HOUSE BILL NO. 332

INTRODUCED BY M. MCNALLY

BY REQUEST OF THE GOVERNOR

A BILL FOR AN ACT ENTITLED: "AN ACT REDUCING THE TAXATION OF CLASS EIGHT BUSINESS EQUIPMENT OWNED BY A TAXPAYER BY INCREASING THE CLASS EIGHT BUSINESS EQUIPMENT TAX EXEMPTION THRESHOLD; CHANGING OTHER PROVISIONS RELATING TO TAXATION OF CLASS EIGHT PROPERTY; PROHIBITING CLASS EIGHT PROPERTY FROM BEING SEPARATED INTO DIFFERENT BUSINESS ENTITIES FOR DETERMINING WHETHER THE EXEMPTION IS EXCEEDED; PROVIDING A REIMBURSEMENT TO LOCAL GOVERNMENTS AND TAX INCREMENT FINANCING DISTRICTS UNDER THE ENTITLEMENT SHARE PAYMENT, TO SCHOOL DISTRICTS THROUGH THE BLOCK GRANT PROGRAM, TO COUNTY SCHOOL RETIREMENT AND COUNTY TRANSPORTATION REIMBURSEMENT, AND TO THE MONTANA UNIVERSITY SYSTEM THROUGH SUPPORT OF PUBLIC EDUCATION INSTITUTIONS; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 15-1-123, 15-6-138, AND 15-8-301, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

WHEREAS, eliminating class eight property taxes for small businesses with $100,000 or less in business equipment reduces their costs and assists them with meeting the economic challenges and uncertainty they uniquely confront; and

WHEREAS, reimbursing local governments for reduced property tax revenue is essential to ensuring that they can continue to provide necessary public services to their citizens.

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

Section 1. Section 15-1-123, MCA, is amended to read:

"15-1-123. Reimbursement for class eight rate reduction and exemption -- distribution -- appropriations. (1) (a) For the tax rate reductions in ~~15-6-138~~ 15-6-138(4), the increased exemption amount in 15-6-138(5), ~~and for~~ the effective tax rate reductions on property under 15-6-145 because of the rate reductions required by the amendment of 15-6-138 in section 2, Chapter 411, Laws of 2011, and the increased exemption amount in [section 2(5)], the department shall, ~~by June 1, 2012, and for each calendar year that the tax rate is adjusted under 15-6-138(4),~~ pursuant to the timeline in subsection (1)(b), estimate for each local government, as defined in 15-1-121(5), each school district, the county retirement fund under 20-9-501, the countywide school transportation reimbursement under 20-10-146, each tax increment financing district, and the 6-mill university levy for the purposes of 15-10-108, the difference between property tax collections under 15-6-138~~,~~ as amended by section 2, Chapter 411, Laws of 2011, and [section 2], and under 15-6-145 and the property tax revenue that would have been collected under 15-6-138 and 15-6-145 if 15-6-138 had not been amended by section 2, Chapter 411, Laws of 2011, and [section 2]. The difference is the ~~annual~~ reimbursable amount for each local government, each school district, each tax increment financing district, and the 6-mill levy for the support of the Montana university system under 15-10-108.

(b) The department shall make the calculations provided for in subsection (1)(a):

(i) by June 1 of each calendar year that the tax rate is adjusted as a tax rate reduction under 15-6-138(4);

(ii) except as provided in subsection (2)(b)(i), (3)(b)(i), (4)(b)(i), (5)(b)(i), (6)(b)(i), and (7)(b)(i) pertaining to personal property taxes, by June 1 of each calendar year in which there is an effective tax rate reduction on property under 15-6-145 because of the rate reductions required by the amendment of 15-6-138 in section 2, Chapter 411, Laws of 2011, and the increased exemption amount required by the amendment of 15-6-138 in [section 2(5)]; and

(iii) except as provided in subsections (2)(b)(ii), (3)(b)(ii), (4)(b)(ii), (5)(b)(ii), (6)(b)(ii), and (7)(b)(ii) pertaining to personal property taxes, by June 1, 2014, for calendar year 2014 as a reimbursement for the increased exemption amount required by the amendment of 15-6-138 in [section 2(5)].

(2) (a) The department shall distribute the ~~reimbursement~~ reimbursements calculated in subsection (1) to local governments with the entitlement share payments under 15-1-121(7) ~~for fiscal year 2012 and for all other fiscal years in which rate reductions occur~~ . Local government reimbursements for subsequent years are made pursuant to the entitlement share recomputation as provided in 15-1-121(6).

(b) (i) For ~~fiscal year 2012 and~~ all ~~other~~ fiscal years in which rate reductions or effective tax rate reductions occur, the department shall determine from the amount calculated under subsection (1) the amount that is attributable to personal property taxes that are not a lien on real property for each local government. By August 1 following each of those fiscal years, the department shall distribute the amount determined under this subsection (2)(b)(i) for local governments as provided in 15-1-121(6)(a).

(ii) For the fiscal year beginning July 1, 2013, the department shall determine the portion of the reimbursement for the increased exemption amount in 15-6-138(5) that is attributable to personal property taxes that are not a lien on real property for each local government. By August 1, 2014, the department shall distribute the amount determined under this subsection (2)(b)(ii) for local governments as provided in 15-1-121(6)(a).

(3) (a) The office of public instruction shall distribute the ~~reimbursement~~ reimbursements calculated in subsection (1) to school districts with the block grants pursuant to 20-9-630 ~~for fiscal year 2012 and all other fiscal years in which rate reductions occur~~. School district reimbursements for subsequent fiscal years are made pursuant to 20-9-630.

(b) (i) For ~~fiscal year 2012 and~~ all ~~other~~ fiscal years in which rate reductions or effective tax rate reductions occur, the department shall determine from the amount calculated under subsection (1) the amount that is attributable to personal property taxes that are not a lien on real property for each school district. By November 30 following each of those fiscal years, the office of public instruction shall distribute the amount determined under this subsection (3)(b)(i) in the same manner as the block grant is distributed by fund under 20-9-630.

(ii) For the fiscal year beginning July 1, 2013, the department shall determine the portion of the reimbursement for the increased exemption amount in 15-6-138(5) that is attributable to personal property taxes that are not a lien on real property for each school district. By November 30, 2014, the office of public instruction shall distribute the amount determined under this subsection (3)(b)(ii) in the same manner as the block grant is distributed by fund under 20-9-630.

(4) (a) ~~For each fiscal year beginning after fiscal year 2012 and all other fiscal years in which rate reductions occur, the~~ The amount determined under subsection (1) for each tax increment financing district must be added to the reimbursement amount for the tax increment financing district as provided in 15-1-121(8)(b) if the tax increment financing district is still in existence. If a tax increment financing district that is entitled to a reimbursement under this section is not listed under 15-1-121(8)(b), the reimbursement must be made to that tax increment financing district at the same time as other districts.

(b) (i) For ~~fiscal year 2012 and~~ all ~~other~~ fiscal years in which rate reductions or effective tax rate reductions occur, the department shall determine from the amount calculated under subsection (1) the amount that is attributable to personal property taxes that are not a lien on real property for each tax increment financing district. By August 1 following each of those fiscal years, the department shall distribute the amount determined under this subsection (4)(b)(i) to each tax increment financing district as provided in 15-1-121(8) and to any other tax increment financing district that is entitled to a reimbursement under this section.

(ii) For the fiscal year beginning July 1, 2013, the department shall determine the portion of the reimbursement for the increased exemption amount in 15-6-138(5) that is attributable to personal property taxes that are not a lien on real property for each tax increment financing district. By August 1, 2014, the department shall distribute the amount determined under this subsection (4)(b)(ii) to each tax increment financing district as provided in 15-1-121(8) and to any other tax increment financing district that is entitled to a reimbursement under this section.

(5) (a) ~~For fiscal year 2012 and all other fiscal years in which rate reductions occur, the~~ The amount determined under subsection (1) for the 6-mill university levy must be added to current collections and reimbursements for the support of the Montana university system as provided in 15-10-108.

(b) (i) For ~~fiscal year 2012 and~~ all ~~other~~ fiscal years in which rate reductions or effective tax rate reductions occur, the department shall determine from the amount calculated under subsection (1) the amount that is attributable to personal property taxes that are not a lien on real property for the 6-mill university levy. By August 1 following each of those fiscal years, the department of administration shall transfer the amount determined under this subsection (5)(b)(i) from the general fund to the state special revenue fund for the support of the Montana university system as provided in 15-10-108.

(ii) For the fiscal year beginning July 1, 2013, the department shall determine the portion of the reimbursement for the increased exemption amount in 15-6-138(5) that is attributable to personal property taxes that are not a lien on real property for the 6-mill university levy. By August 1, 2014, the department of administration shall transfer the amount determined under this subsection (5)(b)(ii) from the general fund to the state special revenue fund for the support of the Montana university system as provided in 15-10-108.

(c) Beginning in fiscal year 2013, the department of administration shall transfer the amounts determined under this subsection (5) from the general fund to the state special revenue fund for the support of the Montana university system as provided in 15-10-108.

(6) (a) The office of public instruction shall distribute the ~~reimbursement~~ reimbursements calculated in subsection (1) to the countywide retirement fund under 20-9-501 ~~for fiscal year 2012 and all other fiscal years in which rate reductions occur~~. One-half of the amount must be distributed in November and the remainder in May.

(b) (i) For ~~fiscal year 2012 and~~ all ~~other~~ fiscal years in which rate reductions or effective tax rate reductions occur, the department shall determine from the amount calculated under subsection (1) the amount that is attributable to personal property taxes that are not a lien on real property in the county. By November 30 following each of those fiscal years, the office of public instruction shall distribute the amount determined under this subsection (6)(b)(i) to the countywide retirement fund.

(ii) For the fiscal year beginning July 1, 2013, the department shall determine the portion of the reimbursement for the increased exemption amount in 15-6-138(5) that is attributable to personal property taxes that are not a lien on real property in the county. By November 30, 2014, the office of public instruction shall distribute the amount determined under this subsection (6)(b)(ii) to the countywide retirement fund.

(7) (a) The office of public instruction shall distribute the ~~reimbursement~~ reimbursements calculated in subsection (1) to the county transportation reimbursement under 20-10-146 ~~for fiscal year 2012 and all other fiscal years in which rate reductions occur~~. The reimbursement must be made at the same time as countywide school transportation block grants are distributed under 20-9-632.

(b) (i) For ~~fiscal year 2012 and~~ all ~~other~~ fiscal years in which rate reductions or effective tax rate reductions occur, the department shall determine from the amount calculated under subsection (1) the amount that is attributable to personal property taxes that are not a lien on real property in the county. By November 30 following each of those fiscal years, the office of public instruction shall distribute the amount determined under this subsection (7)(b)(i) to the county transportation reimbursement.

(ii) For the fiscal year beginning July 1, 2013, the department shall determine the portion of the reimbursement for the increased exemption amount in 15-6-138(5) that is attributable to personal property taxes that are not a lien on real property in the county. By November 30 following each of those fiscal years, the office of public instruction shall distribute the amount determined under this subsection (7)(b)(ii) to the county transportation reimbursement."

Section 2. Section 15-6-138, MCA, is amended to read:

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

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

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

(c) for oil and gas production, all:

(i) machinery;

(ii) fixtures;

(iii) equipment, including flow lines and gathering lines, pumping units, oil field storage tanks, water storage tanks, water disposal injection pumps, gas compressor and dehydrator units, communication towers, gas metering shacks, treaters, gas separators, water flood units, and gas boosters, together with equipment that is skidable, portable, or movable;

(iv) tools that are not exempt under 15-6-219; and

(v) supplies except those included in class five;

(d) all manufacturing machinery, fixtures, equipment, tools, except a certain value of hand-held tools and personal property related to space vehicles, ethanol manufacturing, and industrial dairies and milk processors as provided in 15-6-220, and supplies except those included in class five;

(e) all goods and equipment that are intended for rent or lease, except goods and equipment that are specifically included and taxed in another class or that are rented under a purchase incentive rental program as defined in 15-6-202(4);

(f) special mobile equipment as defined in 61-1-101;

(g) furniture, fixtures, and equipment, except that specifically included in another class, used in commercial establishments as defined in this section;

(h) x-ray and medical and dental equipment;

(i) citizens' band radios and mobile telephones;

(j) radio and television broadcasting and transmitting equipment;

(k) cable television systems;

(l) coal and ore haulers;

(m) theater projectors and sound equipment; and

(n) all other property that is not included in any other class in this part, except that property that is subject to a fee in lieu of a property tax.

(2) As used in this section, the following definitions apply:

(a) "Coal and ore haulers" means nonhighway vehicles that exceed 18,000 pounds an axle and that are primarily designed and used to transport coal, ore, or other earthen material in a mining or quarrying environment.

(b) "Commercial establishment" includes any hotel, motel, office, petroleum marketing station, or service, wholesale, retail, or food-handling business.

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

(3) Except as provided in 15-24-1402, 15-24-2102, and subsection (4) of this section class eight property is taxed at:

(a) as determined pursuant to subsection (4):

(i) for the first $2 million of taxable market value, 2%; or

(ii) for the first $3 million of taxable market value, 1.5%; and

(b) for all taxable market value in excess of the applicable amount of taxable market value in subsection (3)(a), 3%.

(4) (a) The adjusted taxable market value and rate in subsection (3)(a)(i) apply for class eight property unless in any year beginning with fiscal year 2013 the revenue collected from individual income tax and corporation ~~income~~ license tax exceeds the revenue collected from individual income tax and corporation ~~income~~ license tax in the previous fiscal year by more than 4%. In that case, for tax years beginning after the next December 31, the taxable market value and rate in subsection (3)(a)(ii) apply.

(b) For the purpose of making the determination required in subsection (4)(a), the department of administration shall certify to the secretary of state, by August 1 of each year in which class eight property is not taxed pursuant to subsection (3)(a)(ii), the amount of unaudited individual income tax and corporation ~~income~~ license tax revenue in the prior fiscal year as recorded when that fiscal year statewide accounting, budgeting, and human resource system records are closed in July.

(5) The class eight property of a person or business entity that owns an aggregate of ~~$20,000~~ $100,000 or less in market value of class eight property is exempt from taxation.

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

Section 3. Section 15-8-301, MCA, is amended to read:

"15-8-301. Statement -- what to contain -- rules. (1) The department may require from a person a statement under oath setting forth specifically all the real and personal property owned by, in possession of, or under the control of the person at midnight on January 1. The statement must be in writing, showing separately:

(a) all property belonging to, claimed by, or in the possession or under the control or management of the person;

(b) all property belonging to, claimed by, or in the possession or under the control or management of any firm of which the person is a member;

(c) all property belonging to, claimed by, or in the possession or under the control or management of any corporation of which the person is president, secretary, cashier, or managing agent;

(d) the county in which the property is situated or in which the property is liable to taxation and, if liable to taxation in the county in which the statement is made, also the city, town, school district, road district, or other revenue districts in which the property is situated;

(e) an exact description of all lands, improvements, and personal property;

(f) all depots, shops, stations, buildings, and other structures erected on the space covered by the right-of-way and all other property owned by any person owning or operating any railroad within the county.

(2) The department shall notify the taxpayer in the statement for reporting personal property owned by a business or used in a business that the statement is for reporting business equipment and other business personal property described in Title 15, chapter 6, part 1. ~~A~~ Except as provided in subsection (3), a taxpayer owning exempt ~~business equipment~~ class eight property is subject to limited reporting requirements~~;~~. ~~however~~ However, all new businesses shall report their class eight property, as defined in 15-6-138, so that the department can determine the market value of the property. The department shall by rule develop reporting requirements for business equipment to limit the annual reporting of exempt business equipment to the extent feasible.

(3) In the reporting of exempt class eight property under 15-6-138(5), the department shall adopt rules that establish reporting requirements that will prevent the use of multiple business identities to obtain multiple exemptions for what are functionally single businesses. The rules must require a unique taxpayer identification number for each individual and business entity to allow the department to track exemptions of all individuals and business entities.

~~(3)~~(4) Whenever one member of a firm or one of the proper officers of a corporation has made a statement showing the property of the firm or corporation, another member of the firm or another officer is not required to include the property in that person's statement but the statement must show the name of the person or officer who made the statement in which the property is included.

~~(4)~~(5) The fact that a statement is not required or that a person has not made a statement, under oath or otherwise, does not relieve the person's property from taxation."

NEW SECTION. **Section 4. Notification to tribal governments.** The secretary of state shall send a copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell Chippewa tribe.

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

NEW SECTION. **Section 6. Effective date.** [This act] is effective on passage and approval.

NEW SECTION. **Section 7. Applicability.** [This act] applies to property tax years beginning after December 31, 2013.

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