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Drafter: Megan Moore, 406-444-4496

68th Legislature 2023

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**** BILL NO. ****

INTRODUCED BY ****

BY REQUEST OF THE ****

A BILL FOR AN ACT ENTITLED: "AN ACT EXEMPTING STATE EDUCATION LEVIES FROM THE LEVY CALCULATION PROCEDURES IN 15-10-420; FIXING STATE EDUCATION MILL LEVIES; AMENDING SECTIONS 15-10-420, 20-9-331, 20-9-333, 20-9-336, 20-9-360, 20-25-439, AND 90-6-403, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

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

Section 1. Section 15-10-420, MCA, is amended to read:

"15-10-420. Procedure for calculating levy. (1) (a) Subject to the provisions of this section, a

governmental entity that is authorized to impose mills may impose a mill levy sufficient to generate the amount of property taxes actually assessed in the prior year plus one-half of the average rate of inflation for the prior 3 years. The maximum number of mills that a governmental entity may impose is established by calculating the number of mills required to generate the amount of property tax actually assessed in the governmental unit in the prior year based on the current year taxable value, less the current year's newly taxable value, plus one-half of the average rate of inflation for the prior 3 years.

(b) A governmental entity that does not impose the maximum number of mills authorized under subsection (1)(a) may carry forward the authority to impose the number of mills equal to the difference between the actual number of mills imposed and the maximum number of mills authorized to be imposed. The mill authority carried forward may be imposed in a subsequent tax year.

(c) For the purposes of subsection (1)(a), the department shall calculate one-half of the average rate of inflation for the prior 3 years by using the consumer price index, U.S. city average, all urban consumers, using the 1982-84 base of 100, as published by the bureau of labor statistics of the United States department of labor.

(2) A governmental entity may apply the levy calculated pursuant to subsection (1)(a) plus any

1 additional levies authorized by the voters, as provided in 15-10-425, to all property in the governmental unit,
2 including newly taxable property.

3 (3)(a) For purposes of this section, newly taxable property includes:

- 4 (i) annexation of real property and improvements into a taxing unit;
- 5 (ii) construction, expansion, or remodeling of improvements;
- 6 (iii) transfer of property into a taxing unit;
- 7 (iv) subdivision of real property; and
- 8 (v) transfer of property from tax-exempt to taxable status.

9 (b) Newly taxable property does not include an increase in value that arises because of an
10 increase in the incremental value within a tax increment financing district.

11 (4)(a) For the purposes of subsection (1), the taxable value of newly taxable property includes the
12 release of taxable value from the incremental taxable value of a tax increment financing district because of:

- 13 (i) a change in the boundary of a tax increment financing district;
- 14 (ii) an increase in the base value of the tax increment financing district pursuant to 7-15-4287; or
- 15 (iii) the termination of a tax increment financing district.

16 (b) If a tax increment financing district terminates prior to the certification of taxable values as
17 required in 15-10-202, the increment value is reported as newly taxable property in the year in which the tax
18 increment financing district terminates. If a tax increment financing district terminates after the certification of
19 taxable values as required in 15-10-202, the increment value is reported as newly taxable property in the
20 following tax year.

21 (c) For the purpose of subsection (3)(a)(ii), the value of newly taxable class four property that was
22 constructed, expanded, or remodeled property since the completion of the last reappraisal cycle is the current
23 year market value of that property less the previous year market value of that property.

24 (d) For the purpose of subsection (3)(a)(iv), the subdivision of real property includes the first sale
25 of real property that results in the property being taxable as class four property under 15-6-134 or as
26 nonqualified agricultural land as described in 15-6-133(1)(c).

27 (5) ~~Subject to subsection (8), subsection (1)(a) This section~~ does not apply to:

28 (a) mills imposed under 15-10-109, 20-9-331, 20-9-333, 20-9-360, or 20-25-439;

1 (b) school district levies established in Title 20; or

2 ~~(b)(c)~~ a mill levy imposed for a newly created regional resource authority.

3 (6) For purposes of subsection (1)(a), taxes imposed do not include net or gross proceeds taxes
4 received under 15-6-131 and 15-6-132.

5 (7) In determining the maximum number of mills in subsection (1)(a), the governmental entity:

6 (a) may increase the number of mills to account for a decrease in reimbursements; and

7 (b) may not increase the number of mills to account for a loss of tax base because of legislative
8 action that is reimbursed under the provisions of 15-1-121(7).

9 ~~(8) The department shall calculate, on a statewide basis, the number of mills to be imposed for
10 purposes of 15-10-109, 20-9-331, 20-9-333, 20-9-360, and 20-25-439. However, the number of mills calculated
11 by the department may not exceed the mill levy limits established in those sections. The mill calculation must
12 be established in tenths of mills. If the mill levy calculation does not result in an even tenth of a mill, then the
13 calculation must be rounded up to the nearest tenth of a mill.~~

14 ~~(9)(a)~~(8)(a) The provisions of subsection (1) do not prevent or restrict:

15 (i) a judgment levy under 2-9-316, 7-6-4015, or 7-7-2202;

16 (ii) a levy to repay taxes paid under protest as provided in 15-1-402;

17 (iii) an emergency levy authorized under 10-3-405, 20-9-168, or 20-15-326;

18 (iv) a levy for the support of a study commission under 7-3-184;

19 (v) a levy for the support of a newly established regional resource authority;

20 (vi) the portion that is the amount in excess of the base contribution of a governmental entity's
21 property tax levy for contributions for group benefits excluded under 2-9-212 or 2-18-703;

22 (vii) a levy for reimbursing a county for costs incurred in transferring property records to an
23 adjoining county under 7-2-2807 upon relocation of a county boundary;

24 (viii) a levy used to fund the sheriffs' retirement system under 19-7-404(3)(b); or

25 (ix) a governmental entity from levying mills for the support of an airport authority in existence prior
26 to May 7, 2019, regardless of the amount of the levy imposed for the support of the airport authority in the past.

27 The levy under this subsection ~~(9)(a)(ix)~~ (8)(a)(ix) is limited to the amount in the resolution creating the
28 authority.

1 (b) A levy authorized under subsection ~~(9)(a)~~ (8)(a) may not be included in the amount of property
2 taxes actually assessed in a subsequent year.

3 ~~(10)(9)~~ A governmental entity may levy mills for the support of airports as authorized in 67-10-402, 67-
4 11-301, or 67-11-302 even though the governmental entity has not imposed a levy for the airport or the airport
5 authority in either of the previous 2 years and the airport or airport authority has not been appropriated
6 operating funds by a county or municipality during that time.

7 ~~(11)(10)~~ The department may adopt rules to implement this section. The rules may include a method for
8 calculating the percentage of change in valuation for purposes of determining the elimination of property, new
9 improvements, or newly taxable value in a governmental unit."
10

11 **Section 2.** Section 20-9-331, MCA, is amended to read:

12 **"20-9-331. Basic county tax for elementary equalization and other revenue for county**

13 **equalization of elementary BASE funding program.** (1) ~~Subject to 15-10-420, the~~ The county commissioners
14 of each county shall levy an annual basic county tax of 33 mills on the dollar of the taxable value of all taxable
15 property within the county, except for property subject to a tax or fee under 61-3-321(2) or (3), 61-3-529, 61-3-
16 537, 61-3-562, 61-3-570, and 67-3-204, for the purposes of elementary equalization and state BASE funding
17 program support. The revenue collected from this levy must be apportioned to the support of the elementary
18 BASE funding programs of the school districts in the county and to the school equalization and property tax
19 reduction account established in 20-9-336 in the following manner:

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

23 (b) If the basic levy and other revenue prescribed by this section produce more revenue than is
24 required to repay a state advance for county equalization, the county treasurer shall remit the surplus funds to
25 the department of revenue, as provided in 15-1-504, for deposit to the state general fund immediately upon
26 occurrence of a surplus balance and each subsequent month, with any final remittance due no later than June
27 20 of the fiscal year for which the levy has been set.

28 (2) The revenue realized from the county's portion of the levy prescribed by this section and the

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

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

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

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

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

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

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

15 (g) oil and natural gas production taxes."

16

17 **Section 3.** Section 20-9-333, MCA, is amended to read:

18 **"20-9-333. Basic county tax for high school equalization and other revenue for county**

19 **equalization of high school BASE funding program.** (1) ~~Subject to 15-10-420, the~~ The county

20 commissioners of each county shall levy an annual basic county tax of 22 mills on the dollar of the taxable

21 value of all taxable property within the county, except for property subject to a tax or fee under 61-3-321(2) or
22 (3), 61-3-529, 61-3-537, 61-3-562, 61-3-570, and 67-3-204, for the purposes of high school equalization and

23 state BASE funding program support. The revenue collected from this levy must be apportioned to the support

24 of the BASE funding programs of high school districts in the county and to the school equalization and property

25 tax reduction account established in 20-9-336 in the following manner:

26 (a) In order to determine the amount of revenue raised by this levy that is retained by the county,

27 the sum of the estimated revenue identified in subsection (2) must be subtracted from the sum of the county's

28 high school tuition obligation and the total of the BASE funding programs of all high school districts of the

1 county.

2 (b) If the basic levy and other revenue prescribed by this section produce more revenue than is
3 required to repay a state advance for county equalization, the county treasurer shall remit the surplus funds to
4 the department of revenue, as provided in 15-1-504, for deposit to the state general fund immediately upon
5 occurrence of a surplus balance and each subsequent month, with any final remittance due no later than June
6 20 of the fiscal year for which the levy has been set.

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

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

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

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

16 (d) oil and natural gas production taxes."
17

18 **Section 4.** Section 20-9-336, MCA, is amended to read:

19 **"20-9-336. School equalization and property tax reduction account -- uses.** (1) There is a school
20 equalization and property tax reduction account in the state special revenue fund. Contingent on appropriation
21 by the legislature, money in the account is for distribution to school districts as the second source of funding for
22 state equalization aid as provided in 20-9-343. At fiscal yearend, any fund balance in the account exceeding
23 what was appropriated must be transferred to the guarantee account established in 20-9-622.

24 (2) The account receives revenue as described in 20-9-331, 20-9-333, and 20-9-360.

25 (3) Beginning in fiscal year 2025, each December the superintendent of public instruction shall
26 forecast the amount of revenue the account will receive in that fiscal year by dividing the sum of the taxable
27 value of all property in the state reported by the department of revenue pursuant to 20-9-369 by 1,000 to
28 determine a statewide value mill and then multiplying that amount by 95 mills, ~~or the number of mills calculated~~

1 ~~by the department of revenue under 15-10-420(8) for the applicable fiscal year.~~ If the forecasted amount differs
2 from the amount determined through the same calculation in the prior fiscal year by \$2 million or more and is:

3 (a) less, then the superintendent shall:

4 (i) decrease the multiplier used to calculate the statewide elementary and high school guaranteed
5 tax base ratios used for funding BASE budgets under 20-9-366 to the nearest whole number determined by the
6 superintendent to result in a decrease in the amount of guaranteed tax base aid distributed to eligible school
7 districts equal to 85% of the decrease in the calculated amount between the 2 years; and

8 (ii) decrease the multiplier used to calculate the statewide elementary and high school mill value
9 per ANB for school retirement guaranteed tax base purposes under 20-9-366 to the nearest whole number
10 determined by the superintendent to result in a decrease in the amount of retirement guaranteed tax base aid
11 distributed to eligible school districts equal to 15% of the decrease in the calculated amount between the 2
12 years;

13 (b) more, then the superintendent shall increase the multipliers used in the guaranteed tax base
14 formulas under 20-9-366 and in the formula for school major maintenance aid under 20-9-525 to the nearest
15 whole number by an amount calculated by the superintendent to result in an increase in the amount of
16 guaranteed tax base aid and school major maintenance aid distributed to eligible counties and school districts
17 equal to 55% of the increase in the calculated amount between the 2 years in the following order, with any
18 amount exceeding the caps under subsections (3)(b)(i) through (3)(b)(iii) flowing to the next mechanism:

19 (i) first, the multiplier used in calculating the statewide mill value per elementary and high school
20 ANB for retirement purposes, not to exceed 305%;

21 (ii) second, the multiplier used in calculating the amount of state school major maintenance aid
22 support for each dollar of local effort, not to exceed 365%; and

23 (iii) third, the multiplier used in calculating the facility guaranteed mill value per ANB for school
24 facility entitlement guaranteed tax base purposes, not to exceed 300%.

25 (4)(a) The adjustments to the multipliers under subsection (3) are applicable to state equalization aid
26 distributions in the fiscal year following the adjustment.

27 (b) Adjustments to the multipliers made under subsection (3) remain in effect in subsequent years
28 unless further changed under 20-9-366 or subsection (3) of this section or as otherwise provided by law."

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Section 5. Section 20-9-360, MCA, is amended to read:

"20-9-360. State equalization aid levy. ~~Subject to 15-10-420, there~~There is a levy of 40 mills imposed by the county commissioners of each county on all taxable property within the state, except property for which a tax or fee is required under 61-3-321(2) or (3), 61-3-529, 61-3-537, 61-3-562, 61-3-570, and 67-3-204. Proceeds of the levy must be remitted to the department of revenue, as provided in 15-1-504, and must be deposited to the credit of the school equalization and property tax reduction account established in 20-9-336 for state equalization aid to the public schools of Montana."

Section 6. Section 20-25-439, MCA, is amended to read:

"20-25-439. Vocational-technical education -- mill levy required. (1) ~~Subject to 15-10-420, the~~The boards of county commissioners of Cascade, Lewis and Clark, Missoula, Silver Bow, and Yellowstone Counties shall in each calendar year levy a tax of 1 1/2 mills on the dollar value of all taxable property, real and personal, located within the respective county.

(2) The funds from the mill levy must be deposited in the general fund and must be distributed for vocational-technical education on the basis of budgets approved by the board of regents."

Section 7. Section 90-6-403, MCA, is amended to read:

"90-6-403. Jurisdictional revenue disparity -- conditioned exemption and reallocation of certain taxable valuation. (1) When an impact plan for a large-scale mineral development approved pursuant to 90-6-307 identifies a jurisdictional revenue disparity, the board shall promptly notify the developer, all affected local government units, and the department of revenue of the disparity. Except as provided in 90-6-404 and this section, the increase in taxable valuation of the mineral development that occurs after the issuance and validation of a permit under 82-4-335 is not subject to the usual application of county and school district property tax mill levies. This increase in taxable valuation must be allocated to local government units as provided in 90-6-404. The increase in taxable valuation allocated as provided in 90-6-404 is subject to 15-10-420 and the application of property tax mill levies in the local government unit to which it is allocated. The increase in taxable valuation allocated to the local government unit is considered newly taxable property in the

1 recipient local government unit as provided in 15-10-420.

2 (2) ~~Subject to 15-10-420, the~~The total taxable valuation of a large-scale mineral development

3 remains subject to the statewide mill levies and basic county levies for elementary and high school BASE

4 funding programs as provided in 20-9-331 and 20-9-333.

5 (3) The provisions of subsection (1) remain in effect until the large-scale mineral development

6 ceases operations or until the existence of the jurisdictional revenue disparity ceases, as determined by the

7 board."

8

9 NEW SECTION. Section 8. {standard} Effective date. [This act] is effective on passage and

10 approval.

11

12 NEW SECTION. Section 9. Retroactive applicability. [This act] applies retroactively, within the

13 meaning of 1-2-109, to property tax years beginning after December 31, 2024.

14

- END -