

HOUSE BILL 459

Introduced by Boharski, et al.

2/04	Introduced
2/04	Referred to Education & Cultural Resources
2/04	First Reading
2/04	Fiscal Note Requested
2/11	Fiscal Note Received
2/12	Hearing
2/12	Fiscal Note Printed
2/17	Tabled in Committee
2/20	Committee Report--Bill Passed as Amended
2/25	Missed Transmittal Deadline

1 House BILL NO. 459
 2 INTRODUCED Wm E Bohart
 3 Perk
 4 A BILL FOR AN ACT ENTITLED: "AN ACT LIMITING THE PERCENTAGE
 5 OF PUBLIC LAW 81-874 MONEY IN THE UNRESERVED FUND BALANCE
 6 THAT MAY BE CONSIDERED AN EXCESS AMOUNT TO THE GREATER OF
 7 THE AVERAGE OF THE 3 PREVIOUS YEARS' RATIO OF PUBLIC LAW
 8 81-874 MONEY RECEIVED TO THE TOTAL DISTRICT GENERAL FUND
 9 REVENUE RECEIVED OR THE PREVIOUS YEAR'S RATIO OF PUBLIC LAW
 10 81-874 MONEY RECEIVED TO THE TOTAL DISTRICT GENERAL FUND
 11 REVENUE RECEIVED; REQUIRING THE SUPERINTENDENT OF PUBLIC
 12 INSTRUCTION TO REQUEST AN OPINION FROM THE U.S. DEPARTMENT
 13 OF EDUCATION; AMENDING SECTION 20-9-104, MCA; AND PROVIDING
 14 EFFECTIVE DATES."

15
 16 WHEREAS, it is the intent of the Legislature to comply
 17 with Article II, section 4, and Article X, section 1, of the
 18 Montana Constitution without violating section 5(d)(1) of
 19 the Impact Aid Law, 20 U.S.C. 240(d)(1).

20 THEREFORE, the Legislature finds that it is reasonable
 21 and appropriate to limit the percentage of Public Law 81-874
 22 funds in the unreserved fund balance that may be considered
 23 an excess amount if the Superintendent of Public Instruction
 24 receives written approval from the U.S. Department of
 25 Education.

1
 2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

3 **Section 1.** Section 20-9-104, MCA, is amended to read:

4 "20-9-104. (Temporary) General fund operating reserve.

5 (1) At the end of each school fiscal year, the trustees of
 6 each district shall designate the portion of the general
 7 fund end-of-the-year fund balance that is to be earmarked as
 8 operating reserve for the purpose of paying general fund
 9 warrants issued by the district from July 1 to November 30
 10 of the ensuing school fiscal year. Except as provided in
 11 subsections (5) through (7), the amount of the general fund
 12 balance that is earmarked as operating reserve may not
 13 exceed 10% of the final general fund budget for the ensuing
 14 school fiscal year.

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

18 (3) Excess reserves as provided in subsection (5) may
 19 be appropriated to ~~reduce the permissive levy provided by~~
 20 ~~20-9-145 or to:~~

21 (a) reduce the voted levy provided by 20-9-353; or

22 (b) reduce the permissive levy provided by 20-9-145
 23 unless use of Public Law 81-874 money has the effect of
 24 reducing state aid.

25 (4) Any portion of the general fund end-of-the-year

1 fund balance that is not reserved under subsection (2) or
 2 reappropriated under subsection (3) is fund balance
 3 reappropriated and must be used for property tax reduction
 4 as provided in 20-9-141(1)(b)(iii).

5 (5) For fiscal year 1994 and subsequent fiscal years,
 6 the limitation of subsection (1) does not apply when the
 7 amount in excess of the limitation is equal to or less than
 8 one or more of the following:

9 (a) any amount received under Public Law 81-874;

10 (b) the unused balance of any amount received:

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

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

16 (iii) in delinquent taxes from a prior school fiscal
 17 year; or

18 (c) any amount received as a general bonus payment
 19 under 20-6-401.

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

23 (7) For fiscal year 1993, the limitation of subsection
 24 (1) does not apply when the amount in excess of the
 25 limitation is equal to or less than the amounts identified

1 by a school district as one or more of the following:

2 (a) any amount received under Public Law 81-874;

3 (b) the unused balance of any amount received:

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

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

9 (iii) in delinquent taxes from a prior school fiscal
 10 year; or

11 (c) any amount received as a general bonus payment
 12 under 20-6-401.

13 20-9-104. (Effective on occurrence of contingency)
 14 General fund operating reserve. (1) At the end of each
 15 school fiscal year, the trustees of each district shall
 16 designate the portion of the general fund end-of-the-year
 17 fund balance that is to be earmarked as operating reserve
 18 for the purpose of paying general fund warrants issued by
 19 the district from July 1 to November 30 of the ensuing
 20 school fiscal year. Except as provided in subsections (5)
 21 through (7), the amount of the general fund balance that is
 22 earmarked as operating reserve may not exceed 10% of the
 23 final general fund budget for the ensuing school fiscal
 24 year.

25 (2) The amount held as operating reserve may not be

1 used for property tax reduction in the manner permitted by
2 20-9-141(1)(b) for other receipts.

3 (3) Any unreserved fund balance that is equal to or
4 less than the prior year's excess reserves as provided in
5 subsection (5) may be used to ~~reduce--the--permissive--levy~~
6 ~~provided-by-20-9-145-or-to:~~

7 (a) reduce the voted levy provided by 20-9-353; or

8 (b) reduce the permissive levy provided by 20-9-145
9 unless use of Public Law 81-874 money has the effect of
10 reducing state aid.

11 (4) Any portion of the general fund end-of-the-year
12 fund balance that is not reserved under subsection (2) or
13 reappropriated under subsection (3) is fund balance
14 reappropriated and must be used for property tax reduction
15 as provided in 20-9-141(1)(b)(iii).

16 (5) For fiscal year 1994 and subsequent fiscal years,
17 the limitation of subsection (1) does not apply when the
18 amount in excess of the limitation is equal to or less than
19 one or more of the following:

20 (a) any amount received under Public Law 81-874 in the
21 current school fiscal year;

22 (b) the unused balance of any amount received:

23 (i) in settlement of tax payments protested in a prior
24 school fiscal year;

25 (ii) in taxes from a prior school fiscal year as a

1 result of a tax audit by the department of revenue or its
2 agents; and

3 (iii) in delinquent taxes from a prior school fiscal
4 year; or

5 (c) any amount received as a general bonus payment
6 under 20-6-401.

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

10 (7) (a) A district that received Public Law 81-874
11 money in a prior year and that must reduce its operating
12 reserve to 10% pursuant to this section in the next school
13 fiscal year may consider a percentage of the unreserved fund
14 balance to be an excess amount as provided in subsection
15 (5).

16 (b) The percentage of unreserved fund balance that may
17 be considered an excess amount is the greater of:

18 (i) the average of the 3 previous years' ratio of
19 Public Law 81-874 money received to the total district
20 general fund revenue to-Public-Law-81-874-money received; or
21 (ii) the previous year's ratio of Public Law 81-874
22 money received to the total district general fund revenue
23 received."

24 NEW SECTION. Section 2. Superintendent to request
25 opinion. Within 30 days of [the effective date of this

1 section], the superintendent of public instruction shall
2 request an opinion from the U.S. department of education as
3 to whether [section 1] complies with federal law for the use
4 of Public Law 81-874 funds.

5 NEW SECTION. **Section 3.** Effective date -- contingent
6 effective date. (1) [Section 2] is effective on passage and
7 approval.

8 (2) [Section 1] is effective on the date that the
9 superintendent of public instruction certifies to the
10 governor that written approval of [section 1] has been
11 received from the U.S. department of education and applies
12 to the school fiscal year beginning July 1, 1994.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0459, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act limiting the percentage of Public Law 81-874 money in the unreserved fund balance that may be considered an excess amount to the greater of the average of the 3 previous years' ratio of Public Law 81-874 money received to the total district general fund revenue received or the previous year's ratio of Public Law 81-874 money received to the total district general fund revenue received; requiring the state superintendent of public instruction to request an opinion from the U.S. department of education.


ASSUMPTIONS:


1. The PL 81-874 money received each year is the same as FY92.
2. District general fund revenues are the same each year as FY 92.
3. The current year ratio of PL 81-874 revenue received to total general fund revenues received is always higher than the three-year average ratio.
4. School districts will reserve the ending fund balance in the same proportion as the current year ratio of PL 81-874 revenues to total general fund revenues. The remainder will be reappropriated to lower permissive tax levies.
5. The same school districts will be eligible for guaranteed tax base aid in FY 94 and FY 95 as in FY92.
6. The Office of Public Instruction estimates if the districts were required to calculate a percentage of PL 81-874 monies in the general fund balance as provided in this bill, state guaranteed tax base aid payments would decrease by \$379,000 per year.

FISCAL IMPACT: State GTB costs would be reduced \$379,000 per year.

TECHNICAL NOTES:

1. The temporary language in Section 1 and the language "effective on occurrence of contingency" become effective at the same time.
2. References to PL 874 receipts in the "previous school year" should be replaced with "current school year" because the reserve is set at the end of the current school year.

 2-11-93
DAVID LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning


2-11-93
BILL BOHARSKI, PRIMARY SPONSOR DATE
Fiscal Note for HB0459, as introduced
HB459

APPROVED BY COMM. ON EDUCATION
AND CULTURAL RESOURCES

HOUSE BILL NO. 459

INTRODUCED BY BOHARSKI, PECK

A BILL FOR AN ACT ENTITLED: "AN ACT LIMITING THE PERCENTAGE OF PUBLIC LAW 81-874 MONEY IN THE UNRESERVED FUND BALANCE THAT MAY BE CONSIDERED AN EXCESS AMOUNT TO THE GREATER OF THE AVERAGE OF THE 3 CURRENT YEAR AND THE 2 PREVIOUS YEARS' RATIO OF PUBLIC LAW 81-874 MONEY RECEIVED TO THE TOTAL DISTRICT GENERAL FUND REVENUE RECEIVED OR THE PREVIOUS CURRENT YEAR'S RATIO OF PUBLIC LAW 81-874 MONEY RECEIVED TO THE TOTAL DISTRICT GENERAL FUND REVENUE RECEIVED; REQUIRING THE SUPERINTENDENT OF PUBLIC INSTRUCTION TO REQUEST AN OPINION FROM THE U.S. DEPARTMENT OF EDUCATION; AMENDING SECTION 20-9-104, MCA; AND PROVIDING EFFECTIVE DATES."

WHEREAS, it is the intent of the Legislature to comply with Article II, section 4, and Article X, section 1, of the Montana Constitution without violating section 5(d)(1) of the Impact Aid Law, 20 U.S.C. 240(d)(1).

THEREFORE, the Legislature finds that it is reasonable and appropriate to limit the percentage of Public Law 81-874 funds in the unreserved fund balance that may be considered an excess amount if the Superintendent of Public Instruction receives written approval from the U.S. Department of Education.

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

Section 1. 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 (5) ~~through--(7)~~ AND (6), 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 (5) may be appropriated to ~~reduce-the-permissive-levy-provided-by 20-9-145-or-to;~~

(a) reduce the voted levy provided by 20-9-353; or

(b) reduce the permissive levy provided by 20-9-145 unless use of Public Law 81-874 money has the effect of reducing state aid.

(4) Any portion of the general fund end-of-the-year

fund balance 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)(iii).

(5) ~~Per fiscal year 1994 and subsequent fiscal years,~~ the THE limitation of subsection (1) does not apply when the amount in excess of the limitation is equal to or less than one or more of the following:

(a) any amount received under Public Law 81-874;

(b) the unused balance of any amount received;

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

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

(iii) in delinquent taxes from a prior school fiscal year; or

(c) any amount received as a general bonus payment under 20-6-401.

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

~~(7) Per fiscal year 1993, the limitation of subsection (1) does not apply when the amount in excess of the limitation is equal to or less than the amounts identified~~

~~by a school district as one or more of the following:~~

~~(a) any amount received under Public Law 81-874;~~

~~(b) the unused balance of any amount received;~~

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

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

~~(iii) in delinquent taxes from a prior school fiscal year; or~~

~~(c) any amount received as a general bonus payment under 20-6-401;~~

20-9-104. (Effective on occurrence of contingency) 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 (5) through (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

1 used for property tax reduction in the manner permitted by
2 20-9-141(1)(b) for other receipts.

3 (3) Any unreserved fund balance that is equal to or
4 less than the prior year's excess reserves as provided in
5 subsection (5) may be used to ~~reduce-the-permissive-levy~~
6 ~~provided-by-20-9-145-or-to:~~

7 (a) reduce the voted levy provided by 20-9-353; or

8 (b) reduce the permissive levy provided by 20-9-145
9 unless use of Public Law 81-874 money has the effect of
10 reducing state aid.

11 (4) Any portion of the general fund end-of-the-year
12 fund balance that is not reserved under subsection (2) or
13 reappropriated under subsection (3) is fund balance
14 reappropriated and must be used for property tax reduction
15 as provided in 20-9-141(1)(b)(iii).

16 (5) ~~For-fiscal-year-1994-and-subsequent--fiscal--years,~~
17 ~~the~~ THE limitation of subsection (1) does not apply when the
18 amount in excess of the limitation is equal to or less than
19 one or more of the following:

20 (a) any amount received under Public Law 81-874 in the
21 current school fiscal year;

22 (b) the unused balance of any amount received:

23 (i) in settlement of tax payments protested in a prior
24 school fiscal year;

25 (ii) in taxes from a prior school fiscal year as a

1 result of a tax audit by the department of revenue or its
2 agents; and

3 (iii) in delinquent taxes from a prior school fiscal
4 year; or

5 (c) any amount received as a general bonus payment
6 under 20-6-401.

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

10 (7) (a) A district that received Public Law 81-874
11 money in THE CURRENT YEAR OR IN a prior year ~~and--that--must~~
12 ~~reduce-its-operating-reserve-to-10%-pursuant-to-this-section~~
13 ~~in--the-next-school-fiscal-year~~ may consider a percentage of
14 the unreserved fund balance to be an excess amount as
15 provided in subsection (5).

16 (b) The percentage of unreserved fund balance that may
17 be considered an excess amount is the greater of:

18 (i) the average of the 3 CURRENT YEAR AND THE 2
19 previous years' ratio of Public Law 81-874 money received to
20 the total district general fund revenue to-Public-law-81-874
21 money received; or

22 (ii) the previous CURRENT year's ratio of Public Law
23 81-874 money received to the total district general fund
24 revenue received."

25 NEW SECTION. Section 2. Superintendent to request

1 opinion. Within 30 days of [the effective date of this
2 section], the superintendent of public instruction shall
3 request an opinion from the U.S. department of education as
4 to whether [section 1] complies with federal law for the use
5 of Public Law 81-874 funds.

6 NEW SECTION. **Section 3.** Effective date -- contingent
7 effective date. (1) [Section 2] is effective on passage and
8 approval.

9 (2) [Section 1] is effective on the date that the
10 superintendent of public instruction certifies to the
11 governor that written approval of [section 1] has been
12 received from the U.S. department of education and applies
13 to the school fiscal year ~~beginning-july-17-1994~~ ENDING JUNE
14 30, 1993.

-End-