

HOUSE BILL NO. 625

INTRODUCED BY B. MERCER

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR A REDUCTION IN A COUNTY'S ENTITLEMENT SHARE IF THE COUNTY FAILS TO COMPLY WITH MANDATORY CHILD ABUSE OR NEGLECT REPORTING REQUIREMENTS; REQUIRING THAT THE ATTORNEY GENERAL REPORT NONCOMPLIANCE TO THE DEPARTMENT OF REVENUE; AND AMENDING SECTIONS 15-1-121 AND 41-3-210, MCA."

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

Section 1. Section 15-1-121, MCA, is amended to read:

"15-1-121. Entitlement share payment -- purpose -- appropriation. (1) As described in 15-1-120(3), each local government is entitled to an annual amount that is the replacement for revenue received by local governments for diminishment of property tax base and various earmarked fees and other revenue that, pursuant to Chapter 574, Laws of 2001, amended by section 4, Chapter 13, Special Laws of August 2002, and later enactments, were consolidated to provide aggregation of certain reimbursements, fees, tax collections, and other revenue in the state treasury with each local government's share. The reimbursement under this section is provided by direct payment from the state treasury rather than the ad hoc system that offset certain state payments with local government collections due the state and reimbursements made by percentage splits, with a local government remitting a portion of collections to the state, retaining a portion, and in some cases sending a portion to other local governments.

(2) The sources of dedicated revenue that were relinquished by local governments in exchange for an entitlement share of the state general fund were:

(a) personal property tax reimbursements pursuant to sections 167(1) through (5) and 169(6), Chapter 584, Laws of 1999;

(b) vehicle, boat, and aircraft taxes and fees pursuant to:

(i) Title 23, chapter 2, part 5;

- 1 (ii) Title 23, chapter 2, part 6;
- 2 (iii) Title 23, chapter 2, part 8;
- 3 (iv) 61-3-317;
- 4 (v) 61-3-321;
- 5 (vi) Title 61, chapter 3, part 5, except for 61-3-509(3), as that subsection read prior to the
- 6 amendment of 61-3-509 in 2001;
- 7 (vii) Title 61, chapter 3, part 7;
- 8 (viii) 5% of the fees collected under 61-10-122;
- 9 (ix) 61-10-130;
- 10 (x) 61-10-148; and
- 11 (xi) 67-3-205;
- 12 (c) gaming revenue pursuant to Title 23, chapter 5, part 6, except for the permit fee in 23-5-
- 13 612(2)(a);
- 14 (d) district court fees pursuant to:
- 15 (i) 25-1-201, except those fees in 25-1-201(1)(d), (1)(g), and (1)(j);
- 16 (ii) 25-1-202;
- 17 (iii) 25-9-506; and
- 18 (iv) 27-9-103;
- 19 (e) certificate of title fees for manufactured homes pursuant to 15-1-116;
- 20 (f) financial institution taxes collected pursuant to the former provisions of Title 15, chapter 31, part
- 21 7;
- 22 (g) all beer, liquor, and wine taxes pursuant to:
- 23 (i) 16-1-404;
- 24 (ii) 16-1-406; and
- 25 (iii) 16-1-411;
- 26 (h) late filing fees pursuant to 61-3-220;
- 27 (i) title and registration fees pursuant to 61-3-203;
- 28 (j) veterans' cemetery license plate fees pursuant to 61-3-459;

(k) county personalized license plate fees pursuant to 61-3-406;
(l) special mobile equipment fees pursuant to 61-3-431;
(m) single movement permit fees pursuant to 61-4-310;
(n) state aeronautics fees pursuant to 67-3-101; and
(o) department of natural resources and conservation payments in lieu of taxes pursuant to former Title 77, chapter 1, part 5.

(3) Except as provided in subsection (7)(b), the total amount received by each local government in the prior fiscal year as an entitlement share payment under this section is the base component for the subsequent fiscal year distribution, and in each subsequent year the prior year entitlement share payment, including any reimbursement payments received pursuant to subsection (7), is each local government's base component. The sum of all local governments' base components is the fiscal year entitlement share pool.

(4) (a) Except as provided in subsections (4)(b)(iv) and (7)(b), the base entitlement share pool must be increased annually by an entitlement share growth rate as provided for in this subsection (4). The amount determined through the application of annual growth rates is the entitlement share pool for each fiscal year.

(b) By October 1 of each year, the department shall calculate the growth rate of the entitlement share pool for the next fiscal year in the following manner:

(i) The department shall calculate the entitlement share growth rate based on the ratio of two factors of state revenue sources for the first, second, and third most recently completed fiscal years as recorded on the statewide accounting, budgeting, and human resource system. The first factor is the sum of the revenue for the first and second previous completed fiscal years received from the sources referred to in subsections (2)(b), (2)(c), and (2)(g) divided by the sum of the revenue for the second and third previous completed fiscal years received from the same sources multiplied by 0.75. The second factor is the sum of the revenue for the first and second previous completed fiscal years received from individual income tax as provided in Title 15, chapter 30, and corporate income tax as provided in Title 15, chapter 31, divided by the sum of the revenue for the second and third previous completed fiscal years received from the same sources multiplied by 0.25.

(ii) Except as provided in subsections (4)(b)(iii) and (4)(b)(iv), the entitlement share growth rate is

1 the lesser of:

2 (A) the sum of the first factor plus the second factor; or

3 (B) 1.03 for counties, 1.0325 for consolidated local governments, and 1.035 for cities and towns.

4 (iii) In no instance can the entitlement growth factor be less than 1. Subject to subsection (4)(b)(iv),
5 the entitlement share growth rate is applied to the most recently completed fiscal year entitlement payment to
6 determine the subsequent fiscal year payment.

7 (iv) The entitlement share growth rate, as described in this subsection (4), is:

8 (A) for fiscal year 2018, 1.005;

9 (B) for fiscal year 2019, 1.0187;

10 (C) for fiscal year 2020 and thereafter, determined as provided in subsection (4)(b)(ii). The rate
11 must be applied to the entitlement payment for the previous fiscal year as if the payment had been calculated
12 using entitlement share growth rates for fiscal years 2018 and 2019 as provided in subsection (4)(b)(ii).

13 (5) As used in this section, "local government" means a county, a consolidated local government,
14 an incorporated city, and an incorporated town. A local government does not include a tax increment financing
15 district provided for in subsection (8). The county or consolidated local government is responsible for making an
16 allocation from the county's or consolidated local government's share of the entitlement share pool to each
17 special district within the county or consolidated local government in a manner that reasonably reflects each
18 special district's loss of revenue sources for which reimbursement is provided in this section. The allocation for
19 each special district that existed in 2002 must be based on the relative proportion of the loss of revenue in
20 2002.

21 (6) (a) The entitlement share pools calculated in this section, the amounts distributed under 15-1-
22 123(4) for local governments, the funding provided for in subsection (8) of this section, and the amounts
23 distributed under 15-1-123(5) for tax increment financing districts are statutorily appropriated, as provided in 17-
24 7-502, from the general fund to the department for distribution to local governments.

25 (b) (i) The growth amount is the difference between the entitlement share pool in the current fiscal
26 year and the entitlement share pool in the previous fiscal year. The growth factor in the entitlement share must
27 be calculated separately for:

28 (A) counties;

(B) consolidated local governments; and

(C) incorporated cities and towns.

(ii) In each fiscal year, the growth amount for counties must be allocated as follows:

(A) 50% of the growth amount must be allocated based upon each county's percentage of the prior fiscal year entitlement share pool for all counties; and

(B) 50% of the growth amount must be allocated based upon the percentage that each county's population bears to the state population not residing within consolidated local governments as determined by the latest interim year population estimates from the Montana department of commerce as supplied by the United States bureau of the census.

(iii) In each fiscal year, the growth amount for consolidated local governments must be allocated as follows:

(A) 50% of the growth amount must be allocated based upon each consolidated local government's percentage of the prior fiscal year entitlement share pool for all consolidated local governments; and

(B) 50% of the growth amount must be allocated based upon the percentage that each consolidated local government's population bears to the state's total population residing within consolidated local governments as determined by the latest interim year population estimates from the Montana department of commerce as supplied by the United States bureau of the census.

(iv) In each fiscal year, the growth amount for incorporated cities and towns must be allocated as follows:

(A) 50% of the growth amount must be allocated based upon each incorporated city's or town's percentage of the prior fiscal year entitlement share pool for all incorporated cities and towns; and

(B) 50% of the growth amount must be allocated based upon the percentage that each city's or town's population bears to the state's total population residing within incorporated cities and towns as determined by the latest interim year population estimates from the Montana department of commerce as supplied by the United States bureau of the census.

(v) In each fiscal year, the amount of the entitlement share pool before the growth amount or adjustments made under subsection (7) are applied is to be distributed to each local government in the same

manner as the entitlement share pool was distributed in the prior fiscal year.

(7) (a) If the legislature enacts a reimbursement provision that is to be distributed pursuant to this section, the department shall determine the reimbursement amount as provided in the enactment and add the appropriate amount to the entitlement share distribution under this section. The total entitlement share distributions in a fiscal year, including distributions made pursuant to this subsection, equal the local fiscal year entitlement share pool. The ratio of each local government's distribution from the entitlement share pool must be recomputed to determine each local government's ratio to be used in the subsequent year's distribution determination under subsections (6)(b)(ii)(A), (6)(b)(iii)(A), and (6)(b)(iv)(A).

(b) For fiscal year 2018 and thereafter, the growth rate provided for in subsection (4) does not apply to the portion of the entitlement share pool attributable to the reimbursement provided for in 15-1-123(1) and (2). The department shall calculate the portion of the entitlement share pool attributable to the reimbursement in 15-1-123(1) and (2), including the application of the growth rate in previous fiscal years, for counties, consolidated local governments, and cities and, for fiscal year 2018 and thereafter, apply the growth rate for that portion of the entitlement share pool as provided in 15-1-123(3).

(c) The growth amount resulting from the application of the growth rate in 15-1-123(3) must be allocated as provided in subsections (6)(b)(ii)(A), (6)(b)(iii)(A), and (6)(b)(iv)(A) of this section.

(8) (a) Except for a tax increment financing district entitled to a reimbursement under 15-1-123(5), if a tax increment financing district was not in existence during the fiscal year ending June 30, 2000, then the tax increment financing district is not entitled to any funding. If a tax increment financing district referred to in subsection (8)(b) terminates, then the funding for the district provided for in subsection (8)(b) terminates.

(b) One-half of the payments provided for in this subsection (8)(b) must be made by November 30 and the other half by May 31 of each year. Subject to subsection (8)(a), the entitlement share for tax increment financing districts is as follows:

Flathead	Kalispell - District 2	\$4,638
Flathead	Kalispell - District 3	37,231
Flathead	Whitefish District	148,194
Gallatin	Bozeman - downtown	31,158

Missoula	Missoula - 1-1C	225,251
Missoula	Missoula - 4-1C	30,009

(9) The estimated fiscal year entitlement share pool and any subsequent entitlement share pool for local governments do not include revenue received from tax increment financing districts.

(10) When there has been an underpayment of a local government's share of the entitlement share pool, the department shall distribute the difference between the underpayment and the correct amount of the entitlement share. When there has been an overpayment of a local government's entitlement share, the local government shall remit the overpaid amount to the department.

(11) A local government may appeal the department's estimation of the base component, the entitlement share growth rate, or a local government's allocation of the entitlement share pool, according to the uniform dispute review procedure in 15-1-211.

(12) (a) Except as provided in 2-7-517, a payment required pursuant to this section may not be offset by a debt owed to a state agency by a local government in accordance with Title 17, chapter 4, part 1.

(b) A payment required pursuant to this section must be withheld if a local government:

(i) fails to meet a deadline established in 2-7-503(1), 7-6-611(2), 7-6-4024(3), or 7-6-4036(1); and

(ii) fails to remit any amounts collected on behalf of the state as required by 15-1-504 or as otherwise required by law within 45 days of the end of a month.

(c) A payment required pursuant to this section may be withheld if, for more than 90 days, a local government fails to:

(i) file a financial report required by 15-1-504;

(ii) remit any amounts collected on behalf of the state as required by 15-1-504; or

(iii) remit any other amounts owed to the state or another taxing jurisdiction.

(d) If the department of revenue receives notice from the attorney general that a county has failed to comply with the reporting requirements of 41-3-210(3), a payment required pursuant to this section must be reduced by 2%.

Section 2. Section 41-3-210, MCA, is amended to read:

"41-3-210. County attorney duties -- certification -- retention of records -- reports to attorney

general and legislature -- attorney general report. (1) (a) The county attorney shall gather all case notes, correspondence, evaluations, interviews, and other investigative materials pertaining to each report from the department or investigation by law enforcement of sexual abuse or sexual exploitation of a child made within the county when the alleged perpetrator of the sexual abuse or sexual exploitation is 12 years of age or older. After a report is made or an investigation is commenced, the following individuals or entities shall provide to the county attorney all case notes, correspondence, evaluations, interviews, and other investigative materials related to the report or investigation:

- (i) the department;
- (ii) state and local law enforcement; and
- (iii) all members of a county or regional interdisciplinary child information and school safety team established under 52-2-211.

(b) The duty to provide records to the county attorney under subsection (1)(a) remains throughout the course of an investigation, an abuse and neglect proceeding conducted pursuant to this part, or the prosecution of a case involving the sexual abuse of a child or sexual exploitation of a child.

(c) Upon receipt of a report from the department, as required in 41-3-202, that includes an allegation of sexual abuse of a child or sexual exploitation of a child, the county attorney shall certify in writing to the person who initially reported the information that the county attorney received the report. The certification must include the date the report was received and the age and gender of the alleged victim. If the report was anonymous, the county attorney shall provide the certification to the department. If the report was made to the county attorney by a law enforcement officer, the county attorney is not required to provide the certification.

(2) The county attorney shall retain records relating to the report or investigation, including the certification, case notes, correspondence, evaluations, videotapes, and interviews, for 25 years.

(3) On or before January 1 and June 1 of each year, each county attorney shall report to the attorney general. The report to the attorney general must include, for each report from the department or investigation by law enforcement:

- (a) a unique case identifier;
- (b) the date that the initial report or allegation was received by the county attorney;
- (c) the date any charges were filed;

(d) the date of any decision to decline to prosecute;

(e) if charges are filed against a defendant, whether a conviction was obtained and, if a conviction was obtained, the sentence imposed by the court; and

(f) the number of certifications made as required by subsection (1)(c), including the number of certifications made to the department.

(4) (a) The attorney general shall create a form for county attorneys to use when submitting reports required by subsection (3). The form must allow collection of the information required by subsection (3) on an aggregated, cumulative basis for a 5-year period until charges are filed or a decision is made to decline to prosecute.

(b) The information provided by a county attorney on the forms is confidential criminal justice information as defined in 44-5-103.

(5) IF A COUNTY ATTORNEY FAILS TO REPORT THE INFORMATION REQUIRED BY SUBSECTION (3), THE ATTORNEY GENERAL SHALL PROVIDE NOTICE TO THE COUNTY ATTORNEY AND THE COUNTY COMMISSIONERS OF THAT COUNTY WITHIN 10 DAYS OF THE MISSED DEADLINE. IF THE COUNTY ATTORNEY DOES NOT PROVIDE THE REQUIRED INFORMATION WITHIN 30 DAYS OF THE ATTORNEY GENERAL'S NOTICE, THE ATTORNEY GENERAL SHALL REPORT AS PROVIDED IN SUBSECTION (6)(B).

~~(5)(6)~~ The attorney general shall report to:

(a) the law and justice interim committee each year by August 15 and as provided in 5-11-210. The reports must provide:

~~(a)~~(i) aggregated information regarding the status of the cases reported in subsection (3) by the county attorneys, except for those cases pending review of the county attorney or uncharged cases still under investigation, including data on the total number of cases reported;

~~(b)~~(ii) the number of cases declined for prosecution;

~~(c)~~(iii) the number of cases charged;

~~(d)~~(iv) any action in the past fiscal year that the attorney general took under the authority of 2-15-501 based on the reports submitted as required in subsection (3). A report made pursuant to this subsection ~~(5)(d)(a)(iv) (6)(A)(IV)~~ may not include the name of the county.

~~(e)~~(v) after consideration of the information provided by the department pursuant to 41-3-211, any

1 county attorney who failed to provide a complete report required by subsection (3); and
2 (b) the department of revenue each year by August 15. The report must identify, after
3 consideration of the information provided by the department pursuant to 41-3-211, any county that failed to
4 comply with the reporting requirements of subsection (3) of this section by July 1 of the reporting year."

5 - END -