amount specified in subsection (2) before
21 the close of each state fiscal year in which the money was received.

22 (4) Interest and investment earnings on the account must be retained in the account.

23
24 **NEW SECTION. Section 4. Allocation of grants.** (1) Each public school district must receive a grant

25 credit within the account from the deposited amount pursuant to [section 3(2)] calculated as follows:

26 (a) each district is allocated \$8,000; and

27 (b) after the allocation in subsection (1)(a), the remaining amount is allocated proportionally to each
28 district on a per-quality-educator basis.

29 (2) A district's grant credit must remain in the account until the district requests the money and provides
30 documentation to the office of public instruction of the following:

1 (a) a facility inventory and plan based on the categories established in the 2008 facility condition
2 inventory and updated within the previous 3 years, including a list of prioritized facility maintenance projects; and

3 (b) a district financial commitment to qualifying facility projects displayed by a local match of the amount
4 requested multiplied by the difference of 2 and the percentage expressed as a decimal of the district's most recent
5 adopted general fund budget compared to the district's maximum general fund budget. The required match for
6 a district with an adopted budget at or above the maximum is equal to the amount requested.

7 (3) The required local match under subsection (2)(b) must be:

8 (a) an accumulated amount in the district's building reserve fund resulting from a levy approved by voters
9 for qualifying facility projects; or

10 (b) an amount dedicated for qualifying facility projects in an adopted budget for the district's flexibility or
11 impact aid fund.

12 (4) When the requirements in subsections (2) and (3) are met, the office of public instruction shall
13 distribute the requested grant from the amount within the account credited to the district under subsection (1) to
14 the district for deposit in the miscellaneous programs fund for use on qualifying facility projects.

15 (5) Interest earnings on money in the account must be allocated to each district's grant credit based on
16 the ratio of a district's grant credit balance to the total balance of all districts' grant credits.

17 (6) If a district ceases to exist, any undistributed credit in the account for that district must be allocated
18 to the credit of the district or districts assuming its territory. When the territory is assumed by more than one
19 district, the remaining credit must be prorated between the districts on the basis of the number of quality
20 educators in each district.

21

22 **Section 5.** Section 17-3-1003, MCA, is amended to read:

23 **"17-3-1003. Support of state institutions.** (1) Except as provided in subsection (5), for the support and
24 endowment of each state institution, there is annually and perpetually appropriated, after any deductions made
25 under 77-1-109, the income from all permanent endowments for the institution and from all land grants as
26 provided by law. All money received or collected in connection with permanent endowments by all higher
27 educational institutions, reformatory, custodial and penal institutions, state hospitals, and sanitariums, for any
28 purpose, except revenue pledged to secure the payment of principal and interest of obligations incurred for the
29 purchase, construction, equipment, or improvement of facilities at units of the Montana university system and for
30 the refunding of obligations or money that constitutes temporary deposits, all or part of which may be subject to

1 withdrawal or repayment, must be paid to the state treasurer, who shall deposit the money to the credit of the
2 proper fund.

3 (2) Except as provided in subsections (1), (3), and (5), all money received from the investment of grants
4 of a state institution and all money received from the leasing of lands granted to a state institution must be
5 deposited with the state treasurer of Montana for each institution, to the credit of the state special revenue fund.

6 (3) Except as provided in 77-1-109 and subsection (4) of this section, all money received from the sale
7 of timber from lands granted to a state institution must be deposited to the credit of the permanent trust fund for
8 the support of the institution.

9 (4) The board of regents shall designate, at least once a biennium, whether the timber sale proceeds
10 from Montana university system lands must be distributed to the beneficiaries or placed in the permanent fund.

11 (5) Except as provided in 77-1-109, income received from certain lands and riverbeds pursuant to
12 77-1-103(4) or 77-4-208 must be deposited ~~as follows:~~

13 ~~—— (a) from July 1, 2011, through June 30, 2014, to the guarantee account provided for in 20-9-622; and~~

14 ~~—— (b) on or after July 1, 2014, to the school facility and technology account provided for in 20-9-516."~~

15

16 **Section 6.** Section 17-7-502, MCA, is amended to read:

17 **"17-7-502. Statutory appropriations -- definition -- requisites for validity.** (1) A statutory
18 appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the
19 need for a biennial legislative appropriation or budget amendment.

20 (2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both
21 of the following provisions:

22 (a) The law containing the statutory authority must be listed in subsection (3).

23 (b) The law or portion of the law making a statutory appropriation must specifically state that a statutory
24 appropriation is made as provided in this section.

25 (3) The following laws are the only laws containing statutory appropriations: 2-17-105; 5-11-120;
26 5-11-407; 5-13-403; 7-4-2502; 10-1-108; 10-1-1202; 10-1-1303; 10-2-603; 10-3-203; 10-3-310; 10-3-312;
27 10-3-314; 10-4-301; 15-1-121; 15-1-218; 15-35-108; 15-36-332; 15-37-117; 15-39-110; 15-65-121; 15-70-101;
28 15-70-433; 15-70-601; 16-11-509; 17-3-106; 17-3-112; 17-3-212; 17-3-222; 17-3-241; 17-6-101; 17-7-215;
29 18-11-112; 19-3-319; 19-6-404; 19-6-410; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506;
30 19-20-604; 19-20-607; 19-21-203; 20-8-107; 20-9-517; 20-9-520; 20-9-534; 20-9-622; [section 3]; 20-9-905;

1 20-26-617; 20-26-1503; 22-1-327; 22-3-116; 22-3-117; 22-3-1004; 23-4-105; 23-5-306; 23-5-409; 23-5-612;
2 23-7-301; 23-7-402; 30-10-1004; 37-43-204; 37-50-209; 37-51-501; 39-71-503; 41-5-2011; 42-2-105; 44-4-1101;
3 44-12-213; 44-13-102; 50-1-115; 53-1-109; 53-6-1304; 53-9-113; 53-24-108; 53-24-206; 60-11-115; 61-3-415;
4 69-3-870; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 76-13-150; 76-13-416; 77-1-108; 77-2-362; 80-2-222;
5 80-4-416; 80-11-518; 81-1-112; 81-7-106; 81-10-103; 82-11-161; 85-20-1504; 85-20-1505; [85-25-102]; 87-1-603;
6 90-1-115; 90-1-205; 90-1-504; 90-3-1003; 90-6-331; and 90-9-306.

7 (4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing,
8 paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued
9 pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana
10 to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state
11 treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory
12 appropriation authority for the payments. (In subsection (3): pursuant to sec. 10, Ch. 360, L. 1999, the inclusion
13 of 19-20-604 terminates contingently when the amortization period for the teachers' retirement system's unfunded
14 liability is 10 years or less; pursuant to sec. 10, Ch. 10, Sp. L. May 2000, secs. 3 and 6, Ch. 481, L. 2003, and
15 sec. 2, Ch. 459, L. 2009, the inclusion of 15-35-108 terminates June 30, 2019; pursuant to sec. 73, Ch. 44, L.
16 2007, the inclusion of 19-6-410 terminates contingently upon the death of the last recipient eligible under
17 19-6-709(2) for the supplemental benefit provided by 19-6-709; pursuant to sec. 5, Ch. 442, L. 2009, the inclusion
18 of 90-6-331 terminates June 30, 2019; pursuant to sec. 16, Ch. 58, L. 2011, the inclusion of 30-10-1004
19 terminates June 30, 2017; pursuant to sec. 6, Ch. 61, L. 2011, the inclusion of 76-13-416 terminates June 30,
20 2019; pursuant to sec. 13, Ch. 339, L. 2011, the inclusion of 81-1-112 and 81-7-106 terminates June 30, 2017;
21 pursuant to sec. 11(2), Ch. 17, L. 2013, the inclusion of 17-3-112 terminates on occurrence of contingency;
22 pursuant to sec. 5, Ch. 244, L. 2013, the inclusion of 22-1-327 terminates July 1, 2017; pursuant to sec. 27, Ch.
23 285, L. 2015, and sec. 1, Ch. 292, L. 2015, the inclusion of 53-9-113 terminates June 30, 2021; pursuant to sec.
24 6, Ch. 291, L. 2015, the inclusion of 50-1-115 terminates June 30, 2021; pursuant to sec. 28, Ch. 368, L. 2015,
25 the inclusion of 53-6-1304 terminates June 30, 2019; pursuant to sec. 5, Ch. 383, L. 2015, the inclusion of
26 85-25-102 is effective on occurrence of contingency; pursuant to sec. 5, Ch. 422, L. 2015, the inclusion of
27 17-7-215 terminates June 30, 2021; pursuant to sec. 6, Ch. 423, L. 2015, the inclusion of 22-3-116 and 22-3-117
28 terminates June 30, 2025; pursuant to sec. 10, Ch. 427, L. 2015, the inclusion of 37-50-209 terminates
29 September 30, 2019; and pursuant to sec. 33, Ch. 457, L. 2015, the inclusion of 20-9-905 terminates December
30 31, 2023.)"

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Section 7. Section 20-9-104, MCA, is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

17 (4) Any portion of the general fund end-of-the-year fund balance that is not reserved under subsection
18 (2) or reappropriated under subsection (3), including any portion attributable to a tax increment remitted under
19 7-15-4291, is fund balance reappropriated and must be used for property tax reduction as provided in
20 20-9-141(1)(b).

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

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

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

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

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

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

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

2 (7) The limitation of subsection (1) does not apply when the amount earmarked as operating reserve is
3 \$10,000 or less.

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

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

8

9 **Section 8.** Section 20-9-342, MCA, is amended to read:

10 **"20-9-342. Deposit of interest and income money by state board of land commissioners.** (1) Except
11 as provided in ~~20-9-516~~ [section 3], the state board of land commissioners shall deposit the interest and income
12 money for each fiscal year into the guarantee account, provided for in 20-9-622, by the last business day of
13 February and June before the close of the fiscal year in which the money was received. Except as provided in
14 subsection (2), money in the guarantee account must be used for state equalization aid.

15 (2) Subject to subsection (3), any excess interest and income revenue deposited in the guarantee
16 account in each fiscal year must be distributed in accordance with 20-9-622(2).

17 (3) The excess interest and income revenue must equal at least \$1 million in order to be distributed
18 pursuant to subsection (2). Excess interest and income revenue of \$1 million or less must be carried forward and
19 added to the excess interest and income revenue in the next ensuing school fiscal year and distributed in
20 accordance with 20-9-622(2).

21 (4) For purposes of this section, "excess interest and income revenue" means an annual amount in
22 excess of \$56 million."

23

24 **Section 9.** Section 20-9-343, MCA, is amended to read:

25 **"20-9-343. Definition of and revenue for state equalization aid.** (1) As used in this title, the term "state
26 equalization aid" means revenue as required in this section for:

27 (a) distribution to the public schools for guaranteed tax base aid, BASE aid, school technology grants
28 pursuant to 20-9-534, school facility grants pursuant to [section 4], and state reimbursement for school facilities;
29 and

30 (b) negotiated payments authorized under 20-7-420(3) up to \$500,000 a biennium.

1 (2) The superintendent of public instruction may spend throughout the biennium funds appropriated for
 2 the purposes of guaranteed tax base aid, BASE aid for the BASE funding program, school technology grants
 3 pursuant to 20-9-534, school facility grants pursuant to [section 4], state reimbursement for school facilities, and
 4 negotiated payments authorized under 20-7-420(3).

5 (3) The following money must be paid into the guarantee account provided for in 20-9-622 for the public
 6 schools of the state as indicated:

7 (a) subject to ~~20-9-516(2)(a)~~ [section 3], interest and income money described in 20-9-341 and 20-9-342;
 8 and

9 (b) investment income earned by investing interest and income money described in 20-9-341 and
 10 20-9-342."

11

12 **Section 10.** Section 20-9-534, MCA, is amended to read:

13 **"20-9-534. Statutory appropriation for school technology purposes.** (1) The amount of \$1 million
 14 a year is statutorily appropriated, as provided in 17-7-502, from the ~~school facility and technology account~~
 15 ~~established in 20-9-516~~ guarantee account established in 20-9-622 to the office of public instruction for funding
 16 ~~for grants for school technology purposes.~~

17 (2) By the third Friday in July, the superintendent of public instruction shall allocate the annual statutory
 18 appropriation for school technology purposes to each district based on the ratio that each district's BASE budget
 19 bears to the statewide BASE budget amount for all school districts ~~multiplied by the amount of money provided~~
 20 ~~in 20-9-343~~ for the purposes of 20-9-533."

21

22 **Section 11.** Section 20-9-620, MCA, is amended to read:

23 **"20-9-620. Definition.** (1) As used in 20-9-621, 20-9-622, and this section, "distributable revenue"
 24 means, except for that portion of revenue described in ~~20-9-516(2)(a)~~ [section 3] and 77-1-109, 95% of all
 25 revenue from the management of school trust lands and the permanent fund, including timber sale proceeds,
 26 lease fees, interest, dividends, and net realized capital gains.

27 (2) The term does not include mineral royalties or land sale proceeds that are deposited directly in the
 28 permanent fund or net unrealized capital gains that remain in the permanent fund until realized."

29

30 **Section 12.** Section 77-1-218, MCA, is amended to read:

1 **"77-1-218. Public school land acquisition account.** (1) There is a public school land acquisition
2 account in the state special revenue fund established in 17-2-102. The account must be administered by the
3 department.

4 (2) Money in the account may be used only for the purpose of purchasing and managing interests in and
5 appurtenances to real property in accordance with 77-1-219.

6 (3) After deductions are made pursuant to 77-1-109 and 77-1-613, the net interest and income earned
7 on real property and appurtenances purchased with funds from the account must be distributed to the ~~school~~
8 ~~facility and technology account provided for in 20-9-516~~ guarantee account provided for in 20-9-622."

9

10 NEW SECTION. Section 13. Repealer. The following sections of the Montana Code Annotated are
11 repealed:

12 20-9-516. School facility and technology account.

13 90-6-801. Short title.

14 90-6-802. Purpose.

15 90-6-803. Definitions.

16 90-6-809. Quality schools facility grant program -- legislature to authorize grants -- types of grants
17 available.

18 90-6-810. Procedure for approval of projects -- role of department and governor -- approval by legislature.

19 90-6-811. Priorities for projects -- application of criteria -- consideration of project attributes -- adjustments
20 for educationally relevant factors.

21 90-6-812. Conditions for grants.

22 90-6-818. Disbursement of funds -- department discretion when actual expenses are less than projected
23 expenses.

24 90-6-819. Department to adopt rules.

25

26 NEW SECTION. Section 14. Codification instruction. [Sections 1 through 4] are intended to be
27 codified as an integral part of Title 20, chapter 9, part 6, and the provisions of Title 20, chapter 9, part 6, apply
28 to [sections 1 through 4].

29

30 NEW SECTION. Section 15. Effective date. [This act] is effective July 1, 2017.

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- END -