

HOUSE BILL NO. 88
INTRODUCED BY D. KASTEN
BY REQUEST OF THE LEGISLATIVE FINANCE COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE LAWS GOVERNING DEDICATED REVENUE PROVISIONS; REVISING THE PROCEDURE FOR REVIEWING DEDICATED REVENUE PROVISIONS FOR LOCAL GOVERNMENTS; PROVIDING FOR THE DEPOSIT OF 50 PERCENT OF FEDERAL TAYLOR GRAZING FUNDS IN THE STATE GENERAL FUND TO BE USED FOR THE ELEMENTARY EDUCATION BASE FUNDING PROGRAMS OF A COUNTY; ELIMINATING THE SEPARATE STATUTORY PROCESS FOR REVIEWING DEDICATED REVENUE PROVISIONS FOR LOCAL GOVERNMENTS; AMENDING SECTIONS 17-1-501, 17-1-502, 17-1-505, 17-3-222, AND 20-9-331, MCA; REPEALING SECTIONS 17-1-601, 17-1-602, AND 17-1-603, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

Section 1. Section 17-1-501, MCA, is amended to read:

"17-1-501. Legislative intent. (1) It is the intent of the legislature, by establishing criteria for the review and evaluation of revenue dedication provisions, to ensure that provisions for revenue dedication:

- (a) are based on sound principles of revenue dedication as described in 17-1-507;
- (b) reflect present circumstances and legislative priorities for state spending;
- (c) are terminated when they are no longer necessary or appropriate; and
- (d) are subject to the same legislative scrutiny as programs or activities funded from the general fund.

(2) It is the intent of the legislature, by establishing criteria for the review and evaluation of statutory appropriation provisions, to ensure that provisions with statutory appropriations:

- (a) reflect present circumstances and legislative priorities for state spending;
- (b) are terminated when they are no longer necessary or appropriate; and
- (c) are subject to the same legislative scrutiny as other appropriations.

(3) When revenue is dedicated to a local government, it is the intent of the legislature that the dedicated revenue provision be reviewed in the context of the policy and purpose expressed in 15-1-120."

Section 2. Section 17-1-502, MCA, is amended to read:

"17-1-502. Definitions. As used in this part, unless the context requires otherwise, the following definitions apply:

(1) "Administrative costs" includes:

- (a) personal services;
- (b) operating expenses, such as travel, supplies, and communication costs; and
- (c) capital expenses, such as equipment, building costs, and real property costs.

(2) (a) "Continuing and reliable source of revenue" means a revenue source for which an agency forecasts an annual level of collections based upon historical data and prepares a budget for expenditures commensurate with the level of collections. Collections may not change significantly on an annual basis.

(b) The term does not include revenue:

- (i) that an agency will receive only as a result of an occurrence that is not a routine part of agency operations;
- (ii) that will vary significantly on an annual basis; or
- (iii) that is unable to be included in the agency budget because of the erratic nature of receipt.

(3) "Dedicated revenue provision" means an administrative or legislative action that allocates the revenue from a tax, fee, assessment, or other source to an account in the state special revenue fund₁, as described in 17-2-102, or to a local government.

(4) "General revenue source" means a source of revenue not governed by established or implied restrictions based on the source or limited use of the revenue. The term includes taxes, interest earnings, investment earnings, fines, and forfeitures.

(5) "Local government" means a municipality, a county, a consolidated government, or a special district.

~~(5)~~(6) "State special revenue fund" means a fund in the state treasury consisting of money from state sources that is earmarked for the purposes of defraying particular costs of an agency, program, or function of state government, as provided in 17-2-102."

Section 3. Section 17-1-505, MCA, is amended to read:

"17-1-505. Review of dedicated revenue provisions. (1) The legislature recognizes that dedicated revenue provisions are subject to review by:

- (a) the office of budget and program planning in the development and implementation of the executive budget and analysis of legislation;
- (b) the legislative fiscal division in analyzing the executive budget;

- (c) the legislative services division in drafting legislation;
- (d) the legislative auditor in auditing agencies; ~~and~~
- (e) the department of administration in performing the functions provided for in 17-2-106 and 17-2-111;

and

(f) the department of revenue in reviewing revenue sources and determining distributions to local governments.

(2) To avoid unnecessary and unjustified use of dedicated revenue provisions, the entities listed in subsection (1) shall, in the course of current duties, consider the principles in 17-1-507 and the criteria listed in this subsection for each new or existing dedicated revenue provision. If an entity referred to in subsection (1) determines that the use of a dedicated revenue provision is not justified, the use or proposed use must be reported to the legislative fiscal analyst. The legislative fiscal analyst shall maintain a list of unjustified dedicated revenue provisions and shall report on the unjustified dedicated revenue provisions to the legislative finance committee no later than October 31 of the year preceding a regular legislative session. A dedicated revenue provision should not give a program or activity an unfair advantage for funding. The expenditures from a dedicated revenue provision must be based on requirements for meeting a legislatively established outcome. Statutorily mandated programs or activities funded through dedicated revenue provisions from general revenue sources must be reviewed to the same extent as programs or activities funded from the general fund. The use of a dedicated revenue provision may be justified if it satisfies one or more of the following:

(a) The program or activity funded provides direct benefits for those who pay the dedicated tax, fee, or assessment, and the tax, fee, or assessment is commensurate with the costs of the program or activity.

(b) The use of the dedicated revenue provision provides special information or other advantages that could not be obtained if the revenue were allocated to the general fund.

(c) The dedicated revenue provision provides program funding at a level equivalent to the expenditures established by the legislature.

(d) The dedicated revenue provision involves collection and allocation formulas that are appropriate to the present circumstances and current priorities in state government.

(e) The dedicated revenue provision does not impair the legislature's ability to scrutinize budgets, control expenditures, and establish priorities for state spending.

(f) The dedicated revenue provision results in an appropriate projected ending fund balance.

(g) The dedicated revenue provision fulfills a continuing, legislatively recognized need.

(h) The dedicated revenue provision does not result in accounting or auditing inefficiency.

(3) A local government dedicated revenue provision may be justified if it satisfies any of the following:

(a) The program or activity funded provides direct benefits or services for those who pay the dedicated tax, fee, or assessment, and the tax, fee, or assessment is commensurate with the costs of the program or activity.

(b) The provision provides necessary information or other advantages that could not be obtained if the revenue were allocated to the state general fund.

(c) The provision involves collection and allocation formulas that are appropriate to the present circumstances and current priorities of state and local government.

(d) The provision does not impair the ability of the legislature to scrutinize budgets, control expenditures, and establish state spending priorities.

(e) The provision fulfills a legislatively recognized continuing need.

(f) The provision does not result in accounting or auditing inefficiency or unnecessary complexity and instability of local government funding structures."

Section 4. Section 17-3-222, MCA, is amended to read:

"17-3-222. Apportionment of money to counties. (1) It is the duty of the state treasurer to properly apportion and allocate the money received under 17-3-221 to the county treasurers, who shall allocate the money as follows:

(a) 50% to the county general fund; and

(b) 50% to the state general fund to be used for the elementary BASE funding programs of the school districts in the county.

(2) The payments from the state to the county treasurers provided for in subsection (1) are statutorily appropriated as provided in 17-7-502."

Section 5. Section 20-9-331, MCA, is amended to read:

"20-9-331. Basic county tax for elementary equalization and other revenue for county equalization of elementary BASE funding program. (1) Subject to 15-10-420, the county commissioners of each county shall levy an annual basic county tax of 33 mills on the dollar of the taxable value of all taxable property within the county, except for property subject to a tax or fee under 23-2-517, 23-2-803, 61-3-521, 61-3-527, 61-3-529, 61-3-537, 61-3-560 through 61-3-562, 61-3-570, and 67-3-204, for the purposes of elementary equalization and state BASE funding program support. The revenue collected from this levy must be apportioned to the support

of the elementary BASE funding programs of the school districts in the county and to the state general fund in the following manner:

(a) In order to determine the amount of revenue raised by this levy that is retained by the county, the sum of the estimated revenue identified in subsection (2) must be subtracted from the total of the BASE funding programs of all elementary districts of the county.

(b) If the basic levy and other revenue prescribed by this section produce more revenue than is required to repay a state advance for county equalization, the county treasurer shall remit the surplus funds to the department of revenue, as provided in 15-1-504, for deposit to the state general fund immediately upon occurrence of a surplus balance and each subsequent month, with any final remittance due no later than June 20 of the fiscal year for which the levy has been set.

(2) The revenue realized from the county's portion of the levy prescribed by this section and the revenue from the following sources must be used for the equalization of the elementary BASE funding program of the county as prescribed in 20-9-335, and a separate accounting must be kept of the revenue by the county treasurer in accordance with 20-9-212(1):

(a) the portion of the federal Taylor Grazing Act funds ~~distributed to a county and~~ designated for the elementary county equalization fund under the provisions of 17-3-222;

(b) the portion of the federal flood control act funds distributed to a county and designated for expenditure for the benefit of the county common schools under the provisions of 17-3-232;

(c) all money paid into the county treasury as a result of fines for violations of law, except money paid to a justice's court, and the use of which is not otherwise specified by law;

(d) any money remaining at the end of the immediately preceding school fiscal year in the county treasurer's accounts for the various sources of revenue established or referred to in this section;

(e) any federal or state money distributed to the county as payment in lieu of property taxation, including federal forest reserve funds allocated under the provisions of 17-3-213;

(f) gross proceeds taxes from coal under 15-23-703; and

(g) oil and natural gas production taxes."

NEW SECTION. Section 6. Repealer. Sections 17-1-601, 17-1-602, and 17-1-603, MCA, are repealed.

NEW SECTION. Section 7. Effective date. [This act] is effective July 1, 2003.

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