

1 SENATE BILL NO. 321

2 INTRODUCED BY B. HOVEN

3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING TARGETED ECONOMIC DEVELOPMENT DISTRICT
 5 LAWS; PROVIDING THAT THE TAX INCREMENT THAT IS NOT UTILIZED TO PAY COSTS OR BONDS BY
 6 A TARGETED ECONOMIC DISTRICT MUST BE REMITTED TO TAXING JURISDICTIONS IN THE SAME
 7 MANNER AS IT WOULD HAVE BEEN DISTRIBUTED WITHOUT TAX INCREMENT FINANCING; AMENDING
 8 SECTIONS 7-15-4286, 7-15-4291, 20-9-104, AND 20-9-141, MCA; AND PROVIDING AN APPLICABILITY
 9 DATE."

10
 11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12
 13 **Section 1.** Section 7-15-4286, MCA, is amended to read:
 14 **"7-15-4286. Procedure to determine and disburse tax increment -- mandatory remittance of**
 15 **unused portion of tax increment for targeted economic development district.** (1) Mill rates of taxing bodies

16 for taxes levied after the effective date of the tax increment provision must be calculated on the basis of the sum
 17 of the taxable value, as shown by the last equalized assessment roll, of all taxable property located outside the
 18 urban renewal area or targeted economic development district and the base taxable value of all taxable property
 19 located within the area or district. The mill rate determined must be levied against the sum of the actual taxable
 20 value of all taxable property located within as well as outside the area or district.

21 (2) (a) Except as provided in ~~subsection~~ subsections (2)(b) and (3), the tax increment, if any, received
 22 in each year from the levy of the combined mill rates of all the affected taxing bodies against the incremental
 23 taxable value within the area or district must be paid into a special fund held by the treasurer of the local
 24 government and used as provided in 7-15-4282 through 7-15-4294.

25 (b) The combined mill rates used to calculate the tax increment may not include mill rates for:

26 (i) the university system mills levied pursuant to ~~15-10-108~~ 15-10-109 and 20-25-439; and

27 (ii) a new mill levy approved by voters as provided in 15-10-425 after the adoption of a tax increment
 28 provision.

29 (3) Subject to 7-15-4287, if a targeted economic development district with a tax increment provision
 30 adopted after [the effective date of this act] has sufficient revenue from the levy for the payment of the costs listed

1 in 7-15-4288 or pledged to the payment of the principal of premiums, if any, and interest on the bonds referred
 2 to in 7-15-4289, the excess revenue must be:

3 (a) remitted to each taxing jurisdiction for which the mill rates are included in the calculation of the tax
 4 increment as provided in subsections (1) and (2); and

5 (b) proportional to the taxing jurisdiction's share of the total mills levied.

6 (4) Any portion of the excess increment remitted to a school district pursuant to subsection (3) is subject
 7 to the provisions of 7-15-4291(2) through (5).

8 ~~(e)(5)~~ The balance of the taxes collected in each year must be paid to each of the taxing bodies as
 9 otherwise provided by law."

10

11 **Section 2.** Section 7-15-4291, MCA, is amended to read:

12 **"7-15-4291. Agreements Voluntary agreement to remit unused portion of tax increments**
 13 **contained in urban renewal plan.** (1) Subject to subsections (2) through (5), a local government with a tax
 14 increment provision contained in an urban renewal plan may enter into an agreement to remit any portion of the
 15 annual tax increment not currently required for the payment of the costs listed in 7-15-4288 or pledged to the
 16 payment of the principal of premiums, if any, and interest on the bonds referred to in 7-15-4289. The remittance
 17 agreement must:

18 (a) provide for remittance to each taxing jurisdiction for which the mill rates are included in the calculation
 19 of the tax increment as provided in 7-15-4286(1) and (2); and

20 (b) require that the remittance be proportional to the taxing jurisdiction's share of the total mills levied.

21 (2) Any portion of the increment remitted to a school district pursuant to 7-15-4286(3) or this section:

22 (a) must be used to reduce property taxes or designated as operating reserve pursuant to 20-9-104 for
 23 the fiscal year following the fiscal year in which the remittance was received;

24 (b) must be deposited in one or more of the following funds that has a mill levy for the current school
 25 year, subject to the provisions of Title 20 and this section:

26 (i) general fund;

27 (ii) bus depreciation reserve fund;

28 (iii) debt service fund;

29 (iv) building reserve fund;

30 (v) technology acquisition and depreciation fund; and

1 (c) may not be transferred to any fund.

2 (3) The remittance will not reduce the levy authority of the school district receiving the remittance in years
3 subsequent to the time period established by subsection (2)(a).

4 (4) Any portion of the increment remitted to a school district and deposited into the general fund must
5 be designated as operating reserve pursuant to 20-9-104 or used to reduce the BASE budget levy or the
6 over-BASE budget levy in the following fiscal year.

7 (5) If a school district does not utilize the remitted portion to reduce property taxes or designate the
8 remittance as operating reserve within the time period established by subsection (2)(a), the unused portion must
9 be remitted as follows:

10 (a) if the area or district is in existence at the time of the remittance, the portion is distributed to the
11 special fund in 7-15-4286(2)(a) and used as provided in 7-15-4282 through 7-15-4294; or

12 (b) if the area or district is not in existence at the time of the remittance, the portion is distributed pursuant
13 to 7-15-4292(2)(a)."

14

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

16 **"20-9-104. (Temporary) General fund operating reserve.** (1) At the end of each school fiscal year, the
17 trustees of each district shall designate the portion of the general fund end-of-the-year fund balance that is to be
18 earmarked as operating reserve for the purpose of paying general fund warrants issued by the district from July
19 1 to November 30 of the ensuing school fiscal year. Except as provided in subsections (6) and (7), the amount
20 of the general fund balance that is earmarked as operating reserve may not exceed 10% of the final general fund
21 budget for the ensuing school fiscal year.

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

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

26 (4) Except as provided in subsection (9), any portion of the general fund end-of-the-year fund balance,
27 including any portion attributable to a tax increment remitted under 7-15-4286(3) or 7-15-4291, that is not
28 reserved under subsection (2) or reappropriated under subsection (3) is fund balance reappropriated and must
29 be used for property tax reduction as provided in 20-9-141(1)(b) up to an amount not exceeding 15% of a school
30 district's maximum general fund budget.

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

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

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

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

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

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

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

12 (7) The limitation of subsection (1) does not apply when the amount earmarked as operating reserve is
13 \$10,000 or less.

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

16 (9) Any portion of a tax increment remitted under 7-15-4286(3) or 7-15-4291 and deposited in the
17 district's general fund is not subject to the:

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

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

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

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

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

30 (4) Any portion of the general fund end-of-the-year fund balance that is not reserved under subsection

1 (2) or reappropriated under subsection (3), including any portion attributable to a tax increment remitted under
 2 7-15-4286(3) or 7-15-4291, is fund balance reappropriated and must be used for property tax reduction as
 3 provided in 20-9-141(1)(b).

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

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

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

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

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

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

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

15 (7) The limitation of subsection (1) does not apply when the amount earmarked as operating reserve is
 16 \$10,000 or less.

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

19 (9) Any portion of a tax increment remitted under 7-15-4286(3) or 7-15-4291 and deposited in the
 20 district's general fund is not subject to the provisions of subsection (5)."

21

22 **Section 4.** Section 20-9-141, MCA, is amended to read:

23 **"20-9-141. Computation of general fund net levy requirement by county superintendent.** (1) The
 24 county superintendent shall compute the levy requirement for each district's general fund on the basis of the
 25 following procedure:

26 (a) Determine the funding required for the district's final general fund budget less the sum of direct state
 27 aid and the special education allowable cost payment for the district by totaling:

28 (i) the district's nonisolated school BASE budget requirement to be met by a district levy as provided in
 29 20-9-303; and

30 (ii) any general fund budget amount adopted by the trustees of the district under the provisions of

1 20-9-308 and 20-9-353.

2 (b) Determine the money available for the reduction of the property tax on the district for the general fund
3 by totaling:

4 (i) the general fund balance reappropriated, as established under the provisions of 20-9-104;

5 (ii) amounts received in the last fiscal year for which revenue reporting was required for each of the
6 following:

7 (A) interest earned by the investment of general fund cash in accordance with the provisions of
8 20-9-213(4); and

9 (B) any other revenue received during the school fiscal year that may be used to finance the general
10 fund, excluding any guaranteed tax base aid;

11 (iii) anticipated oil and natural gas production taxes;

12 (iv) pursuant to subsection (4), anticipated revenue from coal gross proceeds under 15-23-703;

13 (v) if applicable, a coal-fired generating unit closure mitigation block grant as provided in 20-9-638; and

14 (vi) any portion of the increment remitted to a school district under 7-15-4286(3) or 7-15-4291 used to
15 reduce the BASE levy budget.

16 (c) Notwithstanding the provisions of subsection (2), subtract the money available to reduce the property
17 tax required to finance the general fund that has been determined in subsection (1)(b) from any general fund
18 budget amount adopted by the trustees of the district, up to the BASE budget amount, to determine the general
19 fund BASE budget levy requirement.

20 (d) Determine the sum of:

21 (i) any amount remaining after the determination in subsection (1)(c);

22 (ii) any portion of the increment remitted to a school district under 7-15-4286(3) or 7-15-4291 used to
23 reduce the over-BASE budget levy; and

24 (iii) any tuition payments for out-of-district pupils to be received under the provisions of 20-5-320 through
25 20-5-324, except the amount of tuition received for a pupil who is a child with a disability in excess of the amount
26 received for a pupil without disabilities, as calculated under 20-5-323(2).

27 (e) Subtract the amount determined in subsection (1)(d) from any additional funding requirement to be
28 met by an over-BASE budget amount, a district levy as provided in 20-9-303, and any additional financing as
29 provided in 20-9-353 to determine any additional general fund levy requirements.

30 (2) The county superintendent shall calculate the number of mills to be levied on the taxable property

1 in the district to finance the general fund levy requirement for any amount that does not exceed the BASE budget
2 amount for the district by dividing the amount determined in subsection (1)(c) by the sum of:

3 (a) the amount of guaranteed tax base aid that the district will receive for each mill levied, as certified
4 by the superintendent of public instruction; and

5 (b) the current total taxable valuation of the district, as certified by the department of revenue under
6 15-10-202, divided by 1,000.

7 (3) The net general fund levy requirement determined in subsections (1)(c) and (1)(d) must be reported
8 to the county commissioners by the later of the first Tuesday in September or within 30 calendar days after
9 receiving certified taxable values by the county superintendent as the general fund net levy requirement for the
10 district, and a levy must be set by the county commissioners in accordance with 20-9-142.

11 (4) For each school district, the department of revenue shall calculate and report to the county
12 superintendent the amount of revenue anticipated for the ensuing fiscal year from revenue from coal gross
13 proceeds under 15-23-703."

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15 NEW SECTION. **Section 5. Saving clause.** [This act] does not affect rights and duties that matured,
16 penalties that were incurred, or proceedings that were begun before [the effective date of this act].

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18 NEW SECTION. **Section 6. Applicability.** [This act] applies to tax increment provisions contained in
19 targeted economic development district comprehensive development plans adopted on or after [the effective date
20 of this act].

21 - END -