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SENATE BILL NO. 97

INTRODUCED BY K. REGIER

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS RELATED TO PROVIDING FOR A RENEWABLE RESOURCE ELECTRICAL PRODUCTION TAX TO REDUCE PROPERTY TAXES THAT FUND EDUCATION; PROVIDING FOR ADMINISTRATION AND DISTRIBUTION OF TAX REVENUE; INCREASING SCHOOL TRANSPORTATION REIMBURSEMENTS; ESTABLISHING A STATE SPECIAL REVENUE ACCOUNT WITH GENERAL FUND TRANSFERS; PROVIDING RULEMAKING AUTHORITY TO THE SUPERINTENDENT OF PUBLIC INSTRUCTION TO DETERMINE DISTRIBUTION AMOUNTS AND TIMELINES; PROVIDING DEFINITIONS; AMENDING SECTIONS 15-51-101, 15-51-102, 15-51-103, 15-51-113, 17-2-124, 20-10-144, 20-10-145, AND 20-10-146, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE."

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

NEW SECTION. Section 1. School transportation property tax relief state special revenue

account -- rulemaking. (1) There is an account in the state special revenue fund known as the school transportation property tax relief account for use by the superintendent of public instruction for the purpose of decreasing property taxes by increasing the state share of school transportation expenses while decreasing the county share of school transportation expenses.

(2) The account is made up of tax revenue received from the renewable resource electrical production tax pursuant to 15-51-101(2)(b) that is deposited in this account pursuant to 15-51-103.

(3) The superintendent of public instruction shall administer the account. Beginning in calendar year 2024, the state treasurer shall transfer money from the account on July 1 of each year to the state general fund based on rules adopted by the superintendent of public instruction pursuant to subsection (4).

(4) The superintendent of public instruction shall annually, beginning in calendar year 2024 and no later than July 15, adopt rules that:

(a) increase the state contribution percentage amount in 20-10-144(2)(a)(i) and 20-10-145(1) and

1 decrease the county contribution percentage amount in 20-10-144(2)(a)(ii) and 20-10-146(1) by July 30 in order
2 to account for the revenue transferred to the general fund;

3 (b) fully utilize the amount of money deposited in the account for property tax relief during each
4 general fund transfer to ensure that the account balance after each transfer is limited to the amount necessary
5 to maintain an account; and

6 (c) provide the state treasurer with a dollar amount or percentage of the general fund transfers
7 from the account by July 1 of each year beginning in calendar year 2024.

8

9 **Section 2.** Section 15-51-101, MCA, is amended to read:

10 **"15-51-101. Rate of tax -- electrical energy producers -- license tax -- renewable resource**

11 **electrical production tax -- definitions.** (1) In addition to the license tax now provided by law, each person or
12 other organization now engaged in the generation, manufacture, or production of electricity and electrical
13 energy in the state of Montana, either through water power or by any other means, for barter, sale, or exchange
14 (and hereinafter referred to as the "producer") producer, eligible renewable resource producer, or both, shall, on
15 or before the 30th day after each calendar quarter, quarterly periods ending March 31, June 30, September 30,
16 and December 31, render a statement to the department of revenue showing the gross amount, except for
17 actual and necessary plant use, required to produce the energy of electricity and electrical energy produced,
18 manufactured, or generated during the preceding calendar quarter without any deduction and ~~shall pay a~~
19 license tax thereon in the sum of \$.0002 per kilowatt hour on all such ~~pay the applicable taxes in subsection (2)~~
20 on the electricity and electrical energy generated, manufactured, or produced, measured at the place of
21 production and as shown on the statement ~~required in the manner and within the time hereinafter provided by~~
22 this chapter.

23 (2) (a) An electrical energy producer's license tax must be paid by each producer at a rate of 0.02
24 cent a kilowatt hour.

25 (b) A renewable resource electrical production tax must be paid by each eligible renewable
26 resource producer of electrical energy at a rate of 0.1 cent a kilowatt hour. An eligible renewable resource
27 producer ~~of with a total nameplate capacity for all facilities of 25 megawatts or less is exempt from the tax in~~
28 this subsection (2)(b).

1 (3) As used in this section, the following definitions apply:

2 (a) (i) "Eligible renewable resource producer" means a person or organization engaged in the
3 generation, manufacture, or production of electricity and electrical energy in the state by an eligible renewable
4 resource as defined in 90-4-1005(5)(a) through (5)(c) and (5)(e) through (5)(i) that is located in the state,
5 regardless of ownership.

6 (ii) The term does not include a facility producing electricity from water power in the case of a
7 hydroelectric project provided for in 90-4-1005(5)(d).

8 (b) "Producer" means each person or organization engaged in the generation, manufacture, or
9 production of electricity and electrical energy in the state either through water power or by any other means, for
10 barter, sale, or exchange."

11

12 **Section 3.** Section 15-51-102, MCA, is amended to read:

13 **"15-51-102. Payment of tax -- may be itemized on customers' bills.** The license tax and the
14 renewable resource electrical production tax must be remitted with the statement and paid on or before the 30th
15 day of the month after each calendar quarter. A customer's bill or statement may contain an itemized amount of
16 the tax taxes imposed by 15-51-101."

17

18 **Section 4.** Section 15-51-103, MCA, is amended to read:

19 **"15-51-103. Disposition of revenue -- penalty and interest on delinquency.** The department shall,
20 in accordance with the provisions of 17-2-124, promptly remit the collected taxes to the state treasurer. Taxes
21 not paid on the due date are delinquent, and penalty and interest must be added to the delinquent taxes as
22 provided in 15-1-216. The state treasurer shall deposit revenue received from the renewable resource electrical
23 production tax in the state special revenue account established pursuant to [section 1] for the purpose of
24 property tax relief."

25

26 **Section 5.** Section 15-51-113, MCA, is amended to read:

27 **"15-51-113. Penalty for violation -- enforcement.** Any producer referred to in 15-51-101 who shall
28 ~~violate~~ that violates any of the provisions of this chapter or ~~who shall fail~~ fails to pay the license tax ~~herein~~

1 ~~provided for or any part thereof or the renewable resource electrical production tax~~ when due shall be is liable
 2 for three times the amount of the unpaid or delinquent tax in a civil action instituted for that purpose in a court of
 3 competent jurisdiction in the name of the state of Montana, and ~~in such suit, upon application of the state,~~ an
 4 injunction may be issued by application, without requiring any bond, restraining the defendant from continuing
 5 to produce electricity or electrical energy ~~so~~ as long as the tax due ~~hereunder from said defendant~~ remains
 6 delinquent."

7

8 **Section 6.** Section 17-2-124, MCA, is amended to read:

9 **"17-2-124. Disposition of money from certain designated license and other taxes.** (1) The state
 10 treasurer shall deposit to the credit of the appropriate fund in accordance with the provisions of subsection (3)
 11 all money received from the collection of taxes and fees.

12 (2) The department of revenue shall deposit to the credit of the state general fund all money
 13 received from the collection of license taxes and all net revenue and receipts from all sources, other than
 14 certain fees, under Title 16, chapters 1 through 4 and 6, and the renewable resource electrical production tax
 15 pursuant to 15-51-103.

16 (3) The distribution of tax and fee revenue must be made according to the provisions of the law
 17 governing allocation of the tax or fee that were in effect for the period in which the tax or fee revenue was
 18 recorded for accounting purposes. Tax revenue must be recorded as prescribed by the department of
 19 administration, pursuant to 17-1-102(2) and (4), in accordance with generally accepted accounting principles.

20 (4) All refunds of taxes or fees must be attributed to the funds in which the taxes or fees are
 21 currently being recorded. All refunds of interest and penalties must be attributed to the funds in which the
 22 interest and penalties are currently being recorded."

23

24 **Section 7.** Section 20-10-144, MCA, is amended to read:

25 **"20-10-144. Computation of revenue and net tax levy requirements for district transportation**
 26 **fund budget.** Before the second Monday of August, the county superintendent shall compute the revenue
 27 available to finance the transportation fund budget of each district. The county superintendent shall compute
 28 the revenue for each district on the following basis:

Amendment - 1st Reading-white - Requested by: Keith Regier - (S) Taxation

- 2023

68th Legislature 2023

Drafter: Jaret Coles, 406-444-4022

SB0097.001.002

1 (1) The "schedule amount" of the budget expenditures that is derived from the rate schedules in
2 20-10-141 and 20-10-142 must be determined by adding the following amounts:

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

7 (b) the total of all individual transportation per diem reimbursement rates for the district as
8 determined from the contracts submitted by the district multiplied by the number of pupil-instruction days
9 scheduled for the ensuing school attendance year; plus

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

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

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

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

21 (i) one-half plus the amount calculated in subsection (2)(d) is the budgeted state transportation
22 reimbursement; and

23 (ii) one-half minus the amount calculated in subsection (2)(d) is the budgeted county
24 transportation fund reimbursement and must be financed in the manner provided in 20-10-146.

25 (b) When the district has a sufficient amount of fund balance for reappropriation and other sources
26 of district revenue, as determined in subsection (3), to reduce the total district obligation for financing to zero,
27 any remaining amount of district revenue and fund balance reappropriated must be used to reduce the county
28 financing obligation in subsection (2)(a)(ii) and, if the county financing obligations are reduced to zero, to

1 reduce the state financial obligation in subsection (2)(a)(i).

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

5 (d) The superintendent of public instruction shall continually adopt rules that increase the state
6 contribution percentage amount in subsection (2)(a)(i) and decrease the county contribution percentage amount
7 in subsection (2)(a)(ii) after taking into account the amount of revenue transferred to the general fund from the
8 school transportation property tax relief state special revenue account as provided in [section 1]. The
9 percentage that is adopted must increase the amount in 20-10-145(1) and decrease the amount in 20-10-
10 146(1) by the same percentage.

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

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

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

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

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

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

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

23 (g) anticipated transportation payments for out-of-district pupils under the provisions of 20-5-320
24 through 20-5-324;

25 (h) any other revenue anticipated by the trustees to be earned during the ensuing school fiscal
26 year that may be used to finance the transportation fund; and

27 (i) any fund balance available for reappropriation as determined by subtracting the amount of the
28 end-of-the-year fund balance earmarked as the transportation fund operating reserve for the ensuing school

1 fiscal year by the trustees from the end-of-the-year fund balance in the transportation fund. The operating
2 reserve may not be more than 20% of the final transportation fund budget for the ensuing school fiscal year and
3 is for the purpose of paying transportation fund warrants issued by the district under the final transportation fund
4 budget.

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

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

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

10 (5) The transportation fund levy requirements determined in subsection (4) for each district must
11 be reported to the county commissioners on or before the later of the first Tuesday in September or within 30
12 calendar days after receiving certified taxable values by the county superintendent as the transportation fund
13 levy requirements for the district, and the levy must be made by the county commissioners in accordance with
14 20-9-142."

15

16 **Section 8.** Section 20-10-145, MCA, is amended to read:

17 **"20-10-145. State transportation reimbursement.** (1) A district providing school bus transportation
18 or individual transportation in accordance with this title, board of public education transportation policy, and
19 superintendent of public instruction transportation rules must receive a state reimbursement of its transportation
20 expenditures under the transportation reimbursement rate provisions of 20-10-141 and 20-10-142. The state
21 transportation reimbursement is one-half plus the increase in 20-10-144(2)(a)(i) and (2)(d) of the
22 reimbursement amounts established in 20-10-141 and 20-10-142 or one-half plus the increase in 20-10-
23 144(2)(a)(i) and (2)(d) of the district's transportation fund budget, whichever is smaller, and must be computed
24 on the basis of the number of days the transportation services were actually rendered to transport eligible
25 transportees, as defined in 20-10-101, to or from school to participate in the minimum aggregate hours of
26 instruction required pursuant to 20-1-301. In determining the amount of the state transportation reimbursement,
27 an amount claimed by a district may not be considered for reimbursement unless the amount has been paid in
28 the regular manner provided for the payment of other financial obligations of the district.

1 (2) Requests for the state transportation reimbursement must be made by each district
2 semiannually during the school fiscal year on the claim forms and procedure promulgated by the
3 superintendent of public instruction. The claims for state transportation reimbursements must be routed by the
4 district to the county superintendent, who after reviewing the claims shall send them to the superintendent of
5 public instruction. The superintendent of public instruction shall establish the validity and accuracy of the claims
6 for the state transportation reimbursements by determining compliance with this title, board of public education
7 transportation policy, and the transportation rules of the superintendent of public instruction. After making any
8 necessary adjustments to the claims, the superintendent of public instruction shall order a disbursement from
9 the state money appropriated by the legislature of the state of Montana for the state transportation
10 reimbursement.

11 (3) The superintendent of public instruction shall make the disbursement to each school district
12 according to the following schedule:

13 (a) By September 1 of each year, the superintendent of public instruction shall make a payment
14 equal to 50% of the state transportation reimbursement paid to the district in the previous school year.

15 (b) By March 31 of each year, the superintendent of public instruction shall make a payment to the
16 district equal to the approved amount of state reimbursement for first semester transportation claims less the
17 amount distributed to the district under subsection (3)(a).

18 (c) By June 30 of each year, the superintendent of public instruction shall make a payment to the
19 district to pay the balance of the approved amount due to the district for first and second semester
20 transportation.

21 (4) Unless authorized for payment to a school district investment account established under 20-9-
22 235, the payment of all the district's claims within one county must be made to the county treasurer of the
23 county, and the county superintendent shall apportion the payment in accordance with the apportionment order
24 supplied by the superintendent of public instruction.

25 (5) After adopting a budget amendment for the transportation fund in accordance with 20-9-161
26 through 20-9-166, the district shall send to the superintendent of public instruction a copy of each new or
27 amended individual transportation contract and each new or amended bus route form to which the budget
28 amendment applies. State reimbursement for the additional obligations must be paid as provided in subsection

1 (1)."

2

3 **Section 9.** Section 20-10-146, MCA, is amended to read:

4 **"20-10-146. County transportation reimbursement.** (1) The apportionment of the county
5 transportation reimbursement by the county superintendent for school bus transportation or individual
6 transportation that is actually rendered by a district in accordance with this title, board of public education
7 transportation policy, and the transportation rules of the superintendent of public instruction ~~must be the same~~
8 ~~as the state transportation reimbursement payment is the decreased amount in 20-10-144(2)(a)(ii) and (2)(d),~~
9 except that:

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

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

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

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

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

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

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

27 (ii) oil and natural gas production taxes;

28 (iii) coal gross proceeds taxes under 15-23-703;

1 (iv) any fund balance available for reappropriation from the end-of-the-year fund balance in the
2 county transportation fund;

3 (v) federal forest reserve funds allocated under the provisions of 17-3-213; and

4 (vi) other revenue anticipated that may be realized in the county transportation fund during the
5 ensuing school fiscal year; and

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

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

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

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

19
20 **NEW SECTION. Section 10. Codification instruction.** [Section 1] is intended to be codified as an
21 integral part of Title 20, chapter 10, part 1, and the provisions of Title 20, chapter 10, part 1, apply to [section 1].

22
23 **NEW SECTION. Section 11. Effective date.** [This act] is effective July 1, 2023.

24
25 **NEW SECTION. Section 12. Applicability.** [This act] applies to the generation, manufacture, or
26 production of electricity and electrical energy by an eligible renewable resource producer after June 30, 2023.

27 - END -