

1 SENATE BILL NO. 392

2 INTRODUCED BY K. GILLAN

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE LAWS RELATED TO THE TAXATION OF CLASS
5 EIGHT BUSINESS EQUIPMENT; INCREASING THE CLASS EIGHT BUSINESS EQUIPMENT AGGREGATE
6 TAX EXEMPTION AMOUNTS; PROVIDING REIMBURSEMENTS TO LOCAL TAXING JURISDICTIONS FOR
7 THE LOSS OF TAXABLE VALUE IN TAX YEAR 2012; PROVIDING A GROWTH PROXY FOR TAXABLE VALUE
8 RELATED TO COUNTY CLASSIFICATION AND SCHOOL DISTRICT BONDING DEBT LIMITS; USING THE
9 GROWTH PROXY FOR MARKET VALUE RELATED TO OTHER BONDING DEBT LIMITS; PROHIBITING
10 CLASS EIGHT PROPERTY FROM BEING SEPARATED INTO DIFFERENT BUSINESS ENTITIES FOR
11 DETERMINING WHETHER THE AGGREGATE EXEMPTION AMOUNT IS EXCEEDED; LIMITING
12 DISCLOSURE OF TAX IDENTIFICATION NUMBERS OBTAINED IN ADMINISTERING THE EXEMPTION
13 THRESHOLD; PROVIDING THAT THE INCREASE IN THE AGGREGATE EXEMPTION OF CLASS EIGHT
14 PROPERTY DOES NOT OCCUR IF AN APPROPRIATION IS NOT ENACTED; AMENDING SECTIONS
15 7-1-2111, 15-6-138, AND 20-9-406, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY
16 DATE."

17
18 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

19
20 NEW SECTION. **Section 1. Business equipment reimbursement payments -- growth proxy.** (1)

21 (a) The department shall, by March 1, 2012, estimate for each local taxing jurisdiction within a county the amount
22 that would reimburse the local taxing jurisdiction for loss of taxable value in tax year 2012 from increasing the
23 aggregate exemption amount provided in 15-6-138(4)(b)(i). The reimbursement amount must be determined for
24 each local taxing jurisdiction that levied mills or for which mills were levied on the taxable value of property
25 described in 15-6-138 in the taxing jurisdiction in tax year 2011. Reimbursement for a tax increment financing
26 district must be determined by applying the mills to the incremental taxable value of the district.

27 (b) Except as provided in subsection (2)(b), the amount determined under subsection (1)(a) is the
28 reimbursable amount for each local taxing jurisdiction. The department shall notify each county treasurer of the
29 amounts determined under subsection (1)(a) or (2)(b).

30 (2) (a) Except as provided in subsection (2)(b), the department shall remit the amounts determined under

1 subsection (1)(a) for distribution as provided in subsection (3)(a).

2 (b) If the total reimbursement amounts determined under subsection (1)(a) exceed the total of the
3 amounts specified in subsection (6)(a) and (6)(b), the department shall determine the proportional share of actual
4 total reimbursement amounts for each taxing jurisdiction in a county for distribution as provided in subsection
5 (3)(b).

6 (c) The amounts available for distribution under subsection (3)(a) or (3)(b) must be paid to county
7 treasurers according to the following schedule:

8 (i) April 1, 2012, 44% of the reimbursement amount or \$6,900,000, whichever is smaller;

9 (ii) November 1, 2012, 28% of the reimbursement amount or \$4,400,000, whichever is smaller; and

10 (iii) May 1, 2013, 28% of the reimbursement amount or \$4,400,000, which ever is smaller.

11 (3) (a) For the distributions referred to in subsection (2)(a), the county treasurer shall distribute the
12 amount received to each local taxing jurisdiction in the same proportion the department used to determine the
13 reimbursement amount for each local taxing jurisdiction.

14 (b) For a distribution referred to in subsection (2)(b), the county treasurer shall distribute the amount
15 received to each local taxing jurisdiction in the same relative proportion of the reimbursement amount it would
16 have received as determined in subsection (1)(a).

17 (4) A county or consolidated city-county government may appeal the department's reimbursement
18 determination within 30 days after the county treasurer receives notice as provided in subsection (1)(b). If a local
19 taxing jurisdiction within a county or consolidated city-county government objects to the department's
20 determination, the county or consolidated city-county government shall appeal on behalf of the local taxing
21 jurisdiction.

22 (5) (a) The department shall, by June 1, 2012, calculate a growth proxy for each local taxing jurisdiction
23 by dividing the actual taxable value of class eight property in tax year 2011 by the taxable value of class eight
24 property in tax year 2011 as if 15-6-138(4)(b)(i) had been in effect in tax year 2011 and subtracting 1 from that
25 amount and rounding the result to three decimal places. The department shall by rule publish the growth proxy
26 for each local government and school district.

27 (b) The growth proxy for each county must be used as provided in 7-1-2111 for the purpose of
28 determining county classification.

29 (c) The growth proxy for each school district must be used as provided in 20-9-406 for the purpose of
30 determining school district debt limits.

1 (d) In determining the debt limits and other bonding provisions under 2-9-211, 7-3-1321, 7-7-107,
2 7-7-2101, 7-7-2301, 7-7-4201, 7-13-4103, 7-14-236, 7-14-2520, 7-14-2524, 7-16-2327, 7-16-4104, 7-31-107,
3 7-33-2109, 7-33-2404, 7-34-2131, 19-18-503, 39-71-403, and 85-9-406, the market value of class eight property
4 of the taxing entity multiplied by the growth proxy must be treated as assessed value under 15-8-111.

5 (6) It is the intent of the legislature that the following amounts be made available from the general fund
6 to the department for reimbursements under this section:

7 (a) \$6.9 million in fiscal year 2012 for payment to county treasurers as provided in subsection (2)(c)(i);

8 (b) \$8.8 million in fiscal year 2013 for payment to county treasurers as provided in subsections (2)(c)(ii)
9 and (2)(c)(iii).

10 (7) (a) For purposes of this section, "local taxing jurisdiction" means a county, a consolidated city-county
11 government, an incorporated city or town, a tax increment financing district if in existence as of January 1, 2012,
12 an elementary school district, a high school district, a local community college district, or any special district,
13 authority, or other political subdivision of the state that levied mills or for which mills were levied in 2011.

14 (b) The term includes countywide mills levied for school retirement under 20-9-501 and county
15 transportation reimbursement under 20-10-146. The term does not include county or state school equalization
16 levies or the university levy provided for in 15-10-108, 20-9-331, 20-9-333, 20-9-360, or 20-25-439.

17

18 **Section 2.** Section 7-1-2111, MCA, is amended to read:

19 **"7-1-2111. Classification of counties.** (1) For the purpose of regulating the compensation and salaries
20 of all county officers not otherwise provided for and for fixing the penalties of officers' bonds, the counties of this
21 state must be classified according to the taxable valuation of the property in the counties upon which the tax levy
22 is made as follows:

23 (a) first class--all counties having a taxable valuation of \$50 million or more;

24 (b) second class--all counties having a taxable valuation of \$30 million or more and less than \$50 million;

25 (c) third class--all counties having a taxable valuation of \$20 million or more and less than \$30 million;

26 (d) fourth class--all counties having a taxable valuation of \$15 million or more and less than \$20 million;

27 (e) fifth class--all counties having a taxable valuation of \$10 million or more and less than \$15 million;

28 (f) sixth class--all counties having a taxable valuation of \$5 million or more and less than \$10 million;

29 (g) seventh class--all counties having a taxable valuation of less than \$5 million.

30 (2) As used in this section, "taxable valuation" means the taxable value of taxable property in the county

1 as of the time of determination plus:

2 (a) that portion of the taxable value of the county on December 31, 1981, attributable to automobiles and
3 trucks having a rated capacity of three-quarters of a ton or less;

4 (b) that portion of the taxable value of the county on December 31, 1989, attributable to automobiles and
5 trucks having a manufacturer's rated capacity of more than three-quarters of a ton but less than or equal to 1 ton;

6 (c) that portion of the taxable value of the county on December 31, 1997, attributable to buses, trucks
7 having a manufacturer's rated capacity of more than 1 ton, and truck tractors;

8 (d) that portion of the taxable value of the county on December 31, 1997, attributable to trailers, pole
9 trailers, and semitrailers with a declared weight of less than 26,000 pounds;

10 (e) the value provided by the department of revenue under 15-36-332(7);

11 (f) 50% of the taxable value of the county on December 31, 1999, attributable to telecommunications
12 property under 15-6-141;

13 (g) 50% of the taxable value in the county on December 31, 1999, attributable to electrical generation
14 property under 15-6-141;

15 (h) the value provided by the department of revenue under 15-24-3001;

16 (i) 6% of the taxable value of the county on January 1 of each tax year;

17 (j) 45% of the contract sales price of the gross proceeds of coal in the county as provided in 15-23-703
18 and as reported under 15-23-702; ~~and~~

19 (k) 33 1/3% of the value of bentonite produced during the previous year as provided in 15-39-110(12)
20 and as reported under 15-39-101; and

21 (l) the taxable value of property under 15-6-138 multiplied by the growth proxy determined under [section
22 1(5)]."

23

24 **Section 3.** Section 15-6-138, MCA, is amended to read:

25 **"15-6-138. Class eight property -- description -- taxable percentage.** (1) Class eight property
26 includes:

27 (a) all agricultural implements and equipment that are not exempt under 15-6-207 or 15-6-220;

28 (b) all mining machinery, fixtures, equipment, tools that are not exempt under 15-6-219, and supplies
29 except those included in class five under 15-6-135;

30 (c) for oil and gas production, all:

- 1 (i) machinery;
- 2 (ii) fixtures;
- 3 (iii) equipment, including flow lines and gathering lines, pumping units, oil field storage tanks, water
4 storage tanks, water disposal injection pumps, gas compressor and dehydrator units, communication towers, gas
5 metering shacks, treaters, gas separators, water flood units, and gas boosters, together with equipment that is
6 skidable, portable, or movable;
- 7 (iv) tools that are not exempt under 15-6-219; and
- 8 (v) supplies except those included in class five;
- 9 (d) all manufacturing machinery, fixtures, equipment, tools, except a certain value of hand-held tools and
10 personal property related to space vehicles, ethanol manufacturing, and industrial dairies and milk processors
11 as provided in 15-6-220, and supplies except those included in class five;
- 12 (e) all goods and equipment that are intended for rent or lease, except goods and equipment that are
13 specifically included and taxed in another class or that are rented under a purchase incentive rental program as
14 defined in 15-6-202(4);
- 15 (f) special mobile equipment as defined in 61-1-101;
- 16 (g) furniture, fixtures, and equipment, except that specifically included in another class, used in
17 commercial establishments as defined in this section;
- 18 (h) x-ray and medical and dental equipment;
- 19 (i) citizens' band radios and mobile telephones;
- 20 (j) radio and television broadcasting and transmitting equipment;
- 21 (k) cable television systems;
- 22 (l) coal and ore haulers;
- 23 (m) theater projectors and sound equipment; and
- 24 (n) all other property that is not included in any other class in this part, except that property that is subject
25 to a fee in lieu of a property tax.
- 26 (2) As used in this section, the following definitions apply:
- 27 (a) "Coal and ore haulers" means nonhighway vehicles that exceed 18,000 pounds an axle and that are
28 primarily designed and used to transport coal, ore, or other earthen material in a mining or quarrying environment.
- 29 (b) "Commercial establishment" includes any hotel, motel, office, petroleum marketing station, or service,
30 wholesale, retail, or food-handling business.

1 (c) "Flow lines and gathering lines" means pipelines used to transport all or part of the oil or gas
2 production from an oil or gas well to an interconnection with a common carrier pipeline as defined in 69-13-101,
3 a pipeline carrier as defined in 49 U.S.C. 15102(2), or a rate-regulated natural gas transmission or oil
4 transmission pipeline regulated by the public service commission or the federal energy regulatory commission.

5 (3) Except as provided in 15-24-1402 and ~~15-24-2101~~ 15-24-2102, class eight property is taxed at 3%
6 of its market value.

7 (4) ~~(a) The~~ For tax year 2011, the class eight property of a person or business entity that owns an
8 aggregate of \$20,000 or less in market value of class eight property is exempt from taxation.

9 (b) Subject to subsection (4)(c), the following exemptions apply to class eight property:

10 (i) For tax year 2012, the class eight property of an individual or business entity that owns class eight
11 property with an aggregate market value of \$200,000 or less is exempt from taxation.

12 (ii) For tax year 2013, the class eight property of an individual or business entity that owns class eight
13 property with an aggregate market value of \$500,000 or less is exempt from taxation.

14 (iii) For tax years beginning after December 31, 2013, the class eight property of an individual or business
15 entity that owns class eight property with an aggregate market value of \$1 million or less is exempt from taxation.

16 (c) (i) Multiple exemptions may not be claimed by multiple entities that are functionally a single business.
17 For the purposes of this subsection (4)(c), the department shall, by rule, establish reporting requirements that will
18 prevent multiple business entities from being formed or used to obtain multiple exemption thresholds for what are
19 functionally single businesses. The rules must require a unique taxpayer identification number for each individual
20 and entity and may require the taxpayer identification numbers of an entity's shareholders, owners, partners,
21 members, beneficiaries, and officers to allow the department to track exemptions of all individuals and entities.

22 (ii) It is unlawful for an employee of the department to divulge or otherwise make known a taxpayer
23 identification number furnished pursuant to or included in a statement required to be filed under this section. A
24 person who violates the provisions of this subsection (4)(c) is subject to 15-30-2618.

25 (iii) Whenever one member of a firm or one of the proper officers of a corporation has made a statement
26 showing the property of the firm or corporation, another member of the firm or another officer is not required to
27 include the property in that person's statement, but the statement must show the name of the person or officer
28 who made the statement in which the property is included.

29 (iv) The fact that a statement or tax identification number is not required or that a person has not made
30 a statement, under oath or otherwise, does not relieve the person's property from taxation.

1 (5) The gas gathering facilities of a stand-alone gas gathering company providing gas gathering services
 2 to third parties on a contractual basis, owning more than 500 miles of gas gathering lines in Montana, and
 3 centrally assessed in tax years prior to 2009 must be treated as a natural gas transmission pipeline subject to
 4 central assessment under 15-23-101. For purposes of this subsection, the gas gathering line ownership of all
 5 affiliated companies, as defined in section 1504(a) of the Internal Revenue Code, 26 U.S.C. 1504(a), must be
 6 aggregated for purposes of determining the 500-mile threshold."

7

8 **Section 4.** Section 20-9-406, MCA, is amended to read:

9 **"20-9-406. Limitations on amount of bond issue -- definition of federal impact aid basic support**

10 **payment.** (1) (a) Except as provided in subsection (1)(c), the maximum amount for which an elementary district
 11 or a high school district may become indebted by the issuance of general obligation bonds, including all
 12 indebtedness represented by outstanding general obligation bonds of previous issues, registered warrants,
 13 outstanding obligations under 20-9-471, and any other loans or notes payable that are held as general obligations
 14 of the district, is:

15 (i) 50% of the taxable value of the property subject to taxation, as ascertained by the last assessment
 16 for state, county, and school taxes previous to the incurring of the indebtedness; and

17 (ii) 50% of the taxable value of property under 15-6-138 multiplied by the growth proxy determined under
 18 [section 1(5)].

19 (b) Except as provided in subsection (1)(c), the maximum amount for which a K-12 school district, as
 20 formed pursuant to 20-6-701, may become indebted by the issuance of general obligation bonds, including all
 21 indebtedness represented by outstanding general obligation bonds of previous issues, registered warrants,
 22 outstanding obligations under 20-9-471 and 20-9-502, and any other loans or notes payable that are held as
 23 general obligations of the district, is:

24 (i) up to 100% of the taxable value of the property subject to taxation, as ascertained by the last
 25 assessment for state, county, and school taxes previous to the incurring of the indebtedness; and

26 (ii) up to 100% of the taxable value of property under 15-6-138 multiplied by the growth proxy determined
 27 under [section 1(5)].

28 (c) (i) The maximum amount for which an elementary district or a high school district with a district mill
 29 value per elementary ANB or per high school ANB that is less than the facility guaranteed mill value per
 30 elementary ANB or high school ANB under 20-9-366 may become indebted by the issuance of general obligation

1 bonds, including all indebtedness represented by outstanding general obligation bonds of previous issues,
2 registered warrants, outstanding obligations under 20-9-471 and 20-9-502, and any other loans or notes payable
3 that are held as general obligations of the district, is 50% of the corresponding facility guaranteed mill value per
4 ANB times 1,000 times the ANB of the district. For a K-12 district, the maximum amount for which the district may
5 become indebted is 50% of the sum of the facility guaranteed mill value per elementary ANB times 1,000 times
6 the elementary ANB of the district and the facility guaranteed mill value per high school ANB times 1,000 times
7 the high school ANB of the district. For the purpose of calculating ANB under this subsection, a district may use
8 the greater of the current year ANB or the 3-year ANB calculated under 20-9-311.

9 (ii) If mutually agreed upon by the affected districts, for the purpose of calculating its maximum bonded
10 indebtedness under this subsection (1)(c), a district may include the ANB of the district plus the number of
11 students residing within the district for which the district or county pays tuition for attendance at a school in an
12 adjacent district. The receiving district may not use out-of-district ANB for the purpose of calculating its maximum
13 indebtedness if the out-of-district ANB has been included in the ANB of the sending district pursuant to the mutual
14 agreement. For the purpose of calculating ANB under this subsection, a district may use the greater of the current
15 year ANB or the 3-year ANB calculated under 20-9-311.

16 (2) The maximum amounts determined in subsection (1) do not pertain to indebtedness imposed by
17 special improvement district obligations or assessments against the school district or to general obligation bonds
18 issued for the repayment of tax protests lost by the district. All general obligation bonds issued in excess of the
19 amount are void, except as provided in this section.

20 (3) The maximum amount of impact aid revenue bonds that an elementary district, high school district,
21 or K-12 school district may issue may not exceed a total aggregate amount equal to three times the average of
22 the school district's annual federal impact aid basic support payments for the 5 years immediately preceding the
23 issuance of the bonds. However, at the time of issuance of the bonds, the average annual payment of principal
24 and interest on the impact aid bonds each year may not exceed 35% of the total federal impact aid basic support
25 payments of the school district for the current year.

26 (4) When the total indebtedness of a school district has reached the limitations prescribed in this section,
27 the school district may pay all reasonable and necessary expenses of the school district on a cash basis in
28 accordance with the financial administration provisions of this chapter.

29 (5) Whenever bonds are issued for the purpose of refunding bonds, any money to the credit of the debt
30 service fund for the payment of the bonds to be refunded is applied toward the payment of the bonds and the

1 refunding bond issue is decreased accordingly.

2 (6) As used in this part, "federal impact aid basic support payment" means the annual impact aid revenue
3 received by a district under 20 U.S.C. 7703(b) but excludes revenue received for impact aid special education
4 under 20 U.S.C. 7703(d) and impact aid construction under 20 U.S.C. 7707."

5
6 **NEW SECTION. Section 5. Codification instruction.** [Section 1] is intended to be codified as an
7 integral part of Title 15, chapter 1, part 1, and the provisions of Title 15, chapter 1, part 1, apply to [section 1].

8
9 **NEW SECTION. Section 6. Contingent voidness.** If legislation is not passed and approved during the
10 62nd legislative session that appropriates \$6.9 million from the state general fund for fiscal year 2012 and \$8.8
11 million for fiscal year 2013 to the department of revenue for reimbursing local taxing jurisdictions as provided in
12 [section 1], [this act] is void.

13
14 **NEW SECTION. Section 7. Effective date.** [This act] is effective July 1, 2011.

15
16 **NEW SECTION. Section 8. Applicability.** [This act] applies to tax years beginning after December 31,
17 2011.

18 - END -