

1 SENATE BILL NO. 125

2 INTRODUCED BY G. HERTZ

3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT LIMITING THE DURATION OF CERTAIN MILL LEVIES  
5 SUBMITTED TO VOTERS; LIMITING MILL LEVIES TO 5 YEARS WITHOUT VOTER REAPPROVAL;  
6 AMENDING SECTIONS 7-15-4286, 15-10-425, AND 20-9-502, MCA; AND PROVIDING AN APPLICABILITY  
7 DATE."

8  
9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

10  
11 Section 1. Section 7-15-4286, MCA, is amended to read:

12 "7-15-4286. Procedure to determine and disburse tax increment -- remittance of excess portion  
13 of tax increment for targeted economic development district. (1) Mill rates of taxing bodies for taxes levied  
14 after the effective date of the tax increment provision must be calculated on the basis of the sum of the taxable  
15 value, as shown by the last equalized assessment roll, of all taxable property located outside the urban renewal  
16 area or targeted economic development district and the base taxable value of all taxable property located within  
17 the area or district. The mill rate determined must be levied against the sum of the actual taxable value of all  
18 taxable property located within as well as outside the area or district.

19 (2) (a) Except as provided in subsections (2)(b), (2)(c), and (3) and subject to subsection (6), the  
20 tax increment, if any, received in each year from the levy of the combined mill rates of all the affected taxing  
21 bodies against the incremental taxable value within the area or district must be paid into a special fund held by  
22 the treasurer of the local government and used as provided in 7-15-4282 through 7-15-4294.

23 (b) For targeted economic development districts in existence prior to July 1, 2022, and urban  
24 renewal areas, the combined mill rates used to calculate the tax increment may not include mill rates for:

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

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

28 (c) For targeted economic development districts created after June 30, 2022, the combined mill

1 rates used to calculate the tax increment may not include mill rates for:

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

3 (ii) one-half of the elementary, high school, and state equalization mills levied pursuant to 20-9-  
4 331, 20-9-333, and 20-9-360;

5 (iii) a new mill levy approved by voters as provided in 15-10-425 after the adoption of a tax  
6 increment provision; and

7 (iv) any portion of an existing mill levy designated by the local government as excluded from the tax  
8 increment.

9 (3) (a) Subject to 7-15-4287 and subsection (3)(b) of this section, a targeted economic  
10 development district with a tax increment provision adopted after October 1, 2019, may expend or accumulate  
11 tax increment for:

12 (i) the payment of the costs listed in 7-15-4288;

13 (ii) the cost of issuing bonds; or

14 (iii) any pledge to the payment of the principal of any premium, if any, and interest on the bonds  
15 issued pursuant to 7-15-4289 and sufficient to fund any reserve fund in respect of the bonds in an amount not  
16 to exceed 125% of the maximum principal and interest on the bonds in any year during the term of the bonds.

17 (b) Any excess tax increment remaining after the use or accumulation of funds as set forth in  
18 subsection (3)(a) must be:

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

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

22 (c) A targeted economic development district is not subject to the provisions of this subsection (3)  
23 if bonds have not been issued to finance the project.

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

26 (5) The balance of the taxes collected in each year must be paid to each of the taxing bodies as  
27 otherwise provided by law.

28 (6) For the purposes of subsections (2)(b)(ii) and (2)(c)(iii), a mill levy reapproved as provided in

1 15-10-425(2)(c) is not considered a new mill levy."

2

3 **Section 2.** Section 15-10-425, MCA, is amended to read:

4 **"15-10-425. Mill levy election.** (1) A county, consolidated government, incorporated city,  
5 incorporated town, school district, or other taxing entity may impose a new mill levy, increase a mill levy that is  
6 required to be submitted to the electors, or exceed the mill levy limit provided for in 15-10-420 by conducting an  
7 election as provided in this section.

8 (2) An election pursuant to this section must be held in accordance with Title 13, chapter 1, part 4  
9 or 5, or Title 20 for school elections, whichever is appropriate to the taxing entity. The governing body shall  
10 pass a resolution, shall amend its self-governing charter, or must receive a petition indicating an intent to  
11 impose a new levy, increase a mill levy, or exceed the current statutory mill levy provided for in 15-10-420 on  
12 the approval of a majority of the qualified electors voting in the election. The resolution, charter amendment, or  
13 petition must include:

- 14 (a) the specific purpose for which the additional money will be used;
- 15 ~~(b) either:~~
- 16 ~~(i)(b)~~ the specific amount of money to be raised and the approximate number of mills to be imposed;
- 17 ~~or and~~
- 18 ~~(ii) the specific number of mills to be imposed and the approximate amount of money to be raised; and~~
- 19 (c) whether the levy is permanent or the durational limit on the levy, which may not exceed 5 years  
20 except as provided in 20-9-308, 20-9-353, 20-9-502(2)(b), and 20-9-533, and except for mill levies that support  
21 libraries. The governing body may submit to the qualified electors for reapproval a levy that will expire before  
22 the next election.

23 (3) Notice of the election must be prepared by the governing body and given as provided in 13-1-  
24 108. The form of the ballot must reflect the content of the resolution or charter amendment and must include a  
25 statement of the impact of the election on a home valued at \$100,000 and a home valued at \$200,000 in the  
26 district in terms of actual dollars in additional property taxes that would be imposed on residences with those  
27 values if the mill levy were to pass. The ballot may also include a statement of the impact of the election on  
28 homes of any other value in the district, if appropriate.

1 (4) If the majority voting on the question are in favor of the additional levy, the governing body is  
2 authorized to impose the levy in either the amount or the number of mills specified in the resolution or charter  
3 amendment.

4 (5) A governing body, as defined in 7-6-4002, may reduce an approved levy in any fiscal year  
5 without losing the authority to impose in a subsequent fiscal year up to the maximum amount or number of mills  
6 approved in the election. However, nothing in this subsection authorizes a governing body to impose more than  
7 the approved levy in any fiscal year or to extend the duration of the approved levy."

8

9 **Section 3.** Section 20-9-502, MCA, is amended to read:

10 **"20-9-502. Purpose and authorization of building reserve fund -- subfund structure.** (1) The  
11 trustees of any district may establish a building reserve fund to budget for and expend funds for any of the  
12 purposes set forth in this section. Appropriate subfunds must be created to ensure separate tracking of the  
13 expenditure of funds from voted and nonvoted levies and transfers for school safety pursuant to 20-9-236.

14 (2) (a) A voted levy may be imposed and a subfund must be created with the approval of the  
15 qualified electors of the district for the purpose of raising money for the future construction, equipping, or  
16 enlarging of school buildings or for the purpose of purchasing land needed for school purposes in the district. In  
17 order to submit to the qualified electors of the district a building reserve proposition for the establishment of or  
18 addition to a building reserve, the trustees shall pass a resolution that specifies:

19 (i) the purpose or purposes for which the new or addition to the building reserve will be used;

20 (ii) the duration of time over which the new or addition to the building reserve will be raised in  
21 annual, equal installments;

22 (iii) the total amount of money that will be raised during the duration of time specified for the levy;

23 and

24 (iv) any other requirements under 15-10-425 and 20-20-201 for the calling of an election.

25 (b) Except as provided in subsection (4)(b), a building reserve tax authorization may not be for  
26 more than 20 years.

27 (c) The election must be conducted in accordance with the school election laws of this title, and  
28 the electors qualified to vote in the election must be qualified under the provisions of 20-20-301. The ballot for a

1 building reserve proposition must be substantially in compliance with 15-10-425.

2 (d) The building reserve proposition is approved if a majority of those electors voting at the election  
3 approve the establishment of or addition to the building reserve. The annual budgeting and taxation authority of  
4 the trustees for a building reserve is computed by dividing the total authorized amount by the specified number  
5 of years. The authority of the trustees to budget and impose the taxation for the annual amount to be raised for  
6 the building reserve lapses when, at a later time, a bond issue is approved by the qualified electors of the  
7 district for the same purpose or purposes for which the building reserve fund of the district was established.  
8 Whenever a subsequent bond issue is made for the same purpose or purposes of a building reserve, the  
9 money in the building reserve must be used for the purpose or purposes before any money realized by the  
10 bond issue is used.

11 (3) (a) A subfund must be created to account for revenue and expenditures for school major  
12 maintenance and repairs authorized under this subsection (3). The trustees of a district may authorize and  
13 impose a levy of no more than 10 mills on the taxable value of all taxable property within the district for that  
14 school fiscal year for the purposes of raising revenue for identified improvements or projects meeting the  
15 requirements of 20-9-525(2). The 10-mill limit under this subsection (3) must be calculated using the district's  
16 total taxable valuation most recently certified by the department of revenue under 15-10-202. The amount of  
17 money raised by the levy, the deposits and transfers authorized under subsection (3)(f) of this section, and  
18 anticipated state aid pursuant to 20-9-525(3) may not exceed the district's school major maintenance amount.  
19 For the purposes of this section, the term "school major maintenance amount" means the sum of \$15,000 and  
20 the product of \$110 multiplied by the district's budgeted ANB for the prior fiscal year. To authorize and impose a  
21 levy under this subsection (3), the trustees shall:

22 (i) following public notice requirements pursuant to 20-9-116, adopt no later than March 31 of  
23 each fiscal year a resolution:

24 (A) identifying the anticipated improvements or projects for which the proceeds of the levy, the  
25 deposits and transfers authorized under subsection (3)(f) of this section, and anticipated state aid pursuant to  
26 20-9-525(3) will be used; and

27 (B) estimating a total dollar amount of money to be raised by the levy, the deposits and transfers  
28 authorized under subsection (3)(f) of this section, anticipated state aid pursuant to 20-9-525(3), and the

1 resulting estimated number of mills to be levied using the district's taxable valuation most recently certified by  
2 the department of revenue under 15-10-202; and

3 (ii) include the amount of any final levy to be imposed as part of its final budget meeting noticed in  
4 compliance with 20-9-131.

5 (b) Proceeds from the levy may be expended only for the purposes under 20-9-525(2), and the  
6 expenditure of the money must be reported in the annual trustees' report as required by 20-9-213.

7 (c) Whenever the trustees of a district impose a levy pursuant to this subsection (3) during the  
8 current school fiscal year, they shall budget for the proceeds of the levy, the deposits and transfers authorized  
9 under subsection (3)(f) of this section, and anticipated state aid pursuant to 20-9-525(3) in the district's building  
10 reserve fund budget. Any expenditures of the funds must be made in accordance with the financial  
11 administration provisions of this title for a budgeted fund.

12 (d) When a tax levy pursuant to this subsection (3) is included as a revenue item on the final  
13 building reserve fund budget, the county superintendent shall report the levy requirement to the county  
14 commissioners by the later of the first Tuesday in September or within 30 calendar days after receiving certified  
15 taxable values and a levy on the district must be made by the county commissioners in accordance with 20-9-  
16 142.

17 (e) A subfund in the building reserve fund must be created for the deposit of proceeds from the  
18 levy, the deposits and transfers authorized under subsection (3)(f) of this section, and anticipated state aid  
19 pursuant to 20-9-525(3).

20 (f) If the imposition of 10 mills pursuant to subsection (3)(a) is estimated by the trustees to  
21 generate an amount less than the maximum levy revenue specified in subsection (3)(a), the trustees may  
22 deposit additional funds from any lawfully available revenue source and may transfer additional funds from any  
23 lawfully available fund of the district to the subfund provided for in subsection (3)(a), up to the difference  
24 between the revenue estimated to be raised by the imposition of 10 mills and the maximum levy revenue  
25 specified in subsection (3)(a). The district's local effort for purposes of calculating its eligibility for state school  
26 major maintenance aid pursuant to 20-9-525 consists of the combined total of funds raised from the imposition  
27 of 10 mills and additional funds raised from deposits and transfers in compliance with this subsection (3)(f).

28 (4) (a) A voted levy may be imposed and a subfund must be created with the approval of the

1 qualified electors of the district to provide funding for transition costs incurred when the trustees:

- 2 (i) open a new school under the provisions of Title 20, chapter 6;
- 3 (ii) close a school;
- 4 (iii) replace a school building;
- 5 (iv) consolidate with or annex another district under the provisions of Title 20, chapter 6; or
- 6 (v) receive approval from voters to expand an elementary district into a K-12 district pursuant to
- 7 20-6-326.

8 (b) Except as provided in subsection (4)(c), the total amount the trustees may submit to the  
9 electorate for transition costs may not exceed the number of years specified in the proposition times the greater  
10 of 5% of the district's maximum general fund budget for the current year or \$250 per ANB for the current year.  
11 The duration of the levy for transition costs may not exceed 6 5 years.

12 (c) If the levy for transition costs is for consolidation or annexation:

- 13 (i) the limitation on the amount levied is calculated using the ANB and the maximum general fund
- 14 budget for the districts that are being combined; and
- 15 (ii) the proposition must be submitted to the qualified electors in the combined district.
- 16 (d) The levy for transition costs may not be considered as outstanding indebtedness for the
- 17 purpose of calculating the limitation in 20-9-406.

18 (5) (a) A subfund in the building reserve fund must be created for:

- 19 (i) the funds transferred to the building reserve fund for school safety and security pursuant to 20-
- 20 9-236; and
- 21 (ii) funds generated by a voter-approved levy for school and student safety and security pursuant
- 22 to subsection (5)(b) of this section.

23 (b) A voted levy may be imposed with the approval of the qualified electors of the district to provide  
24 funding for improvements to school and student safety and security that meet any of the criteria set forth in 20-  
25 9-236(1)(a) through (1)(e). A voted levy for school and student safety and security may not be considered as  
26 outstanding indebtedness for the purpose of calculating the limitation in 20-9-406. The election for a voted levy  
27 for school and student safety and security must be conducted in accordance with the school election laws of  
28 this title, and the electors qualified to vote in the election must be qualified under the provisions of 20-20-301.

**Amendment - 1st Reading-white - Requested by: Russel (Russ) Tempel - (S) Taxation**

- 2023

68th Legislature 2023

Drafter: Jaret Coles, 406-444-4022

SB0125.001.004

1 The ballot for a building reserve proposition must be substantially in compliance with 15-10-425."

2

3 NEW SECTION. **Section 4. Applicability.** [This act] applies to mill levy elections held on or after [the

4 effective date of this act].

5

- END -

AMEND