

HOUSE BILL NO. 625

INTRODUCED BY B. MERCER

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR A REDUCTION IN A COUNTY'S ENTITLEMENT SHARE IF THE COUNTY FAILS TO COMPLY WITH MANDATORY CHILD ABUSE OR NEGLECT REPORTING REQUIREMENTS; REQUIRING THAT THE ATTORNEY GENERAL REPORT NONCOMPLIANCE TO THE DEPARTMENT OF REVENUE; AND AMENDING SECTIONS 15-1-121 AND 41-3-210, MCA."

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

**Section 1.** Section 15-1-121, MCA, is amended to read:

**"15-1-121. Entitlement share payment -- purpose -- appropriation.** (1) As described in 15-1-120(3), each local government is entitled to an annual amount that is the replacement for revenue received by local governments for diminishment of property tax base and various earmarked fees and other revenue that, pursuant to Chapter 574, Laws of 2001, amended by section 4, Chapter 13, Special Laws of August 2002, and later enactments, were consolidated to provide aggregation of certain reimbursements, fees, tax collections, and other revenue in the state treasury with each local government's share. The reimbursement under this section is provided by direct payment from the state treasury rather than the ad hoc system that offset certain state payments with local government collections due the state and reimbursements made by percentage splits, with a local government remitting a portion of collections to the state, retaining a portion, and in some cases sending a portion to other local governments.

(2) The sources of dedicated revenue that were relinquished by local governments in exchange for an entitlement share of the state general fund were:

(a) personal property tax reimbursements pursuant to sections 167(1) through (5) and 169(6), Chapter 584, Laws of 1999;

(b) vehicle, boat, and aircraft taxes and fees pursuant to:

(i) Title 23, chapter 2, part 5;

# Amendment - 1st Reading-white - Requested by: Bill Mercer - (H) Judiciary

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Drafter: Rachel Weiss,

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Missoula	Missoula - 1-1C	225,251
Missoula	Missoula - 4-1C	30,009

(9) The estimated fiscal year entitlement share pool and any subsequent entitlement share pool for local governments do not include revenue received from tax increment financing districts.

(10) When there has been an underpayment of a local government's share of the entitlement share pool, the department shall distribute the difference between the underpayment and the correct amount of the entitlement share. When there has been an overpayment of a local government's entitlement share, the local government shall remit the overpaid amount to the department.

(11) A local government may appeal the department's estimation of the base component, the entitlement share growth rate, or a local government's allocation of the entitlement share pool, according to the uniform dispute review procedure in 15-1-211.

(12) (a) Except as provided in 2-7-517, a payment required pursuant to this section may not be offset by a debt owed to a state agency by a local government in accordance with Title 17, chapter 4, part 1.

(b) A payment required pursuant to this section must be withheld if a local government:

(i) fails to meet a deadline established in 2-7-503(1), 7-6-611(2), 7-6-4024(3), or 7-6-4036(1); and

(ii) fails to remit any amounts collected on behalf of the state as required by 15-1-504 or as otherwise required by law within 45 days of the end of a month.

(c) A payment required pursuant to this section may be withheld if, for more than 90 days, a local government fails to:

(i) file a financial report required by 15-1-504;

(ii) remit any amounts collected on behalf of the state as required by 15-1-504; or

(iii) remit any other amounts owed to the state or another taxing jurisdiction.

(d) If the department of revenue receives notice from the attorney general that a county has failed to comply with the reporting requirements of 41-3-210(3), a payment required pursuant to this section must be reduced by 2%.

**Section 2.** Section 41-3-210, MCA, is amended to read:

**"41-3-210. County attorney duties -- certification -- retention of records -- reports to attorney**

**general and legislature -- attorney general report.** (1) (a) The county attorney shall gather all case notes, correspondence, evaluations, interviews, and other investigative materials pertaining to each report from the department or investigation by law enforcement of sexual abuse or sexual exploitation of a child made within the county when the alleged perpetrator of the sexual abuse or sexual exploitation is 12 years of age or older. After a report is made or an investigation is commenced, the following individuals or entities shall provide to the county attorney all case notes, correspondence, evaluations, interviews, and other investigative materials related to the report or investigation:

(i) the department;

(ii) state and local law enforcement; and

(iii) all members of a county or regional interdisciplinary child information and school safety team established under 52-2-211.

(b) The duty to provide records to the county attorney under subsection (1)(a) remains throughout the course of an investigation, an abuse and neglect proceeding conducted pursuant to this part, or the prosecution of a case involving the sexual abuse of a child or sexual exploitation of a child.

(c) Upon receipt of a report from the department, as required in 41-3-202, that includes an allegation of sexual abuse of a child or sexual exploitation of a child, the county attorney shall certify in writing to the person who initially reported the information that the county attorney received the report. The certification must include the date the report was received and the age and gender of the alleged victim. If the report was anonymous, the county attorney shall provide the certification to the department. If the report was made to the county attorney by a law enforcement officer, the county attorney is not required to provide the certification.

(2) The county attorney shall retain records relating to the report or investigation, including the certification, case notes, correspondence, evaluations, videotapes, and interviews, for 25 years.

(3) On or before January 1 and June 1 of each year, each county attorney shall report to the attorney general. The report to the attorney general must include, for each report from the department or investigation by law enforcement:

(a) a unique case identifier;

(b) the date that the initial report or allegation was received by the county attorney;

(c) the date any charges were filed;

(d) the date of any decision to decline to prosecute;

(e) if charges are filed against a defendant, whether a conviction was obtained and, if a conviction was obtained, the sentence imposed by the court; and

(f) the number of certifications made as required by subsection (1)(c), including the number of certifications made to the department.

(4) (a) The attorney general shall create a form for county attorneys to use when submitting reports required by subsection (3). The form must allow collection of the information required by subsection (3) on an aggregated, cumulative basis for a 5-year period until charges are filed or a decision is made to decline to prosecute.

(b) The information provided by a county attorney on the forms is confidential criminal justice information as defined in 44-5-103.

(5) If a county attorney fails to report the information required by subsection (3), the attorney general shall provide notice to the county attorney and the county commissioners of that county within 10 days of the missed deadline. If the county attorney does not provide the required information within 30 days of the attorney general's notice, the attorney general shall report as provided in subsection (6)(b).

~~(5)(6)~~ The attorney general shall report to:

(a) the law and justice interim committee each year by August 15 and as provided in 5-11-210. The reports must provide:

~~(a)(i)~~ aggregated information regarding the status of the cases reported in subsection (3) by the county attorneys, except for those cases pending review of the county attorney or uncharged cases still under investigation, including data on the total number of cases reported;

~~(b)(ii)~~ the number of cases declined for prosecution;

~~(c)(iii)~~ the number of cases charged;

~~(d)(iv)~~ any action in the past fiscal year that the attorney general took under the authority of 2-15-501 based on the reports submitted as required in subsection (3). A report made pursuant to this subsection ~~(5)(d)~~ ~~(a)(iv)-(6)(a)(iv)~~ may not include the name of the county.

~~(e)(v)~~ after consideration of the information provided by the department pursuant to 41-3-211, any county attorney who failed to provide a complete report required by subsection (3); and

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1 (b) the department of revenue each year by August 15. The report must identify, after  
2 consideration of the information provided by the department pursuant to 41-3-211, any county that failed to  
3 comply with the reporting requirements of subsection (3) of this section by July 1 of the reporting year."

4 - END -

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