

HOUSE BILL NO. 462

INTRODUCED BY T. BURNETT

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4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING ADMINISTRATION OF URBAN RENEWAL AND
5 TARGETED ECONOMIC DEVELOPMENT DISTRICTS WITH TAX INCREMENT FINANCING; PROVIDING FOR
6 REPORTING ON AN ANNUAL BASIS BY LOCAL GOVERNMENTS UTILIZING TAX INCREMENT
7 PROVISIONS; REQUIRING THE DEPARTMENT OF REVENUE TO ADMINISTER REPORTING
8 REQUIREMENTS AND PROVIDE INFORMATION TO THE PUBLIC THROUGH THE INTERNET AND THE
9 BIENNIAL REPORT; ~~LIMITING CERTIFICATION OF BASE TAXABLE VALUE OF NEW OR AMENDED TAX~~
10 ~~INCREMENT FINANCING PROVISIONS BASED ON A PERCENTAGE OF LOCAL GOVERNMENT TAXABLE~~
11 ~~VALUE REQUIRING AN IMPACT ANALYSIS IF THE ADOPTION OR EXPANSION OF A TAX INCREMENT~~
12 ~~FINANCING PROVISION WILL RESULT IN A BASE TAXABLE VALUE WITHIN THE TAXING JURISDICTION~~
13 ~~OF GREATER THAN 35% OF THE JURISDICTION'S CERTIFIED TAXABLE VALUE;~~ PROVIDING RULEMAKING
14 AUTHORITY; AMENDING SECTIONS 7-15-4282, 7-15-4283, 7-15-4285, 7-15-4292, AND 15-1-205, MCA; AND
15 PROVIDING AN APPLICABILITY DATE."

16
17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

18
19 NEW SECTION. **Section 1. Reporting duties of local government with tax increment financing**
20 **provision.** (1) A local government shall prepare and make available to the public an updated annual report
21 describing the status of each existing urban renewal or targeted economic development district with a tax
22 increment provision, including expenditures and revenues and any updated urban renewal or comprehensive
23 development plans. The report may be the same as provided by an urban renewal agency in 7-15-4237.

24 (2) The local government shall file a copy of the report with the department of revenue 6 months following
25 the end of the fiscal year. The report must include a complete financial statement setting forth its assets, liabilities,
26 income, operating expenses, and the amount of the tax increment as of the fiscal year, the anticipated tax
27 increment provision termination date, and the contact information of a person designated to respond to questions
28 or concerns regarding the annual report. The report must describe the expenditures of tax increment in the
29 preceding fiscal year and how the expenditures comply with the approved urban renewal plan or comprehensive
30 development plan for the district.

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 2 **NEW SECTION. Section 2. Reporting duties of department of revenue.** (1) The department of
 3 revenue shall post annual reports and updated urban renewal or comprehensive development plans on its official
 4 internet website no later than 45 days after the department receives the information required in [section 1] from
 5 the local government. The department shall also post a list of local governments with a tax increment provision
 6 that fail to comply with [section 1] by filing an annual report.

7 (2) The department shall retain, for the life of the provision plus 5 years, the following information and
 8 documentation for each urban renewal or targeted economic development district with a tax increment provision:

- 9 (a) name of the district;
 10 (b) local government entity;
 11 (c) district contact;
 12 (d) type of district;
 13 (e) historic certified base and increment values;
 14 (f) anticipated resolution date;
 15 (g) maximum resolution date;
 16 (h) levy district codes included in the district and any changes over time;
 17 (i) original and updated urban renewal or comprehensive development plans; and
 18 (j) annual local government or urban renewal agency reports.

19 (3) The department shall report statewide use of tax increment provisions, including a summary of
 20 existing districts and annual change in the tax base and the increment, in the biennial report provided for in
 21 15-1-205.

22
 23 **Section 3.** Section 7-15-4282, MCA, is amended to read:

24 **"7-15-4282. Authorization for tax increment financing.** (1) An urban renewal plan as defined in
 25 7-15-4206 or a targeted economic development district comprehensive development plan created as provided
 26 in 7-15-4279 may contain a provision or be amended to contain a provision for the segregation and application
 27 of tax increments as provided in 7-15-4282 through 7-15-4294.

28 (2) (a) Before adopting a tax increment financing provision as part of an urban renewal plan or a
 29 comprehensive development plan, a municipality shall provide notice to the county and the school district or
 30 ~~targeted economic development district~~ in which the urban renewal district OR TARGETED ECONOMIC DEVELOPMENT

1 DISTRICT is located and provide the county and school district with the opportunity to meet and consult in a public
 2 meeting with the opportunity for public comment regarding the proposed tax increment financing provision and
 3 its effect on the county or school district.

4 (b) Before adopting a tax increment financing provision as part of a comprehensive development plan,
 5 a county shall provide notice to the school district in which the targeted economic development district is located
 6 and provide the school district with the opportunity to meet and consult in a public meeting with the opportunity
 7 for public comment regarding the proposed tax increment financing provision and its effect on the school district.

8 (3) The tax increment financing provision must take into account the effect on the county and school
 9 districts that include local government territory.

10 ~~(4) The department of revenue may not certify base taxable value or amend tax increment financing~~
 11 ~~provisions if doing so would cause the base taxable values of all tax increment provisions in the local government~~
 12 ~~to exceed 15% of local government taxable value, unless the amendments would cause a decrease in base~~
 13 ~~taxable value.~~

14 (4) EXCEPT AS PROVIDED IN SUBSECTION (5), A LOCAL GOVERNING BODY MAY NOT ADOPT A TAX INCREMENT
 15 FINANCING PROVISION OR EXPAND AN URBAN RENEWAL DISTRICT OR TARGETED ECONOMIC DEVELOPMENT DISTRICT WITH
 16 A TAX INCREMENT FINANCING PROVISION IF THE TOTAL BASE TAXABLE VALUE OF ALL URBAN RENEWAL DISTRICTS AND
 17 TARGETED ECONOMIC DEVELOPMENT DISTRICTS WITH A TAX INCREMENT FINANCING PROVISION WITHIN THE LOCAL
 18 GOVERNING BODY'S JURISDICTION EXCEEDS 35% OF THE TOTAL CERTIFIED TAXABLE VALUE OF THE JURISDICTION AS
 19 REPORTED BY THE DEPARTMENT OF REVENUE IN THE PREVIOUS CALENDAR YEAR.

20 (5) (A) (i) IF THE BASE TAXABLE VALUE OF THE URBAN RENEWAL DISTRICTS AND TARGETED ECONOMIC
 21 DEVELOPMENT DISTRICTS WITH A TAX INCREMENT FINANCING PROVISION EXCEEDS THE LIMIT PROVIDED FOR IN
 22 SUBSECTION (4), THE LOCAL GOVERNMENT SHALL PERFORM AN ANALYSIS OF THE IMPACT OF THE PROPOSED ADOPTION
 23 OF A TAX INCREMENT FINANCING PROVISION OR EXPANSION OF AN EXISTING DISTRICT ON ALL AFFECTED TAXING
 24 JURISDICTIONS.

25 (ii) A MUNICIPALITY SHALL PROVIDE NOTICE TO THE COUNTY AND THE SCHOOL DISTRICT IN WHICH THE DISTRICT
 26 PROVIDED FOR IN SUBSECTION (5)(A)(i) IS LOCATED AND PROVIDE THE COUNTY AND SCHOOL DISTRICT WITH THE
 27 OPPORTUNITY TO MEET AND CONSULT REGARDING THE PROPOSED ADOPTION OF A TAX INCREMENT FINANCING PROVISION
 28 OR EXPANSION OF A DISTRICT AND THE SCOPE OF THE IMPACT ANALYSIS REQUIRED IN SUBSECTION (5)(A)(i).

29 (iii) A COUNTY OR CONSOLIDATED CITY-COUNTY SHALL PROVIDE NOTICE TO THE SCHOOL DISTRICT IN WHICH THE
 30 DISTRICT PROVIDED FOR IN SUBSECTION (5)(A)(i) IS LOCATED AND PROVIDE THE SCHOOL DISTRICT WITH THE OPPORTUNITY

1 TO MEET AND CONSULT REGARDING THE PROPOSED ADOPTION OF A TAX INCREMENT FINANCING PROVISION OR EXPANSION
 2 OF A DISTRICT AND THE SCOPE OF THE IMPACT ANALYSIS REQUIRED IN SUBSECTION (5)(A)(I).

3 (B) PRIOR TO APPROVING THE ADOPTION OF A TAX INCREMENT FINANCING PROVISION OR THE EXPANSION OF AN
 4 EXISTING DISTRICT WITH A TAX INCREMENT FINANCING PROVISION THAT WILL EXCEED THE LIMIT PROVIDED FOR IN
 5 SUBSECTION (4), THE LOCAL GOVERNING BODY SHALL HOLD A PUBLIC HEARING ON THE PROPOSAL AND THE IMPACT
 6 ANALYSIS REQUIRED IN SUBSECTION (5)(A)(I)."

7

8 **Section 4.** Section 7-15-4283, MCA, is amended to read:

9 **"7-15-4283. Definitions related to tax increment financing.** For purposes of 7-15-4277 through
 10 7-15-4280, ~~and~~ 7-15-4282 through 7-15-4294, and [sections 1 and 2], the following definitions apply unless
 11 otherwise provided or indicated by the context:

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

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

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

20 (4) "Local government", for the purposes of a targeted economic development district, means any
 21 incorporated city or town, a county, or a city-county consolidated local government.

22 (5) "Targeted economic development district" means a district created pursuant to 7-15-4277 through
 23 7-15-4280.

24 (6) "Tax increment" means the collections realized from extending the tax levies, expressed in mills, of
 25 all taxing bodies in which the urban renewal area or targeted economic development district or a part of the area
 26 or district is located against the incremental taxable value.

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

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

30 (9) "Taxing body" means any incorporated city or town, county, city-county consolidated local

1 government, school district, or other political subdivision or governmental unit of the state, including the state, that
 2 levies taxes against property within the urban renewal area or targeted economic development district."

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4 **Section 5.** Section 7-15-4285, MCA, is amended to read:

5 **"7-15-4285. Determination and report of original, actual, and incremental taxable values --**

6 **rulemaking.** (1) The department of revenue shall, upon receipt of a qualified tax increment provision and each
 7 succeeding year, calculate and report to the local government and to any other affected taxing body in
 8 accordance with Title 15, chapter 10, part 2, the base, actual, and incremental taxable values of the property.

9 (2) For the purpose of this section, the term "qualified tax increment provision" means an urban renewal
 10 or targeted economic development district that meets the physical and procedural requirements of Title 7, chapter
 11 15, part 43, and this part and that submitted documentation to the department of revenue in accordance with rules
 12 adopted by the department.

13 (3) The department of revenue shall adopt rules to implement and administer Title 7, chapter 15, part
 14 43, and this part."

15

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

17 **"7-15-4292. Termination of tax increment financing -- exception.** (1) The tax increment provision
 18 contained in an urban renewal plan or a targeted economic development district comprehensive development
 19 plan terminates upon the later of:

20 (a) the 15th year ~~following its adoption~~ of segregation of the increment as certified by the department
 21 of revenue; or

22 (b) the payment or provision for payment in full or discharge of all bonds for which the tax increment has
 23 been pledged and the interest on the bonds.

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

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

29 (i) funds remaining in the special fund or a reserve fund related to a binding loan commitment,
 30 construction contract, or development agreement for an approved urban renewal project or targeted economic

1 development district project that a local government entered into before the termination of a tax increment
2 provision;

3 (ii) loan repayments received after the date of termination of the tax increment provision from loans made
4 pursuant to a binding loan commitment; or

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

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

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

15

16 **Section 7.** Section 15-1-205, MCA, is amended to read:

17 **"15-1-205. Biennial report -- contents.** (1) The department shall transmit to the governor 20 days
18 before the meeting of the legislature and make available to the legislature and the public a report of the
19 department showing all the taxable property of the state, counties, and cities and its value. The department shall
20 follow the provisions of 5-11-210 in preparing the report for the legislature.

21 (2) The report must also include the statewide average effective tax rate of taxable property in each class
22 of property. The department may determine whether an appropriate effective tax rate may be derived for net
23 proceeds, gross proceeds, agricultural land, and forest land.

24 (3) The report or supplements to the report must also include:

25 (a) the gross dollar amount of revenue loss attributable to:

26 (i) personal income and corporate income tax exemptions;

27 (ii) property tax exemptions for which application to the department is necessary;

28 (iii) deferral of income;

29 (iv) credits allowed against Montana personal income tax or Montana corporate income tax, reported
30 separately;

- 1 (v) deductions from income; and
- 2 (vi) any other identifiable preferential treatment of income or property;
- 3 (b) any change in tax revenue of the state or any unit of local government attributable to a change in
- 4 federal tax law;
- 5 (c) any change in the revenue of any unit of local government attributable to a change in state tax law;
- 6 (d) the year of enactment and provision of the Montana Code Annotated granting the tax benefits in
- 7 subsection (3)(a); ~~and~~
- 8 (e) the number of taxpayers benefiting from each of the tax provisions listed in subsection (3)(a); and
- 9 (f) a summary of the statewide use of tax increment financing provisions, including a summary of existing
- 10 districts and annual changes in the tax base and the increment.
- 11 (4) A distributional analysis of the data described in subsection (3) must be related to the income level
- 12 and age of the taxpayer whenever the information is available.
- 13 (5) (a) When reporting the data described in subsection (3)(a), the department shall identify any known
- 14 purpose of the preferential treatment.
- 15 (b) Based upon the purpose of the preferential treatment, the department shall outline the available data
- 16 necessary to determine the effectiveness of the preferential treatment.
- 17 (6) In reporting the data described in subsection (3), the department shall report any comparable data,
- 18 if available, from Wyoming, Idaho, North Dakota, and South Dakota and from any other state the department may
- 19 choose.
- 20 (7) The department shall identify in a separate section of the report any changes that have been made
- 21 or that are contemplated in property appraisal or assessment.
- 22 (8) The department may include a report, prepared by the department of transportation, showing the
- 23 selling price of gasoline at the wholesale level in prime market centers of Montana and in surrounding states
- 24 during the biennium, with indexes tabulated at sufficient intervals to show the comparative state price structures.
- 25 (9) The department shall provide an internet version of the report free of charge to the public and shall
- 26 charge a fee for paper copies that is commensurate with the cost of printing the report."

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28 **NEW SECTION. Section 8. Codification instruction.** [Sections 1 and 2] are intended to be codified

29 as an integral part of Title 7, chapter 15, part 43, and the provisions of Title 7, chapter 15, part 43, apply to

30 [sections 1 and 2].

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2 NEW SECTION. Section 9. Applicability. ~~[This act] (1) EXCEPT AS PROVIDED IN SUBSECTION (2), [THIS~~
3 ACT] applies to property tax years beginning after December 31, 2019.

4 (2) [SECTION 3] APPLIES TO THE CREATION OR EXPANSION OF AN URBAN RENEWAL DISTRICT OR TARGETED
5 ECONOMIC DEVELOPMENT DISTRICT WITH A TAX INCREMENT FINANCING PROVISION UNDER TITLE 7, CHAPTER 15, PART
6 42, ON OR AFTER [THE EFFECTIVE DATE OF THIS ACT].

7 - END -