

HOUSE BILL 397

Introduced by Bardanouve, et al.

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| 1/25 | Introduced           |
| 1/25 | Referred to Taxation |
| 1/26 | First Reading        |
| 2/01 | Hearing              |
| 2/14 | Tabled in Committee  |

1 House BILL NO. 397  
 2 INTRODUCED BY Barbara Ferguson  
 3

4 A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING THE  
 5 TRUSTEES OF A SCHOOL DISTRICT TO ADOPT A REVISED FINAL  
 6 BUDGET IF THE TRUSTEES DETERMINE THAT THE REVENUE FROM THE  
 7 GENERAL FUND NET LEVY OR PERMISSIVE LEVY WILL NOT BE  
 8 REQUIRED TO FUND THE DISTRICT'S BUDGET; REQUIRING THE COUNTY  
 9 COMMISSIONERS TO ADOPT A REVISED LEVY TO REFLECT THE REVISED  
 10 FINAL BUDGET; PROVIDING FOR REFUNDS OF THE EXCESS TAXES  
 11 COLLECTED; AMENDING SECTIONS 15-16-601, 20-9-104, 20-9-132,  
 12 20-9-134, 20-9-142, AND 20-9-152, MCA; AND PROVIDING AN  
 13 IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY  
 14 DATE."

15  
 16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

17 **Section 1.** Section 15-16-601, MCA, is amended to read:

18 "15-16-601. Taxes or penalties illegally collected,  
 19 taxes levied in error, or duplicate taxes to be refunded.

20 (1) (a) Any taxes, interest, penalties, or costs paid more  
 21 than once or erroneously or illegally collected or any  
 22 amount of tax paid for which a taxpayer is entitled to a  
 23 refund under 15-16-612 or 15-16-613 or any part or portion  
 24 of taxes paid which were mistakenly computed on government  
 25 bonus or subsidy received by the taxpayer may, by order of

1 the board of county commissioners, be refunded by the county  
 2 treasurer. Whenever any payment has been made to the state  
 3 treasurer as provided in 15-1-504 and it afterwards appears  
 4 to the satisfaction of the board of county commissioners  
 5 that a portion of the money so paid should be refunded as  
 6 herein provided, the board of county commissioners may  
 7 refund the portion of the taxes, interest, penalties, and  
 8 costs so paid to the state treasurer, and upon the rendering  
 9 of the report required by 15-1-505 the county clerk and  
 10 recorder shall certify to the state auditor, in such form as  
 11 the state auditor may prescribe, all amounts so refunded. In  
 12 the next settlement of the county treasurer with the state,  
 13 the state auditor shall give the county treasurer credit for  
 14 the state's portion of the amounts so refunded.

15 (b) When any part of the taxes, interest, penalties, or  
 16 costs hereinbefore referred to in subsection (1)(a):

17 (i) were levied in behalf of any school district or  
 18 municipal or other public corporation and collected by the  
 19 county treasurer, the same taxes, interest, penalties, or  
 20 costs may be refunded upon the order of the board of county  
 21 commissioners;

22 (ii) were levied on behalf of a school district that has  
 23 adopted a revised final budget as provided in 20-9-132 and  
 24 were collected by the county treasurer, the taxes, interest,  
 25 or penalties must be refunded upon the order of the board of

1 county commissioners.

2 (c) No order for the refund of any taxes, interest,  
3 penalties, or costs under this section shall be made except  
4 upon a claim therefor, verified by the person who has paid  
5 the taxes, interest, penalties, or costs or his guardian or,  
6 in case of his death, by his executor or administrator,  
7 which claim must be filed within 10 years after the date  
8 when the second half of such taxes would have become  
9 delinquent if the same had not been paid.

10 (d) All refunds ordered to be paid by the board of  
11 county commissioners must be paid by the county treasurer  
12 out of the general fund of the county, and the county  
13 treasurer shall then make such transfers from other county  
14 funds and from state, school district, and other public  
15 corporation funds in his possession as may be necessary to  
16 reimburse the county general fund for payments made  
17 therefrom.

18 (2) Upon the entering of judgment under 15-2-306, the  
19 county commissioners of the affected county shall order a  
20 refund of such portion of the taxes as the state tax appeal  
21 board has judged should be refunded."

22 **Section 2.** Section 20-9-104, MCA, is amended to read:

23 "20-9-104. General fund cash reserve. (1) At the end of  
24 each school fiscal year, the trustees of each district shall  
25 designate the portion of the general fund end-of-the-year

1 cash balance that is to be earmarked as cash reserve for the  
2 purpose of paying general fund warrants issued by the  
3 district from July 1 to November 30 of the ensuing school  
4 fiscal year. Except as provided in subsections (3) and (4),  
5 the amount of the general fund cash balance that is  
6 earmarked as cash reserve may not exceed the following  
7 percentages of the final general fund budget for the ensuing  
8 school fiscal year:

9 (a) 35% for a district that did not receive state  
10 equalization aid during the current school fiscal year;

11 (b) 30% for a district that received state equalization  
12 aid equal to 25% or less of its foundation program schedul  
13 entitlement in the current school fiscal year; and

14 (c) 20% for a district that received state equalization  
15 aid equal to more than 25% of its foundation progra  
16 schedule entitlement in the current school fiscal year.

17 (2) The amount held as cash reserve may not be used fo  
18 property tax reduction in the manner permitted b  
19 20-9-141(1)(b) for other receipts. Any portion of th  
20 general fund end-of-the-year cash balance that is no  
21 earmarked for cash reserve purposes is cash reappropriat  
22 and must be used for property tax reduction as provided i  
23 20-9-141(1)(b)(iii).

24 (3) The limitation of subsection (1) does not appl  
25 when the amount in excess of the limitation is equal to c

1 less than:

2 (a) any amount received during the current school  
3 fiscal year under Public Law 81-874;

4 (b) the unused balance of any amount received in  
5 settlement of tax payments protested prior to July 1, 1990;  
6 or

7 (c) any amount received as a general bonus payment  
8 under 20-6-401.

9 (4) The limitation of subsection (1) does not apply  
10 when the amount earmarked as cash reserve is \$10,000 or  
11 less."

12 **Section 3.** Section 20-9-132, MCA, is amended to read:

13 "20-9-132. Final budget adjustment procedures. (1) At  
14 the final budget meeting of the trustees, they ~~shall~~ have  
15 the ~~power to~~ may make any changes or corrections they ~~may~~  
16 ~~deem consider~~ necessary or proper in any item or amount of  
17 the preliminary budget either by eliminating the item or  
18 amount or by increasing or reducing the amount of any item.  
19 When it appears to the trustees that the amount proposed to  
20 be expended for any item of the preliminary budget is in  
21 excess of the amount actually required to be expended for  
22 such the item, the trustees shall reduce such the amount to  
23 the amount actually required to be expended and shall enter  
24 in its minutes the reasons for such the reduction.

25 (2) If the trustees determine that the amount of

1 revenue to be received from the general fund net levy or the  
2 permissive levy will not be required to fund the district's  
3 budget, the trustees shall at any time adopt a revised final  
4 budget and submit the revised final budget to the county  
5 superintendent."

6 **Section 4.** Section 20-9-134, MCA, is amended to read:

7 "20-9-134. Completion, filing, and delivery of final  
8 budgets. (1) After the final budget of the elementary, high  
9 school, or community college district has been adopted by  
10 the trustees, the county superintendent shall complete all  
11 the remaining portions of the budget forms and shall:

12 ~~(1)~~(a) send the final budget information to the  
13 superintendent of public instruction, on the forms provided  
14 by the superintendent, on or before September 1 or whenever  
15 revised as provided in 20-9-132(2);

16 ~~(2)~~(b) in the case of the community college districts,  
17 send the final budget information to the board of regents,  
18 on the forms provided by the community college coordinator,  
19 on or before September 1; and

20 ~~(3)~~(c) deliver a copy of the final budget for the  
21 district to the county treasurer on or before September 1.

22 (2) The county superintendent shall examine, certify,  
23 and deliver a revised final budget to the county treasurer  
24 as soon as possible after its receipt."

25 **Section 5.** Section 20-9-142, MCA, is amended to read:

1       "20-9-142. Fixing and levying taxes by board of county  
 2 commissioners. (1) On the second Monday in August, the  
 3 county superintendent shall place before the board of county  
 4 commissioners the final adopted budget of the district and  
 5 any emergency budget adopted by the district during the  
 6 previous school fiscal year. It shall be the duty of the  
 7 board of county commissioners to fix and levy on all the  
 8 taxable value of all the real and personal property within  
 9 the district all district and county taxation required to  
 10 finance, within the limitations provided by law, the final  
 11 budget and any emergency budget of the district.

12       (2) If the county superintendent certifies a revised  
 13 final budget, the board of county commissioners shall at any  
 14 time recalculate the levy for the revised final budget of  
 15 the district and order a refund as provided in 15-16-601.  
 16 The county treasurer shall issue a refund or revise the  
 17 second-half property tax statements as directed by the board  
 18 of county commissioners."

19       **Section 6.** Section 20-9-152, MCA, is amended to read:  
 20       "20-9-152. Fixing and levying taxes for joint  
 21 districts. (1) At the time of fixing levies for county and  
 22 school purposes on the second Monday in August, the board of  
 23 county commissioners of each county in which a part of a  
 24 joint district is located shall fix and levy taxes on that  
 25 portion of the joint district located in such board's county

1 at the number of mills for each such levy recommended by the  
 2 joint statement of the county superintendents.

3       (2) The board of county commissioners shall include in  
 4 the amounts to be raised by the county levies for schools  
 5 all the amounts required for the final budget of each part  
 6 of a joint district located in the county, in accordance  
 7 with the recommendations of the county superintendent.

8       (3) If the county superintendents certify a revised  
 9 final budget, the board of county commissioners shall at any  
 10 time recalculate the levy for the revised final budget of  
 11 the joint district."

12       **NEW SECTION. Section 7. Retroactive applicability.**  
 13 [This act] applies retroactively, within the meaning of  
 14 1-2-109, to July 1, 1990.

15       **NEW SECTION. Section 8. Effective date.** [This act] is  
 16 effective on passage and approval.

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