

## 1 HOUSE BILL NO. 359

2 INTRODUCED BY T. BURNETT

3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT LIMITING TAX INCREMENT FINANCING; PROVIDING THAT  
5 PROPERTY TAX REVENUE DISTRIBUTED TO AN URBAN RENEWAL AREA OR TARGETED ECONOMIC  
6 DEVELOPMENT DISTRICT IS LIMITED TO REVENUE RECEIVED FROM LEVIES IMPOSED UNDER THE  
7 AUTHORITY OF THE LOCAL GOVERNMENT THAT ESTABLISHED THE AREA OR DISTRICT;  
8 ESTABLISHING A STATE SPECIAL REVENUE ACCOUNT ADMINISTERED BY THE DEPARTMENT OF  
9 COMMERCE FOR LOANS TO LOCAL GOVERNMENTS THAT ARE UNABLE TO PAY PRINCIPAL AND  
10 INTEREST DUE ON OUTSTANDING BONDS; PROVIDING A STATUTORY APPROPRIATION FROM THE  
11 STATE SPECIAL REVENUE ACCOUNT; PROVIDING FOR REPAYMENT OF LOANS TO THE STATE IN FULL  
12 BY EXTENDING THE TERMINATION DATE OF CERTAIN TAX INCREMENT PROVISIONS; PROVIDING FOR  
13 A GENERAL FUND TRANSFER TO THE STATE SPECIAL REVENUE ACCOUNT; PROVIDING RULEMAKING  
14 AUTHORITY; AMENDING SECTIONS 7-15-4282, 7-15-4283, 7-15-4286, 7-15-4291, 7-15-4292, 7-15-4293,  
15 17-7-502, AND 71-3-1506, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE  
16 APPLICABILITY DATE."

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

19  
20 **NEW SECTION. Section 1. Loan to local government -- preexisting tax increment financing --**  
21 **repayment conditions.** (1) There is a tax increment financing bond reserve account in the state special revenue  
22 fund to provide loans to local governments that determine the reduced tax increment under the provisions of  
23 7-15-4286(2)(a) are insufficient to pay all principal and interest due on bonds that were outstanding prior to [the  
24 effective date of this act]. The department of commerce provided for in 2-15-1801 shall administer the account.

25 (2) (a) The department of commerce is authorized to make loans to a local government from the account.  
26 Payments made by a local government to the state for repayment of the loan and interest earnings must be  
27 deposited in the account.

28 (b) The money in the account is statutorily appropriated, as provided in 17-7-502, to the department of  
29 commerce to be used only for payment of all principal and interest due on bonds for which revenue was pledged  
30 by a local government pursuant to 7-15-4282 through 7-15-4294 before [the effective date of this act].

1 (3) A loan that is issued under the provisions of this section is subject to accumulated interest charges  
2 at the same rate of interest as the underlying bonds that are paid by the loan from the state.

3 (4) The local government shall execute any security documents relating to the loan that the department  
4 of commerce may require prior to receiving loan proceeds. The state retains a lien on tax increment financing  
5 revenues that are received by the local government until the state is fully reimbursed for the loan and  
6 accumulated interest. However, the lien that is obtained under the provisions of this section does not have priority  
7 over the payment of obligations that were incurred before [the effective date of this act].

8 (5) The department of commerce may adopt rules to implement the provisions of this section.  
9

10 **Section 2.** Section 7-15-4282, MCA, is amended to read:

11 **"7-15-4282. Authorization for tax increment financing.** (1) An urban renewal plan as defined in  
12 7-15-4206 or a targeted economic development district comprehensive development plan created as provided  
13 in 7-15-4279 may contain a provision or be amended to contain a provision for the segregation and application  
14 of tax increments as provided in 7-15-4282 through 7-15-4294.

15 (2) ~~The~~ Subject to 7-15-4286(2)(a), the tax increment financing provision must take into account the  
16 effect on the county and school districts that include local government territory."  
17

18 **Section 3.** Section 7-15-4283, MCA, is amended to read:

19 **"7-15-4283. Definitions related to tax increment financing.** For purposes of 7-15-4277 through  
20 7-15-4280 and 7-15-4282 through 7-15-4294, the following definitions apply unless otherwise provided or  
21 indicated by the context:

22 (1) "Actual taxable value" means the taxable value of all taxable property at any time, as calculated from  
23 the property tax record.

24 (2) "Base taxable value" means the actual taxable value of all taxable property within an urban renewal  
25 area or targeted economic development district as it appears on the property tax record prior to the effective date  
26 of a tax increment financing provision. This value may be adjusted as provided in 7-15-4287 or 7-15-4293.

27 (3) "Incremental taxable value" means the amount, if any, by which the actual taxable value at any time  
28 exceeds the base taxable value of all taxable property within an urban renewal area or targeted economic  
29 development district.

30 (4) "Local government", for the purposes of a targeted economic development district, means any

1 incorporated city or town, a county, or a city-county consolidated local government.

2 (5) "Targeted economic development district" means a district created pursuant to 7-15-4277 through  
3 7-15-4280.

4 (6) "Tax increment" means the collections realized from extending the tax levies, expressed in mills, of  
5 all taxing bodies that are imposed under the authority of the local government that established the urban renewal  
6 area or targeted economic development district in which the ~~urban renewal~~ area or ~~targeted economic~~  
7 ~~development~~ district or a part of the area or district is located against the incremental taxable value.

8 (7) "Tax increment provision" means a provision for the segregation and application of tax increments  
9 as authorized by 7-15-4282 through 7-15-4294.

10 (8) "Taxes" means all taxes levied by a taxing body against property on an ad valorem basis.

11 (9) "Taxing body" means any incorporated city or town, county, city-county consolidated local  
12 government, school district, or other political subdivision or governmental unit of the state, including the state, that  
13 levies taxes against property within the urban renewal area or targeted economic development district."  
14

15 **Section 4.** Section 7-15-4286, MCA, is amended to read:

16 **"7-15-4286. Procedure to determine and disburse tax increment -- mill rate limitation for local**  
17 **governments.** (1) ~~(a) Mill~~ Subject to subsection (2)(a), mill rates of taxing bodies for taxes levied after the  
18 effective date of the tax increment provision must be calculated on the basis of the sum of the taxable value, as  
19 shown by the last equalized assessment roll, of all taxable property located outside the urban renewal area or  
20 targeted economic development district and the base taxable value of all taxable property located within the area  
21 or district.

22 ~~(b) The~~ Subject to subsection (2)(a), the mill rate determined must be levied against the sum of the actual  
23 taxable value of all taxable property located within as well as outside the area or district.

24 (2) (a) The mill rates of a local government are limited to mills imposed under the authority of the local  
25 government that established the area or district, and do not include:

26 (i) mills that are collected by a local government on behalf of a school district;

27 (ii) mills for supporting elementary and high school district retirement obligations, pursuant to 20-9-501;

28 (iii) public school equalization mills levied pursuant to 20-9-331, 20-9-333, and 20-9-360;

29 (iv) university system mills; or

30 (v) mills identified in 15-10-420(9)(a).

1           **(b) If the governing body of a local government determines the reduced tax increment under the**  
 2 **provisions of subsection (2)(a) is insufficient to pay all principal and interest due on bonds that were outstanding**  
 3 **prior to [the effective date of this act], then the governing body shall obtain a loan from the state under [section**  
 4 **1] to comply with the required payments.**

5           ~~(2)~~**(3)** (a) The tax increment, if any, received in each year from the levy of the combined mill rates of all  
 6 the affected taxing bodies against the incremental taxable value within the area or district, except for ~~the university~~  
 7 ~~system~~ mills levied and assessed against property that is exempt from the tax increment by subsection (2)(a),  
 8 must be paid into a special fund held by the treasurer of the local government and used as provided in 7-15-4282  
 9 through 7-15-4294.

10           (b) The balance of the taxes collected in each year must be paid to each of the taxing bodies as  
 11 otherwise provided by law."  
 12

13           **Section 5.** Section 7-15-4291, MCA, is amended to read:

14           **"7-15-4291. Agreements to remit unused portion of tax increments.** (1) Subject to subsections (2)  
 15 through (5), the local government may also enter into agreements with the other affected taxing bodies to remit  
 16 to those taxing bodies any portion of the annual tax increment not currently required for the payment of the costs  
 17 listed in 7-15-4288 or pledged to the payment of the principal of premiums, if any, and interest on the bonds  
 18 referred to in 7-15-4289.

19           (2) Any portion of the increment remitted to a school district:

20           (a) must be used to reduce property taxes or designated as operating reserve pursuant to 20-9-104 for  
 21 the fiscal year following the fiscal year in which the remittance was received;

22           (b) must be deposited in one or more of the following funds that has a mill levy for the current school  
 23 year, subject to the provisions of Title 20 and this section:

24           (i) general fund;

25           (ii) bus depreciation reserve fund;

26           (iii) debt service fund;

27           (iv) building reserve fund;

28           (v) technology acquisition and depreciation fund; and

29           (c) may not be transferred to any fund.

30           (3) The remittance will not reduce the levy authority of the school district receiving the remittance in years

1 subsequent to the time period established by subsection (2)(a).

2 (4) Any portion of the increment remitted to a school district and deposited into the general fund must  
3 be designated as operating reserve pursuant to 20-9-104 or used to reduce the BASE budget levy or the  
4 over-BASE budget levy in the following fiscal year.

5 (5) If a school district does not utilize the remitted portion to reduce property taxes or designate the  
6 remittance as operating reserve within the time period established by subsection (2)(a), the unused portion must  
7 be remitted as follows:

8 (a) if the area or district is in existence at the time of the remittance, the portion is distributed to the  
9 special fund in ~~7-15-4286(2)(a)~~7-15-4282(3)(a) and used as provided in 7-15-4282 through 7-15-4294; or

10 (b) if the area or district is not in existence at the time of the remittance, the portion is distributed pursuant  
11 to 7-15-4292(2)(a)."

12

13 **Section 6.** Section 7-15-4292, MCA, is amended to read:

14 **"7-15-4292. Termination of tax increment financing -- exception.** (1) The tax increment provision  
15 contained in an urban renewal plan or a targeted economic development district comprehensive development  
16 plan terminates upon the later of:

17 (a) the 15th year following its adoption; ~~or~~

18 (b) the payment or provision for payment in full or discharge of all bonds for which the tax increment has  
19 been pledged and the interest on the bonds; or

20 (c) payment in full to the state of all loans that were made to a local government under [section 1].

21 (2) (a) Except as provided in subsection (2)(b), any amounts remaining in the special fund or any reserve  
22 fund after termination of the tax increment provision must be distributed among the various taxing bodies in  
23 proportion to their property tax revenue from the area or district.

24 (b) Upon termination of the tax increment provision, a local government may retain and use in  
25 accordance with the provisions of the urban renewal plan:

26 (i) funds remaining in the special fund or a reserve fund related to a binding loan commitment,  
27 construction contract, or development agreement for an approved urban renewal project or targeted economic  
28 development district project that a local government entered into before the termination of a tax increment  
29 provision;

30 (ii) loan repayments received after the date of termination of the tax increment provision from loans made

1 pursuant to a binding loan commitment; or

2 (iii) funds from loans previously made pursuant to a loan program established under an urban renewal  
3 plan or targeted economic development district comprehensive development plan.

4 (3) After termination of the tax increment provision, all taxes must be levied upon the actual taxable value  
5 of the taxable property in the urban renewal area or targeted economic development district and must be paid  
6 to each of the taxing bodies as provided by law.

7 (4) Bonds secured in whole or in part by a tax increment provision may not be issued after the 15th  
8 anniversary of tax increment provisions. However, if bonds secured by a tax increment provision are outstanding  
9 on the applicable anniversary, additional bonds secured by the tax increment provision may be issued if the final  
10 maturity date of the bonds is not later than the final maturity date of any bonds then outstanding and secured by  
11 the tax increment provision."

12

13 **Section 7.** Section 7-15-4293, MCA, is amended to read:

14 **"7-15-4293. Adjustment of base taxable value following change of law or local disaster.** (1) (a) If  
15 Subject to subsection (1)(b), if the base taxable value of an urban renewal area or targeted economic  
16 development district is affected after its original determination by a statutory, administrative, or judicial change  
17 in the method of appraising property, the tax rate applied to it, the tax exemption status of property, or the taxable  
18 valuation of property if the change in taxable valuation is based on conditions existing at the time the base year  
19 was established, the local government may request the department of revenue to estimate the base taxable value  
20 so that the tax increment resulting from the increased incremental value is sufficient to pay all principal and  
21 interest on the bonds as those payments become due.

22 (b) The governing body of a local government may not request a revision of base taxable value to  
23 account for the reduced tax increment under the provisions of 7-15-4286(2)(a).

24 (2) If a tax increment financing district created after January 1, 2002, has not issued bonds, the  
25 governing body of a local government may request the department of revenue to adjust the base taxable value  
26 to account for a loss of taxable revenue resulting from the state granting property in the area or district tax-exempt  
27 status within the first year of creation of the tax increment financing district. The local government shall give notice  
28 of and hold a public hearing on the proposed change.

29 (3) (a) If an urban renewal area or targeted economic development district suffers a loss of property  
30 value directly related to a disaster for which the principal executive officer of the local jurisdiction has made a

1 disaster declaration pursuant to 10-3-402, the department of revenue shall decrease the base taxable value of  
 2 the area or district by the amount of the base taxable value lost because of the disaster in the tax year in which  
 3 the disaster is declared. The principal executive officer shall forward a copy of the disaster declaration to the  
 4 department of revenue.

5 (b) The taxable value removed from the base taxable value of the area or district under subsection (3)(a)  
 6 must be added to the base taxable value of the area or district upon reconstruction of the property in the tax year  
 7 of reconstruction. If reconstruction of the property is only partially completed as of January 1 of the tax year, the  
 8 department of revenue shall determine the base taxable value of the property for that tax year by multiplying the  
 9 percentage of completion, expressed as a decimal equivalent, of reconstruction of the property by the original  
 10 base taxable value of the property. The addition to the base taxable value under this subsection (3)(b) is limited  
 11 to the amount of the original base taxable value of each parcel before the disaster occurred."  
 12

13 **Section 8.** Section 17-7-502, MCA, is amended to read:

14 **"17-7-502. Statutory appropriations -- definition -- requisites for validity.** (1) A statutory  
 15 appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the  
 16 need for a biennial legislative appropriation or budget amendment.

17 (2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both  
 18 of the following provisions:

19 (a) The law containing the statutory authority must be listed in subsection (3).

20 (b) The law or portion of the law making a statutory appropriation must specifically state that a statutory  
 21 appropriation is made as provided in this section.

22 (3) The following laws are the only laws containing statutory appropriations: 2-17-105; 5-11-120;  
 23 5-11-407; 5-13-403; 7-4-2502; [section 1]; 10-1-108; 10-1-1202; 10-1-1303; 10-2-603; 10-3-203; 10-3-310;  
 24 10-3-312; 10-3-314; 10-4-301; 15-1-121; 15-1-218; 15-35-108; 15-36-332; 15-37-117; 15-39-110; 15-65-121;  
 25 15-70-101; 15-70-433; 15-70-601; 16-11-509; 17-3-106; 17-3-112; 17-3-212; 17-3-222; 17-3-241; 17-6-101;  
 26 17-7-215; 18-11-112; 19-3-319; 19-6-404; 19-6-410; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305;  
 27 19-19-506; 19-20-604; 19-20-607; 19-21-203; 20-8-107; 20-9-517; 20-9-520; 20-9-534; 20-9-622; 20-9-905;  
 28 20-26-617; 20-26-1503; 22-1-327; 22-3-116; 22-3-117; 22-3-1004; 23-4-105; 23-5-306; 23-5-409; 23-5-612;  
 29 23-7-301; 23-7-402; 30-10-1004; 37-43-204; 37-50-209; 37-51-501; 39-71-503; 41-5-2011; 42-2-105; 44-4-1101;  
 30 44-12-213; 44-13-102; 50-1-115; 53-1-109; 53-6-1304; 53-9-113; 53-24-108; 53-24-206; 60-11-115; 61-3-415;

1 69-3-870; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 76-13-150; 76-13-416; 77-1-108; 77-2-362; 80-2-222;  
2 80-4-416; 80-11-518; 81-1-112; 81-7-106; 81-10-103; 82-11-161; 85-20-1504; 85-20-1505; [85-25-102]; 87-1-603;  
3 90-1-115; 90-1-205; 90-1-504; 90-3-1003; 90-6-331; and 90-9-306.

4 (4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing,  
5 paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued  
6 pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana  
7 to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state  
8 treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory  
9 appropriation authority for the payments. (In subsection (3): pursuant to sec. 10, Ch. 360, L. 1999, the inclusion  
10 of 19-20-604 terminates contingently when the amortization period for the teachers' retirement system's unfunded  
11 liability is 10 years or less; pursuant to sec. 10, Ch. 10, Sp. L. May 2000, secs. 3 and 6, Ch. 481, L. 2003, and  
12 sec. 2, Ch. 459, L. 2009, the inclusion of 15-35-108 terminates June 30, 2019; pursuant to sec. 73, Ch. 44, L.  
13 2007, the inclusion of 19-6-410 terminates contingently upon the death of the last recipient eligible under  
14 19-6-709(2) for the supplemental benefit provided by 19-6-709; pursuant to sec. 5, Ch. 442, L. 2009, the inclusion  
15 of 90-6-331 terminates June 30, 2019; pursuant to sec. 16, Ch. 58, L. 2011, the inclusion of 30-10-1004  
16 terminates June 30, 2017; pursuant to sec. 6, Ch. 61, L. 2011, the inclusion of 76-13-416 terminates June 30,  
17 2019; pursuant to sec. 13, Ch. 339, L. 2011, the inclusion of 81-1-112 and 81-7-106 terminates June 30, 2017;  
18 pursuant to sec. 11(2), Ch. 17, L. 2013, the inclusion of 17-3-112 terminates on occurrence of contingency;  
19 pursuant to sec. 5, Ch. 244, L. 2013, the inclusion of 22-1-327 terminates July 1, 2017; pursuant to sec. 27, Ch.  
20 285, L. 2015, and sec. 1, Ch. 292, L. 2015, the inclusion of 53-9-113 terminates June 30, 2021; pursuant to sec.  
21 6, Ch. 291, L. 2015, the inclusion of 50-1-115 terminates June 30, 2021; pursuant to sec. 28, Ch. 368, L. 2015,  
22 the inclusion of 53-6-1304 terminates June 30, 2019; pursuant to sec. 5, Ch. 383, L. 2015, the inclusion of  
23 85-25-102 is effective on occurrence of contingency; pursuant to sec. 5, Ch. 422, L. 2015, the inclusion of  
24 17-7-215 terminates June 30, 2021; pursuant to sec. 6, Ch. 423, L. 2015, the inclusion of 22-3-116 and 22-3-117  
25 terminates June 30, 2025; pursuant to sec. 10, Ch. 427, L. 2015, the inclusion of 37-50-209 terminates  
26 September 30, 2019; and pursuant to sec. 33, Ch. 457, L. 2015, the inclusion of 20-9-905 terminates December  
27 31, 2023.)"

28

29 **Section 9.** Section 71-3-1506, MCA, is amended to read:

30 **"71-3-1506. Tax deficiency lien.** A municipality has a lien for tax deficiency payments as described in



1 a properly filed agreement for tax deficiency payment pursuant to 7-15-4294. The lien has the same priority as  
2 a lien for general property taxes. Lien proceeds must be disbursed pursuant to 7-15-4286(2)(3)."

3  
4 NEW SECTION. Section 10. Fund transfer. On or before July 1, 2017, the state treasurer shall transfer  
5 \$500,000 from the state general fund to the tax increment financing bond reserve state special revenue account  
6 established in [section 1].

7  
8 NEW SECTION. Section 11. Codification instruction. [Section 1] is intended to be codified as an  
9 integral part of Title 7, chapter 15, part 43, and the provisions of Title 7, chapter 15, part 43, apply to [section 1].

10  
11 NEW SECTION. Section 12. Effective date. [This act] is effective on passage and approval.

12  
13 NEW SECTION. Section 13. Retroactive applicability. [This act] applies retroactively, within the  
14 meaning of 1-2-109, to property tax years beginning after December 31, 2016.

15 - END -