

Remittance Agreements and Other Ways of Releasing Increment
Tax Increment Financing Districts Study
Revenue and Transportation Interim Committee
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This briefing provides an overview of statutes that address the release of excess funds from urban renewal districts (URD) or targeted economic development districts (TEDD) that utilize tax increment financing. There is also an attempt to provide information on which districts have used the methods discussed recently and which taxing jurisdictions receive the released funds.

Remittance Agreements

A local government may enter into agreements with taxing jurisdictions affected by the urban renewal district or targeted economic development district to remit any portion of increment that is not required to pay the costs of projects identified in the urban renewal plan or targeted economic development district comprehensive plan or pledged for premiums or interest on bonds.

The section of law providing for the remittance agreements, section [7-15-4291](#), MCA, does not require that all affected taxing jurisdictions receive remittances or provide guidance on how to split the funds to be remitted among affected taxing jurisdictions. The 2015 Legislature amended the section to provide guidance on the use of funds remitted to a school district.

The amendments provide that a remittance to a school district must be used to reduce property taxes or designated as operating reserve, must be deposited in one of the specified funds, and may not be transferred to another fund. If the requirements are not met and the URD or TEDD is still in existence, the unused remittance must be remitted back to the fund used for the URD or TEDD. If the district is no longer in existence, the funds must be distributed as they would be if funds remained at the time of termination of the URD or TEDD.

Bozeman Remittance Agreement

The city of Bozeman adopted the urban renewal plan for its Downtown Bozeman tax increment finance (TIF) district in 1995. Included in the original plan was a provision to return to the "taxing bodies" the increment not necessary to pay the principal and interest on bonds. The plan required this to be implemented through interlocal agreements with the city, county, and the school district after the eleventh year of tax increment payments or after the annual increment reached \$750,000 adjusted for inflation, whichever occurred first.¹ The City Commission revised the urban renewal plan in 2005 to provide that tax increment payments would be made through the fifteenth year or until the annual increment reached \$750,000 adjusted for inflation, whichever occurred first.²

The city of Bozeman, Gallatin County, and Bozeman School District #7 entered into an interlocal agreement on May 2, 2011, to provide for remittances to the city, county, and school district. The

¹"Urban Renewal Plan," adopted by Bozeman City Commission, Ordinance No. 1409, Nov. 20, 1995, p. 25.

²"Urban Renewal Plan," revised by Bozeman City Commission, Ordinance No. 1628, March 7, 2005.

inflation-adjusted annual increment exceeded the cap in the fourteenth year of tax increment payments. The agreement provides that the funds in excess of the principal and interest on the bonds are allocated to the city, county, and school district based on the pro-rated share of the mill levy. The city, county, and school district mills are totaled, and each entity receives an amount of money equal to the total funds available multiplied by the entity's mill levy divided by the total mills levied by the city, county, and school district. The state is not part of the agreement, which means that the excess funds do not go the 95 mills for school equalization.

The interlocal agreement includes a provision that allows the receiving entity to designate all or a portion of the funds back to the district, including for a specific purpose identified by the would-be recipient. The city of Bozeman designated its share of funds to the TIF district.

Anaconda-Deer Lodge Remittance Agreement

The ordinance adopting Tax Increment Financing Industrial District No. 2 (TIFID No. 2) allowed for the remittance of increment not required for project costs or the payment of bonds. The ordinance, however, required remittances if a power plant was built on Northwestern Energy property within the boundaries of TIFID No. 2.³

The Anaconda-Deer Lodge County Commission amended the remittance portion of the ordinance in June 2009. The amended ordinance defined the term "limited tax increment" to refer to the tax increment derived from the Mill Creek natural gas-fired electric generating station and related facilities to be constructed by Northwestern Energy in TIFID No. 2. The remittance section was revised to provide that the limited tax increment be pledged to the Mill Creek Project if the available tax increment (which excludes the limited tax increment derived from the Mill Creek Project) is not sufficient to pay the bonds for the Mill Creek Project. Any remaining limited tax increment is required to be remitted to "affected taxing bodies."⁴

On Dec. 20, 2011, Anaconda-Deer Lodge County entered into a remittance agreement with Anaconda School District 10 to implement the remittance agreement provided for in Ordinance No. 212-B. The agreement provides that Anaconda-Deer Lodge County remit to the school district its share of limited tax increment not required for payment of the Mill Creek Project bonds. The school district's remittance is determined by dividing the mills attributable to the school district by the total mills levied by all taxing entities in TIFID No. 2. The remittance payments are made twice a year, by January 15 and July 15, and the first payment was made before July 15, 2012.

There is no indication of a remittance agreement between TIFID No. 2 and Anaconda-Deer Lodge County or the State of Montana. The consolidated city-county government may be a reason for not remitting to Anaconda-Deer Lodge County. The city of Bozeman, which is the entity that approved its TIF district, chose to pledge the city's remittance back to the TIF. Anaconda-Deer Lodge County approved TIFID No. 2 and may have opted not to receive a remittance.

³"Ordinance No. 212," Anaconda-Deer Lodge County Commission, Aug. 5, 2008.

⁴"Ordinance No. 212-B," Anaconda-Deer Lodge County Commission, June 16, 2009.

Release of a Portion of Increment

Section [7-15-4287](#), MCA, provides another mechanism for returning excess increment to affected taxing jurisdictions. The section allows a local government to adjust the base taxable value of the district and release a portion of the increment when a tax increment provision is adopted or any time after adoption of a tax increment provision. Adjusting the base taxable value of the district will increase the total taxable value of affected taxing jurisdictions (to the extent that taxable value has increased within the district) and preserve less of the increment for projects within the district. Releasing increment in this way allows all affected taxing jurisdictions to receive revenue going forward from levies on the released portion of the increment.

The local government must be sure that the adjusted base taxable value will generate enough increment to pay the principal and interest due on any bonds. If the adjusted base taxable value is insufficient to pay the bonds, the adjusted base taxable value must be further adjusted to provide sufficient increment to pay the principal and interest on bonds.

This provision has been used most recently in Fort Benton but not to release part of a growing increment to affected taxing jurisdictions. The City Council granted a property tax abatement for the remodeling of the Fort Benton Hotel, which is within the city's TIF district. The abatement lowered the taxable value of the hotel below the value captured when the base taxable value of the TIF was set and consequently reduced the available increment. The increment was no longer sufficient to pay bonds so the city adjusted the base taxable value of the district, which was a downward adjustment. The adjusted taxable value was lower than the base taxable value. This adjustment increased the available increment and allowed for payment of the bonds.

Revenues Remaining After Termination of District

Section [7-15-4292](#), MCA, provides for the disposition of funds after termination of a tax increment financing provision contained in an urban renewal plan or targeted economic development district comprehensive development plan. Any revenue remaining in the special fund or a reserve fund after the termination may be used in accordance with an urban renewal plan for a binding loan commitment, construction contract, or development agreement for an approved urban renewal project or targeted economic development district project entered into before the termination of the tax increment financing provision.

Loan repayments received after the termination of the TIF provision may also be retained and used in accordance with the urban renewal plan. There does not seem to be a requirement that retained loan payments fund a previously approved project, but the funds must be used in accordance with the urban renewal plan.

Money remaining in the special fund or a reserve fund not used for the above purposes must be distributed to the affected taxing jurisdictions in proportion to their property tax revenue from the district.