

HOUSE BILL NO. 459

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A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING PAYMENTS TO SCHOOL DISTRICTS TO
ADDRESS RECRUITMENT AND RETENTION; CREATING A RURAL RECRUITMENT AND RETENTION
STATE SPECIAL REVENUE ACCOUNT WITH REVENUE FROM A PORTION OF EXCESS OIL AND GAS
REVENUE; REQUIRING THE SUPERINTENDENT OF PUBLIC INSTRUCTION TO ADOPT RULES FOR THE
DISTRIBUTION OF MONEY THROUGH NEGOTIATED RULEMAKING; PROVIDING A STATUTORY
APPROPRIATION; AMENDING SECTIONS 17-7-502 AND 20-9-310, MCA; REPEALING SECTION 29,
CHAPTER 418, LAWS OF 2011, AND SECTION 38, CHAPTER 400, LAWS OF 2013; AND PROVIDING AN
EFFECTIVE DATE."

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

NEW SECTION. Section 1. Rural recruitment and retention account. (1) There is a rural recruitment
and retention account in the state special revenue fund provided for in 17-2-102. The funds in this account are
statutorily appropriated as provided in 17-7-502. The account receives revenue pursuant to 20-9-310.

(2) The office of public instruction shall distribute funds in the account to school districts to address
recruitment and retention challenges. The office of public instruction shall adopt administrative rules to establish
a process, criteria, and a mechanism for distribution under this subsection, using the negotiated rulemaking
process set forth in the Montana Negotiated Rulemaking Act, Title 2, chapter 5, part 1.

(3) In developing administrative rules, the office of public instruction shall establish two independent
negotiated rulemaking committees to consider issues for the purpose of reaching a consensus to develop
proposed rules for the distribution of the funds.

(4) The members of the first negotiated rulemaking committee appointed by the office of public instruction
must include public school officials and public school employees from third-class school districts and professional

1 organizations representing these public school officials and employees. This committee shall transmit proposed
2 rules regarding distribution of 70% of the funds available under this section in accordance with 2-5-108.

3 (5) The members of the second negotiated rulemaking committee appointed by the office of public
4 instruction must include public school officials and public school employees from second-class school districts
5 around the state and professional organizations representing these public school officials and employees. This
6 committee shall transmit proposed rules regarding the distribution of the remaining 30% of the funds available
7 under this section in accordance with 2-5-108.

8 (6) A school district receiving funds under this section shall deposit the money in the district's school
9 flexibility fund established in 20-9-543.

10

11 **Section 2.** Section 17-7-502, MCA, is amended to read:

12 **"17-7-502. Statutory appropriations -- definition -- requisites for validity.** (1) A statutory
13 appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the
14 need for a biennial legislative appropriation or budget amendment.

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

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

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

20 (3) The following laws are the only laws containing statutory appropriations: 2-17-105; 5-11-120;
21 5-11-407; 5-13-403; 7-4-2502; 10-1-108; 10-1-1202; 10-1-1303; 10-2-603; 10-2-807; 10-3-203; 10-3-310;
22 10-3-312; 10-3-314; 10-3-1304; 10-4-304; 15-1-121; 15-1-218; 15-35-108; 15-36-332; 15-37-117; 15-39-110;
23 15-65-121; 15-70-101; 15-70-130; 15-70-433; 16-11-119; 16-11-509; 17-3-106; 17-3-112; 17-3-212; 17-3-222;
24 17-3-241; 17-6-101; 17-7-215; 18-11-112; 19-3-319; 19-3-320; 19-6-404; 19-6-410; 19-9-702; 19-13-604;
25 19-17-301; 19-18-512; 19-19-305; 19-19-506; 19-20-604; 19-20-607; 19-21-203; 20-8-107; [section 1]; 20-9-534;
26 20-9-622; 20-9-905; 20-26-617; 20-26-1503; 22-1-327; 22-3-116; 22-3-117; 22-3-1004; 23-4-105; 23-5-306;
27 23-5-409; 23-5-612; 23-7-301; 23-7-402; 30-10-1004; 37-43-204; 37-50-209; 37-51-501; 37-54-113; 39-71-503;
28 41-5-2011; 42-2-105; 44-4-1101; 44-12-213; 44-13-102; 50-1-115; 53-1-109; 53-6-148; 53-6-1304; 53-9-113;
29 53-24-108; 53-24-206; 60-11-115; 61-3-321; 61-3-415; 69-3-870; 69-4-527; 75-1-1101; 75-5-1108; 75-6-214;
30 75-11-313; 75-26-308; 76-13-150; 76-13-416; 76-17-103; 76-22-109; 77-1-108; 77-2-362; 80-2-222; 80-4-416;

1 80-11-518; 80-11-1006; 81-1-112; 81-1-113; 81-7-106; 81-10-103; 82-11-161; 85-20-1504; 85-20-1505;
2 [85-25-102]; 87-1-603; 90-1-115; 90-1-205; 90-1-504; 90-3-1003; 90-6-331; and 90-9-306.

3 (4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing,
4 paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued
5 pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana
6 to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state
7 treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory
8 appropriation authority for the payments.(In subsection (3): pursuant to sec. 10, Ch. 360, L. 1999, the inclusion
9 of 19-20-604 terminates contingently when the amortization period for the teachers' retirement system's unfunded
10 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
11 sec. 2, Ch. 459, L. 2009, the inclusion of 15-35-108 terminates June 30, 2019; pursuant to sec. 73, Ch. 44, L.
12 2007, the inclusion of 19-6-410 terminates contingently upon the death of the last recipient eligible under
13 19-6-709(2) for the supplemental benefit provided by 19-6-709; pursuant to sec. 6, Ch. 61, L. 2011, the inclusion
14 of 76-13-416 terminates June 30, 2019; pursuant to sec. 11(2), Ch. 17, L. 2013, the inclusion of 17-3-112
15 terminates on occurrence of contingency; pursuant to sec. 27, Ch. 285, L. 2015, and sec. 1, Ch. 292, L. 2015,
16 the inclusion of 53-9-113 terminates June 30, 2021; pursuant to sec. 6, Ch. 291, L. 2015, the inclusion of
17 50-1-115 terminates June 30, 2021; pursuant to sec. 28, Ch. 368, L. 2015, the inclusion of 53-6-1304 terminates
18 June 30, 2019; pursuant to sec. 5, Ch. 383, L. 2015, the inclusion of 85-25-102 is effective on occurrence of
19 contingency; pursuant to sec. 5, Ch. 422, L. 2015, the inclusion of 17-7-215 terminates June 30, 2021; pursuant
20 to sec. 6, Ch. 423, L. 2015, the inclusion of 22-3-116 and 22-3-117 terminates June 30, 2025; pursuant to sec.
21 10, Ch. 427, L. 2015, the inclusion of 37-50-209 terminates September 30, 2019; pursuant to sec. 33, Ch. 457,
22 L. 2015, the inclusion of 20-9-905 terminates December 31, 2023; pursuant to sec. 12, Ch. 55, L. 2017, the
23 inclusion of 37-54-113 terminates June 30, 2023; pursuant to sec. 4, Ch. 122, L. 2017, the inclusion of 10-3-1304
24 terminates September 30, 2025; pursuant to sec. 55, Ch. 151, L. 2017, the inclusion of 30-10-1004 terminates
25 June 30, 2021; pursuant to sec. 1, Ch. 213, L. 2017, the inclusion of 90-6-331 terminates June 30, 2027; pursuant
26 to secs. 5, 8, Ch. 284, L. 2017, the inclusion of 81-1-112, 81-1-113, and 81-7-106 terminates June 30, 2023;
27 pursuant to sec. 1, Ch. 340, L. 2017, the inclusion of 22-1-327 terminates July 1, 2023, and pursuant to sec. 2,
28 Ch. 340, L. 2017, and sec. 32, Ch. 429, L. 2017, is void for fiscal years 2018 and 2019; and pursuant to sec. 10,
29 Ch. 374, L. 2017, the inclusion of 76-17-103 terminates June 30, 2027.)"

30

1 **Section 3.** Section 20-9-310, MCA, is amended to read:

2 **"20-9-310. Oil and natural gas production taxes for school districts -- allocation and limits.** (1)

3 Except as provided in subsection (5), the maximum amount of oil and natural gas production taxes that a school
4 district may retain is 130% of the school district's maximum budget, determined in accordance with ~~20-9-308~~
5 20-9-306.

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

9 (3) Except as provided by 15-36-332(9), the department of revenue shall make the full quarterly
10 distribution of oil and natural gas production taxes as required under 15-36-332(6) until the amount distributed
11 reaches the limitation in subsection (1) of this section. The department of revenue shall deposit any amount
12 exceeding the limitation in subsection (1) ~~in the guarantee account provided for in 20-9-622~~ for a fiscal year as
13 follows:

14 (a) the first \$500,000 in the rural recruitment and retention account provided in [section 1]; and

15 (b) the remainder in the guarantee account provided in 20-9-622.

16 (4) (a) Subject to the limitation in subsection (1) and the conditions in subsection (4)(b), the trustees shall
17 budget and allocate the oil and natural gas production taxes anticipated by the district in any budgeted fund at
18 the discretion of the trustees. Oil and natural gas production taxes allocated to the district general fund may be
19 applied to the BASE or over-BASE portions of the general fund budget at the discretion of the trustees.

20 (b) Except as provided in subsection (4)(c), if the trustees apply an amount less than 12.5% of the total
21 oil and natural gas production taxes received by the district in the prior school fiscal year to the district's general
22 fund BASE budget for the upcoming school fiscal year, then:

23 (i) the trustees shall levy the number of mills required to raise an amount equal to the difference between
24 12.5% of the oil and natural gas production taxes received by the district in the prior school fiscal year and the
25 amount of oil and natural gas production taxes the trustees budget in the district's general fund BASE budget for
26 the upcoming school fiscal year;

27 (ii) the mills levied under subsection (4)(b)(i) are not eligible for the guaranteed tax base subsidy under
28 the provisions of 20-9-366 through 20-9-369; and

29 (iii) the general fund BASE budget levy requirement calculated in 20-9-141 must be calculated as though
30 the trustees budgeted 12.5% of the oil and natural gas production taxes received by the district in the prior year

1 and the number of mills calculated in subsection (4)(b)(i) must be added to the number of mills calculated in
2 20-9-141(2).

3 (c) The provisions of subsection (4)(b) do not apply to the following:

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

5 (ii) a district whose oil and natural gas revenue combined with its adopted general fund budget totals
6 105% or less of its maximum general fund budget;

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

10 (iv) a district that has issued outstanding oil and natural gas revenue bonds. Funds received pursuant
11 to this section must first be applied by the district to payment of debt service obligations for oil and natural gas
12 revenue bonds for the next 12-month period.

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

20 (6) In any year in which the actual oil and natural gas production taxes received by a school district are
21 less than 50% of the total oil and natural gas production taxes received by the district in the prior year, the district
22 may transfer money from any budgeted fund to its general fund in an amount not to exceed the amount of the
23 shortfall."
24

25 **NEW SECTION. Section 4. Repealer.** Section 29, Chapter 418, Laws of 2011, and section 38, Chapter
26 400, Laws of 2013, are repealed.
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28 **NEW SECTION. Section 5. Codification instruction.** [Section 1] is intended to be codified as an
29 integral part of Title 20, chapter 9, part 5, and the provisions of Title 20, chapter 9, part 5, apply to [section 1].
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