

SENATE BILL NO. 321

INTRODUCED BY B. HOVEN

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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 THAT HAS ISSUED BONDS MUST BE REMITTED TO TAXING  
7 JURISDICTIONS IN THE SAME MANNER AS IT WOULD HAVE BEEN DISTRIBUTED WITHOUT TAX  
8 INCREMENT FINANCING; AMENDING SECTIONS 7-15-4286, 7-15-4291, 20-9-104, AND 20-9-141, MCA; AND  
9 PROVIDING AN APPLICABILITY DATE."

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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 EXCESS portion of tax increment for targeted economic development district.** (1) Mill rates of taxing  
16 bodies for taxes levied after the effective date of the tax increment provision must be calculated on the basis of  
17 the sum of the taxable value, as shown by the last equalized assessment roll, of all taxable property located  
18 outside the urban renewal area or targeted economic development district and the base taxable value of all  
19 taxable property located within the area or district. The mill rate determined must be levied against the sum of  
20 the actual taxable 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) (A) Subject to 7-15-4287 AND SUBSECTION (3)(B) OF THIS SECTION, if a targeted economic development  
30 district with a tax increment provision adopted after [the effective date of this act] has sufficient revenue from the

1 levy MAY EXPEND OR ACCUMULATE TAX INCREMENT for:

2 (I) the payment of the costs listed in 7-15-4288;

3 (II) THE COST OF ISSUING BONDS; OR

4 (III) ANY PLEDGE ~~or pledged~~ to the payment of the principal of ~~premiums~~ ANY PREMIUM, if any, and interest  
 5 on the bonds referred ISSUED PURSUANT to in 7-15-4289, the excess revenue AND SUFFICIENT TO FUND ANY RESERVE  
 6 FUND IN RESPECT OF THE BONDS IN AN AMOUNT NOT TO EXCEED 125% OF THE MAXIMUM PRINCIPAL AND INTEREST ON  
 7 THE BONDS IN ANY YEAR DURING THE TERM OF THE BONDS.

8 (B) ANY EXCESS TAX INCREMENT REMAINING AFTER THE USE OR ACCUMULATION OF FUNDS AS SET FORTH IN  
 9 SUBSECTION (3)(A) must be:

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

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

13 (C) A TARGETED ECONOMIC DEVELOPMENT DISTRICT IS NOT SUBJECT TO THE PROVISIONS OF THIS SUBSECTION  
 14 (3) IF BONDS HAVE NOT BEEN ISSUED TO FINANCE THE PROJECT.

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

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

19

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

21 **"7-15-4291. Agreements Voluntary agreement to remit unused portion of URBAN RENEWAL DISTRICT**

22 **tax increments contained in urban renewal plan.** (1) Subject to subsections (2) through (5), a local government

23 with AN URBAN RENEWAL DISTRICT CONTAINING a tax increment provision ~~contained in an urban renewal plan~~ may

24 enter into an agreement to remit any portion of the annual tax increment not currently required for the payment

25 of the costs listed in 7-15-4288 or pledged to the payment of the principal of premiums, if any, and interest on the

26 bonds referred to in 7-15-4289. The remittance agreement must:

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

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

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

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

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

5 (i) general fund;

6 (ii) bus depreciation reserve fund;

7 (iii) debt service fund;

8 (iv) building reserve fund;

9 (v) technology acquisition and depreciation fund; and

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

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

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

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

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

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

23

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

25 **"20-9-104. (Temporary) General fund operating reserve.** (1) At the end of each school fiscal year, the  
26 trustees of each district shall designate the portion of the general fund end-of-the-year fund balance that is to be  
27 earmarked as operating reserve for the purpose of paying general fund warrants issued by the district from July  
28 1 to November 30 of the ensuing school fiscal year. Except as provided in subsections (6) and (7), the amount  
29 of the general fund balance that is earmarked as operating reserve may not exceed 10% of the final general fund  
30 budget for the ensuing school fiscal year.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

29 **20-9-104. (Effective July 1, 2020) General fund operating reserve.** (1) At the end of each school fiscal  
30 year, the trustees of each district shall designate the portion of the general fund end-of-the-year fund balance that

1 is to be earmarked as operating reserve for the purpose of paying general fund warrants issued by the district  
2 from July 1 to November 30 of the ensuing school fiscal year. Except as provided in subsections (6) and (7), the  
3 amount of the general fund balance that is earmarked as operating reserve may not exceed 10% of the final  
4 general fund budget for the ensuing school fiscal year.

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

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

9 (4) Any portion of the general fund end-of-the-year fund balance that is not reserved under subsection  
10 (2) or reappropriated under subsection (3), including any portion attributable to a tax increment remitted under  
11 7-15-4286(3) or 7-15-4291, is fund balance reappropriated and must be used for property tax reduction as  
12 provided in 20-9-141(1)(b).

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

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

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

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

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

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

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

24 (7) The limitation of subsection (1) does not apply when the amount earmarked as operating reserve is  
25 \$10,000 or less.

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

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

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

2           **"20-9-141. Computation of general fund net levy requirement by county superintendent.** (1) The  
3 county superintendent shall compute the levy requirement for each district's general fund on the basis of the  
4 following procedure:

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

7           (i) the district's nonisolated school BASE budget requirement to be met by a district levy as provided in  
8 20-9-303; and

9           (ii) any general fund budget amount adopted by the trustees of the district under the provisions of  
10 20-9-308 and 20-9-353.

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

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

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

16           (A) interest earned by the investment of general fund cash in accordance with the provisions of  
17 20-9-213(4); and

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

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

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

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

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

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

29           (d) Determine the sum of:

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

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

3 (iii) any tuition payments for out-of-district pupils to be received under the provisions of 20-5-320 through  
4 20-5-324, except the amount of tuition received for a pupil who is a child with a disability in excess of the amount  
5 received for a pupil without disabilities, as calculated under 20-5-323(2).

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

9 (2) The county superintendent shall calculate the number of mills to be levied on the taxable property  
10 in the district to finance the general fund levy requirement for any amount that does not exceed the BASE budget  
11 amount for the district by dividing the amount determined in subsection (1)(c) by the sum of:

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

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

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

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

23  
24 **NEW SECTION. Section 5. Saving clause.** [This act] does not affect rights and duties that matured,  
25 penalties that were incurred, or proceedings that were begun before [the effective date of this act].

26  
27 **NEW SECTION. Section 6. Applicability.** [This act] applies to ~~tax increment provisions contained in~~  
28 targeted economic development ~~district comprehensive development plans adopted~~ DISTRICTS WITH A TAX  
29 INCREMENT PROVISION CREATED on or after [the effective date of this act].

30 - END -