

1 INTRODUCED BY Grant Sandoz BILL NO. 397

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING SCHOOL LAWS TO ALLOW, IF APPROVED, THE USE
5 OF ANTICIPATED ENROLLMENT FIGURES IN THE CALCULATION OF A DISTRICT'S GUARANTEED TAX
6 BASE RATIO WHEN THE DISTRICT IS SUBJECT TO AN UNUSUAL ENROLLMENT INCREASE BECAUSE OF
7 LARGE-SCALE MINERAL DEVELOPMENT OR OTHER POPULATION INFUSION; REVISING THE PROPERTY
8 TAX PREPAYMENT AND PROPERTY TAX BASE SHARING LAWS TO PROVIDE TAX CREDITING
9 MECHANISMS FOR LARGE-SCALE MINERAL DEVELOPMENTS; AMENDING SECTIONS 20-9-314,
10 20-9-366, 90-6-309, AND 90-6-404, MCA; AND PROVIDING AN EFFECTIVE DATE."

11
12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13
14 Section 1. Section 20-9-314, MCA, is amended to read:

15 "20-9-314. Procedures for determining eligibility and amount of increased average number
16 belonging ~~due to~~ because of unusual enrollment increase. A district that anticipates an unusual increase
17 in enrollment in the ensuing school fiscal year, as provided for in 20-9-313(4), may increase its basic
18 entitlement and total per-ANB entitlement for the ensuing school fiscal year in accordance with the
19 following provisions:

20 (1) Prior to May 10, the district shall estimate the elementary or high school enrollment to be
21 realized during the ensuing school fiscal year, based on as much factual information as may be available
22 to the district.

23 (2) No later than May 10, the district shall submit its application for an unusual enrollment increase
24 by elementary or high school level to the superintendent of public instruction. The application must include:

- 25 (a) the enrollment for the current school fiscal year;
- 26 (b) the average number belonging used to calculate the basic entitlement and total per-ANB
27 entitlement for the current school fiscal year;
- 28 (c) the average number belonging that will be used to calculate the basic entitlement and total
29 per-ANB entitlement for the ensuing school fiscal year;
- 30 (d) the estimated enrollment, including the factual information on which the estimate is based, as

1 provided in subsection (1); and

2 (e) any other information or data that may be requested by the superintendent of public instruction.

3 (3) The superintendent of public instruction shall immediately review all the factors of the
4 application and shall approve or disapprove the application or adjust the estimated average number
5 belonging for the ensuing ANB calculation period. After approving an estimate, with or without adjustment,
6 the superintendent of public instruction shall:

7 (a) determine the percentage increase that the estimated enrollment increase is over the current
8 enrollment; and

9 (b) approve an increase of the average number belonging used to establish the ensuing year's basic
10 entitlement and total per-ANB entitlement in accordance with subsection (5) if the increase in subsection
11 (3)(a) is at least 6%.

12 (4) The superintendent of public instruction shall notify the district of the decision by the fourth
13 Monday in June.

14 (5) Whenever an unusual enrollment increase is approved by the superintendent of public
15 instruction, the increase of the average number belonging used to establish the basic entitlement ~~and~~ total
16 per-ANB entitlement, and district guaranteed tax base ratio for the ensuing ~~ANB calculation period~~ school
17 year is the difference between the estimated enrollment for the ensuing school fiscal year and 106% of the
18 current enrollment. The amount determined is the maximum allowable increase added to the average
19 number belonging for the purpose of establishing the ensuing year's basic entitlement, ~~and~~ total per-ANB
20 entitlement, and district guaranteed tax base ratio.

21 (6) Any entitlement increases resulting from provisions of this section must be reviewed at the end
22 of the ensuing school fiscal year. If the actual enrollment is less than the average number belonging used
23 for BASE funding program and entitlement calculations, the superintendent of public instruction shall revise
24 the total per-ANB entitlement calculations using the actual average number belonging. All total per-ANB
25 entitlements received by the district in excess of the revised entitlements are overpayments subject to the
26 refund provisions of 20-9-344(4)."

27

28 **Section 2.** Section 20-9-366, MCA, is amended to read:

29 **"20-9-366. Definitions.** As used in 20-9-366 through 20-9-369, the following definitions apply:

30 (1) "County retirement mill value per elementary ANB" or "county retirement mill value per high

1 school ANB" means the sum of the taxable valuation in the previous year of all property in the county
 2 divided by 1,000, with the quotient divided by the total county elementary ANB count or the total county
 3 high school ANB count used to calculate the elementary school districts' and high school districts' current
 4 year total per-ANB entitlement amounts.

5 (2) (a) "District Except as provided in subsection (2)(b), "district guaranteed tax base ratio" for
 6 guaranteed tax base funding for the BASE budget of an eligible district means the taxable valuation in the
 7 previous year of all property in the district divided by the sum of the district's current year direct state aid
 8 and 40% of the special education allowable cost payment.

9 (b) District guaranteed tax base ratio for guaranteed tax base funding for the BASE budget of an
 10 eligible district with approval for increased ANB pursuant to 20-9-314 means the taxable valuation in the
 11 previous year of all property in the district divided by the sum of the district's ensuing year direct state aid
 12 and 40% of the special education allowable cost payment, excluding any increases in entitlements, as
 13 defined in 20-9-306, that are approved by the legislature for the ensuing school fiscal year.

14 ~~(b)(c)~~ "District mill value per ANB", for school facility entitlement purposes, means the taxable
 15 valuation in the previous year of all property in the district divided by 1,000, with the quotient divided by
 16 the ANB count of the district used to calculate the district's current year total per-ANB entitlement amount.

17 (3) (a) "Statewide elementary guaranteed tax base ratio" or "statewide high school guaranteed tax
 18 base ratio", for guaranteed tax base funding for the BASE budget of an eligible district, means the sum of
 19 the taxable valuation in the previous year of all property in the state, multiplied by 175% and divided by
 20 the total sum of either the state elementary school districts' or the high school districts' current year total
 21 direct state aid and 40% of special education allowable cost amounts.

22 (b) "Statewide mill value per elementary ANB" or "statewide mill value per high school ANB", for
 23 school facility entitlement and retirement guaranteed tax base purposes, means the sum of the taxable
 24 valuation in the previous year of all property in the state, multiplied by 121% and divided by 1,000, with
 25 the quotient divided by the total state elementary ANB count or the total state high school ANB amount
 26 used to calculate the elementary school districts' and high school districts' current year total per-ANB
 27 entitlement amounts."

28

29 **Section 3.** Section 90-6-309, MCA, is amended to read:

30 **"90-6-309. Tax prepayment -- large-scale mineral development.** (1) After permission to commence

1 operation is granted by the appropriate governmental agency, and upon request of the governing body of
2 a county in which a facility is to be located, a person intending to construct or locate a large-scale mineral
3 development in this state shall prepay property taxes as specified in the impact plan. This prepayment shall
4 must exclude the 6-mill university levy established under 20-25-423 and may exclude the mandatory county
5 levies for the school BASE funding program established in 20-9-331 and 20-9-333.

6 (2) The person who is to prepay under this section is not obligated to prepay the entire amount
7 established in subsection (1) at one time. Upon request of the governing body of an affected local
8 government unit, the person shall prepay the amount shown to be needed from time to time as determined
9 by the board.

10 (3) The person who is to prepay shall guarantee to the hard-rock mining impact board, through an
11 appropriate financial institution, as may be required by the board, that property tax prepayments will be paid
12 as needed for expenditures created by the impacts of the large-scale mineral development.

13 (4) When the mineral development facilities are completed and assessed by the department of
14 revenue, they are subject during the first 3 years and thereafter to taxation as all other property similarly
15 situated, except that in each year after the start of production, the local government unit that received a
16 property tax prepayment shall provide for repayment of prepaid property taxes in accordance with
17 subsection (5).

18 (5) A local government unit that received all or a portion of the property tax prepayment under
19 this section shall provide for tax crediting as specified in the impact plan. The tax credit allowed in any year
20 may not, however, exceed the tax obligation of the developer for that year, and the time period for tax
21 crediting is limited to the productive life of the mining operation.

22 (6) Tax credits may be accomplished by allocating mineral development taxable valuation to a tax
23 credit fund, as provided by the impact plan, under 90-6-404 or under this section. The amount of tax credit
24 attributable to the local government unit is equal to the revenue that would result if the mill levy of that unit
25 were applied to the taxable valuation allocated to the tax credit fund."

26
27 **Section 4.** Section 90-6-404, MCA, is amended to read:

28 **"90-6-404. Allocation of taxable valuation for local taxation purposes.** When property of a
29 large-scale mineral development is subject to the provisions of 90-6-403, the increase in taxable valuation
30 must be allocated by the department of revenue as follows:

1 (1) If the board determines that the local government unit in which the ore body or the mineral
2 deposit being mined is located is not affected by the development and if this determination is shown on
3 the impact plan, 20% of the total increase in taxable valuation of the gross proceeds must be allocated to
4 that local government unit. This provision is intended to establish a minimum allocation for the units and
5 does not prohibit proof by a unit that actual direct impacts would exceed 20% of the total impacts of the
6 development.

7 (2) The remaining increase in taxable valuation of the mineral development must be allocated
8 between affected counties and affected municipalities according to the following formula based on the place
9 of residence of mineral development employees:

10 (a) A portion, not to exceed 20%, to affected municipalities, based on that percentage of the total
11 number of mineral development employees that reside within municipal boundaries. The taxable valuation
12 allocated to affected municipalities must be distributed to each municipality according to its percentage of
13 the total number of mineral development employees who reside within municipal boundaries. That portion
14 of the taxable valuation distributed to a municipality pursuant to this section is subject to the same county
15 mill levy as other taxable properties located in the municipality.

16 (b) The remaining portion of the taxable valuation must be distributed to each affected county
17 according to its percentage of the total number of mineral development employees that reside within the
18 county.

19 (3) The increase in taxable valuation equal to that subject to subsection (2) must be distributed pro
20 rata among each affected high school district according to the percentage of the total number of mineral
21 development high school students that reside within each district.

22 (4) The increase in taxable valuation equal to that subject to subsection (2) must be distributed pro
23 rata among each affected elementary school district according to the percentage of the total number of
24 mineral development elementary school students that reside within each district.

25 (5) The distribution formula specified in subsections (2) through (4) may be modified by an impact
26 plan approved as provided in 90-6-307 or amended as provided in 90-6-311, if:

27 (a) the modification is needed in order to ensure a reasonable correspondence between the
28 occurrence of increased costs resulting from the mineral development and the allocation of taxable valuation
29 resulting from the mineral development; or

30 (b) the modification is needed in order to allow for the provision of tax credits, as provided by

1 90-6-309(5).

2 (6) For purposes of tax credit allocation, as provided in 90-6-309(5) and (6), mineral development
3 taxable valuation may be distributed to a tax credit fund established by a local government unit or by a
4 class of local government units described in subsection (2), (3), or (4)."

5

6 NEW SECTION. Section 5. Effective date. [This act] is effective July 1, 1997.

7

-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for SB0397, as introduced

DESCRIPTION OF PROPOSED LEGISLATION: An act revising school laws to allow, if approved, the use of anticipated enrollment figures in the calculation of a district's guaranteed tax base ratio when the district is subject to an unusual enrollment increase because of large-scale mineral development or other population infusion; revising the property tax prepayment and property tax base sharing laws to provide tax crediting mechanisms for large-scale mineral developments.

ASSUMPTIONS:

1. The anticipated enrollment increases approved by OPI for the FY97 school year totaled 33 ANB. In each of FY98 and FY99, the anticipated enrollment increases will total 35 students.
2. State aid per ANB will average \$2285 for FY98 and FY99. The Direct State Aid portion of this state funding is \$1,525 per ANB. The guaranteed tax base aid (GTB) portion of this state funding is \$760 per ANB.
3. The increased GTB costs associated with 35 additional ANB is \$26,600.
4. Tax credits accomplished by allocating taxable valuation to a tax credit fund will reduce a school district's mill value per-ANB and increase the state share of its GTB budget. This reduction will continue during the time which valuation is allocated to the tax credit fund.

FISCAL IMPACT: The state cost of GTB aid will increase by \$26,600 in each year of the 1999 biennium for a total biennial cost of \$53,200 as a result of the additional ANB. In addition there will be an undetermined increase in GTB cost as a result of district taxable valuation allocated to the tax credit fund.

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

SB 397 will reduce the GTB ratio in any school district that qualifies for an anticipated enrollment increase. As a result, the state funding for a district's BASE budget will increase. Local property taxes will decrease by the same amount that the state cost increases.

Dave Lewis 3-25-97 Lois Grosfield 3-26-97
DAVE LEWIS, BUDGET DIRECTOR DATE LORENTS GROSFIELD, PRIMARY SPONSOR DATE
Office of Budget and Program Planning

1 SENATE BILL NO. 397

2 INTRODUCED BY GROSFIELD

3
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18 entitlement and total per-ANB entitlement for the ensuing school fiscal year in accordance with the
19 following provisions:

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21 realized during the ensuing school fiscal year, based on as much factual information as may be available
22 to the district.

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24 by elementary or high school level to the superintendent of public instruction. The application must include:

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27 entitlement for the current school fiscal year;

28 (c) the average number belonging that will be used to calculate the basic entitlement and total
29 per-ANB entitlement for the ensuing school fiscal year;

30 (d) the estimated enrollment, including the factual information on which the estimate is based, as

1 provided in subsection (1); and

2 (e) any other information or data that may be requested by the superintendent of public instruction.

3 (3) The superintendent of public instruction shall immediately review all the factors of the
4 application and shall approve or disapprove the application or adjust the estimated average number
5 belonging for the ensuing ANB calculation period. After approving an estimate, with or without adjustment,
6 the superintendent of public instruction shall:

7 (a) determine the percentage increase that the estimated enrollment increase is over the current
8 enrollment; and

9 (b) approve an increase of the average number belonging used to establish the ensuing year's basic
10 entitlement and total per-ANB entitlement in accordance with subsection (5) if the increase in subsection
11 (3)(a) is at least 6%.

12 (4) The superintendent of public instruction shall notify the district of the decision by the fourth
13 Monday in June.

14 (5) Whenever an unusual enrollment increase is approved by the superintendent of public
15 instruction, the increase of the average number belonging used to establish the basic entitlement ~~and~~ total
16 per-ANB entitlement, and district guaranteed tax base ratio for the ensuing ~~ANB calculation period~~ school
17 year is the difference between the estimated enrollment for the ensuing school fiscal year and 106% of the
18 current enrollment. The amount determined is the maximum allowable increase added to the average
19 number belonging for the purpose of establishing the ensuing year's basic entitlement, ~~and~~ total per-ANB
20 entitlement, and district guaranteed tax base ratio.

21 (6) Any entitlement increases resulting from provisions of this section must be reviewed at the end
22 of the ensuing school fiscal year. If the actual enrollment is less than the average number belonging used
23 for BASE funding program and entitlement calculations, the superintendent of public instruction shall revise
24 the total per-ANB entitlement calculations using the actual average number belonging. All total per-ANB
25 entitlements received by the district in excess of the revised entitlements are overpayments subject to the
26 refund provisions of 20-9-344(4)."

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29 "20-9-366. **Definitions.** As used in 20-9-366 through 20-9-369, the following definitions apply:

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 2 divided by 1,000, with the quotient divided by the total county elementary ANB count or the total county
 3 high school ANB count used to calculate the elementary school districts' and high school districts' current
 4 year total per-ANB entitlement amounts.

5 (2) (a) ~~"District~~ Except as provided in subsection (2)(b), "district guaranteed tax base ratio" for
 6 guaranteed tax base funding for the BASE budget of an eligible district means the taxable valuation in the
 7 previous year of all property in the district divided by the sum of the district's current year direct state aid
 8 and 40% of the special education allowable cost payment.

9 (b) District guaranteed tax base ratio for guaranteed tax base funding for the BASE budget of an
 10 eligible district with approval for increased ANB pursuant to 20-9-314 means the taxable valuation in the
 11 previous year of all property in the district divided by the sum of the district's ensuing year direct state aid
 12 and 40% of the special education allowable cost payment, excluding any increases in entitlements, as
 13 defined in 20-9-306, that are approved by the legislature for the ensuing school fiscal year.

14 ~~(b)(c)~~ "District mill value per ANB", for school facility entitlement purposes, means the taxable
 15 valuation in the previous year of all property in the district divided by 1,000, with the quotient divided by
 16 the ANB count of the district used to calculate the district's current year total per-ANB entitlement amount.

17 (3) (a) "Statewide elementary guaranteed tax base ratio" or "statewide high school guaranteed tax
 18 base ratio", for guaranteed tax base funding for the BASE budget of an eligible district, means the sum of
 19 the taxable valuation in the previous year of all property in the state, multiplied by 175% and divided by
 20 the total sum of either the state elementary school districts' or the high school districts' current year total
 21 direct state aid and 40% of special education allowable cost amounts.

22 (b) "Statewide mill value per elementary ANB" or "statewide mill value per high school ANB", for
 23 school facility entitlement and retirement guaranteed tax base purposes, means the sum of the taxable
 24 valuation in the previous year of all property in the state, multiplied by 121% and divided by 1,000, with
 25 the quotient divided by the total state elementary ANB count or the total state high school ANB amount
 26 used to calculate the elementary school districts' and high school districts' current year total per-ANB
 27 entitlement amounts."

28

29 **Section 3.** Section 90-6-309, MCA, is amended to read:

30 **"90-6-309. Tax prepayment -- large-scale mineral development.** (1) After permission to commence

1 operation is granted by the appropriate governmental agency, and upon request of the governing body of
2 a county in which a facility is to be located, a person intending to construct or locate a large-scale mineral
3 development in this state shall prepay property taxes as specified in the impact plan. This prepayment shall
4 must exclude the 6-mill university levy established under 20-25-423 and may exclude the mandatory county
5 levies for the school BASE funding program established in 20-9-331 and 20-9-333.

6 (2) The person who is to prepay under this section is not obligated to prepay the entire amount
7 established in subsection (1) at one time. Upon request of the governing body of an affected local
8 government unit, the person shall prepay the amount shown to be needed from time to time as determined
9 by the board.

10 (3) The person who is to prepay shall guarantee to the hard-rock mining impact board, through an
11 appropriate financial institution, as may be required by the board, that property tax prepayments will be paid
12 as needed for expenditures created by the impacts of the large-scale mineral development.

13 (4) When the mineral development facilities are completed and assessed by the department of
14 revenue, they are subject during the first 3 years and thereafter to taxation as all other property similarly
15 situated, except that in each year after the start of production, the local government unit that received a
16 property tax prepayment shall provide for repayment of prepaid property taxes in accordance with
17 subsection (5).

18 (5) A local government unit that received all or a portion of the property tax prepayment under
19 this section shall provide for tax crediting as specified in the impact plan. The tax credit allowed in any year
20 may not, however, exceed the tax obligation of the developer for that year, and the time period for tax
21 crediting is limited to the productive life of the mining operation.

22 (6) Tax SCHOOL DISTRICT TAX credits may be accomplished by allocating mineral development
23 taxable valuation to a tax credit fund, as provided by the impact plan, under 90-6-404 or under this section.
24 The amount of tax credit attributable to the ~~local government unit~~ SCHOOL DISTRICT is equal to the
25 revenue that would result if the mill levy, EXCLUDING THE BASE BUDGET LEVY, AS DEFINED IN 20-9-306,
26 of that ~~unit~~ DISTRICT were applied to the taxable valuation allocated to the tax credit fund. MINERAL
27 DEVELOPMENT TAXABLE VALUATION ALLOCATED TO A TAX CREDIT FUND MAY NOT BE CONSIDERED
28 TAXABLE VALUATION OF THE DISTRICT FOR PURPOSES OF CALCULATING DISTRICT LEVIES OR STATE
29 GUARANTEED TAX BASE AID TO THE DISTRICT. ANY REVENUE GENERATED BY THE BASE BUDGET
30 LEVY APPLIED TO MINERAL DEVELOPMENT TAXABLE VALUATION MUST BE DISTRIBUTED BY THE

1 COUNTY TREASURER TO THE SCHOOL DISTRICT GENERAL FUND."

2
3 **Section 4.** Section 90-6-404, MCA, is amended to read:

4 **"90-6-404. Allocation of taxable valuation for local taxation purposes.** When property of a
5 large-scale mineral development is subject to the provisions of 90-6-403, the increase in taxable valuation
6 must be allocated by the department of revenue as follows:

7 (1) If the board determines that the local government unit in which the ore body or the mineral
8 deposit being mined is located is not affected by the development and if this determination is shown on
9 the impact plan, 20% of the total increase in taxable valuation of the gross proceeds must be allocated to
10 that local government unit. This provision is intended to establish a minimum allocation for the units and
11 does not prohibit proof by a unit that actual direct impacts would exceed 20% of the total impacts of the
12 development.

13 (2) The remaining increase in taxable valuation of the mineral development must be allocated
14 between affected counties and affected municipalities according to the following formula based on the place
15 of residence of mineral development employees:

16 (a) A portion, not to exceed 20%, to affected municipalities, based on that percentage of the total
17 number of mineral development employees that reside within municipal boundaries. The taxable valuation
18 allocated to affected municipalities must be distributed to each municipality according to its percentage of
19 the total number of mineral development employees who reside within municipal boundaries. That portion
20 of the taxable valuation distributed to a municipality pursuant to this section is subject to the same county
21 mill levy as other taxable properties located in the municipality.

22 (b) The remaining portion of the taxable valuation must be distributed to each affected county
23 according to its percentage of the total number of mineral development employees that reside within the
24 county.

25 (3) The increase in taxable valuation equal to that subject to subsection (2) must be distributed pro
26 rata among each affected high school district according to the percentage of the total number of mineral
27 development high school students that reside within each district.

28 (4) The increase in taxable valuation equal to that subject to subsection (2) must be distributed pro
29 rata among each affected elementary school district according to the percentage of the total number of
30 mineral development elementary school students that reside within each district.

1 (5) The distribution formula specified in subsections (2) through (4) may be modified by an impact
2 plan approved as provided in 90-6-307 or amended as provided in 90-6-311, if;

3 (a) the modification is needed in order to ensure a reasonable correspondence between the
4 occurrence of increased costs resulting from the mineral development and the allocation of taxable valuation
5 resulting from the mineral development; or

6 (b) the modification is needed in order to allow for the provision of tax credits BY SCHOOL
7 DISTRICTS, as provided by 90-6-309(5).

8 (6) For purposes of tax credit allocation, as provided in 90-6-309(5) and (6), mineral development
9 taxable valuation may be distributed to a tax credit fund established by a local government unit SCHOOL
10 DISTRICT or by a class of local government units SCHOOL DISTRICTS described in subsection (2), (3), or
11 (4)."

12

13 NEW SECTION. Section 5. Effective date. [This act] is effective July 1, 1997.

14

-END-