

IN THE SUPREME COURT OF THE STATE OF MONTANA
Supreme Court No. _____

MONTANA QUALITY EDUCATION COALITION,

Petitioners,

v.

BEAVERHEAD COUNTY; BIG HORN COUNTY; BLAINE COUNTY; BROADWATER COUNTY; CARBON COUNTY; CARTER COUNTY; CASCADE COUNTY; CHOUTEAU COUNTY; CUSTER COUNTY; DANIELS COUNTY; DAWSON COUNTY; DEER LODGE COUNTY; FALLON COUNTY; FERGUS COUNTY; FLATHEAD COUNTY; GALLATIN COUNTY; GARFIELD COUNTY; GLACIER COUNTY; GOLDEN VALLEY COUNTY; GRANITE COUNTY; HILL COUNTY; JEFFERSON COUNTY; JUDITH BASIN COUNTY; LAKE COUNTY; LEWIS AND CLARK COUNTY; LIBERTY COUNTY; LINCOLN COUNTY; MADISON COUNTY; MCCONE COUNTY; MEAGHER COUNTY; MINERAL COUNTY; MISSOULA COUNTY; MUSSELSHELL COUNTY; PARK COUNTY; PETROLEUM COUNTY; PHILLIPS COUNTY; PONDERA COUNTY; POWDER RIVER COUNTY; POWELL COUNTY; PRAIRIE COUNTY; RAVALLI COUNTY; RICHLAND COUNTY; ROOSEVELT COUNTY; ROSEBUD COUNTY; SANDERS COUNTY; SHERIDAN COUNTY; SILVER BOW COUNTY; STILLWATER COUNTY; SWEET GRASS COUNTY; TETON COUNTY; TOOLE COUNTY; TREASURE COUNTY; VALLEY COUNTY; WHEATLAND COUNTY; WIBAUX COUNTY; AND YELLOWSTONE COUNTY,

Respondents.

PETITION FOR WRIT OF MANDATE
EXPEDITED CONSIDERATION REQUESTED

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- Exhibit 14:** Letter from MACo to Governor G. Gianforte, dated October 4, 2023

I. PETITION

COMES NOW, Petitioner the Montana Quality Education Coalition (hereinafter “MQEC”), by and through counsel of record, pursuant to Mont. R. App. P. 14(2), seeking a Writ of Mandate requiring Respondents to levy the 95 mills for Fiscal Year 2024 in accordance with the Montana Department of Revenue’s (“DOR”) calculation transmitted to Respondents’ governing boards on September 11, 2023.

Petitioner seeks emergency and immediate relief from this Court by way of a writ of mandate because tax bills based on the mill calculations are set to be distributed on October 15, 2023, and without Court intervention, school districts across the state will suffer immediate harm. If the Respondents are allowed to levy fewer than the 95 mills mandated by the DOR, Petitioner’s member districts and other school districts stand to lose millions of dollars in revenue earmarked for education and therefore request that this Court preserve the status quo under current law and issue a writ of mandate requiring Respondents to defer to the calculation of mills performed by DOR as provided in Mont. Code Ann. §§ 15-10-420(8), 20-9-331, 20-9-333, and 20-9-360.

II. PARTIES

The Montana Quality Education Coalition (“MQEC”) is a nonprofit organization headquartered in Helena, Montana, formed in 2001 for the purposes

of advocacy for adequate and equitable public school funding and to defend the Montana Constitution's guarantee of free quality public education. The MQEC membership includes the Montana Federation of Public Employees, the Montana School Boards Association, the School Administrators of Montana, the Montana Association of School Business Officials, the Montana Rural Education Association, and more than 100 school districts in the state of Montana, ranging from large to small school districts and urban to rural school districts. MQEC's member districts are located throughout Montana.

Respondents are each of the 56 counties of Montana, authorized under Article XI, § 2 of the Montana Constitution and organized in accordance with Title 7, Chapter 1, Part 21 of the Montana Code Annotated. The Counties that would be subject to the Writ of Mandate Petitioners seek are Beaverhead County, Big Horn County, Blaine County, Broadwater County, Carbon County, Carter County, Cascade County, Chouteau County, Custer County, Daniels County, Dawson County, Deer Lodge County, Fallon County, Fergus County, Flathead County, Gallatin County, Garfield County, Glacier County, Golden Valley County, Granite County, Hill County, Jefferson County, Judith Basin County, Lake County, Lewis and Clark County, Liberty County, Lincoln County, Madison County, McCone County, Meagher County, Mineral County, Missoula County, Musselshell County, Park County, Petroleum County, Phillips County, Pondera County, Powder River County,

Powell County, Prairie County, Ravalli County, Richland County, Roosevelt County, Rosebud County, Sanders County, Sheridan County, Silver Bow County, Stillwater County, Sweet Grass County, Teton County, Toole County, Treasure County, Valley County, Wheatland County, Wibaux County, and Yellowstone County.

III. FACTS SUPPORTING ORIGINAL JURISDICTION

This Court has jurisdiction over original proceedings relating to writs as may be necessary and proper to exercise its jurisdiction. Mont. Const. art. VII, §§ 1 and 2.

When there is no “plain, speedy, and adequate remedy in the ordinary course of law,” a writ of mandate may be issued “to compel the performance of an act that the law specially enjoins as a duty resulting from an office, trust, or station...” Mont. Code Ann. § 27-26-102.

On August 18, 2023, the Beaverhead County Attorney requested an attorney general’s opinion regarding whether the Department of Revenue correctly calculated the school equalization levies by including carry-forward mills in its calculation. Ex. 1. Attorney General Knudsen declined to issue an opinion regarding the request in a letter to Beaverhead County on September 25, 2023, based on a determination that the matter could be more appropriately determined through an adversarial judicial proceeding. Ex.2.

Pursuant to its statutory duty to calculate the school equalization mills in accordance with Mont. Code Ann. § 15-10-420, the Montana Department of Revenue issued a directive to each of the Respondents on September 11, 2023, Ex. 3, calculating the levies referenced in Mont. Code Ann. § 15-10-420(8) as follows:

State Equalization Aid Levy, 40.00 Mills
County Elementary Equalization Levy, 33.00 Mills
High School Equalization Levy, 22.00 Mills
University System Levy, 6.00 Mills

DOR specifically communicated in its directive to the counties that the calculations above were provided in accordance with Mont. Code Ann. §§ 15-10-104, 15-10-420, 20-9-331, 20-9-333, 20-9-360, and 20-25-439. DOR's directive was based on calculations prepared by DOR under the statutes. Ex. 4.

Acting on the Beaverhead County Attorney's legal theory and guidance from the Montana Association of Counties ("MACo"), Ex. 5, several county boards of commissioners have adopted resolutions to direct their county's tax bills for FY 2024 to exclude consideration of carry-forward mills and reflect only the current year calculated levy of 77.89 mills. Ex. 6.

Adoption of school equalization mills at 77.89 at the county level, instead of DOR's calculations at 95 mills, departs from the historical approach to school equalization and impedes the State of Montana's constitutional obligation to "fund and distribute in an equitable manner to the school districts the state's share of the cost of the basic elementary and secondary school system" as mandated by Mont.

Const. art. X, § 1(3) by eliminating funding revenue for public school costs not included in the equalization formula.

Petitioner seeks extraordinary relief in the form of a writ of mandate directing the Respondents to levy taxes within their respective counties in accordance with historical administration and collection of school equalization levies: specifically, Petitioner seeks a Writ of Mandate directing Respondents to levy 95 state equalization mills in accordance with direction received from DOR and as required by statute.

As noted by the Beaverhead County Attorney, this is a matter of statewide importance. If only some or most counties vote to levy only 77.89 mills, homeowners in counties that levied taxes in accordance with DOR's calculations will be subjected to disproportionate, unfair, and unequal tax rates, compared to their counterparts in counties that opted not to levy in accordance with the law.

Petitioner's request for a Writ of Mandate is necessary to prevent departure from a decades-old practice of levying state equalization taxes on property within county jurisdictions in accordance with the calculation of mills to be levied by the State of Montana Department of Revenue.

**IV. ARGUMENTS AND AUTHORITY SUPPORTING
ISSUANCE OF WRIT OF MANDATE**

In *Smith v. County of Missoula*, 1999 MT 330, 297 Mont. 368, 992 P.2d 834, this Court articulated the standard applicable to grant of a writ of mandate pursuant to Mont. Code Ann. § 27-26-102:

The writ is available where the party who applies for it is entitled to the performance of a clear legal duty by the party against whom the writ is sought. If there is a clear legal duty, the district court must grant a writ of mandate if there is not speedy and adequate remedy available in the ordinary course of law. For a court to grant a writ of mandate, the clear legal duty must involve a ministerial act, not a discretionary act.

Smith, ¶ 28.

The issues presented in this petition implicate constitutional issues of statewide importance. Issuance of a writ would preserve the constitutionally aligned K-12 BASE Aid school funding formula. The urgency or emergency factors required by Mont. R. App. P. 14(4) exist here because, once tax bills are issued, the \$79 million shortfall in collections this year will be irreversible. Tax bills across the state are set to be distributed next week, Ex. 7, so any District court litigation over the proper mill rate is inadequate because a ruling will not be issued before the bills are sent out. Moreover, this case also involves purely legal questions of disputed statutory interpretations and the undisputed, consistent administration of equalization aid mills by DOR.

The Montana Constitution guarantees each person equality of educational opportunity. Mont. Const. art. X, § 1(1). Included within that right is the promise that the Legislature “shall provide a basic system of free quality public elementary and secondary schools” and that it “shall fund and distribute in an equitable manner to the school districts the state’s share of the cost of the basic elementary and secondary school system.” Mont. Const. art. X, § 1(3).

There is applicable legal authority to compel counties to adhere to statutory mandates associated with the levy of mills for education. *State Ex. Rel. Woodahl v. Straub* (1974), 164 Mont. 141, 520 P.2d 776. In addition, applicable law establishes this Court’s prior direction to counties to ensure appropriate direction of revenues from equalization mills to school funding accounts. *Madison County v. State Ex. Rel. Office of Public Instruction*, 1998 MT 285, 291 Mont. 446, 968 P.2d 732.

In a 1989 seminal decision affecting Montana’s system of public education funding, this Court found that tax inequities based on wealth caused spending disparities among the state’s school districts. This Court held that these tax inequities deny students equality of educational opportunity as guaranteed by Article X, § 1(1) of the Montana Constitution. *Helena Elementary Sch. Dist. No. 1 v. State of Montana* (1989), 236 Mont. 44, 55, 769 P.2d 684, 690.

The 1993 Montana State Legislature enacted House Bill 667 to resolve the constitutional problems identified in *Helena Elementary* by codifying an earlier

temporary structure of uniform mills designed to reduce tax disparities among school districts located in wealthy or economically challenged communities, thereby reducing excessive reliance on local variable mills to fund Montana's public schools. The tax structure imposed for the purposes of rectifying unconstitutional school funding mechanisms was the imposition of 95 mills (33 elementary, 22 high school, and 40 statewide). Revenue captured through this funding formula promoted elementary equalization and state BASE (Base Amount for School Equity) funding program support.

Since the 1993 legislative session, DOR has calculated and counties have levied the 95 mills necessary to meet equalization funding requirements, pursuant to Mont. Code Ann. §§ 20-9-331, 20-9-333 and 20-9-360. Revenue from levying the 95 mills is distributed to the state general fund; however, all revenue collected under the equalization plan is required to be used for school equalization and K-12 BASE Aid. *Id.*; *see also* Mont. Code Ann. § 20-9-335.

The State of Montana subsequently defended the constitutionality of this funding formula by referencing the uniform imposition of 95 school equalization mills before the District Court and the Montana Supreme Court in *Columbia Falls Elementary School Dist. No. 6 v. State of Montana*, 2005 MT 69, 326 Mont. 304, 109 P.3d 257. District Court judge Sherlock incorporated findings of fact in reliance on the State's defense in this regard:

There are two principal sources of state revenue specifically earmarked for schools. The first of these state sources is a property tax of 95 mills levied statewide. Fifty-five of the 95 mills are actually “County Equalization Aid.” §§ 20-9-331, -333, MCA. Each county in Montana levies 55 mills on all taxable property within the district and that money is then applied to the BASE budget funding levels for all districts in the county (as more fully described below). If the amount of revenue raised by the 55 mills exceeds what is necessary to meet the BASE funding programs of all elementary and secondary schools in the county, the county remits the surplus to the Montana Department of Revenue for deposit into the State’s general fund.”

Ex. 8, at 7-8.

It was not until 2001, nearly eight years after House Bill 667 (1993) established the 95 mill equalization aid funding mechanism, that the Legislature enacted Mont. Code Ann. § 15-10-420.

For over 20 years, acting pursuant to its constitutional and statutory duties, DOR has consistently interpreted Mont. Code Ann. § 15-10-420, as requiring the DOR to calculate the maximum number of state equalization mills under the formula set forth in Mont. Code Ann. § 15-10-420(1)(a) and (1)(b). As the agency delegated the responsibility to administer and enforce the provisions of House Bill 124 (2001) and Mont. Code Ann. § 15-10-420, DOR’s interpretation carries substantial weight in the context of novel county challenges to the funding mechanism.

Respondents have levied the 95 mills as calculated by DOR every year since the codification of state equalization funding in 1993, including all fiscal years following the 2001 enactment of Mont. Code Ann. § 15-10-420. DOR has been

transparent in its calculations of State Equalization Aid and the statutes authorizing the 95 mills have guided county levies for just as long. Moreover, DOR's determination of mills to be carried forward, as described above, is reflected in annual reports and calculations to interim committees of the Montana Legislature, as well as in the calculations annually shared with Respondents for the purposes of ensuring that equalization aid is properly levied and accounted. Based on this longstanding interpretation and practice, DOR calculated the equalization mills for Fiscal Year 2024 and determined that they remain at 95 mills.

During the annual conference on September 24-27, 2023, MACo conducted a session regarding the levy of the 95 mills and distributed an information packet containing inaccurate information relating to the history of State Equalization Aid mills to its members. Ex. 5. "The Packet" information additionally challenged previously undisputed practices and questioned whether the 95 mills must be levied as indicated by DOR. MACo indicated that it "takes no position" on the issue, while advising its members that counties had the option of levying only 77.89 mills for state equalization or face tax protests from its taxpayers. *Id.*, at 1.

In "The Packet" distributed to its members, among other incorrect assertions, MACO advised its members that:

4. None of the money is directed to schools.
5. No reduction in the 95 mills will impact the schools—instead, it may impact the State General Fund's ending balance. Again, it has no impact on school funding.

Id., at 2.

Notwithstanding the significance of the General Fund’s “ending balance” to governmental funding generally and contrary to the MACo’s erroneous assertions in the 95 mills packet distributed to its members, the relevant statutes (Mont. Code Ann. §§ 20-9-331, 20-9-333, 20-9-335 and 20-9-360) all specifically direct that the revenue derived from the 95 mills must be collected and spent on school funding. It is simple logic that revenue from taxes not levied for school purposes is revenue unavailable to spend for school purposes.

Mont. Code Ann. § 20-9-331 provides in relevant part with emphasis added:

Subject to 15-10-420, the county commissioners of each county shall levy an annual basic county tax of 33 mills on the dollar of the taxable value of all taxable property within the county...***for the purposes of elementary equalization and state BASE funding program support.***

Mont. Code Ann. § 20-9-333 provides in relevant part with emphasis added:

Subject to 15-10-420, the county commissioners of each county shall levy an annual basic county tax of 22 mills on the dollar of the taxable value of all taxable property within the county...***for the purposes of high school equalization and state BASE funding program support.***

Mont. Code Ann. § 20-9-360 provides in relevant part with emphasis added:

Subject to 15-10-420, there is a levy of 40 mills imposed by the county commissioners of each county on all taxable property within the state...Proceeds of the levy must be remitted to the department of revenue, as provided in 15-1-504, and ***must be deposited to the credit of the state general fund for state equalization aid to the public schools of Montana.***

Mont. Code Ann. § 20-9-225(4) requires that the county-levied equalization revenue is “the **first source** of revenue for financing the elementary and high school direct state aid payments.” (emphasis added).

In 2019, the Montana Legislature passed a resolution, HJ 35, establishing an interim committee to study state and local tax systems for the purposes of crafting recommendations for tax structure revisions that, among other things, “reflect principles of sound tax policy, including simplicity, competitiveness, efficiency, *predictability, stability, and ease of compliance and administration.*” Ex. 9.

On August 21, 2020, a Legislative Staff Attorney offered a memorandum regarding “Carry-Forward Authority for State Mill Levies – Section 15-10-420” to the HJ 35 Interim Committee. In the memorandum, the interim committee learned that there were arguments on both sides pertaining to whether carry-forward authority was permitted under the statute, which was not a “model of clarity.” Ex. 10. In addition, the memorandum acknowledged the deference owed to an administrative agency’s interpretation of statutes over which it has regulatory responsibility. This is consistent with this Court’s very recent acknowledgment of the same principle as to DOR. *Tiegs v. Dept. of Revenue*, 2023 MT 168, ¶ 8, 413 Mont. 233 (“the interpretation by administrative boards over statutes under their respective domains should be given deference.” *citing Mont. Soc’y of*

Anesthesiologists v. Mont. Bd. of Nursing, 2007 MT 290, ¶ 37, 339 Mont. 472, 171 P.3d 704).

Though advised of DOR's interpretation of Mont. Code Ann. § 15-10-420 relative to carry-forward authority, as to property taxes, the Interim Committee's report recommended an unrelated revision to § 15-10-420 and chose not to recommend clarification of the statute legislatively overrule DOR's practice of calculating carry-forward mills. Notably, MACo's Executive Director occupied a public member seat on the committee that chose to refrain from amending the statute to end DOR's consistent practice of directing counties to levy 95 mills, including carry-forward mills. Ex. 11, at 2.

Despite the convening of two legislative sessions since the memorandum was distributed to legislators, no alterations or clarifications of the statute have been introduced or passed legislatively. Since 2001, the Montana Legislature has not amended Mont. Code Ann. § 15-10-420 to supplant DOR's interpretation and practice, nor have any bills been introduced at the behest of the MACo or the counties that have recently decided to follow MACo's unprecedented interpretation of existing law.

The Respondents, through their duly elected county commissioners, each have a statutory obligation under Mont. Code Ann. §§ 20-9-331, 20-9-333, and 20-9-360, to impose elementary, high school, and statewide mills as calculated by DOR under

§ 15-10-420(8), with the proceeds from such levies to be appropriated by the Legislature and distributed through K-12 BASE Aid for the purposes of equalization aid and K-12 BASE Aid support for the public schools of Montana.

Rather than seeking a declaratory ruling or judicial intervention to mitigate the school funding impact of their novel and untested 11th-hour strategy regarding DOR's calculations, several counties have either already voted to disregard DOR's 95 mill calculation and impose 77.89 mills instead. Other counties have scheduled meetings at which consideration of this issue is listed on the agenda.

If counties statewide vote to disregard the DOR calculation, the lower mills imposed will result in collections from the school equalization mills approximately \$79 million below the level of funding from such mills incorporated in the 2023 Legislature's revenue estimate in House Joint Resolution 2 and correspondingly \$79 million below the level of funds appropriated for school equalization purposes by the Legislature in House Bill 2, the state's general fund budget bill.

The impact of a two-year shortfall in collections of approximately \$178 million would reduce the current projected ending fund balance of the state by 33% and would require that the 2025 Legislature pass a supplemental appropriation of \$160 million to cover the cost of appropriated funding of the basic system of free quality schools through the K-12 BASE aid formula. Ex. 12.

Despite the significant cumulative financial effect if the counties impose 77.89 mills instead of 95 mills, DOR has calculated that the difference in revenue generated at 77.89 mills compared to 95 school equalization mills will save a homeowner of a primary residence with a median-priced home an average of only \$45 per year. *Id.* DOR has also calculated reduced tax collections as high as \$4 million per year for the largest corporate property taxpayers in Montana.

It remains unclear how many counties will follow the lead of counties that have already voted to impose 77.89 mills instead of the 95 mills calculated by DOR. If Respondents are not mandated to impose the 95 mills calculated by DOR as required by the state equalization statutes and Mont. Code Ann. § 15-10-420(8) before the October 16, 2023, deadline for sending out tax bills, public schools will be irreparably harmed by disruption to school equalization funding in the current biennium with no apparent ability to recover equalization dollars when DOR's levy calculations are affirmed.

Unlike public schools and the students they serve, and as suggested by MACo's materials, those opposing the current interpretation are able to pay taxes under protest and recover the expenditure in the unlikely event DOR's levy calculations are deemed contrary to statute.

V. LEGAL QUESTIONS AND ISSUES ANTICIPATED TO BE RAISED

The legal question involved in this proceeding is whether counties may reject DOR's interpretation of § 15-10-420, a statute DOR is responsible for administering, by unilaterally recalculating state equalization mill levy requirements contrary to the mandates of Mont. Code Ann. §§ 20-9-331, 20-9-333 and 20-9-360.

Additionally, this Court must determine whether counties that resolve to reject DOR's calculations act outside of their constitutional and legislatively granted authority in doing so.

VI. CONCLUSION

Despite the clarity and transparency of DOR's past practice and the mandates of Title 20, Chapter 9, county opposition to the imposition of required state equalization mills places schools and students in the crossfire of a turf battle between the state and county elected officials articulated in a recent missive from MACo governing officials to Montana's governor. Exs. 13 and 14.

County officials from across the state have advanced the alternative interpretation of Mont. Code Ann. § 15-10-420 only recently and at odds with DOR's historical interpretation.

For the foregoing reasons, Petitioners respectfully request that the Court issue a writ of mandate requiring that Respondents, and each of them, defer to the calculation of mills performed by DOR as provided in Mont. Code Ann. §§ 15-10-

420(8), 20-9-331, 20-9-333, 20-9-360, and levy the 95 mills calculated by DOR in accordance with DOR's memo to the counties on September 11, 2023.

DATED this 10th day of October, 2023.

By: /s/ Elizabeth A. Kaleva
Elizabeth A. Kaleva
KALEVA LAW OFFICES
Attorneys for Petitioners

CERTIFICATE OF COMPLIANCE

Pursuant to Mont. R. App. P. 11 and 14, I hereby certify that the foregoing petition is printed with a proportionately-spaced Times New Roman typeface of 14 points; is double-spaced except for lengthy quotations or footnotes; and the word count excluding caption, tables, certificates, and signature blocks is 3650 as calculated by Microsoft Word.

DATED this 10th day of October, 2023.

By: /s/ Elizabeth A. Kaleva
Elizabeth A. Kaleva
KALEVA LAW OFFICES
Attorneys for Petitioners

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Supreme Court No. _____

MONTANA QUALITY EDUCATION COALITION,

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BEAVERHEAD COUNTY; BIG HORN COUNTY; BLAINE COUNTY; BROADWATER COUNTY; CARBON COUNTY; CARTER COUNTY; CASCADE COUNTY; CHOUTEAU COUNTY; CUSTER COUNTY; DANIELS COUNTY; DAWSON COUNTY; DEER LODGE COUNTY; FALLON COUNTY; FERGUS COUNTY; FLATHEAD COUNTY; GALLATIN COUNTY; GARFIELD COUNTY; GLACIER COUNTY; GOLDEN VALLEY COUNTY; GRANITE COUNTY; HILL COUNTY; JEFFERSON COUNTY; JUDITH BASIN COUNTY; LAKE COUNTY; LEWIS AND CLARK COUNTY; LIBERTY COUNTY; LINCOLN COUNTY; MADISON COUNTY; MCCONE COUNTY; MEAGHER COUNTY; MINERAL COUNTY; MISSOULA COUNTY; MUSSELSHELL COUNTY; PARK COUNTY; PETROLEUM COUNTY; PHILLIPS COUNTY; PONDERA COUNTY; POWDER RIVER COUNTY; POWELL COUNTY; PRAIRIE COUNTY; RAVALLI COUNTY; RICHLAND COUNTY; ROOSEVELT COUNTY; ROSEBUD COUNTY; SANDERS COUNTY; SHERIDAN COUNTY; SILVER BOW COUNTY; STILLWATER COUNTY; SWEET GRASS COUNTY; TETON COUNTY; TOOLE COUNTY; TREASURE COUNTY; VALLEY COUNTY; WHEATLAND COUNTY; WIBAUX COUNTY; AND YELLOWSTONE COUNTY,

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APPEARANCES:

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Attorneys for Petitioners

Petitioner the Montana Quality Education Coalition (hereinafter “MQEC”),
by and through counsel of record, hereby respectfully submits its exhibits to its
Petition for Writ of Mandate

DATED this 10th day of October, 2023.

By: /s/ Elizabeth A. Kaleva
Elizabeth A. Kaleva
KALEVA LAW OFFICES
Attorneys for Petitioners

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- Exhibit 12:** Email from E. Dale to R. Osmundson, et al re: Analysis of Impact of 77.89 vs. 95 mills, dated October 10, 2023
- Exhibit 13:** Letter Template from Governor G. Gianforte to County Commissioners, dated September 8, 2023
- Exhibit 14:** Letter from MACo to Governor G. Gianforte, dated October 4, 2023

EXHIBIT 1

Letter from J. Fitch to Attorney General
Knudsen, dated August 18, 2023

BEAVERHEAD COUNTY ATTORNEY

Jed C. Fitch
County Attorney

Coty S. Calvin
Deputy County Attorney

2 South Pacific St., Suite #2
Dillon, Montana 59725

PHONE: (406) 683-3730
FAX: (406) 683-3728

Kayla Patrick
Office Manager

Jenny Kober
Administrative Assistant

Kim Short
Victim Assistant

August 18, 2023

Honorable Austin Knudsen
Attorney General
215 N. Sanders Street
Helena, MT 59601

Re: Request for Opinion

Dear Attorney General Knudsen:

The provisions of MCA 15-10-420 limit a taxing jurisdiction's ability to levy mills "sufficient to generate the amount of property taxes actually assessed in the prior year plus one-half of the average rate of inflation for the prior 3 years. The maximum number of mills that a governmental entity may impose is established by calculating the number of mills required to generate the amount of property tax actually assessed in the governmental unit in the prior year based on the current year taxable value, less the current year's newly taxable value, plus one-half of the average rate of inflation for the prior 3 years." County mills are subject to this provision, thus when taxable values increase in a county, the number of mills authorized will decrease. Likewise, it is clear that the 33 mills under MCA 20-9-331(1) are subject to this same provision, as are the 22 mills under MCA 20-9-333(1), and the 40 mills under MCA 20-9-360(1). These provisions are intended to control the growth of property tax revenue for all applicable mill levies.

The State of Montana has continued to levy 95 mills, year after year, instead of reducing the levy authority as required by MCA 15-10-420. Increased appraised values under this reappraisal cycle will result in the over-levying of property taxpayers for the mills subject to MCA 15-10-420 unless the State is instructed to follow the law and reduce the levying authority. It should be noted that the education mills, which cumulatively add up to 95 mills and are subject to the restrictions in MCA 15-10-420, have remained at 95 mills for their entire duration. At no time has the state levied less than 95 mills, thus there is no possibility of having any "banked mills" as

authorized under MCA 15-10-420(1)(b). The levying authority of the state, given the increases in appraised values this cycle, must be adjusted down.

We write to request an opinion as to whether the provisions of the mill levy restrictions pursuant to MCA 20-9-331, MCA 20-9-333, and MCA 20-9-360 aggregately impose a maximum number of mills set at 95, thereby limiting any carry forward mills to mills authorized and not levied *under* the maximum of 95 as defined in 15-10-420(b). The same question is relevant to the 1 ½ mills authorized in MCA 20-25-439(1) for Cascade, Lewis and Clark, Missoula, Silver Bow, and Yellowstone Counties. This matter is one of statewide concern. Counties are responsible for preparing the tax bill for all taxing jurisdictions and have a duty to ensure the tax bills are correct. We anticipate another request from the State of Montana to levy the 95 mills without performing the calculation required under 15-10-420, thereby over levying property taxpayers across Montana.

Prior Relevant Authorities

MCA 20-9-331(1) provides that, subject to 15-10-420, the county commissioners of each county shall levy an annual basic county tax of 33 mills on the dollar of the taxable value of all taxable property within the county, except for property subject to a tax or fee under 61-3-321(2) or (3), 61-3-529, 61-3-537, 61-5-562, 61-3-570, and 67-3-204, for the purposes of elementary equalization and state BASE funding program support. The revenue collected from this mill levy must be apportioned to the support of the elementary BASE funding programs of the school districts in the county and to the state general fund in the following manner.

MCA 20-9-333(1) provides that, subject to 15-10-420, the county commissioners of each county shall levy an annual basic county tax of 22 mills on the dollar of the taxable value of all taxable property within the county, except for property subject to a tax or fee under 61-3-321(2) or (3), 61-3-529, 61-3-537, 61-5-562, 61-3-570, and 67-3-204, for the purposes of high school equalization and state BASE funding program support. The revenue collected from this mill levy must be apportioned to the support of the elementary BASE funding programs of the high school districts in the county and to the state general fund in the following manner.

MCA 20-9-360(1) provides that, subject to 15-10-420, there is a levy of 40 mills imposed by the county commissioners of each county on all taxable property within the state, except for property for which a tax or fee is required under 61-3-321(2) or (3), 61-3-529, 61-3-537, 61-5-562, 61-3-570, and 67-3-204. Proceeds of the levy must be remitted to the department of revenue, as provided in 15-1-504, and must be deposited to the credit of the state general fund for state equalization aid to the public schools of Montana.

MCA 20-25-439(1), provides that, subject to 15-10-420, the boards of county commissioners of Cascade, Lewis and Clark, Missoula, Silver Bow, and Yellowstone Counties shall in each calendar year levy a tax of 1 ½ mills on the dollar of all taxable property, real and personal, located within the respective county.

MCA 15-10-420 **Procedure for calculating levy** has the following relevant parts:

(1)(a) Subject to the provisions of this section, a governmental entity that is authorized to impose mills may impose a mill levy sufficient to generate the amount of property taxes actually assessed in the prior year plus one-half the average rate of inflation for the prior 3 years. It goes on to say that the maximum number of mills that a governmental entity may impose is established by calculating the number of mills required to generate the amount of property tax actually assessed in the governmental unit in the prior year based on the current taxable value, less the current year's newly taxable value, plus one-half of the average rate of inflation for the prior 3 years.

Subsection (1)(b), provides that, a governmental entity that does not impose the maximum number of mills authorized under subsection 1(a) may carry forward the authority to impose the number of mills equal to the difference between the actual number of mills imposed and the maximum number of mills authorized to be imposed. The mill authority carried forward may be imposed in a subsequent tax year.

(5) Subject to subsection (8), subsection (1)(a) does not apply to:

- (a) school district levies established in Title 20; or
- (b) a mill levy imposed for a newly created regional resource authority

(8) provides that the department shall calculate, on a statewide basis, the number of mills to be imposed for purposes of 15-10-109, 20-9-331, 20-9-333, 20-9-360, and 20-25-439. However, the number of mills calculated by the department may not exceed the mill levy limits established in those sections. The mill calculation must be established in tenths of mills. If the mill levy calculation does result in an even tenth of a mill, then the calculation must be rounded up to the nearest tenth of a mill.

New Statute (HB 587 – 2023)

HB 587 made changes to three of the above referenced school funding statutes. Those changes should be noted but do not appear to have relevance to the question. The changes are referenced below:

20-9-331. Basic county tax for elementary equalization and other revenue for county equalization of elementary BASE funding program. (1) Subject to 15-10-420, the county commissioners of each county shall levy an annual basic county tax of 33 mills on the dollar of the taxable value of all taxable property within the county, except for property subject to a tax or fee under 61-3-321(2) or (3), 61-3-529, 61-3-537, 61-3-562, 61-3-570, and 67-3-204, for the purposes of elementary equalization and state BASE funding program support. The revenue collected from this levy must be apportioned to the support of the elementary BASE funding

programs of the school districts in the county and to the state general fund school equalization and property tax reduction account established in [section 1] in the following manner.

20-9-333. Basic county tax for high school equalization and other revenue for county equalization of high school BASE funding program. (1) Subject to 15-10-420, the county commissioners of each county shall levy an annual basic county tax of 22 mills on the dollar of the taxable value of all taxable property within the county, except for property subject to a tax or fee under 61-3-321(2) or (3), 61-3-529, 61-3-537, 61-3-562, 61-3-570, and 67-3-204, for the purposes of high school equalization and state BASE funding program support. The revenue collected from this levy must be apportioned to the support of the BASE funding programs of high school districts in the county and to the state general fund school equalization and property tax reduction account established in [section 1] in the following manner.

20-9-360. State equalization aid levy. Subject to 15-10-420, there is a levy of 40 mills imposed by the county commissioners of each county on all taxable property within the state, except property for which a tax or fee is required under 61-3-321(2) or (3), 61-3-529, 61-3-537, 61-3-562, 61-3-570, and 67-3-204. Proceeds of the levy must be remitted to the department of revenue, as provided in 15-1-504, and must be deposited to the credit of the state school general equalization fund and property tax reduction account established in [section 1] for state equalization aid to the public schools of Montana.

Relevant Facts

The State of Montana, pursuant to 15-10-420 (8), is calculating, on a statewide basis, the number of mills to be imposed for purposes of 15-10-109, 20-9-331, 20-9-333, 20-9-360, and 20-25-439. County commissioners of each jurisdiction are performing ministerial duty by placing the state calculated mills on the tax bills.

Currently and historically the state has calculated the number of mills to be imposed under the assumption that carry forward mills are allowed when the 15-10-420 calculation indicated a higher level of levying authority than the mill caps defined in 20-9-331, 20-9-333, and 20-9-360. Use of this calculation and the accumulation of carry forward mills has resulted in the mill levy calculation as given to county commissioners to remain steady over many years.

Analysis and Conclusion

With the exception of MCA 15-10-109, the 6 mill tax levy for the university system, the school levy funding authority refers back to MCA 15-10-420 for the calculation of mills. That includes elementary, high school, equalization and vocation school levies.

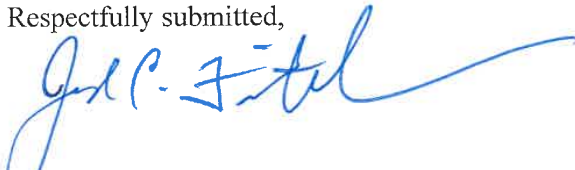
MCA 15-10-420 (5) provides that subject to subsection (8), subsection (1)(a) does not apply to: (a) school district levies established in Title 20 which indicates that the calculation described in Section (1) does not apply but rather Section (8) does.

Section 8 provides **that the department shall calculate, on a statewide basis, the number of mills to be imposed for purposes of MCA 15-10-109, MCA 20-9-331, MCA 20-9-333, MCA 20-9-360, and MCA 20-25-439.** However, **the number of mills calculated by the department may not exceed the mill levy limits established in those sections.** The mill calculation must be established in tenths of mills. If the mill levy calculation does result in an even tenth of a mill, then the calculation must be rounded up to the nearest tenth of a mill.

The key word in section 8 is “calculated”. If it is assumed that the calculation in MCA 15-10-420 is to be used as a means to calculate the maximum mill levy, but sections 5 and 8 are designed as a safeguard to further limit that calculation to at or less than the authorized mills in MCA 20-9-331, MCA 20-9-333, MCA 20-9-360, and MCA 20-25-439 then it is reasonable to determine that if the calculation exceeds the authority in any of those sections the state may only request a levy of that year’s calculated authorized mills and may not calculate, retain or utilize carry forward mills.

It is my conclusion that the department has incorrectly interpreted the statutes reference above to allow for carry forward mills when calculating statewide school levies and has levied carry forward mills in conflict with the restrictions placed by the legislature. As such, I respectfully request an opinion as to whether the State of Montana has the authority to capture carry forward mills for future utilization as described in MCA 15-10-420 (1)(a)(b) or if the restrictions noted in MCA 15-10-420 (5) and (8) allow only an annual calculation up to the maximum allowable in MCA 20-9-331, MCA 20-9-333, MCA 20-9-360, and MCA 20-25-439 or the calculation performed with the formula described in MCA 15-10-420(1), whichever is less.

Respectfully submitted,



Jed C. Fitch
Beaverhead County Attorney

EXHIBIT 2

Letter from Attorney General Knudsen to J.
Fitch, dated September 25, 2023



September 25, 2023

Mr. Jed C. Fitch
Beaverhead County Attorney
2 South Pacific St., Suite #2
Dillon, MT 59725

Re: Request for legal opinion – State’s carryforward authority under
Mont. Code Ann. § 15-10-420

Dear County Attorney Fitch:

You submitted a request for an Attorney General’s Opinion on August 18, 2023,
as to:

Whether the State of Montana has the authority to capture carry forward mills for future utilization as described in MCA § 15-10-420(1)(a)–(b), or if the restrictions noted in MCA § 15-10-420(5), (8) allow only an annual calculation up to the maximum allowable in MCA §§ 20-9-331, 20-9-333, 20-9-360, and 20-25-439 or the calculation performed with the formula described in MCA § 15-10-420(1), whichever is less?¹

Please be advised that we cannot provide an answer either through an Attorney General Opinion or as a letter of advice.

The Attorney General declines to issue written opinions when the matter “will likely result in litigation irrespective of a written opinion from the Attorney General’s Office.”² As you may know, Beaverhead County Commissioner McGinley reportedly

¹ Beaverhead County Attorney Jed C. Fitch, Letter to Attorney General Austin Knudsen re: Request for Opinion at 5, August 18, 2023.

² See Guidelines for Opinion Requests, Montana Department of Justice. Available online at <https://dojmt.gov/agooffice/attorney-generals-opinions/> (last accessed September 18, 2023); see also Jon Bennion, Attorney General’s Office: AG Opinions

DEPARTMENT OF JUSTICE

215 North Sanders
PO Box 201401
Helena, MT 59620-1401

(406) 444-2026
Contactdoj@mt.gov
mtdoj.gov

Mr. Jed Fitch
September 25, 2023
Page 2

stated that if the Attorney General issues an opinion that fails to adopt your position, then the counties will consider litigation.³ During the September 18, 2023, Revenue Interim Committee meeting, Mr. Lance Melton testified that the Montana School Board Association will pursue litigation if the Attorney General adopts your position in an opinion.⁴ Given these public statements, this matter will likely result in litigation. As such, it is more appropriately determined through an adversarial judicial proceeding, not through an Attorney General Opinion.

This letter declining to answer the question presented should not be construed as taking a position on the merits—either in favor or opposition—of any arguments raised.

Sincerely,



BRENT MEAD

Deputy Solicitor General

at 7, January 8, 2019 (this policy predates Attorney General Knudsen). Available online at <https://leg.mt.gov/content/For-Legislators/orientation/law-school/AGOpinionPresentation.pdf> (last accessed September 20, 2023).

³ Keila Szpaller, Beaverhead County, other counties, allege steep tax increase by state illegal, Daily Montanan (September 16, 2023) <https://dailymontanan.com/2023/09/16/beaverhead-county-other-counties-allege-steep-tax-increases-by-state-illegal/>.

⁴ The video recording of the September 18, 2023, committee hearing may be viewed at: <https://sg001-harmony.sliq.net/00309/Harmony/en/PowerBrowser/PowerBrowserV2/20230918/-1/49990#>

EXHIBIT 3


Memorandum from R. Osmundson and B.
Beatty to County Commissioners, dated
September 11, 2023



GOVERNOR GREG GIANFORTE
DIRECTOR BRENDAN BEATTY

MEMORANDUM

To: County Commissioners
County Treasurers
County Clerk and Recorders
Montana Association of Counties
Montana League of Cities and Towns

From: Ryan Osmundson, Director, Governor's Office Budget & Program Planning
Brendan Beatty, Director, Montana Department of Revenue 

Date: September 11, 2023

Subject: Statewide School Mill Levies for Fiscal Year 2024

The Department of Revenue has finished calculating the number of mills for fiscal year 2024 that the board of county commissioners and other authorized government entities may levy upon all property in the state. The maximum statewide school equalization levy remains at 95 mills. The ad valorem tax on each dollar of taxable valuation for fiscal year 2024 is as follows:

State Equalization Aid Levy	40.00 Mills
County Elementary Equalization Levy	33.00 Mills
High School Equalization Levy	22.00 Mills
University System Levy	6.00 Mills
Vocational – Technical Education Levy	1.50 Mills (for five counties) ¹

These calculations are in accordance with [15-10-109](#), [15-10-420](#), [20-9-331](#), [20-9-333](#), [20-9-360](#), and [20-25-439](#), MCA.

cc. Scott Mendenhall, Deputy Director
Kory Hofland, Administrator, Property Assessment Division
Eric Dale, Administrator, Tax Policy, and Research
Property Assessment Division Area and Regional Managers

¹ In Cascade, Butte-Silver Bow, Missoula, Yellowstone and Lewis and Clark counties only.

EXHIBIT 4

DOR Workbook Calculations

Determination of Tax Revenue and Mill Levy Limitations
Section 15-10-420, MCA
Aggregate of all Funds/or _____ Fund
FYE June 30, 2024

Entity Name: _____

Reference Line		Enter amounts in yellow cells	Auto-Calculation (If completing manually enter amounts as instructed)
(1)	Enter Ad valorem tax revenue ACTUALLY assessed in the prior year (from Prior Year's form Line 17)	\$ 338,345,008	\$ 338,345,008
(2)	Add: Current year inflation adjustment @ 2.46%		\$ 8,323,287
(3)	Subtract: Ad valorem tax revenue ACTUALLY assessed in the prior year for Class 1 and 2 property, (net and gross proceeds) (from Prior Year's form Line 20)- (enter as negative)	\$ (4,930,633)	\$ (4,930,633)
(4)	Adjusted ad valorem tax revenue		\$ 341,737,662
= (1) + (2) + (3)			\$ 341,737,662
<u>ENTERING TAXABLE VALUES</u>			
(5)	Enter 'Total Taxable Value' - from Department of Revenue <i>Certified Taxable Valuation Information</i> form, line # 2	\$ 4,701,869,793	\$ 4,701,869.793
(6)	Subtract: 'Total Incremental Value' of all tax increment financing districts (TIF Districts) - from Department of Revenue <i>Certified Taxable Valuation Information</i> form, line # 6 (enter as negative)	\$ 99,816,016	\$ (99,816.016)
(7)	Taxable value per mill (after adjustment for removal of TIF per mill incremental district value)		\$ 4,602,053.777
= (5) + (6)			\$ 4,602,053.777
(8)	Subtract: 'Total Value of Newly Taxable Property' - from Department of Revenue <i>Certified Taxable Valuation Information</i> form, line # 3 (enter as negative)	\$ (176,716,662)	\$ (176,716.662)
(9)	Subtract: 'Taxable Value of Net and Gross Proceeds, (Class 1 & 2 properties)' - from Department of Revenue <i>Certified Taxable Valuation Information</i> form, line # 5 (enter as negative)	\$ (38,101,781)	\$ (38,101.781)
(10)	Adjusted Taxable value per mill		\$ 4,387,235.334
= (7) + (8) + (9)			\$ 4,387,235.334
(11)	CURRENT YEAR calculated mill levy		77.89
= (4) / (10)			77.89
(12)	CURRENT YEAR calculated ad valorem tax revenue		\$ 358,453,969
= (7) x (11)			\$ 358,453,969
<u>CURRENT YEAR AUTHORIZED LEVY/ASSESSMENT</u>			
(13)	Enter total number of carry forward mills from prior year (from Prior Year's form Line 22)	26.49	26.49
(14)	Total current year authorized mill levy, including Prior Years' carry forward mills		104.38
= (11) + (13)			104.38
(15)	Total current year authorized ad valorem tax revenue assessment		\$ 480,362,373
= (7) x (14)			\$ 480,362,373
<u>CURRENT YEAR ACTUALLY LEVIED/ASSESSED</u>			
(16)	Enter number of mills actually levied in current year (Number should equal total <u>non-voted</u> mills, which includes the number of carry forward mills, actually imposed per the final approved current year budget document. <u>Do Not</u> include voted or permissive mills imposed in the current year.)	95.00	95.00
(17)	Total ad valorem tax revenue actually assessed in current year		\$ 437,195,109
= (7) x (16)			\$ 437,195,109
<u>RECAPITULATION OF ACTUAL:</u>			
(18)	Ad valorem tax revenue actually assessed		\$ 416,787,357
= (10) x (16)			\$ 416,787,357
(19)	Ad valorem tax revenue actually assessed for newly taxable property		\$ 16,788,083
(20)	Ad valorem tax revenue actually assessed for Class 1 & 2 properties (net-gross proceeds)		\$ 3,619,669
(21)	Total ad valorem tax revenue actually assessed in current year		\$ 437,195,109
= (18) + (19) + (20)			\$ 437,195,109
(22)	Total carry forward mills that may be levied in a subsequent year (Number should be equal to or greater than zero. A (negative) number indicates an over levy.)		9.38
= (14) - (16)			9.38

EXHIBIT 5

“The Packet,” Montana Association of Counties’
95 Mills Information

“THE PACKET”

95 Mills Information

CURRENT SITUATION...

There is a current legal question posed by Beaverhead County about the State's ability to request that a county issue 95 mills. The Attorney General has declined to issue an opinion. At least one lawsuit has been filed to challenge the 95-mill levy authority position taken by the State of Montana.

The Department of Revenue has provided a calculation of their actual mill levy authority (see the attachment named “4 - DOR Email with Attachment Shows - 77.89 Mills” – it’s an email that includes a spreadsheet for the 95 mill levy calculation showing the current levy authority is 77.89 mills).

POSSIBLE NEXT STEPS...

MACo is not taking a position on this issue. Each County must decide what to levy.

- 1. If you choose to levy 95 mills**, any taxpayer in your jurisdiction may protest the difference between the 77.89 levy authority calculated by DOR and the 95 mills you have imposed, but he/she must register that protest in writing in advance of paying the tax bill AND must then file an action in District Court to benefit from any decision limiting the levy authority. Each and every taxpayer must protest and file to be eligible for relief. If a court determines the levy authority is less than what you milled, ONLY THOSE filing a written protest and suing in court will receive the benefit of such a ruling.
- 2. Alternatively, you may levy 77.89 mills** (broken down as 18, 27, and 32.9 for the 22, 33, and 40 standard levy authority). That is the number provided by DOR, officially, as their current levy authority. This will likely trigger some court action, but the determination by a court will impact all property tax payers rather than just those that protest and file in court. Should you choose to levy a different amount than you have already certified and submitted to DOR, you will need to agenda an action item amending your original resolution OR issuing a new resolution replacing the original resolution setting your mills. Then you must resubmit it to DOR.

CONTENTS (linked)

95 Mills Fact Sheet Page 2

Simple facts about the 95 mills.

95 Mills Comparison with Float Difference..... Pages 3-4

Includes new amount to levy for 77.9 mills.

Email from Mike Waterman, Executive Director of Bozeman Public Schools..... Page 5

Indicates that the 95 mills are only a part of funding that schools receive, not the full amount. Any reduction in the 95 mills has NO IMPACT on the current funding formula for any school in Montana; it only impacts the ending fund balance of excess cash reserves for the State of Montana.

Legal Opinion from Jaret Coles, a Legislative Staff Attorney Pages 6-12

Legal Opinion on whether the State has the ability to bank the 95 mills. Synopsis: No. The state does not have the authority to bank the mills.

Email from DOR Staff with Spreadsheet Showing 77.89 Mills Pages 13-14

Email from DOR staff to a commissioner—containing a spreadsheet that shows the state has 77.89 mills—but telling the county to levy the full 95.

Presentation: Revenue Interim Committee – Sept. 18th Meeting Regarding HB 587 Pages 15-33

HB 587 has an implementation date of 2025; however, the presentation has several beneficial graphs for how these 95 mills are used and funded.

FACT SHEET

95 Mills Made Simple

1. The “95 mills” were established by the Legislature in 2001 to satisfy the State’s responsibility for equality in education (originating from a lawsuit against the State).
2. The 95 mills have been levied at 95 since authorized in 2001.
3. The authority to levy the 95 mills comes from three separate statutes in the Montana Code Annotated (MCA) Title 20 to be levied subject to MCA 15-10-420:
 - 33 mills for elementary schools; and
 - 22 mills for high schools; and
 - 40 mills for a state equalization levy.
4. All of the revenue from the 95 mills goes to the State General Fund. None of the money is directed to schools.
5. No reduction in the 95 mills will impact the schools—instead it may impact the State General Fund’s ending balance. Again, it has no impact on school funding.
6. Every year the Department of Revenue is required to perform the calculation determining the levy authority for those equalization mills. Just like county and city mills, making them subject to MCA 15-10-420 means that they are revenue-limited to half the three-year average rate of inflation.
7. This year, the Department of Revenue shared their calculation and determined that the levy authority is 77.89 mills. They seemed to indicate they have mills “in reserve” in their request to have counties levy 95 mills. (This is the question currently at hand.)
8. Beaverhead County has challenged the State’s ability to generate reserved mills, especially since they have consistently asked counties to levy 95 mills. Beaverhead County requested an Attorney General Opinion, and the AG has declined because the issue is ripe for litigation. Many counties supported the request and are now unsure how and what to levy on behalf of the State’s 95 mills.
9. If a property taxpayer doesn’t believe the state has the authority to levy 95 mills, they must file a written protest (and know how to do that) in advance of paying their tax bill. Additionally, they must file for a declaratory judgement action in District Court. If you don’t protest the difference between the 77.89 mills and the requested 95 mills under protest and file in District Court, you won’t be a party to any judicial determination.
10. Counties that don’t agree with the State’s position that they have mills in reserve have no direct recourse. If they levy what DOR has established as the mill levy limitation (77.89), they will likely get sued. If they levy the 95 mills and educate their property taxpayers to pay under protest, they are encouraging taxpayers to sue the county.

**95 Mills Comparison Between FY 2023 & FY 2024
And Difference Between 95 Mills and 77.9 Mills for FY 2024
By County**

CO #	County	95 Mills - FY23	95 Mills - FY24	Difference	77.9 Mills - FY24	Difference
6	Gallatin	\$ 42,930,897	\$ 68,401,995	\$ 25,471,098	\$ 56,082,436	\$ 12,319,559
7	Flathead	\$ 32,017,239	\$ 47,335,479	\$ 15,318,240	\$ 38,810,110	\$ 8,525,369
25	Madison	\$ 19,802,136	\$ 32,485,571	\$ 12,683,435	\$ 26,634,749	\$ 5,850,822
3	Yellowstone	\$ 38,555,507	\$ 46,584,752	\$ 8,029,244	\$ 38,194,593	\$ 8,390,159
4	Missoula	\$ 26,735,291	\$ 34,192,420	\$ 7,457,129	\$ 28,034,185	\$ 6,158,235
5	Lewis & Clark	\$ 15,685,404	\$ 20,204,663	\$ 4,519,259	\$ 16,565,697	\$ 3,638,966
2	Cascade	\$ 17,060,061	\$ 20,659,720	\$ 3,599,660	\$ 16,938,796	\$ 3,720,924
13	Ravalli	\$ 10,177,248	\$ 13,663,841	\$ 3,486,593	\$ 11,202,912	\$ 2,460,930
15	Lake	\$ 7,314,534	\$ 10,410,865	\$ 3,096,331	\$ 8,535,813	\$ 1,875,052
49	Park	\$ 6,347,908	\$ 8,708,174	\$ 2,360,266	\$ 7,139,786	\$ 1,568,388
56	Lincoln	\$ 4,003,938	\$ 5,671,097	\$ 1,667,159	\$ 4,649,702	\$ 1,021,394
1	Silver Bow	\$ 8,026,348	\$ 9,551,868	\$ 1,525,521	\$ 7,831,527	\$ 1,720,342
30	Deer Lodge	\$ 1,509,672	\$ 2,690,617	\$ 1,180,945	\$ 2,206,023	\$ 484,594
10	Carbon	\$ 5,214,512	\$ 6,280,919	\$ 1,066,407	\$ 5,149,692	\$ 1,131,227
51	Jefferson	\$ 3,154,295	\$ 4,161,756	\$ 1,007,461	\$ 3,412,202	\$ 749,554
8	Fergus	\$ 4,456,697	\$ 5,339,620	\$ 882,923	\$ 4,377,927	\$ 961,694
18	Beaverhead	\$ 2,483,321	\$ 3,346,251	\$ 862,930	\$ 2,743,574	\$ 602,677
43	Broadwater	\$ 1,911,957	\$ 2,573,874	\$ 661,917	\$ 2,110,306	\$ 463,568
46	Granite	\$ 1,474,807	\$ 2,072,020	\$ 597,213	\$ 1,698,838	\$ 373,182
31	Teton	\$ 2,060,879	\$ 2,445,979	\$ 385,100	\$ 2,005,445	\$ 440,534
28	Powell	\$ 1,909,496	\$ 2,291,470	\$ 381,974	\$ 1,878,764	\$ 412,706
35	Sanders	\$ 4,323,963	\$ 4,692,214	\$ 368,251	\$ 3,847,122	\$ 845,093
27	Richland	\$ 5,375,031	\$ 5,712,346	\$ 337,315	\$ 4,683,523	\$ 1,028,824
38	Glacier	\$ 2,778,861	\$ 3,114,153	\$ 335,292	\$ 2,553,278	\$ 560,875
12	Hill	\$ 4,162,575	\$ 4,465,462	\$ 302,887	\$ 3,661,209	\$ 804,253
26	Pondera	\$ 1,668,577	\$ 1,956,009	\$ 287,432	\$ 1,603,722	\$ 352,288
32	Stillwater	\$ 6,246,461	\$ 6,524,913	\$ 278,452	\$ 5,349,742	\$ 1,175,171
50	Garfield	\$ 711,940	\$ 967,415	\$ 255,475	\$ 793,178	\$ 174,236
23	Musselshell	\$ 1,211,369	\$ 1,414,436	\$ 203,067	\$ 1,159,688	\$ 254,747
19	Chouteau	\$ 2,826,732	\$ 3,029,712	\$ 202,980	\$ 2,484,045	\$ 545,667
22	Big Horn	\$ 2,070,220	\$ 2,252,198	\$ 181,978	\$ 1,846,565	\$ 405,633
36	Judith Basin	\$ 2,111,064	\$ 2,277,492	\$ 166,428	\$ 1,867,304	\$ 410,188
14	Custer	\$ 2,235,877	\$ 2,400,581	\$ 164,705	\$ 1,968,224	\$ 432,357
54	Mineral	\$ 1,168,706	\$ 1,331,836	\$ 163,130	\$ 1,091,965	\$ 239,871
47	Meagher	\$ 941,053	\$ 1,079,093	\$ 138,039	\$ 884,742	\$ 194,350
44	Wheatland	\$ 1,667,000	\$ 1,787,116	\$ 120,116	\$ 1,465,247	\$ 321,869
24	Blaine	\$ 1,418,649	\$ 1,536,374	\$ 117,725	\$ 1,259,665	\$ 276,709
48	Liberty	\$ 889,488	\$ 996,067	\$ 106,579	\$ 816,670	\$ 179,397
17	Roosevelt	\$ 3,015,871	\$ 3,102,685	\$ 86,814	\$ 2,543,875	\$ 558,810
20	Valley	\$ 2,819,792	\$ 2,905,769	\$ 85,977	\$ 2,382,425	\$ 523,344

CO #	County	95 Mills - FY23	95 Mills - FY24	Difference	77.9 Mills - FY24	Difference
52	Wibaux	\$ 3,255,452	\$ 3,332,200	\$ 76,748	\$ 2,732,053	\$ 600,147
16	Dawson	\$ 2,414,292	\$ 2,482,654	\$ 68,362	\$ 2,035,515	\$ 447,139
40	Sweet Grass	\$ 3,107,296	\$ 3,160,872	\$ 53,575	\$ 2,591,582	\$ 569,290
21	Toole	\$ 2,111,253	\$ 2,154,389	\$ 43,136	\$ 1,766,372	\$ 388,017
41	McCone	\$ 760,109	\$ 800,409	\$ 40,300	\$ 656,251	\$ 144,158
11	Phillips	\$ 1,476,851	\$ 1,508,489	\$ 31,638	\$ 1,236,802	\$ 271,687
34	Sheridan	\$ 1,376,676	\$ 1,396,539	\$ 19,864	\$ 1,145,015	\$ 251,524
55	Petroleum	\$ 163,518	\$ 182,563	\$ 19,046	\$ 149,683	\$ 32,881
37	Daniels	\$ 644,795	\$ 655,980	\$ 11,185	\$ 537,834	\$ 118,145
53	Golden Valley	\$ 716,794	\$ 723,468	\$ 6,675	\$ 593,168	\$ 130,300
45	Prairie	\$ 520,538	\$ 525,431	\$ 4,892	\$ 430,798	\$ 94,633
33	Treasure	\$ 500,058	\$ 493,339	\$ (6,720)	\$ 404,486	\$ 88,853
9	Powder River	\$ 1,080,068	\$ 1,037,265	\$ (42,803)	\$ 850,448	\$ 186,817
39	Fallon	\$ 6,094,695	\$ 5,875,075	\$ (219,620)	\$ 4,816,943	\$ 1,058,132
42	Carter	\$ 7,259,508	\$ 6,982,162	\$ (277,346)	\$ 5,724,638	\$ 1,257,524
29	Rosebud	\$ 6,171,504	\$ 5,450,390	\$ (721,114)	\$ 4,468,746	\$ 981,644
	Totals	\$ 338,128,784	\$ 437,380,050	\$ 99,251,266	\$ 358,605,601	\$ 78,774,449

New Amount to Levy

95 Mills		77.9 mills	
40	42.11%	32.90	State Equalization
33	34.74%	27.00	County Elementary
22	23.16%	18.00	County High School
95	100.00%	77.90	
1.5 mills		1.3 Vocational & Technical Education	
Only 6 Counties			

From: Michael McGinley <mmcginley@beaverheadcounty.org>
Date: September 22, 2023 at 7:36:30 PM MDT
To: "Waterman, Michael" <mike.waterman@bsd7.org>
Subject: Re: 95 mill article in Bozeman Chronicle

How right you are. I have tried to stress that these 95 mills go straight to the general fund of the state
Local school funding is the same regardless
This is the issue of a \$20 million increase if floated. Or \$95 million if they do it their way.
Try to explain that much increase of revenue to the taxpayers
Thanks
Mike McGinley

Sent from my iPhone

On Sep 22, 2023, at 5:13 PM, Waterman, Michael <mike.waterman@bsd7.org> wrote:

Commissioner McGinley--

In the Bozeman Chronicle yesterday, an [article](#) appeared regarding the controversy surrounding the 95 mills. In it, the reporter shared an interview in which you reportedly said the reappraisal 'produced a windfall for schools'.

To be clear, I have absolutely no issue with the counties challenging the 95 mills calculation. However, I wanted to reach out because the notion that schools received any more money from the state's calculation of the 95 mills simply isn't correct.

The "state" funding that schools receive is defined in statute, and those amounts are not tied in any way to the amount of revenue generated by the 95 mills. In fact, the 95 mills only fund a portion of the "state" funding that schools receive--not all of it. The increased property tax revenue just means the state will have to contribute less money from its other revenue sources to fund the school payments defined in statute.

Here are the numbers: according to HB2, K-12 base aid (aka our "state" funding) totals about \$930 million statewide for FY24 (see page 41 [here](#)). The 95 mills will generate about \$405 million statewide of that amount--this after the most recent reappraisal (see labelled page 183 [here](#)). The balance--roughly \$525 million--comes from other state funding sources, most notably income tax.

In your area, Dillon Elementary and Beaverhead County High School will see base (state) aid increases of about \$216,000 and \$57,000 this year, respectively--even though my calculations show those taxpayers will pay almost \$800,000 more for the 95 mills than they did last year.

I don't know what was actually said in the interview - I've been misquoted in the paper before myself, so I know that kind of thing happens. I'm just reaching out so you have correct information on the school impacts as you continue to pursue this issue.

Again, I very much appreciate your advocacy on the 95-mill issue. I'm glad to discuss more if you have any questions, and I know my counterparts in your area are highly competent and would be glad to provide more information on their budgets as well. Thank you for reading and for your service!

Mike Waterman
Executive Director of Business & Operations
Bozeman Public Schools
522-6097



Montana Legislative Services Division
Legal Services Office

PO BOX 201706
Helena, MT 59620-1706
(406) 444-3064
FAX (406) 444-3036

August 21, 2020

TO: HJ 35 Tax Study Subcommittee

FR: Jaret Coles, Legislative Staff Attorney

RE: Carry Forward Authority for State Mill Levies -- Section 15-10-420, MCA

INTRODUCTION

At the request of the HJ 35 Tax Study subcommittee of the Revenue Interim Committee, I was asked to analyze carry forward authority under section 15-10-420(1)(b), MCA, as applied toward the statewide mill levies listed in section 15-10-420(8), MCA.

Before I provide you with my opinion and analysis, a few caveats are necessary. Due to the constitutional constraints inherent in the separate powers of each branch of state government, a legal opinion provided to you by a Legislative Branch attorney is obviously not binding on the Executive Branch.

QUESTIONS PRESENTED

Does section 15-10-420, MCA, permit a carry forward of statewide mill levy authority to subsequent tax years?

BRIEF ANSWER

Not likely. Section 15-10-420, MCA, is not a model of clarity. Under the plain language of the statute, the key inquiry is whether the statewide mill levy limits are included in the prior year's assessment plus inflation calculation. If not, then a carry forward may be present. However, if the statewide mill levy limits are considered in the calculation, then a carry forward is most likely not present. These concepts are addressed in the plain language section of the analysis.

In the event a court were to consider legislative history, then it would most likely determine that a carry forward is only available for mills imposed by a local government and not statewide mills. This concept is addressed in the legislative intent section of the analysis.

It should be noted that great deference and respect must be given to interpretations of a statute by persons and agencies charged with its administration. *Mont. Contractors' Ass'n, Inc. v. Dept. of Highways*, 220 Mont. 392, 395, 715 P.2d 1056, 1058 (1986). There are legitimate arguments on both sides of the question at issue.

STATUTORY BACKGROUND

Section 15-10-420(1)(a), MCA, allows a governmental entity that is authorized to levy mills to impose a mill levy sufficient to generate the amount of property taxes actually assessed in the prior year plus one-half of the average rate of inflation for the prior 3 years. This authority is often referred to as “floating” mills. Section 15-10-420(1)(b), MCA, allows a governmental entity that does not impose the maximum number of mills to carry forward the authority to a future year.

Education in Montana is funded through a combination of local and statewide property tax levies. The statewide levies include funding for the K-12 system, the university system, and vocational-technical education. The K-12 levies are often referred to as the “95 mills” but they actually consist of three different mill levies, including: 33 mills for county elementary equalization provided for in section 20-9-331, MCA; 22 mills for county high school equalization provided for in section 20-9-333, MCA; and 40 mills for state equalization provided for in section 20-9-360, MCA. The university system levy is a temporary levy of 6 mills provided for in section 15-10-109, MCA. The current levy terminates December 31, 2028. The vocational-technical education levy is provided for in section 20-25-439, MCA. Unlike the K-12 and university system levies, which are levied on all property in the state, the vocational-technical levy is only levied on property in certain counties that have vocational-technical schools. Those counties are Cascade County, Lewis and Clark County, Missoula County, Silver Bow County, and Yellowstone County. The statewide mills are referenced in section 15-10-420(8), MCA. All of the statewide mill levies provide that they are subject to section 15-10-420, MCA, with the exception of the university levy.

The full text of section 15-10-420, MCA, for reference purposes, is as follows:

15-10-420. Procedure for calculating levy. (1) (a) Subject to the provisions of this section, a governmental entity that is authorized to impose mills may impose a mill levy sufficient to generate the amount of property taxes actually assessed in the prior year plus one-half of the average rate of inflation for the prior 3 years. The maximum number of mills that a governmental entity may impose is established by calculating the number of mills required to generate the amount of property tax actually assessed in the governmental unit in the prior year based on the current year taxable value, less the current year's newly taxable value, plus one-half of the average rate of inflation for the prior 3 years.

(b) A governmental entity that does not impose the maximum number of mills authorized under subsection (1)(a) may carry forward the authority to impose the number of mills equal to the difference between the actual number of mills imposed and the maximum number of mills authorized to be imposed. The mill authority carried forward may be imposed in a subsequent tax year.

(c) For the purposes of subsection (1)(a), the department shall calculate one-half of the average rate of inflation for the prior 3 years by using the consumer price index,

U.S. city average, all urban consumers, using the 1982-84 base of 100, as published by the bureau of labor statistics of the United States department of labor.

(2) A governmental entity may apply the levy calculated pursuant to subsection (1)(a) plus any additional levies authorized by the voters, as provided in 15-10-425, to all property in the governmental unit, including newly taxable property.

(3) (a) For purposes of this section, newly taxable property includes:

(i) annexation of real property and improvements into a taxing unit;

(ii) construction, expansion, or remodeling of improvements;

(iii) transfer of property into a taxing unit;

(iv) subdivision of real property; and

(v) transfer of property from tax-exempt to taxable status.

(b) Newly taxable property does not include an increase in value that arises because of an increase in the incremental value within a tax increment financing district.

(4) (a) For the purposes of subsection (1), the taxable value of newly taxable property includes the release of taxable value from the incremental taxable value of a tax increment financing district because of:

(i) a change in the boundary of a tax increment financing district;

(ii) an increase in the base value of the tax increment financing district pursuant to 7-15-4287; or

(iii) the termination of a tax increment financing district.

(b) If a tax increment financing district terminates prior to the certification of taxable values as required in 15-10-202, the increment value is reported as newly taxable property in the year in which the tax increment financing district terminates. If a tax increment financing district terminates after the certification of taxable values as required in 15-10-202, the increment value is reported as newly taxable property in the following tax year.

(c) For the purpose of subsection (3)(a)(ii), the value of newly taxable class four property that was constructed, expanded, or remodeled property since the completion of the last reappraisal cycle is the current year market value of that property less the previous year market value of that property.

(d) For the purpose of subsection (3)(a)(iv), the subdivision of real property includes the first sale of real property that results in the property being taxable as class four property under 15-6-134 or as nonqualified agricultural land as described in 15-6-133(1)(c).

(5) Subject to subsection (8), subsection (1)(a) does not apply to:

(a) school district levies established in Title 20; or

(b) a mill levy imposed for a newly created regional resource authority.

(6) For purposes of subsection (1)(a), taxes imposed do not include net or gross proceeds taxes received under 15-6-131 and 15-6-132.

(7) In determining the maximum number of mills in subsection (1)(a), the governmental entity:

(a) may increase the number of mills to account for a decrease in reimbursements; and

(b) may not increase the number of mills to account for a loss of tax base because of legislative action that is reimbursed under the provisions of 15-1-121(7).

(8) The department shall calculate, on a statewide basis, the number of mills to be imposed for purposes of 15-10-109, 20-9-331, 20-9-333, 20-9-360, and 20-25-439. However, the number of mills calculated by the department may not exceed the mill levy limits established in those sections. The mill calculation must be established in tenths of mills. If the mill levy calculation does not result in an even tenth of a mill, then the calculation must be rounded up to the nearest tenth of a mill.

(9) (a) The provisions of subsection (1) do not prevent or restrict:

(i) a judgment levy under 2-9-316, 7-6-4015, or 7-7-2202;

(ii) a levy to repay taxes paid under protest as provided in 15-1-402;

(iii) an emergency levy authorized under 10-3-405, 20-9-168, or 20-15-326;

(iv) a levy for the support of a study commission under 7-3-184;

(v) a levy for the support of a newly established regional resource authority;

(vi) the portion that is the amount in excess of the base contribution of a governmental entity's property tax levy for contributions for group benefits excluded under 2-9-212 or 2-18-703;

(vii) a levy for reimbursing a county for costs incurred in transferring property records to an adjoining county under 7-2-2807 upon relocation of a county boundary;

(viii) a levy used to fund the sheriffs' retirement system under 19-7-404(2)(b); or

(ix) a governmental entity from levying mills for the support of an airport authority in existence prior to May 7, 2019, regardless of the amount of the levy imposed for the support of the airport authority in the past. The levy under this subsection (9)(a)(ix) is limited to the amount in the resolution creating the authority.

(b) A levy authorized under subsection (9)(a) may not be included in the amount of property taxes actually assessed in a subsequent year.

(10) A governmental entity may levy mills for the support of airports as authorized in 67-10-402, 67-11-301, or 67-11-302 even though the governmental entity has not imposed a levy for the airport or the airport authority in either of the previous 2 years and the airport or airport authority has not been appropriated operating funds by a county or municipality during that time.

(11) The department may adopt rules to implement this section. The rules may include a method for calculating the percentage of change in valuation for purposes of determining the elimination of property, new improvements, or newly taxable value in a governmental unit.

ANALYSIS

I. Plain Language -- Section 15-10-420, MCA

When interpreting the meaning of a statute, courts first look to its plain language. *Mont. Sports Shooting Ass'n, Inc. v. State*, 2008 MT 190, ¶ 11, 344 Mont. 1, 185 P.3d 1003, citing *State v.*

Letasky, 2007 MT 51, ¶ 11, 336 Mont. 178, 152 P.3d 1288. The statute is read as a whole “without isolating specific terms from the context in which they are used by the Legislature”. *City of Great Falls v. Morris*, 2006 MT 93, ¶ 19, 332 Mont. 85, 134 P.3d 692. When a general and particular provision are inconsistent, the latter is paramount to the former, so a particular intent will control a general one that is inconsistent with it. Section 1-2-102, MCA.

Section 15-10-420, MCA, read as a whole, is somewhat complex. As applied, subsection (1)(b) allows a governmental entity that does not impose the maximum number of mills "**authorized**" to carry forward the mill authority to another year. Subsection (1)(b) provides as follows:

(b) A governmental entity that does not impose ***the maximum number of mills authorized under subsection (1)(a)*** may carry forward the authority to impose the number of mills equal to the difference between the actual number of mills imposed and the maximum number of mills ***authorized to be imposed***. The mill authority carried forward may be imposed in a subsequent tax year. (emphasis added)

Statewide mills are imposed by a "governmental entity". Consequently, the carry forward provision arguably applies to statewide mills under the section (1)(b) language. Given that the carry forward provision likely applies to statewide mills, the next step is to determine the amount of the carry forward. In order to have a carry forward, subsection (1)(b) requires that the government entity "not impose ***the maximum number of mills authorized by subsection (1)(a)***." Subsection (1)(a), in turn, provides as follows:

(1) (a) ***Subject to the provisions of this section***, a governmental entity that is authorized to impose mills may impose a mill levy sufficient to generate the amount of property taxes actually assessed in the prior year plus one-half of the average rate of inflation for the prior 3 years. The maximum number of mills that a governmental entity may impose is established by calculating the number of mills required to generate the amount of property tax actually assessed in the governmental unit in the prior year based on the current year taxable value, less the current year's newly taxable value, plus one-half of the average rate of inflation for the prior 3 years. (emphasis added)

The formula for the maximum mill levy calculation in subsection (1)(a) does not specifically mention statewide mills. However, the beginning language of the subsection states that it is "subject to the provisions of" the section. One of the provisions of the section regarding statewide mills is subsection (8), which provides as follows:

(8) The department shall calculate, on a statewide basis, the number of mills to be imposed for purposes of 15-10-109, 20-9-331, 20-9-333, 20-9-360, and 20-25-439. However, ***the number of mills calculated by the department may not exceed the mill levy limits established in those sections***. The mill calculation must be

established in tenths of mills. ***If the mill levy calculation does not result in an even tenth of a mill, then the calculation must be rounded up to the nearest tenth of a mill.***

Given the interplay of subsections (1)(a), (1)(b), and (8), there appears to be one primary question. Does the authorized mill levy limit in subsection (1)(a) include the statewide mill levy limits (i.e., 95 mills) or exclude the limits?

If a court were to determine that the plain language of subsections (1)(a) does not include the statewide mill levy limits, then mill levy authority could be carried forward to future years when the prior year assessment plus inflation calculation in subsection (1)(a) exceeds the mill levy limits. For example, if the prior year assessment plus inflation calculation for the education levy is 100 mills, there would be 5 mills to use in a future year given that the maximum number of mills available is 95 ($100 - 95 = 5$). This appears to be the approach that is followed on the [worksheets](#) that are prepared by the Department of Revenue.

If a court were to determine that the plain language of subsections (1)(a) includes the imposition of the statewide mill levy limits, then the potential for mill levy authority to be carried forward to future years would not exist. Using the example in the previous paragraph, if the prior year plus inflation calculation is 100 mills, but the "subject to the provisions of this section" language requires a reduction for the 5 mills that cannot be imposed, then the mills would be capped at 95 for that tax year.

Reading the statute as a whole, one could reasonably argue for the usage of either approach. I favor the approach that considers the statewide mill levy limits referenced in subsection (8) as part of the subsection (1)(a) calculation given that the beginning language in subsection (1)(a) references the other provisions of section 15-10-420, MCA. An approach that allows for the carry forward of mills that could not be legally imposed during the tax year seems to defeat the intent of allowing mills to float downward to an amount less than the maximum levy and would typically result in levy amounts equal to the maximum amount.

II. Legislative Intent

It is certainly arguable that section 15-10-420, MCA, is not a model of clarity to understand. When a statute may have some ambiguities due to a large variety of possible situations that are covered, a court is not required under due process standards to find vagueness in the terms used in a statute so as to destroy an act; rather, it is the court's duty to construe a statute so as to be consistent with the will of the Legislature and to comport with constitutional limitations. *In re Mont. Pac. Oil & Gas Co.*, 189 Mont. 11, 18, 614 P.2d 1045, 1049 (1980). Legislative intent may be determined in a number of ways when a statute is ambiguous. A court presumes that the Legislature would not pass a meaningless statute, and the court must harmonize statutes relating to the same subject so as to give each effect. The court can look to the legislative history of the statute. Great deference and respect must be given to interpretation of the statute by persons and

agencies charged with its administration. *Mont. Contractors' Ass'n, Inc. v. Dept. of Highways*, 220 Mont. 392, 395, 715 P.2d 1056, 1058 (1986).

The subsection regarding carry forward authority was enacted by [Senate Bill No. 265 \(2001\)](#) during the 57th Legislative Session. The subsection reads the same today as when it was enacted nearly 20 years ago. The title of the bill was:

AN ACT ALLOWING A LOCAL GOVERNMENTAL ENTITY TO IMPOSE LESS THAN THE MAXIMUM NUMBER OF MILLS AUTHORIZED AND TO CARRY FORWARD THE AUTHORITY TO IMPOSE THE MAXIMUM NUMBER OF MILLS IN A SUBSEQUENT TAX YEAR; AND AMENDING SECTIONS 7-6-2531, 7-6-4431, AND 15-10-420, MCA.

[Senate Bill No. 265](#) was debated in the [Senate Committee on Local Government](#) and the [House Committee on Local Government](#). The legislation had a variety of proponents representing local governments and no opponents. Sen. Hargrove sponsored the legislation. In the [Senate Committee on Local Government](#), the sponsor stated there was a "use it" or "lose it" system, and that if "the maximum mills authorized were not used, they could not be used the next time around."¹ In the [House Committee on Local Government](#), a question was raised as to whether a local government that assesses fewer mills can "bank those" and use them in addition to the cap and the response was "no."² The totality of the testimony supported the idea that a local government could voluntarily levy fewer mills than the maximum for any tax year and then get back to where the local government would have been had it not levied less than the maximum amount (the cap concept).

Based on the legislative history, the subsection at issue regarding carry forward authority was limited to allowing a local government entity to carry forward mills and it did not pertain to statewide mill levies. There was no fiscal note attached to the bill indicating a statewide revenue impact, the legislation was never received by a tax committee, and no one mentioned the impacts on statewide mills in the local government committees. Consequently, there is a strong argument that the legislature did not intend to carry forward statewide levy authority to a future tax year.

In conclusion, it is my opinion that there is no carry forward of statewide mill levy authority when the section 15-10-420, MCA, calculation creates a mill levy that is greater than the statutory statewide mill levy limits. However, it should be noted that great deference and respect must be given to interpretations of a statute by persons and agencies charged with its administration. *Mont. Contractors' Ass'n, Inc. v. Dept. of Highways*, 220 Mont. 392, 395, 715 P.2d 1056, 1058 (1986). There are certainly arguments that cut both ways.

¹ Minutes of the Montana Senate Committee on Local Government, 57th Legislature, p. 16 (Feb. 8, 2001), available at https://leg.mt.gov/bills/2001/MinutesPDF/Senate/010208LOS_Sm1.pdf

² Minutes of the Montana House Committee on Local Government, 57th Legislature, p. 4 (March 13, 2001), available at https://leg.mt.gov/bills/2001/MinutesPDF/House/010313LOH_Hm1.pdf

Email from DOR Staff (next page is spreadsheet showing 77.89 mills)

From: Todd Devlin <mtdevlin@gmail.com>
Date: 9/14/23 10:35 AM (GMT-05:00)
To: Eric Bryson <ebryson@mtcounties.org>, Jason Rittal <jrittal@mtcounties.org>
Subject: [External]Fwd: [EXTERNAL] New Web Comment: State wide school mill levies

----- Forwarded message -----

From: **Cole, Dylan** <Dylan.Cole@mt.gov>
Date: Wed, Sep 13, 2023 at 5:59 PM
Subject: RE: [EXTERNAL] New Web Comment: State wide school mill levies
To: mtdevlin@gmail.com <mtdevlin@gmail.com>
CC: Dale, Eric <EDale@mt.gov>, Rude, Robin <rrude@mt.gov>, Adamson, Sherry <Sherry.Adamson@mt.gov>, Zammit, Tony <AZammit@mt.gov>, Mendenhall, Scott <Scott.Mendenhall@mt.gov>, Beatty, Brendan <bbeatty@mt.gov>

Hi Todd,

I've attached the 15-10-420 calculation worksheets for the 95, 6, and 1.5 mills. We incorrectly used "may" instead of "shall" in the memo. The language in statute directs county commissioners to levy these taxes on all taxable property in the county and the DOR is certifying that the revenue authority exists.

Cheers,

Dylan Cole
Economist
Montana Department of Revenue
Dylan.Cole@mt.gov
406-444-6634
MTRevenue.gov

This message is intended only for the use of the individual or entity to which it is addressed and may contain information that is privileged and confidential. If the reader of this message is not the intended recipient, you are hereby notified that dissemination, distribution or forwarding of this communication is prohibited. If you receive this communication in error, please notify the sender immediately and delete this message from any device/media where it is stored.

From: MTRevenue.Gov Contact Form <webforms@mtrevenue.gov>
Sent: Monday, September 11, 2023 3:44 PM
To: DOR Customer Assistance <DORCustomerAssistance@mt.gov>
Subject: [EXTERNAL] New Web Comment: State wide school mill levies

Name: Todd Devlin
Phone: 4068520019
Email: mtdevlin@gmail.com
Subject: State wide school mill levies

Message: Todd Devlin, chairman of Prairie County. Please show us the final spreadsheet(s) used by DOR to calculate each of the mill levies being authorized by DOR as the State wide, school levy caps. And why do say "may" rather than "shall" levy? Thanks

Determination of Tax Revenue and Mill Levy Limitations

Section 15-10-420, MCA

Aggregate of all Funds/or _____ Fund

FYE June 30, 2024

Entity Name: _____

Reference Line		Enter amounts in yellow cells	Auto-Calculation (If completing manually enter amounts as instructed)
(1)	Enter Ad valorem tax revenue <u>ACTUALLY</u> assessed in the prior year <i>Year's form Line 17)</i> (from Prior	\$ 338,345,008	\$ 338,345,008
(2)	Add: Current year inflation adjustment @ 2.46%		\$ 8,323,287
(3)	Subtract: Ad valorem tax revenue <u>ACTUALLY</u> assessed in the prior year for Class 1 and 2 property, (net and gross proceeds) (from Prior Year's form Line 20)- (enter as negative)	\$ (4,930,633)	\$ (4,930,633)
(4)	Adjusted ad valorem tax revenue		\$ 341,737,662
= (1) + (2) + (3)			
<u>ENTERING TAXABLE VALUES</u>			
(5)	Enter 'Total Taxable Value' - from Department of Revenue <i>Certified Taxable Valuation Information</i> form, line # 2	\$ 4,701,869,793	\$ 4,701,869,793
(6)	Subtract: 'Total Incremental Value' of all tax increment financing districts (TIF Districts) - from Department of Revenue <i>Certified Taxable Valuation Information</i> form, line # 6 (enter as negative)	\$ 99,816,016	\$ (99,816,016)
(7)	Taxable value per mill (after adjustment for removal of TIF per mill incremental district value)		\$ 4,602,053.777
= (5) + (6)			
(8)	Subtract: 'Total Value of Newly Taxable Property' - from Department of Revenue <i>Certified Taxable Valuation Information</i> form, line # 3 (enter as negative)	\$ (176,716,662)	\$ (176,716,662)
(9)	Subtract: 'Taxable Value of Net and Gross Proceeds, (Class 1 & 2 properties)' - from Department of Revenue <i>Certified Taxable Valuation Information</i> form, line # 5 (enter as negative)	\$ (38,101,781)	\$ (38,101,781)
(10)	Adjusted Taxable value per mill		\$ 4,387,235.334
= (7) + (8) + (9)			
(11)	CURRENT YEAR calculated mill levy		77.89
= (4) / (10)			
(12)	CURRENT YEAR calculated ad valorem tax revenue		\$ 358,453,969
= (7) x (11)			
<u>CURRENT YEAR AUTHORIZED LEVY/ASSESSMENT</u>			
(13)	Enter total number of carry forward mills from prior year (from Prior Year's form Line 22)	26.49	26.49
(14)	Total current year authorized mill levy, including Prior Years' carry forward mills		104.38
= (11) + (13)			
(15)	Total current year authorized ad valorem tax revenue assessment		\$ 480,362,373
= (7) x (14)			
<u>CURRENT YEAR ACTUALLY LEVIED/ASSESSED</u>			
(16)	Enter number of mills actually levied in current year (Number should equal total <u>non-voted</u> mills, which includes the number of carry forward mills, actually imposed per the final approved current year budget document. <u>Do Not</u> include voted or permissive mills imposed in the current year.)	95.00	95.00
(17)	Total ad valorem tax revenue actually assessed in current year		\$ 437,195,109
= (7) x (16)			
<u>RECAPITULATION OF ACTUAL:</u>			
(18)	Ad valorem tax revenue actually assessed		\$ 416,787,357
= (10) x (16)			
(19)	Ad valorem tax revenue actually assessed for newly taxable property		\$ 16,788,083
(20)	Ad valorem tax revenue actually assessed for Class 1 & 2 properties (net-gross proceeds)		\$ 3,619,669
(21)	Total ad valorem tax revenue actually assessed in current year		\$ 437,195,109
= (18) + (19) + (20)			
(22)	Total carry forward mills that may be levied in a subsequent year (Number should be equal to or greater than zero. A (negative) number indicates an over levy.)		9.38
= (14) - (16)			

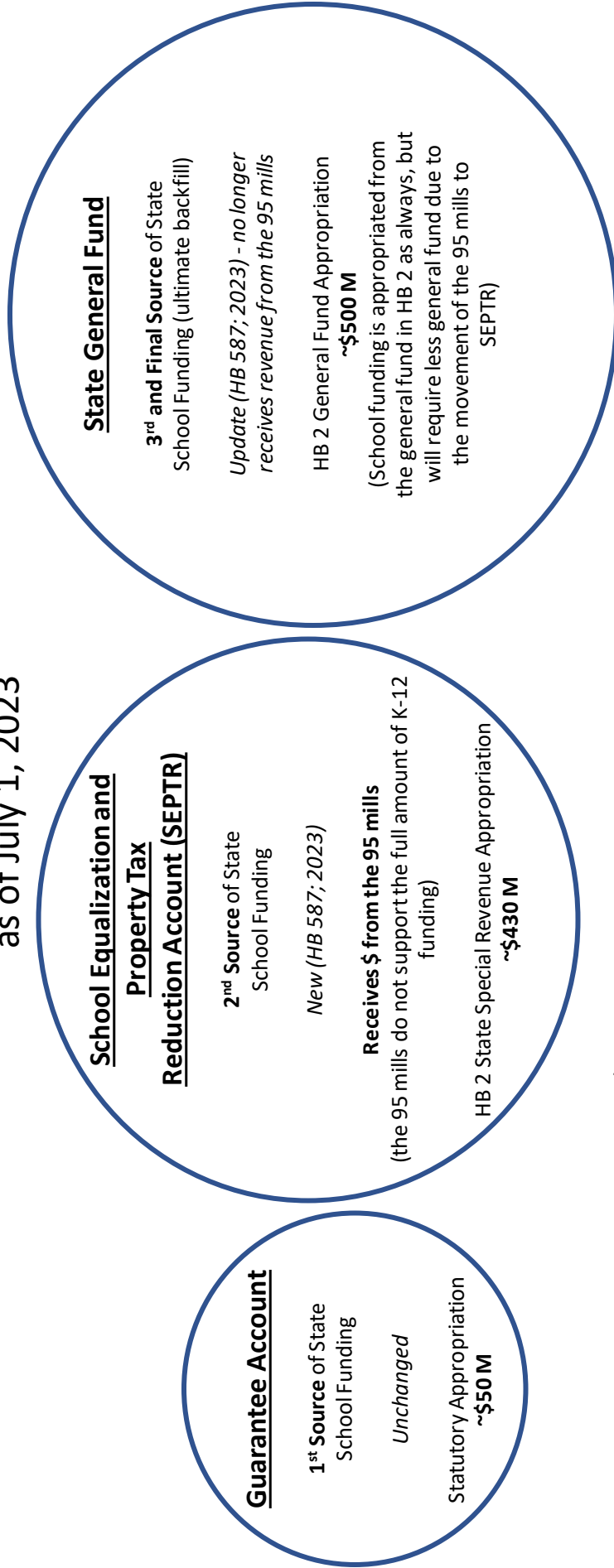
Presentation: Revenue Interim Committee – Sept. 18th Meeting Regarding HB 587

School Equalization and Property Tax Reduction Account (HB 587, 2023 Session)

Pad McCracken, LSD and Julia Pattin, LFD
Revenue Interim Committee
September 18, 2023

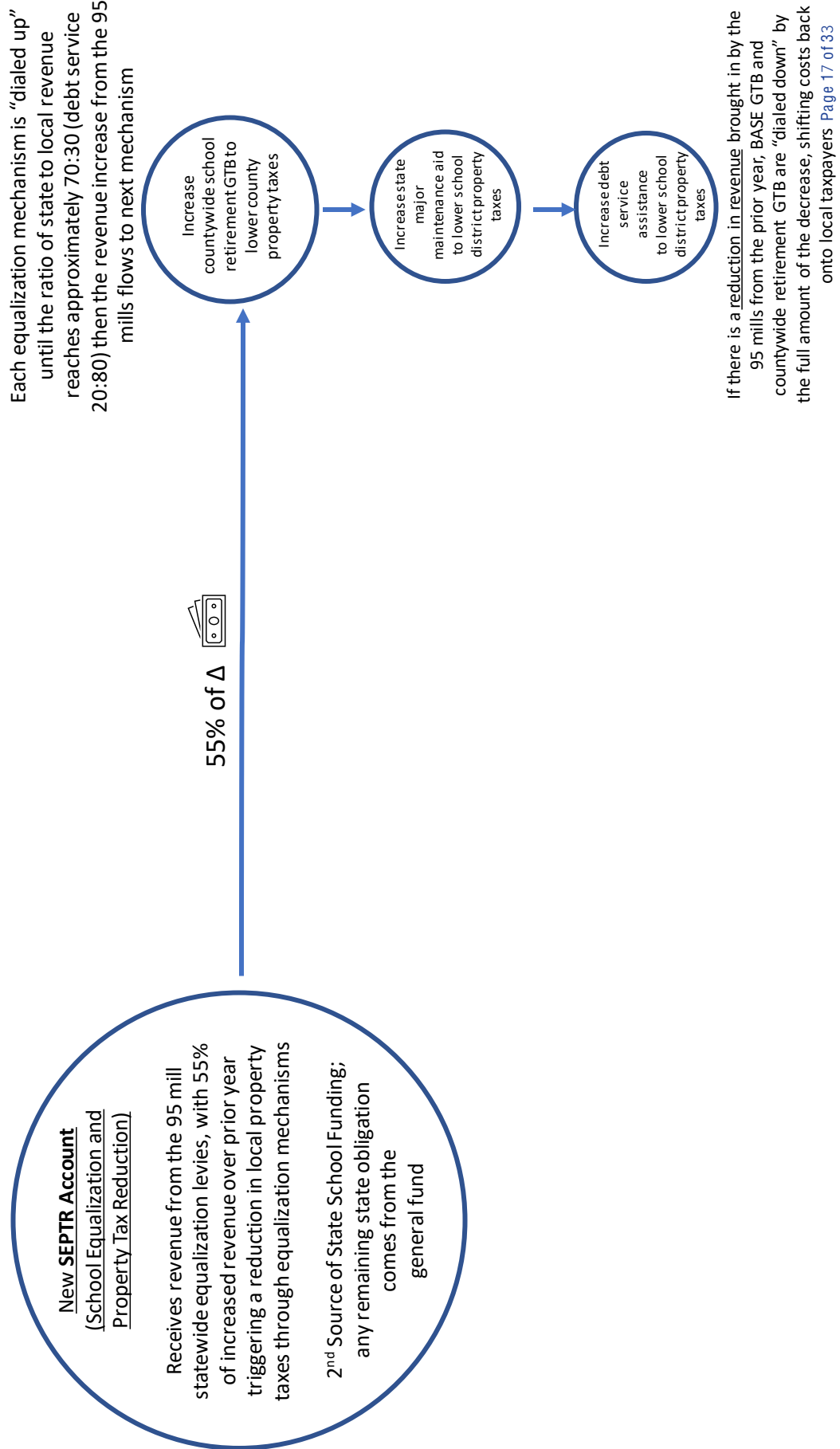
State Sources of School Funding

as of July 1, 2023



State sources of school funding total \$1.0 billion for FY 2024 and include:

- \$880 million for BASE Aid
- \$12 million for state transportation reimbursements
- \$12 million for major maintenance aid
- \$15 million for debt service assistance

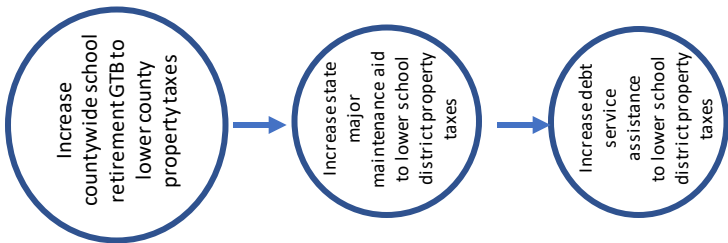
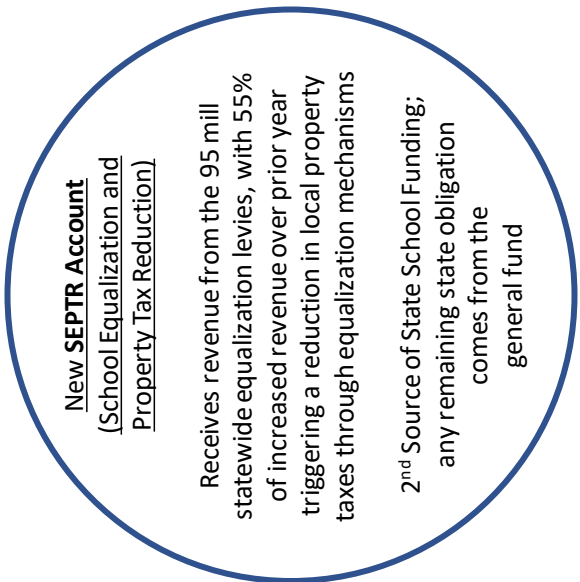
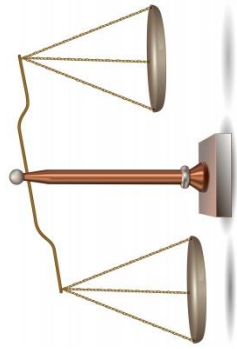


Each equalization mechanism is “dialed up” until the ratio of state to local revenue reaches approximately 70:30 (debt service 20:80) then the revenue increase from the 95 mills flows to next mechanism



55% of Δ

Utilizing a portion of the 95 mill increase means that the remaining increase can be used to fund annual increases in the existing K-12 formula. This maintains a balance between property tax and other taxes in the state general fund (largely income) in funding K-12.

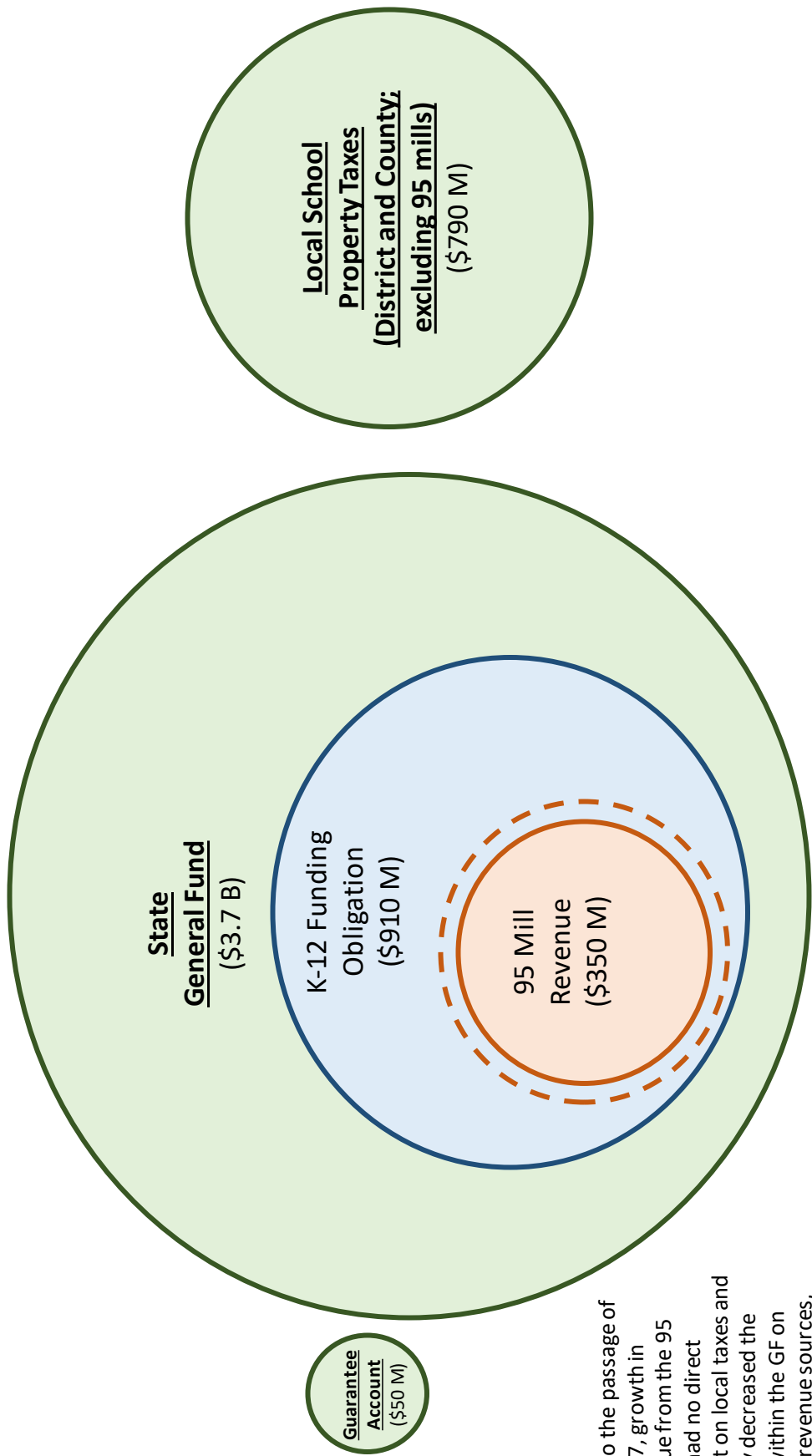


If there is a reduction in revenue brought in by the 95 mills from the prior year, BASE GTB and countywide retirement GTB are “dialed down” by the full amount of the decrease, shifting costs back onto local taxpayers Page 18 of 33

The SEPTR account also helps maintain a balance between state and local funding for K-12.

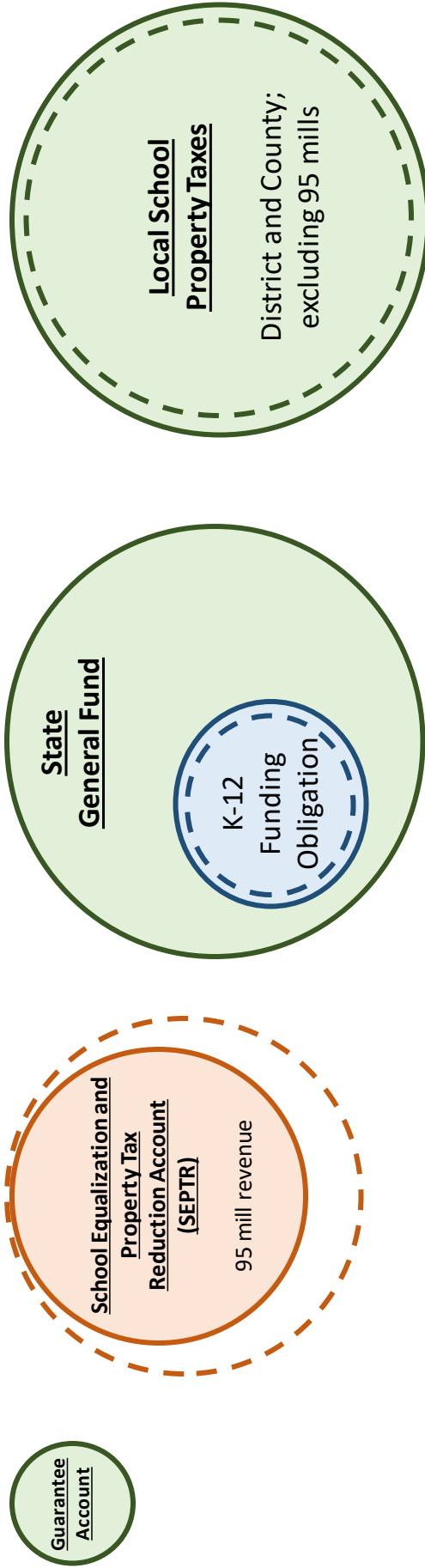
Historically, during Montana budget shortfalls K-12 costs have shifted onto local taxpayers.

When K-12 leans harder on local property taxes, the more the Legislature’s constitutional duty to “distribute [K-12 funding] in an equitable manner” can be questioned.



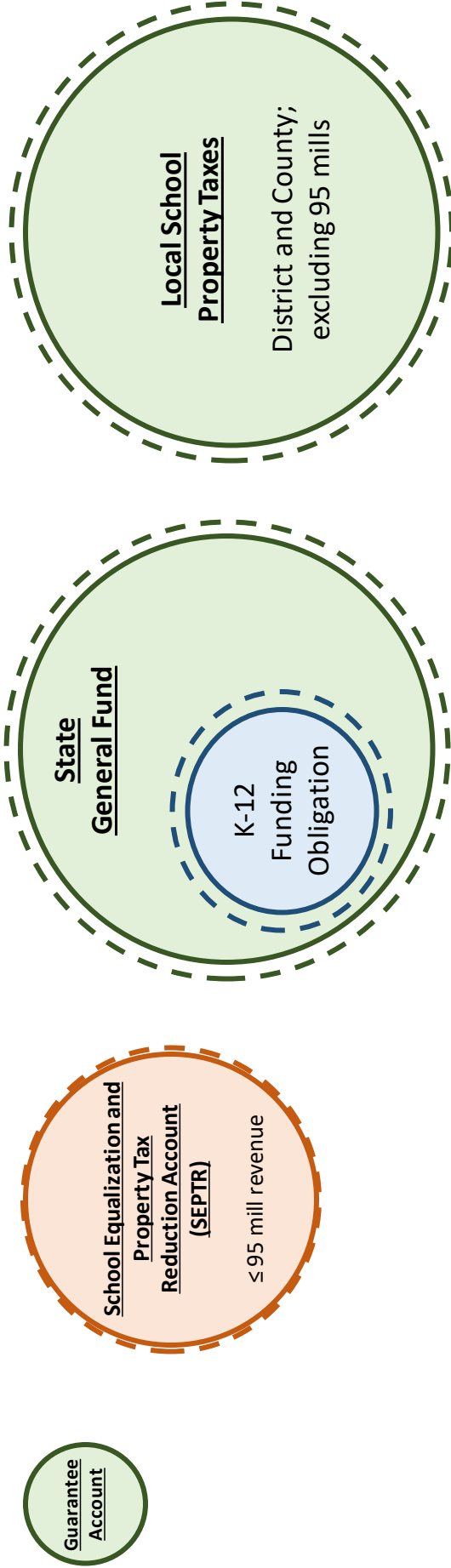
Prior to the passage of HB 587, growth in revenue from the 95 mills had no direct impact on local taxes and simply decreased the load within the GF on other revenue sources, like income tax

➤ “Static” 95 mills

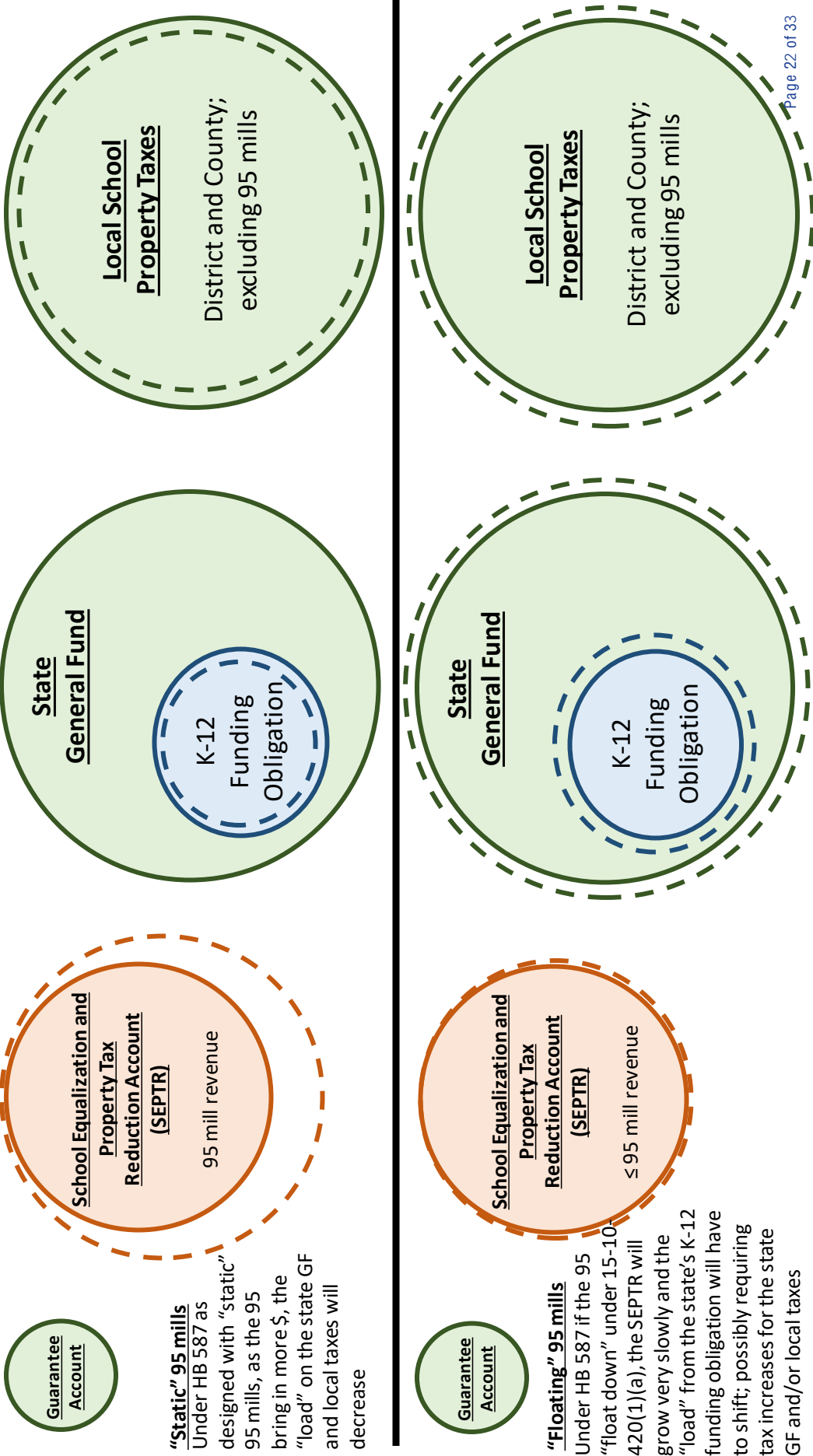


Under HB 587 as designed with “static” 95 mills, as the 95 bring in more \$, the “load” on the state GF and local taxes will decrease

➤ “Floating” 95 mills

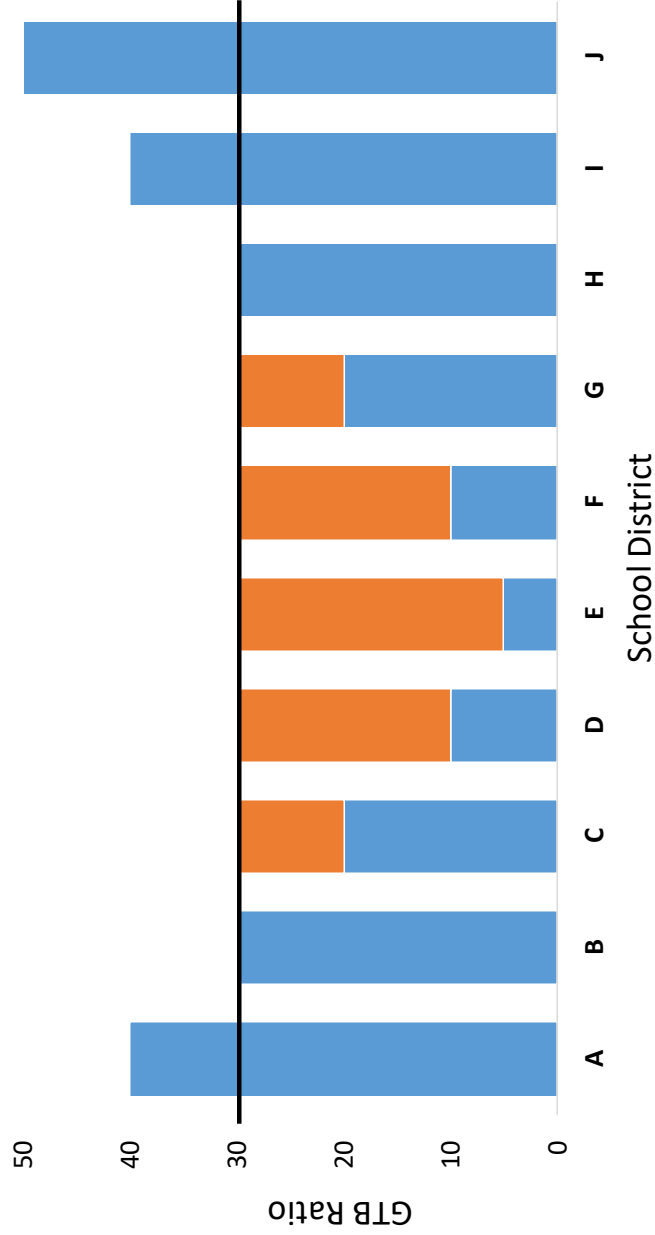


Under HB 587 if the 95 “float down” under 15-10-420(1)(a), the SEPTR will grow very slowly and the “load” from the state’s K-12 funding obligation will have to shift; possibly requiring tax increases for the state GF and/or local taxes



GTB Aid

GTB aid equalizes districts' revenue-generating capacity by providing a **state GTB aid subsidy** for districts with less property tax wealth to bring their **revenue-generating capacity (based on the district GTB ratio)** to a **guaranteed amount**



A district's **revenue-generating capacity** is measured as a ratio of the district's property wealth (taxable value) to its local funding needs and costs.

GTB Aid

GTB Aid provides support for school districts (and counties for school retirement) with low tax value and/or high student areas. When combined with the school funding formula, this promotes base level equal opportunities for students across Montana.

For example, due to the difference in tax bases for these districts, Ennis K-12 and Superior K-12 school districts have relatively comparable enrollment (ANB), and Superior K-12 receives GTB aid while Ennis K-12 does not.

School District	ANB	Taxable Value	GTB	BASE Levy Revenue	Mill Value	Number of Mills
Ennis K-12	425	\$191.4M	\$0	\$1,217,878	\$191,381	6.36
Superior K-12	351	\$5.2M	\$791,827	\$249,824	\$5,196	48.08

The number of mills it would take to raise \$1.0 million for those two districts WITHOUT the per-mill GTB subsidy are calculated below. It would take Superior K-12 192.46 mills to collect \$1.0 million, while Ennis K-12 would need only 5.23 mills to do the same. GTB aid helps equalizes the tax burden for education between different areas.

School District	ANB	Taxable Value	GTB	Levy Revenue	Mill Value	Number of Mills
Ennis K-12	425	\$191.4M	\$0	\$1,000,000	\$191,381	5.23
Superior K-12	351	\$5.2M	\$0	\$1,000,000	\$5,196	192.46

How does HB 587 affect local mills for retirement?

- Generally, high-mill counties with a higher numbers of kids compared to their taxable values will receive the largest reduction in their retirement mills (because they will receive additional retirement GTB aid from the state that will offset local property taxes for retirement)

County	Countywide Education Retirement Mills FY 2024	Countywide Education Retirement Mills FY 2025	Countywide Education Retirement Mills FY 2026	Countywide Education Retirement Mills FY 2027	Change in Retirement Mills FY 2024-2027
Prairie	41.45	17.47	9.73	4.62	(36.83)
Petroleum	33.79	16.01	13.81	9.97	(23.82)
Powell	35.57	22.74	19.01	12.92	(22.65)
Hill	35.85	22.75	19.61	14.03	(21.82)
Fergus	36.70	23.10	20.52	15.26	(21.44)
Sheridan	29.51	13.54	11.77	8.24	(21.27)
Blaine	35.68	23.33	21.47	16.78	(18.90)
Teton	33.64	21.63	19.56	14.91	(18.73)
McCone	34.00	22.57	20.54	15.83	(18.17)
Lewis & Clark	30.86	19.94	17.47	12.69	(18.17)
Flathead	30.51	19.41	17.12	12.52	(17.99)
Treasure	26.07	29.38	32.72	8.19	(17.88)
Lake	32.17	20.87	18.91	14.45	(17.72)
Missoula	30.54	19.60	17.38	12.83	(17.71)
Golden Valley	35.80	35.55	35.57	18.10	(17.70)
Yellowstone	30.81	19.88	17.71	13.22	(17.59)
Broadwater	23.26	10.40	8.69	5.74	(17.52)
Cascade	29.84	19.22	17.04	12.44	(17.40)
Dawson	31.16	20.24	18.29	13.95	(17.21)
Beaverhead	29.76	19.26	17.10	12.59	(17.17)
Meagher	21.85	11.54	8.67	4.77	(17.08)
Silver Bow	28.02	18.03	15.87	11.50	(16.52)
Roosevelt	29.96	19.45	17.84	13.67	(16.29)
Deer Lodge	27.29	17.87	15.85	11.22	(16.07)
Custer	29.34	19.12	17.42	13.29	(16.05)
Rosebud	33.33	22.77	21.40	17.30	(16.03)
Pondera	29.64	18.80	17.19	13.61	(16.03)

How does HB 587 affect local mills for retirement?

- Generally, low-mill counties with lower ratios of kids to taxable values will receive the smallest reduction to their retirement mills. Since these counties generally receive very little retirement GTB aid from the state or no GTB aid at all, they will receive a smaller reduction of retirement mills (if any)

County	Countywide Education Retirement Mills FY 2024	Countywide Education Retirement Mills FY 2025	Countywide Education Retirement Mills FY 2026	Countywide Education Retirement Mills FY 2027	Change in Retirement Mills FY 2024-2027
Carbon	27.55	19.37	16.84	12.16	(15.39)
Sanders	26.79	17.21	15.37	11.56	(15.23)
Big Horn	28.41	18.53	16.98	13.26	(15.15)
Park	28.10	23.25	19.29	13.03	(15.07)
Glacier	26.50	17.16	15.51	12.01	(14.49)
Phillips	23.26	13.53	12.33	9.55	(13.71)
Valley	23.48	14.46	13.13	10.31	(13.17)
Jefferson	26.64	17.64	16.80	13.87	(12.77)
Liberty	23.97	18.39	15.68	11.49	(12.48)
Mineral	16.47	7.75	6.31	3.99	(12.48)
Toole	19.19	11.86	10.05	6.74	(12.45)
Gallatin	23.22	19.64	16.44	11.20	(12.02)
Lincoln	21.06	13.81	12.37	9.41	(11.65)
Garfield	25.82	23.65	20.31	14.36	(11.46)
Daniels	17.09	8.77	7.84	5.65	(11.44)
Ravalli	19.90	12.66	11.20	8.57	(11.33)
Musselshell	18.53	11.61	10.40	7.79	(10.74)
Chouteau	30.57	24.98	25.32	20.62	(9.95)
Granite	21.10	19.89	18.26	12.96	(8.14)
Stillwater	18.65	16.78	15.29	11.88	(6.77)
Wheatland	25.37	25.33	24.26	22.31	(3.06)
Sweet Grass	19.54	18.88	17.92	16.77	(2.77)
Judith Basin	19.75	19.60	18.94	18.25	(1.50)
Wibaux	7.20	7.11	6.97	6.83	(0.37)
Fallon	0.00	0.00	0.00	0.00	-
Richland	0.00	0.00	0.00	0.00	-
Madison	3.80	3.98	3.75	3.90	0.10
Carter	3.28	3.42	3.59	3.74	0.46
Powder River	0.00	0.00	0.06	0.48	0.48
Statewide Average	24.85	17.03	15.35	11.20	(13.65)

HB 587

Scenario:

What would happen if the 95 mills begin to “float” in FY 2026?

➤ Assumptions:

- The retirement GTB ratio is 1.89 for FY 2025 (current law)
- If the 95 mills “float” down:
 - The 95 mills would remain static for FY 2024 and FY 2025, and hypothetically the 2025 legislature could make a change in statute such that the 95 mills would float down
 - The 95 mills would “float” to 93.15 in FY 2026 and 94.87 in FY 2027
 - The retirement GTB ratio would remain at 1.89 for FY 2026
- If the 95 mills are “static,” the retirement GTB ratio would be 2.03 for FY 2026 and 2.76 for FY 2027 (per the HB 587 fiscal note)

What would happen if the 95 mills begin to “float” in FY 2026?

- Generally, high-mill counties with a higher numbers of kids compared to their taxable values would receive an increase in mills (retirement mills + the 95) if the 95 mills were to “float,” compared to if the 95 mills are “static”
 - These counties will receive additional retirement GTB aid from the state in the “static” scenario, and that GTB aid will offset local property taxes for retirement
 - These counties would not receive the additional retirement GTB aid from the state in the “floating” scenario, and that GTB aid would not be available to offset local property taxes for retirement
- The counties that receive **higher GTB aid** from the state would have a relatively large increase retirement mills in the “floating” scenario, which would be only minimally offset by the same small reduction to the 95 mills for all counties

County	Countywide Education Retirement Mills + the 95 Mills FY 2025	Countywide Education Retirement Mills + the "95 Mills" FY 2026	Countywide Education Retirement Mills + the "95 Mills" FY 2027	Change in Retirement Mills + the "95 Mills" (Float) FY 2025-2027	Change in Retirement Mills + the 95 Mills (Static) FY 2025-2027	Difference
Treasure	124.38	125.87	121.20	(3.18)	(21.19)	18.02
Golden Valley	130.55	128.72	128.90	(1.65)	(17.45)	15.80
Rosebud	117.77	116.15	120.18	2.42	(5.47)	7.89
Blaine	118.33	116.22	119.41	1.08	(6.55)	7.63
McCone	117.57	115.27	118.28	0.71	(6.74)	7.44
Fergus	118.10	115.25	117.44	(0.67)	(7.84)	7.18
Teton	116.63	114.18	116.77	0.14	(6.72)	6.86
Garfield	118.65	115.03	116.13	(2.53)	(9.29)	6.77
Petroleum	111.01	108.43	111.72	0.71	(6.03)	6.75
Lake	115.87	113.48	116.05	0.17	(6.42)	6.59
Pondera	113.80	111.68	115.06	1.25	(5.19)	6.44
Jefferson	112.64	111.21	115.19	2.55	(3.77)	6.32
Hill	117.75	114.21	115.35	(2.40)	(8.72)	6.32
Dawson	115.24	112.79	115.22	(0.02)	(6.29)	6.28
Roosevelt	114.45	112.31	114.82	0.36	(5.79)	6.15
Custer	114.12	111.87	114.30	0.18	(5.82)	6.00
Big Horn	113.53	111.38	114.21	0.68	(5.27)	5.96
Yellowstone	114.88	112.17	114.17	(0.71)	(6.65)	5.94
Chouteau	119.98	120.32	121.54	1.56	(4.36)	5.92
Powell	117.74	113.58	113.78	(3.97)	(9.83)	5.86
Carbon	114.37	111.35	112.99	(1.38)	(7.21)	5.82
Sheridan	108.54	106.25	109.06	0.53	(5.29)	5.82
Missoula	114.60	111.82	113.64	(0.96)	(6.77)	5.81
Park	118.25	113.84	113.82	(4.43)	(10.21)	5.78
Beaverhead	114.26	111.54	113.35	(0.91)	(6.67)	5.76
Flathead	114.41	111.57	113.26	(1.15)	(6.90)	5.74
Cascade	114.22	111.46	113.06	(1.16)	(6.78)	5.62

What would happen if the 95 mills begin to “float” in FY 2026? (cont.)

- Generally, low-mill counties with lower ratios of kids to taxable values would experience minimal change to their in mills (retirement mills + the 95) if the 95 mills were to “float,” compared to if the 95 mills are “static”
 - The counties that receive **no GTB aid** from the state would have equal retirement mills in both the “static” and “floating” scenarios, and these counties would receive the same small reduction to the 95 mills for all counties
 - The counties that receive **minimal GTB aid** from the state would have a relatively small increase retirement mills in the “floating” scenario, which would be offset by the same small reduction to the 95 mills for all counties

County	Countywide Education Retirement Mills + the 95 Mills FY 2025	Countywide Education Retirement Mills + the "95 Mills" FY 2026	Countywide Education Retirement Mills + the "95 Mills" FY 2027	Change in Retirement Mills + the "95 Mills" (Float) FY 2025-2027	Change in Retirement Mills + the 95 Mills (Static) FY 2025-2027	Difference
Lewis & Clark	114.94	111.88	113.27	(1.67)	(7.24)	5.58
Liberty	113.39	110.09	112.01	(1.38)	(6.90)	5.52
Glacier	112.16	109.80	112.38	0.22	(5.14)	5.37
SilverBow	113.03	110.19	111.66	(1.36)	(6.53)	5.16
Granite	114.89	111.81	113.07	(1.82)	(6.93)	5.11
Deer Lodge	112.87	110.19	111.32	(1.55)	(6.65)	5.11
Gallatin	114.64	110.83	111.30	(3.34)	(8.44)	5.10
Stillwater	111.78	109.55	111.91	0.13	(4.90)	5.03
Sanders	112.21	109.60	111.32	(0.89)	(5.65)	4.76
Phillips	108.53	106.41	108.68	0.15	(3.97)	4.12
Valley	109.46	107.21	109.42	(0.04)	(4.14)	4.11
Lincoln	108.81	106.37	108.22	(0.59)	(4.40)	3.81
Daniels	103.77	101.80	104.24	0.47	(3.13)	3.60
Meagher	106.54	103.00	103.36	(3.18)	(6.77)	3.59
Musselshell	106.61	104.33	106.31	(0.29)	(3.82)	3.52
Toole	106.86	104.02	105.01	(1.85)	(5.11)	3.26
Ravalli	107.66	105.10	106.74	(0.92)	(4.09)	3.17
Prairie	112.47	104.18	102.77	(9.71)	(12.86)	3.15
Broadwater	105.40	102.71	103.88	(1.52)	(4.66)	3.14
Mineral	102.75	100.10	101.34	(1.41)	(3.76)	2.35
Wheatland	120.33	117.45	118.82	(1.51)	(3.02)	1.51
SweetGrass	113.88	111.07	112.17	(1.70)	(2.11)	0.40
Powder River	95.00	93.21	95.57	0.57	0.48	0.09
Carter	98.42	96.74	98.61	0.19	0.32	(0.13)
Fallon	95.00	93.15	94.87	(0.13)	-	(0.13)
Richland	95.00	93.15	94.87	(0.13)	-	(0.13)
Madison	98.98	96.90	98.77	(0.21)	(0.08)	(0.13)
Judith Basin	114.60	112.09	113.12	(1.48)	(1.35)	(0.13)
Wibaux	102.11	100.12	101.70	(0.41)	(0.28)	(0.13)
Statewide Average	112.03	109.48	111.17	(0.86)	(5.83)	4.97

Blaine County



County	Countywide Education Retirement Mills + the 95 Mills FY 2025	Countywide Education Retirement Mills + the "95 Mills" FY 2026	Countywide Education Retirement Mills + the "95 Mills" FY 2027	Change in Retirement Mills + the "95 Mills" (Float) FY 2025-2027	Change in Retirement Mills + the 95 Mills (Static) FY 2025-2027	Difference
Blaine	118.33	116.22	119.41	1.08	(6.55)	7.63

➤ **Blaine County would pay 7.63 more mills if the 95 mills "float" than if they are "static"**

- In the "floating" scenario, Blaine County would have a 1.21 mill increase for retirement, which would be only minimally offset by the 0.13 mill reduction to the "95 mills," resulting in a net **1.08 mill increase**
- In the "static" scenario, Blaine County would have a **6.55 mill decrease** for retirement due primarily to the local property tax offset from state retirement GTB aid

Richland County



County	Countywide Education Retirement Mills + the 95 Mills FY 2025	Countywide Education Retirement Mills + the "95 Mills" FY 2026	Countywide Education Retirement Mills + the "95 Mills" FY 2027	Change in Retirement Mills + the "95 Mills" (Float) FY 2025-2027	Change in Retirement Mills + the 95 Mills (Static) FY 2025-2027	Difference
Richland	95.00	93.15	94.87	(0.13)	-	(0.13)

➤ **Richland County would pay 0.13 less mills if the 95 mills "float" than if they are "static"**

- In the "floating" scenario, Richland County would have no changes to retirement mills since the county pays 0.00 mills for retirement, which would be combined with the 0.13 mill reduction to the "95 mills," resulting in a net **0.13 mill decrease**
- In the "static" scenario, Richland County would have the same **0 mill decrease** for retirement since the county does not pay any retirement mills and does receive retirement GTB aid from the state in either scenario

Mineral County



County	Countywide Education Retirement Mills + the 95 Mills FY 2025	Countywide Education Retirement Mills + the "95 Mills" FY 2026	Countywide Education Retirement Mills + the "95 Mills" FY 2027	Change in Retirement Mills + the "95 Mills" (Float) FY 2025-2027	Change in Retirement Mills + the 95 Mills (Static) FY 2025-2027	Difference
Mineral	102.75	100.10	101.34	(1.41)	(3.76)	2.35

➤ **Mineral County would pay 2.35 more mills if the 95 mills "float" than if they are "static"**

- In the "floating" scenario, Mineral County would have a 1.28 mill decrease for retirement (due to increased taxable value from the 2026 reappraisal cycle), which would be combined with the 0.13 mill reduction to the "95 mills," resulting in a net **1.41 mill decrease**
- In the "static" scenario, Mineral County would have a **3.76 mill decrease** for retirement due primarily to the local property tax offset from state retirement GTB aid

Madison County



County	Countywide Education Retirement Mills + the 95 Mills FY 2025	Countywide Education Retirement Mills + the "95 Mills" FY 2026	Countywide Education Retirement Mills + the "95 Mills" FY 2027	Change in Retirement Mills + the "95 Mills" (Float) FY 2025-2027	Change in Retirement Mills + the 95 Mills (Static) FY 2025-2027	Difference
Madison	98.98	96.90	98.77	(0.21)	(0.08)	(0.13)

➤ **Madison County would pay 0.13 less mills if the 95 mills "float" than if they are "static"**

- In the "floating" scenario, Madison County would have a 0.08 mill decrease increase for retirement (due to increased taxable value from the 2026 reappraisal cycle), which would be combined with the 0.13 mill reduction to the "95 mills," resulting in a net **0.21 mill decrease**
- In the "static" scenario, Madison County would have the same **0.08 mill decrease** for retirement since the county does not receive GTB aid in either scenario to offset local property taxes for retirement

Yellowstone County



County	Countywide Education Retirement Mills + the 95 Mills FY 2025	Countywide Education Retirement Mills + the "95 Mills" FY 2026	Countywide Education Retirement Mills + the "95 Mills" FY 2027	Change in Retirement Mills + the "95 Mills" (Float) FY 2025-2027	Change in Retirement Mills + the 95 Mills (Static) FY 2025-2027	Difference
Yellowstone	114.88	112.17	114.17	(0.71)	(6.65)	5.94

➤ **Yellowstone County would pay 5.94 more mills if the 95 mills "float" than if they are "static"**

- In the "floating" scenario, Yellowstone County would have a 0.58 mill decrease for retirement (due to increased taxable value from the 2026 reappraisal cycle), which would be combined with the 0.13 mill reduction to the "95 mills," resulting in a net **0.71 mill decrease**
- In the "static" scenario, Yellowstone County would have a **6.65 mill decrease** for retirement due primarily to the local property tax offset from state retirement GTB aid

Carter County



County	Countywide Education Retirement Mills + the 95 Mills FY 2025	Countywide Education Retirement Mills + the "95 Mills" FY 2026	Countywide Education Retirement Mills + the "95 Mills" FY 2027	Change in Retirement Mills + the "95 Mills" (Float) FY 2025-2027	Change in Retirement Mills + the 95 Mills (Static) FY 2025-2027	Difference
Carter	98.42	96.74	98.61	0.19	0.32	(0.13)

➤ **Carter County would pay 0.13 less mills if the 95 mills "float" than if they are "static"**

- In the "floating" scenario, Carter County would have a 0.32 mill increase for retirement (due to increased taxable value from the 2026 reappraisal cycle), which would be only minimally offset by the 0.13 mill reduction to the "95 mills," resulting in a net **0.19 mill decrease**
- In the "static" scenario, Carter County would have the same **0.32 mill increase** for retirement since the county does not receive GTB aid in either scenario to offset local property taxes for retirement



Questions?

EXHIBIT 6A

Resolution - Daniels County

RESOLUTION NO. 2023-24

A RESOLUTION FIXING THE MILL LEVY FOR THE STATE EQUALIZATION, COUNTY HIGH SCHOOL EQUALIZATION AND COUNTY ELEMENTARY EQUALIZATION MILL LEVY AUTHORITY FOR THE FISCAL YEAR BEGINNING JULY 1, 2023 AND ENDING JUNE 30, 2024

WHEREAS, the Department of Revenue has indicated the number of mills that the board of county commissioners may levy upon all property in the state and has determined that the ad valorem tax for Fiscal Year 2024 for the State Equalization Aid is 40.00 mills, the County Elementary Equalization Levy is 33.00 mills, and the High School Equalization Levy is 22.00 mills; and,

WHEREAS, Section 15-10-420(8), MCA states The department shall calculate, on a statewide basis, the number of mills to be imposed for purposes of 15-10-109, 20-9-331, 20-9-333, 20-9-360, and 20-25-439. However, the number of mills calculated by the department may not exceed the mill levy limits established in those sections. The mill calculation must be established in tenths of mills. If the mill levy calculation does not result in an even tenth of a mill, then the calculation must be rounded up to the nearest tenth of a mill; and,

WHEREAS, The Montana Department of Revenue performed the calculation under 15-10-420, MCA, and reported that the levy authority for FY2024 is 77.89 mills; and

WHEREAS, The Board of County Commissioners has determined that the correct number of mills to be levied for Fiscal Year 2024 for the State Equalization Aid is 32.90 mills, the County Elementary Equalization Levy is 27.00 mills, and the High School Equalization Levy is 18.00 mills, for a total of 77.9 mills;

NOW THEREFORE BE IT RESOLVED by the Daniels County Board of County Commissioners that the State Equalization Aid Levy of 32.90 mills, the County Elementary Equalization Levy of 27.00 mills, and the High School Equalization Levy of 18.00 mills, for a total of 77.9 mills, as determined by the Montana Department of Revenue, for Fiscal Year 2024 are hereby fixed.

DATED this 3rd day of October, 2023

ATTEST:

Kristy Jones
Kristy Jones
Clerk and Recorder



BOARD OF COUNTY COMMISSIONERS
Daniels County, Montana

Gary Linder
By Gary Linder, Chairman

L. Lee Humbert
By L. Lee Humbert, Commissioner

Mikel P. Lund
By Mikel P. Lund, Commissioner

EXHIBIT 6B

Resolution - Fergus County

RESOLUTION 27 - 2023

A RESOLUTION AMENDING THE NUMBER OF SCHOOL EQUALIZATION MILLS FERGUS COUNTY WILL LEVY FOR FISCAL YEAR 2023-24

WHEREAS, Montana Code Annotated §§ 20-9-331, 20-9-333, and 20-9-360 state that counties shall levy a total of 95 mills for state school equalization aid; and

WHEREAS, Montana Code Annotated § 15-10-420 limits the revenue generated from mill levies to the amount of property taxes assessed in the prior year plus one-half of the average rate of inflation for the prior 3 years; and

WHEREAS, due to an increase in property valuation, the value of a mill in Fergus County has increased by \$9,293.93 over last fiscal year; and

WHEREAS, Fergus County requested the Montana Department of Revenue provide the actual calculated mill levy authority for fiscal year 2023-24; and

WHEREAS, the Montana Department of Revenue did not respond to Fergus County's request but informed Prairie County that the actual calculated mill levy authority for fiscal year 2023-24 is 77.9 mills; and

WHEREAS, the difference in the amount of taxes generated by 95 mills versus 77.9 mills is \$961,694 in Fergus County; and

WHEREAS, Fergus County has a charter form of government pursuant to Montana Code Annotated Title 7, Chapter 3, Part 7; and

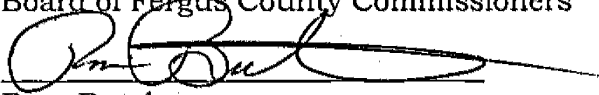
WHEREAS, the Fergus County Board of Commissioners is responsible for annually certifying the number of mills to be levied;

NOW, THEREFORE, BE IT RESOLVED that Fergus County will levy 77.9 mills for state school equalization aid for fiscal year 2023-24 as follows:

1. § 20-9-331 County Elementary: 27 mills
2. § 20-9-333 County High School: 18 mills
3. § 20-9-360 State Equalization: 32.90 mills

PASSED AND APPROVED this 29 day of September 2023.

Board of Fergus County Commissioners



Ross Butcher



Carl Scilstad



Jennifer Saunders

ATTEST:

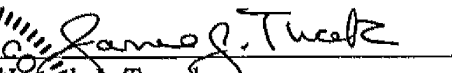
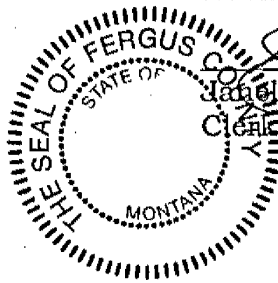

James J. Tucek
Clerk and Recorder

EXHIBIT 6C

Resolution - Flathead County

RESOLUTION NO. 2602

A RESOLUTION FIXING THE MILL LEVY FOR THE STATE EQUALIZATION, COUNTY HIGH SCHOOL EQUALIZATION AND COUNTY ELEMENTARY EQUALIZATION MILL LEVY AUTHORITY FOR THE FISCAL YEAR BEGINNING JULY 1, 2023 AND ENDING JUNE 30, 2024

WHEREAS, the Department of Revenue has indicated the number of mills that the board of county commissioners may levy upon all property in the state and has determined that the ad valorem tax for Fiscal Year 2024 for the State Equalization Aid is 40.00 mills, the County Elementary Equalization Levy is 33.00 mills, and the High School Equalization Levy is 22.00 mills; and,

WHEREAS, Section 15-10-420(8), MCA states, "The department shall calculate, on a statewide basis, the number of mills to be imposed for purposes of 15-10-109, 20-9-331, 20-9-333, 20-9-360, and 20-25-439. However, the number of mills calculated by the department may not exceed the mill levy limits established in those sections. The mill calculation must be established in tenths of mills. If the mill levy calculation does not result in an even tenth of a mill, then the calculation must be rounded up to the nearest tenth of a mill."; and,

WHEREAS, The Montana Department of Revenue performed the calculation under 15-10-420, MCA, and reported that the levy authority for FY2024 is 77.89 mills; and

WHEREAS, The Flathead County Board of County Commissioners has determined that the correct number of mills to be levied for Fiscal Year 2024 for the State Equalization Aid is 32.90 mills, the County Elementary Equalization Levy is 27.00 mills, and the High School Equalization Levy is 18.00 mills, for a total of 77.9 mills;

NOW THEREFORE BE IT RESOLVED by the Flathead County Board of County Commissioners that the State Equalization Aid Levy of 32.90 mills, the County Elementary Equalization Levy of 27.00 mills, and the High School Equalization Levy of 18.00 mills, for a total of 77.9 mills, as determined by the Montana Department of Revenue, for Fiscal Year 2024 are hereby fixed.

DATED this 4th day of October, 2023.

BOARD OF COUNTY COMMISSIONERS
Flathead County, Montana

By: _____
Brad W. Abell, Chairman

By: _____
Randy L. Brodehl, Member

By: _____
Pamela J. Holmquist, Member

ATTEST:

Clerk of the Board

EXHIBIT 6D

Resolution - Gallatin County

Resolution No. 2023-140

A RESOLUTION FIXING THE TAX LEVY REQUIRED BY THE GALLATIN COUNTY ELEMENTARY AND HIGH SCHOOL DISTRICTS AND THE RETIREMENT AND TRANSPORTATION MILLS AS CALCULATED BY THE SUPERINTENDENT OF SCHOOLS, PURUSANT TO SECTIONS 20-9-501(6) AND 20-9-142, MCA.

WHEREAS, this Resolution was introduced by John Nielson, Gallatin County Superintendent of Schools, moved by Commissioner BOYER, seconded by Commissioner MACFARLANE, with 3 Commissioners voting in favor of the Resolution and 0 voting against the Resolution.

WHEREAS, the Gallatin County Superintendent of Schools received the final adopted budgets from all school districts in Gallatin County pursuant to §20-9-131(3), MCA, and computed the levy requirements for each district's general fund pursuant to §20-9-141, MCA; and,

WHEREAS, the mills by fund for the budgets of all districts in Gallatin County and the dollars to be funded by a levy on all taxable property within the County are provided in Attachment A; and,

WHEREAS, pursuant to §20-9-141(3), MCA, the Gallatin County Superintendent of Schools computed the countywide levy requirements for Elementary Retirement as 15.55 mills, High School Retirement as 9.43 mills, and Transportation as 0.72 mills; and,

WHEREAS, the Department of Revenue has calculated the number of mills that the board of county commissioners may levy upon all property in the state and has determined that the ad valorem tax for Fiscal Year 2024 for the State Equalization Aid is 32.90 mills, the County Elementary Equalization Levy is 27.00 mills, and the High School Equalization Levy is 18.00 mills;


NOW THEREFORE BE IT RESOLVED by the Gallatin County Board of County Commissioners that the State Equalization Aid Levy of 32.90 mills, the County Elementary Equalization Levy of 27.00 mills, and the High School Equalization Levy of 18.00 mills as determined by the Department of Revenue, and the mills for all taxes for the elementary and high school district final budgets for the Fiscal Year 2023 as provided in Attachment A, and the mills of 15.55 for Elementary Retirement, 9.43 for High School Retirement, and 0.72 for Transportation as presented by the Gallatin County Superintendent of Schools for Fiscal Year 2024 are hereby fixed.

DATED this 3rd day of October, 2023.

GALLATIN COUNTY
BOARD OF COUNTY
COMMISSIONERS


Zach Brown, Chairman

ATTEST:


Eric Semerad, Clerk and Recorder

Summary for Resolution Fixing the Tax Levy Required by the Gallatin County Schools

Pursuant to § 20-9-142, MCA, it is the duty of the board of county commissioners to fix and levy the taxes required to fund the budgets of all school districts in the county. Per § 20-9-141, MCA, the county superintendent calculates the number of mills to be levied for the districts' budgets and presents them to the county commissioners.

A table showing the number of mills by fund for each elementary and high school district is included. Also attached is form FP10a from the Office of Public Instruction, which shows the total countywide mills and amounts required for the elementary and high school retirement and transportation levies.

Section 20-9-141, MCA, also requires that the county superintendent report the school districts' net general fund levy requirements. A table showing each district's taxable values and ANB (number of students) is included in the table. The official FY24 budget page of each school is also attached. The full set of documents is too large to include but may be viewed in the county superintendent's office or requested from each school district.

Numerous factors can cause the levy requirements to vary from year to year. The number of staff that a district employs, for example, can affect retirement totals; the number of students and number and length of bus routes affects transportation totals. The rise of taxable valuations means that the number of mills has lowered as the value of one mill has increased county-wide.

The total countywide mills required for the school district retirement and transportation funds are found on the FP10a in Part III and shown in yellow on the School District Mill Levies table. A comparison to FY23 is in grey on the same table.

In summary, approval of this resolution authorizes the collection of the taxes required to fund the school districts' budgets as required in 20-9-142, MCA, and meets the reporting requirements for the county superintendent in §§ 20-9-141 and 20-9-142, MCA. The mills required for county-wide support of the elementary and high school retirement and transportation levies are on form FP10a and listed below:

- Elementary Retirement: 15.55 Mills
- High School Retirement: 9.43 Mills
- Transportation: 0.72 Mills

Respectfully Submitted,

John Nielson, Gallatin County Superintendent of Schools

Gallatin County School District

Mill Levies

FY24

School	Total Mill Value	GenFund	Trans	Bus Dep	Tuition	Adult Ed	Tech	Bldg Res	Debt	Total
Manhattan EL	\$17,055.95	68.12	13.61	0	8.19	0	6.45	1.68	33.57	131.62
Manhattan HS	\$27,791.49	33.27	6.44	0.78	0.6	0.05	2.13	0.83	35.04	79.14
Bozeman EL	\$357,169.59	42.58	7.66	0	0.85	0	2	10.92	13.2	77.21
Bozeman HS	\$433,828.23	23.26	2.84	0	0.65	2	1	7.72	25.04	62.51
Willow Creek EL	\$1,916.81	77.81	8.31	3.44	0	0	0	2.02	0	91.58
Willow Creek HS	\$1,756.64	70.3	5.17	2.01	0	0	0	1.85	0	79.33
Springhill	\$1,531.74	32.54	0	0	0	0	0	0	0	32.54
Cottonwood	\$2,279.49	22.1	0	0	2.38	0	0	5.57	0	30.05
Three Forks EL	\$13,483.54	41.68	7.36	5.15	8.19	0	1.25	1.99	30.26	95.88
Three Forks HS	\$13,643.71	25.96	4.57	2.58	1.67	0	0	0.97	45.94	81.69
Pass Creek	\$998.64	22.47	0	0	0	0	0	0	0	22.47
Monforton	\$40,003.51	33.85	12.22	0	0	0.05	2.5	1.62	32.23	82.47
Gallatin Gateway	\$15,030.00	36.7	6.85	1.97	0	1.5	1.2	5.44	0	53.66
Anderson	\$9,094.46	52.3	5.74	3.72	1.1	0	3.3	1.47	56.55	124.18
LaMotte	\$6,438.01	40.68	0.49	0	3.23	0	4.64	1.64	19.06	69.74
Belgrade EL	\$111,545.54	57.02	16.79	5.56	2.42	0	0.56	6.09	32.11	120.55
Belgrade HS	\$114,342.08	28.65	6.23	2.78	3.57	0.37	0.55	2.95	17.58	62.68
Malmborg	\$2,002.33	27.11	0	0	0	0	0	2.74	0	29.85
Amsterdam	\$8,581.13	39.08	7.24	0	5.69	0	0.47	1.88	27.35	81.71
W. Yellowstone K-12	\$23,954.59	50.68	8.09	0	3.03	0.94	1.63	10.39	19.99	94.75
Big Sky K-12	\$106,704.26	18.23	2.8	0.82	0.58	0	0.88	2.86	23.02	49.19
Shields Valley	\$1,803.55	49.07	26.02	1.48	1.4	0.77	1.89	0	1.7	82.33
									total mills	714.98
County-wide Levies		mill value FY24			\$720,021.00			FY23		\$451,872.46
	Transportation		0.72		\$515,587.31			1.32		\$817,119.10
	Elem Retirement		15.55		\$11,196,008.88			20.83		\$9,556,925.53
	HS Retirement		9.43		\$6,789,512.45			12.43		\$5,687,018.98

	ANB	Taxable Value		ANB	Taxable Value	
Manhattan EL	508	\$17,055,946.00		Manhattan HS	256	\$25,791,491.00
Bozeman EL	4,840	\$357,169,589.00		Bozeman HS	2,707	\$433,828,230.00
Willow Creek EL	43	\$2,402,066.00		Willow Creek HS	10	\$1,756,641.00
Three Forks EL	386	\$19,921,776.00		Three Forks HS	226	\$19,595,737.00
Belgrade EL	67	\$111,545,539.00		Belgrade HS	1,028	\$114,342,077.00
Pass Creek	12	\$1,404,622.00		Malmborg	11	\$2,002,327.00
Monforton	703	\$40,003,506.00		Amsterdam	171	\$8,581,132.00
Anderson	217	\$9,094,456.00		W.Yellowstone K-12	302	\$23,954,587.00
LaMotte	67	\$6,459,911.00		Big Sky K-12	448	\$106,704,259.00
Springhill	20	\$1,531,739.00		Cottonwood	20	\$2,279,487.00
Shields Valley	5	\$1,803,551.00		Gallatin Gateway	159	\$15,029,994.00
Grand Total	14,595					



**COUNTY TRANSPORTATION / RETIREMENT FUND
MILL LEVY / GTB CALCULATION WORKSHEET - FP10a
FY2024**

16 Gallatin County

Elementary NET Requirement

LE	ANB*	Transportation**	Retirement***	District Submit ID
Manhattan School 0347	508	20,429.70	527,939.32	0347-89900151
Bozeman Elem 0350	4,840	248,461.51	5,877,173.73	0350-20774703
Willow Creek Elem 0354	43	2,488.56	48,887.55	0354-86034864
Springhill Elem 0357	20	0.00	17,796.10	0357-03965263
Cottonwood Elem 0359	20	0.00	22,271.76	0359-63476015
Three Forks Elem 0360	386	31,950.45	444,832.71	0360-72449777
Pass Creek Elem 0362	12	0.00	14,928.52	0362-83466934
Monforton Elem 0363	703	16,517.10	774,805.11	0363-45633337
Gallatin Gateway Elem 0364	159	9,636.66	192,230.13	0364-50226294
Anderson Elem 0366	217	0.00	224,782.62	0366-15159808
LaMotte Elem 0367	67	3,907.75	87,801.14	0367-05495416
Belgrade Elem 0368	2,456	48,851.55	2,986,646.16	0368-43599008
Malmborg Elem 0370	11	0.00	12,756.99	0370-15070129
Amsterdam Elem 0376	171	9,111.96	134,145.42	0376-37021168
Shields Valley Elem 1227	5	698.49	5,543.55	1227-88908945
Gallatin/Madison Coop 9696		0.00	50,541.00	9696-23790998
Part IA Elementary	9,618	392,053.73	11,423,081.81	

High School NET Requirement

LE	ANB	Transportation	Retirement	District Submit ID
Manhattan High School 0348	256	14,196.91	298,977.11	0348-08141938
Bozeman H S 0351	2,707	145,262.04	4,198,000.00	0351-39691202
Willow Creek H S 0355	10	1,066.52	27,363.27	0355-47859821
Three Forks H S 0361	226	10,124.98	259,305.26	0361-53163169
Belgrade H S 0369	1,028	11,389.95	1,235,513.44	0369-76054440
West Yellowstone K-12 0374	302	16,933.95	353,527.32	0374-33298464
Big Sky School K-12 1239	448	22,695.20	544,884.70	1239-24987854
Part IA High School	4,977	221,669.55	6,917,571.10	

*Should match final FY2024 budget cover page & joint district FP-8a report for your county only. Total K-12 ANB (including elementary) is considered HS ANB for this line.

**Should match final FY2024 transportation fund budget, line 2220 & joint district FP-8b report.



**COUNTY TRANSPORTATION / RETIREMENT FUND
MILL LEVY / GTB CALCULATION WORKSHEET - FP10a
FY2024**

16 Gallatin County

Elementary NET Requirement

LE	ANB*	Transportation**	Retirement***	District Submit ID
Manhattan School 0347	508	20,429.70	527,939.32	0347-69900151
Bozeman Elem 0350	4,840	248,461.51	5,877,173.73	0350-20774703
Willow Creek Elem 0354	43	2,488.56	48,887.55	0354-86034864
Springhill Elem 0357	20	0.00	17,796.10	0357-03965263
Cottonwood Elem 0359	20	0.00	22,271.76	0359-63476015
Three Forks Elem 0360	386	31,950.45	444,832.71	0360-72449777
Pass Creek Elem 0362	12	0.00	14,928.52	0362-83466934
Monforton Elem 0363	703	16,517.10	774,805.11	0363-45633337
Gallatin Gateway Elem 0364	159	9,636.66	192,230.13	0364-50226294
Anderson Elem 0366	217	0.00	224,782.62	0366-15159808
LaMotte Elem 0367	67	3,907.75	87,801.14	0367-05495416
Belgrade Elem 0368	2,456	48,851.55	2,986,646.16	0368-43599008
Malmborg Elem 0370	11	0.00	12,756.99	0370-15070129
Amsterdam Elem 0376	171	9,111.96	134,145.42	0376-37021168
Shields Valley Elem 1227	5	698.49	5,543.55	1227-88908945
Gallatin/Madison Coop 9696		0.00	50,541.00	9696-23790998
Part IA Elementary	9,618	392,053.73	11,423,081.81	

High School NET Requirement

LE	ANB	Transportation	Retirement	District Submit ID
Manhattan High School 0348	256	14,196.91	298,977.11	0348-08141938
Bozeman H S 0351	2,707	145,262.04	4,198,000.00	0351-39691202
Willow Creek H S 0355	10	1,066.52	27,363.27	0355-47859821
Three Forks H S 0361	226	10,124.98	259,305.26	0361-53163169
Belgrade H S 0369	1,028	11,389.95	1,235,513.44	0369-76054440
West Yellowstone K-12 0374	302	16,933.95	353,527.32	0374-33298464
Big Sky School K-12 1239	448	22,695.20	544,884.70	1239-24987854
Part IA High School	4,977	221,669.55	6,917,571.10	

*Should match final FY2024 budget cover page & joint district FP-8a report for your county only. Total K-12 ANB (including elementary) is considered HS ANB for this line.

**Should match final FY2024 transportation fund budget, line 2220 & joint district FP-8b report.



FP9

FY2023-24

16 Gallatin

State Mills: 32.90 EL County Mills: 27.00 HS County Mills: 18.00 County Transportation Mills: 0.72 HS Retirement Mills: 9.43 EL Retirement Mills: 15.55
 The mill levies for each fund, as submitted on the budget by the districts within the county, are pre-filled in the table below. If the number of mills levied by the county commissioners is different than those provided, the certified mills for a given district should be entered in the space below the incorrect mill. If Submit ID does not match the county official copy, contract OPL.

District	Submit ID	01 General Fund													
		Non-Iso	EL Base	HS Base	Over Base	10 Transp	11 Bus Depr	13 Tuition	17 Adult Ed	19 Non-Op	28 Tech	29 Flex	50 Debt Serv	61 Bldg Reserv	
0347 Manhattan School-EL	0347-69900151	0.00	25.38	0.00	42.74	13.61	0.00	8.19	0.00	0.00	6.45	0.00	0.00	0.00	
0347 Manhattan School-EL	700	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	33.57	1.68	
0348 Manhattan High School-HS	0348-08141938	0.00	0.00	13.57	19.70	6.44	0.78	0.60	0.05	0.00	2.13	0.00	0.00	0.83	
0348 Manhattan High School-HS	800	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	35.04	0.00	
0350 Bozeman Elem-EL	0350-20774703	0.00	22.58	0.00	20.00	7.66	0.00	0.85	0.00	0.00	2.00	0.00	0.00	10.92	
0350 Bozeman Elem-EL	2006	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	13.20	0.00	
0351 Bozeman H-S-HS	0351-39691202	0.00	0.00	12.79	10.47	2.84	0.00	0.65	2.00	0.00	1.00	0.00	0.00	7.72	
0351 Bozeman H-S-HS	2006	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	5.35	0.00	
0351 Bozeman H-S-HS	2017A	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	19.69	0.00	
0354 Willow Creek Elem-EL	0354-86034864	0.00	26.71	0.00	51.10	8.31	3.44	0.00	0.00	0.00	0.00	0.00	0.00	2.02	
0355 Willow Creek H-S-HS	0355-47858821	0.00	0.00	15.80	54.50	5.17	2.01	0.00	0.00	0.00	0.00	0.00	0.00	1.85	
0357 Springhill Elem-EL	0357-03965263	0.00	21.76	0.00	10.78	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
0359 Cottonwood Elem-EL	0359-63476015	0.00	18.63	0.00	3.47	0.00	0.00	2.38	0.00	0.00	0.00	0.00	0.00	5.57	
0360 Three Forks Elem-EL	0360-72449777	0.00	26.75	0.00	14.93	7.35	5.15	8.70	0.00	0.00	1.25	0.00	0.00	1.99	
0360 Three Forks Elem-EL	16	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	30.26	0.00	
0361 Three Forks H-S-HS	0361-53163169	0.00	0.00	15.91	10.05	4.57	2.58	1.67	0.00	0.00	0.00	0.00	0.00	0.97	
0361 Three Forks H-S-HS	16	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	45.94	0.00	
0362 Pass Creek Elem-EL	0362-83466934	0.00	22.47	0.00	9.86	0.00	0.00	0.00	0.05	0.00	2.50	0.00	0.00	1.62	
0363 Montforton Elem-EL	0363-4563337	0.00	23.99	0.00	0.00	12.22	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
0363 Montforton Elem-EL	27A	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	32.23	0.00	
0364 Gallatin Gateway Elem-EL	0364-50726294	0.00	18.88	0.00	17.82	6.85	1.97	0.00	1.50	0.00	1.20	0.00	0.00	5.44	
0366 Anderson Elem-EL	0366-15159808	0.00	25.25	0.00	27.05	5.74	3.72	1.10	0.00	0.00	3.30	0.00	0.00	1.47	
0366 Anderson Elem-EL	2	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	56.55	0.00	

County Superintendent: Please send a copy of the completed form to your County Appraisal/Assessment Office. Thanks!

Montana Automated Education Financial and Information Reporting System
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FP9
FY2023-24

01 General Fund

District	Submit ID	Non-Iso	EL Base	HS Base	Over Base	10 Transp	11 Bus Depr	13 Tuition	17 Adult Ed	19 Non-Op	28 Tech	29 Flex	50 Debt Serv	61 Bldg Reserv
0367 LaMotte Elem-EL	0367-05495416	0.00	22.02	0.00	18.66	0.49	0.00	3.23	0.00	0.00	4.64	0.00	0.00	1.64
0367 LaMotte Elem-EL	SD43	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	19.06	0.00
0368 Belgrade Elem-EL	0368-43599008	0.00	25.16	0.00	31.86	16.79	5.56	2.42	0.00	0.00	0.56	0.00	0.00	6.09
0368 Belgrade Elem-EL	1	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	32.11	0.00
0369 Belgrade H S-HS	0369-76054440	0.00	0.00	13.25	15.40	6.23	2.78	3.57	0.37	0.00	0.55	0.00	0.00	2.95
0369 Belgrade H S-HS	2	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	17.58	0.00
0370 Mainborg Elem-EL	0370-15070129	0.00	21.36	0.00	5.75	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	2.74
0374 West Yellowstone K-12-K12	0374-33298464	0.00	22.40	12.57	15.71	8.09	0.00	3.03	0.94	0.00	1.63	0.00	0.00	10.39
0374 West Yellowstone K-12-K12	K-12 2016	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	19.99	0.00
0376 Amsterdam Elem-EL	0376-37021168	0.00	25.63	0.00	13.45	7.24	0.00	5.69	0.00	0.00	0.47	0.00	0.00	1.88
0376 Amsterdam Elem-EL	01	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	16.58	0.00
0376 Amsterdam Elem-EL	02	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	10.77	0.00
1239 Big Sky School K-12-K12	1239-24987854	0.00	7.59	4.27	6.37	2.80	0.82	0.58	0.00	0.00	0.88	0.00	0.00	2.86
1239 Big Sky School K-12-K12	2009EL	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	23.02	0.00

County Superintendent: Please send a copy of the completed form to your County Appraisal/Assessment Office. Thanks!
 Montana Automated Education Financial and Information Reporting System
 9/26/2023 5:35:10 PM PRD rptFP9



FP9
FY2023-24

16 Gallatin
Non-Located County

		01 General Fund												
District	Submit ID	Non-Iso	EI Base	HS Base	Over Base	Transp	Bus Depr	Tuition	Adult Ed	Non-Op	Tech	Flex	Debt Serv	Bldg Reserv
1227 Shields Valley Elem EL	1227-88908945	0.00	24.29	0.00	24.78	10	11	13	17	19	28	29	50	61
						26.20	0.00	1.40	0.77	0.00	1.89	0.00	0.00	1.70

County Clerk/Recorder: Eric Semerad

County Treasurer: _____

County Superintendent: _____

Printed Name: _____ Signature: _____ Date: _____

County Superintendent: Please send a copy of the completed form to your County Appraisal/Assessment Office. Thanks!
 Montana Automated Education Financial and Information Reporting System
 9/26/2023 5:35:10 PM PRD rpfFP9

EXHIBIT 6E

Resolution - Lake County

RESOLUTION 23-33

A RESOLUTION FIXING THE MILL LEVY FOR THE STATE EQUALIZATION, COUNTY HIGH SCHOOL EQUALIZATION AND COUNTY ELEMENTARY EQUALIZATION MILL LEVY AUTHORITY FOR THE FISCAL YEAR BEGINNING JULY 1, 2023 AND ENDING JUNE 30, 2024

WHEREAS, the Department of Revenue has indicated the number of mills that the Board of County Commissioners may levy upon all property in the State and has determined that the ad valorem tax for Fiscal Year 2024 for the State Equalization Aid is 40.00 mills, the County Elementary Equalization Levy is 33.00 mills, and the High School Equalization Levy is 22.00 mills; and,

WHEREAS, Section 15-10-420(8), MCA states that the Department of Revenue shall calculate, on a statewide basis, the number of mills to be imposed for purposes of 15-10-109, 20-9-331, 20-9-333, 20-9-360, and 20-25-439. However, the number of mills calculated by the Department may not exceed the mill levy limits established in those sections. The mill calculation must be established in tenths of mills. If the mill levy calculation does not result in an even tenth of a mill, then the calculation must be rounded up to the nearest tenth of a mill; and,

WHEREAS, The Montana Department of Revenue performed the calculation under 15-10-420, MCA, and reported that the levy authority for FY2024 is 77.89 mills; and

WHEREAS, The Board of County Commissioners has determined that the correct number of mills to be levied for Fiscal Year 2024 for the State Equalization Aid is 32.90 mills, the County Elementary Equalization Levy is 27.00 mills, and the High School Equalization Levy is 18.00 mills, for a total of 77.9 mills; and,

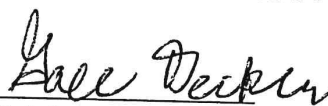
WHEREAS, it has been determined that a levy of 77.9 mills will not reduce the funding of schools in the County as school funding for the current year has been set by the 2023 legislature; and,

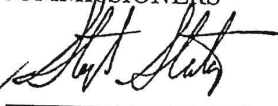
WHEREAS, the Board of County Commissioners desire to reduce the property tax liability of County residents whenever possible and practical;

THEREFORE, BE IT RESOLVED by the Lake County Board of County Commissioners that the State Equalization Aid Levy of 32.90 mills, the County Elementary Equalization Levy of 27.00 mills, and the High School Equalization Levy of 18.00 mills, for a total of 77.9 mills, as determined by the Montana Department of Revenue, for Fiscal Year 2024 are hereby fixed.

DATED this 4TH day of October, 2023

BOARD OF LAKE COUNTY COMMISSIONERS


Gale Decker, Chairman


Steve Stanley, Member


William D. Barron, Member

Attest 
Kendra Steel, Clerk & Recorder

EXHIBIT 6F

Resolution - Missoula County

RESOLUTION NO.

A RESOLUTION FIXING THE MILL LEVY FOR THE STATE EQUALIZATION, COUNTY HIGH SCHOOL EQUALIZATION AND COUNTY ELEMENTARY EQUALIZATION MILL LEVY AUTHORITY FOR THE FISCAL YEAR BEGINNING JULY 1, 2023 AND ENDING JUNE 30, 2024

WHEREAS, the Department of Revenue sent the Commission a communication dated September 25, 2023 stating the number of mills that the board of county commissioners may levy upon all property in the state for Fiscal Year 2024 for the State Equalization Aid is 40.00 mills, the County Elementary Equalization Levy is 33.00 mills, and the High School Equalization Levy is 22.00 mills; and,

WHEREAS, in response to a follow up request for information the Department of Revenue clarified that the actual mills calculated pursuant to Section 15-10-420(1)(a) was 77.89 mills, but the Department's calculation reflected 26.49 carry forward mills from a prior year, which authorized the County to continue to levy the state wide mills at 95 mills.

WHEREAS, Section 15-10-420(8), MCA states the department shall calculate, on a statewide basis, the number of mills to be imposed for purposes of 15-10-109, 20-9-331, 20-9-333, 20-9-360, and 20-25-439. However, the number of mills calculated by the department may not exceed the mill levy limits established in those sections. The mill calculation must be established in tenths of mills. If the mill levy calculation does not result in an even tenth of a mill, then the calculation must be rounded up to the nearest tenth of a mill;

WHEREAS, Montana Code Annotated does not grant the Department of Revenue any authority to carry over mills or impose carried over mills in any future year, because Section 15-10-420(1)(b) only applies to the governmental entity levying mills the authority to carry forward mills to future years if it "does not impose the maximum mills authorized" and provides a governmental entity "may" impose carried forward levies in a subsequent tax year; and,

WHEREAS, The Board of County Commissioners has determined no carry over mills exist related to 20-9-331, 20-9-333, 20-9-360, and that even if they did exist, it will not impose carried over mills for this tax year in light of the property tax burden already being imposed on the taxpayers of Missoula County, and has determined that the correct number of mills to be levied for Fiscal Year 2024 for the State Equalization Aid is 32.90 mills, the County Elementary Equalization Levy is 27.00 mills, and the High School Equalization Levy is 18.00 mills, for a total of 77.9 mills;

NOW THEREFORE BE IT RESOLVED by the Missoula County Board of County Commissioners that the State Equalization Aid Levy of 32.90 mills, the County Elementary Equalization Levy of 27.00 mills, and the High School Equalization Levy of 18.00 mills, for a total of 77.9 mills, as determined by the Montana Department of Revenue, for Fiscal Year 2024 are hereby fixed.

DATED this 5th day of October , 2023

BOARD OF COMMISSIONERS

Chair

ATTEST:

Clerk of the Board

EXHIBIT 6G

Resolution - Yellowstone County

YELLOWSTONE COUNTY BOARD OF COUNTY COMMISSIONERS

Resolution No. 23-108

A RESOLUTION FIXING THE MILL LEVY FOR THE STATE EQUALIZATION, COUNTY HIGH SCHOOL EQUALIZATION, COUNTY ELEMENTARY EQUALIZATION MILL LEVY, AND VOCATIONAL AND TECHNICAL EDUCATION LEVY FOR THE FISCAL YEAR BEGINNING JULY 1, 2023 AND ENDING JUNE 30, 2024

WHEREAS, the Department of Revenue has indicated the number of mills that the board of county commissioners may levy upon all property in the state and has determined that the ad valorem tax for Fiscal Year 2024 for the State Equalization Aid is 40.00 mills, the County Elementary Equalization Levy is 33.00 mills, the High School Equalization Levy is 22.00 mills, and the Vocational and Technical Education Levy is 1.5 mills; and,

WHEREAS, Section 15-10-420(8), MCA states that the department shall calculate, on a statewide basis, the number of mills to be imposed for purposes of 15-10-109, 20-9-331, 20-9-333, 20-9-360, and 20-25-439. However, the number of mills calculated by the department may not exceed the mill levy limits established in those sections. The mill calculation must be established in tenths of mills. If the mill levy calculation does not result in an even tenth of a mill, then the calculation must be rounded up to the nearest tenth of a mill; and,

WHEREAS, The Montana Department of Revenue performed the calculation under 15-10-420, MCA, and reported that the levy authority for FY2024 is 79.2 mills; and

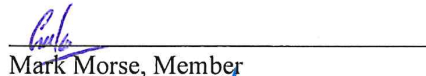
WHEREAS, The Board of County Commissioners has determined that the correct number of mills to be levied for Fiscal Year 2024 for the State Equalization Aid is 32.90 mills, the County Elementary Equalization Levy is 27.00 mills, the High School Equalization Levy is 18.00 mills, and the Vocational and Technical Education is 1.3 mills, for a total of 79.2 mills. See, Attachment A.

NOW THEREFORE BE IT RESOLVED by the Yellowstone County Board of County Commissioners that the State Equalization Aid Levy of 32.90 mills, the County Elementary Equalization Levy of 27.00 mills, the High School Equalization Levy of 18.00 mills, and the Vocational and Technical Education of 1.3 mills for a total of 79.2 mills, as determined by the Montana Department of Revenue, for Fiscal Year 2024 are hereby fixed.

Passed and Adopted on the 3rd day of October 2023.

BOARD OF COUNTY COMMISSIONERS
YELLOWSTONE COUNTY, MONTANA


John Ostlund, Chair


Mark Morse, Member


Donald W. Jones, Member

ATTEST:


Jeff Martin, Clerk and Recorder

95 Mills Comparison with Float Difference (new amount to levy on next page for 77.9 mills)

**95 Mills Comparison Between FY 2023 & FY 2024
And Difference Between 95 Mills and 77.9 Mills for FY 2024
By County**

CO #	County	95 Mills - FY23	95 Mills - FY24	Difference	77.9 Mills - FY24	Difference
6	Gallatin	\$ 42,930,897	\$ 68,401,995	\$ 25,471,098	\$ 56,082,436	\$ 12,319,559
7	Flathead	\$ 32,017,239	\$ 47,335,479	\$ 15,318,240	\$ 38,810,110	\$ 8,525,369
25	Madison	\$ 19,802,136	\$ 32,485,571	\$ 12,683,435	\$ 26,634,749	\$ 5,850,822
3	Yellowstone	\$ 38,555,507	\$ 46,584,752	\$ 8,029,244	\$ 38,194,593	\$ 8,390,159
4	Missoula	\$ 26,735,291	\$ 34,192,420	\$ 7,457,129	\$ 28,034,185	\$ 6,158,235
5	Lewis & Clark	\$ 15,685,404	\$ 20,204,663	\$ 4,519,259	\$ 16,565,697	\$ 3,638,966
2	Cascade	\$ 17,060,061	\$ 20,659,720	\$ 3,599,660	\$ 16,938,796	\$ 3,720,924
13	Ravalli	\$ 10,177,248	\$ 13,663,841	\$ 3,486,593	\$ 11,202,912	\$ 2,460,930
15	Lake	\$ 7,314,534	\$ 10,410,865	\$ 3,096,331	\$ 8,535,813	\$ 1,875,052
49	Park	\$ 6,347,908	\$ 8,708,174	\$ 2,360,266	\$ 7,139,786	\$ 1,568,388
56	Lincoln	\$ 4,003,938	\$ 5,671,097	\$ 1,667,159	\$ 4,649,702	\$ 1,021,394
1	Silver Bow	\$ 8,026,348	\$ 9,551,868	\$ 1,525,521	\$ 7,831,527	\$ 1,720,342
30	Deer Lodge	\$ 1,509,672	\$ 2,690,617	\$ 1,180,945	\$ 2,206,023	\$ 484,594
10	Carbon	\$ 5,214,512	\$ 6,280,919	\$ 1,066,407	\$ 5,149,692	\$ 1,131,227
51	Jefferson	\$ 3,154,295	\$ 4,161,756	\$ 1,007,461	\$ 3,412,202	\$ 749,554
8	Fergus	\$ 4,456,697	\$ 5,339,620	\$ 882,923	\$ 4,377,927	\$ 961,694
18	Beaverhead	\$ 2,483,321	\$ 3,346,251	\$ 862,930	\$ 2,743,574	\$ 602,677
43	Broadwater	\$ 1,911,957	\$ 2,573,874	\$ 661,917	\$ 2,110,306	\$ 463,568
46	Granite	\$ 1,474,807	\$ 2,072,020	\$ 597,213	\$ 1,698,838	\$ 373,182
31	Teton	\$ 2,060,879	\$ 2,445,979	\$ 385,100	\$ 2,005,445	\$ 440,534
28	Powell	\$ 1,909,496	\$ 2,291,470	\$ 381,974	\$ 1,878,764	\$ 412,706
35	Sanders	\$ 4,323,963	\$ 4,692,214	\$ 368,251	\$ 3,847,122	\$ 845,093
27	Richland	\$ 5,375,031	\$ 5,712,346	\$ 337,315	\$ 4,683,523	\$ 1,028,824
38	Glacier	\$ 2,778,861	\$ 3,114,153	\$ 335,292	\$ 2,553,278	\$ 560,875
12	Hill	\$ 4,162,575	\$ 4,465,462	\$ 302,887	\$ 3,661,209	\$ 804,253
26	Pondera	\$ 1,668,577	\$ 1,956,009	\$ 287,432	\$ 1,603,722	\$ 352,288
32	Stillwater	\$ 6,246,461	\$ 6,524,913	\$ 278,452	\$ 5,349,742	\$ 1,175,171
50	Garfield	\$ 711,940	\$ 967,415	\$ 255,475	\$ 793,178	\$ 174,236
23	Musselshell	\$ 1,211,369	\$ 1,414,436	\$ 203,067	\$ 1,159,688	\$ 254,747
19	Chouteau	\$ 2,826,732	\$ 3,029,712	\$ 202,980	\$ 2,484,045	\$ 545,667
22	Big Horn	\$ 2,070,220	\$ 2,252,198	\$ 181,978	\$ 1,846,565	\$ 405,633
36	Judith Basin	\$ 2,111,064	\$ 2,277,492	\$ 166,428	\$ 1,867,304	\$ 410,188
14	Custer	\$ 2,235,877	\$ 2,400,581	\$ 164,705	\$ 1,968,224	\$ 432,357
54	Mineral	\$ 1,168,706	\$ 1,331,836	\$ 163,130	\$ 1,091,965	\$ 239,871
47	Meagher	\$ 941,053	\$ 1,079,093	\$ 138,039	\$ 884,742	\$ 194,350
44	Wheatland	\$ 1,667,000	\$ 1,787,116	\$ 120,116	\$ 1,465,247	\$ 321,869
24	Blaine	\$ 1,418,649	\$ 1,536,374	\$ 117,725	\$ 1,259,665	\$ 276,709
48	Liberty	\$ 889,488	\$ 996,067	\$ 106,579	\$ 816,670	\$ 179,397
17	Roosevelt	\$ 3,015,871	\$ 3,102,685	\$ 86,814	\$ 2,543,875	\$ 558,810
20	Valley	\$ 2,819,792	\$ 2,905,769	\$ 85,977	\$ 2,382,425	\$ 523,344

CO #	County	95 Mills - FY23	95 Mills - FY24	Difference	77.9 Mills - FY24	Difference
52	Wibaux	\$ 3,255,452	\$ 3,332,200	\$ 76,748	\$ 2,732,053	\$ 600,147
16	Dawson	\$ 2,414,292	\$ 2,482,654	\$ 68,362	\$ 2,035,515	\$ 447,139
40	Sweet Grass	\$ 3,107,296	\$ 3,160,872	\$ 53,575	\$ 2,591,582	\$ 569,290
21	Toole	\$ 2,111,253	\$ 2,154,389	\$ 43,136	\$ 1,766,372	\$ 388,017
41	McCone	\$ 760,109	\$ 800,409	\$ 40,300	\$ 656,251	\$ 144,158
11	Phillips	\$ 1,476,851	\$ 1,508,489	\$ 31,638	\$ 1,236,802	\$ 271,687
34	Sheridan	\$ 1,376,676	\$ 1,396,539	\$ 19,864	\$ 1,145,015	\$ 251,524
55	Petroleum	\$ 163,518	\$ 182,563	\$ 19,046	\$ 149,683	\$ 32,881
37	Daniels	\$ 644,795	\$ 655,980	\$ 11,185	\$ 537,834	\$ 118,145
53	Golden Valley	\$ 716,794	\$ 723,468	\$ 6,675	\$ 593,168	\$ 130,300
45	Prairie	\$ 520,538	\$ 525,431	\$ 4,892	\$ 430,798	\$ 94,633
33	Treasure	\$ 500,058	\$ 493,339	\$ (6,720)	\$ 404,486	\$ 88,853
9	Powder River	\$ 1,080,068	\$ 1,037,265	\$ (42,803)	\$ 850,448	\$ 186,817
39	Fallon	\$ 6,094,695	\$ 5,875,075	\$ (219,620)	\$ 4,816,943	\$ 1,058,132
42	Carter	\$ 7,259,508	\$ 6,982,162	\$ (277,346)	\$ 5,724,638	\$ 1,257,524
29	Rosebud	\$ 6,171,504	\$ 5,450,390	\$ (721,114)	\$ 4,468,746	\$ 981,644
	Totals	\$ 338,128,784	\$ 437,380,050	\$ 99,251,266	\$ 358,605,601	\$ 78,774,449

New Amount to Levy

95 Mills	77.9 mills
40 42.11%	32.90 State Equalization
33 34.74%	27.00 County Elementary
22 23.16%	18.00 County High School
95 100.00%	77.90
1.5 mills	1.3 Vocational & Technical Education
	Only 6 Counties

EXHIBIT 6H

Resolution - Ravalli County

RESOLUTION NO. 4548

A RESOLUTION FIXING THE MILL LEVY FOR THE STATE EQUALIZATION, COUNTY HIGH SCHOOL EQUALIZATION AND COUNTY ELEMENTARY EQUALIZATION MILL LEVY AUTHORITY FOR THE FISCAL YEAR BEGINNING JULY 1, 2023 AND ENDING JUNE 30, 2024

WHEREAS, the Department of Revenue sent the Ravalli County Board of Commissioners a letter dated September 11, 2023, stating the number of mills that the board of county commissioners **may, as the governing body authorized to perform this function**, levy upon all property in the state for Fiscal Year 2024 for the State Equalization Aid is 40.00 mills, the County Elementary Equalization Levy is 33.00 mills, and the High School Equalization Levy is 22.00 mills; and,

WHEREAS, on Tuesday, September 12, 2023, the Ravalli County Board of Commissioners sent a letter to Director Beatty of the Montana Department of Revenue requesting who has authorized the increase in property taxes to our citizens by adjusting the mills above the cap calculations under 15-10-420, MCA; and

WHEREAS, on Tuesday, September 21, 2023, at a publicly advertised meeting, the Ravalli County Board of Commissioners moved to approve and adopt the FY 24 mill levies for all Ravalli County school districts as presented at 95 mills; and

WHEREAS, in response to a follow up request for information, the Department of Revenue clarified that the actual mills calculated pursuant to Section 15-10-420(1)(a) was 77.89 mills, but the Department’s calculation reflected 26.49 carry forward mills from a prior year, which authorized Ravalli County to continue to levy the state wide mills at 95 mills; and

WHEREAS, Section 15-10-420(8), MCA states the department shall calculate, on a statewide basis, the number of mills to be imposed for purposes of 15-10-109, 20-9-331, 20-9-333, 20-9-360, and 20-25-439. However, the number of mills calculated by the Department may not exceed the mill levy limits established in those sections. The mill calculation must be established in tenths of mills. If the mill levy calculation does not result in an even tenth of a mill, then the calculation must be rounded up to the nearest tenth of a mill; and

WHEREAS, Montana Code Annotated does not grant the Department of Revenue any authority to carry over mills or impose carried over mills in any future year, because Section 15-10-420(1)(b) only applies to the governmental entity levying mills the authority to carry forward mills to future years if it “does not impose the maximum mills authorized” and provides a governmental entity “may” impose carried forward levies in a subsequent tax year; and,

WHEREAS, The Ravalli County Board of Commissioners has determined no carry over mills exist related to 20-9-331, 20-9-333, 20-9-360, and that even if they did exist, it will not impose carried over mills for this tax year in light of the property tax burden already being imposed

Return: Commissioners



STATE OF MONTANA RAVALLI COUNTY Page: 1 of 2
DOCUMENT: 790868 COUNTY RESOLUTIONS
RECORDED: 10/10/2023 11:00:15 AM
Regina Plettenberg, CLERK AND RECORDER
Fee \$0.00 By *Sarah Miller* Deputy

on the taxpayers of Ravalli County, and has determined that the correct number of mills to be levied for Fiscal Year 2024 for the State Equalization Aid is 32.90 mills, the County Elementary Equalization Levy is 27.00 mills, and the High School Equalization Levy is 18.00 mills, for a total of 77.9 mills; and

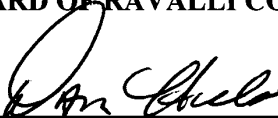
WHEREAS, on Tuesday, October 03, 2023, at a publicly advertised meeting, the Ravalli County Board of Commissioners moved to reconsider their motion from September 21, 2023; and

WHEREAS, on Tuesday, October 03, 2023 at a publicly advertised meeting, the Ravalli County Board of Commissioners approved and adopted Resolution No. 4548.


NOW THEREFORE BE IT RESOLVED by the Ravalli County Board of Commissioners that the State Equalization Aid Levy of 32.90 mills, the County Elementary Equalization Levy of 27.00 mills, and the High School Equalization Levy of 18.00 mills, for a total of 77.9 mills, as determined by the Montana Department of Revenue, for Fiscal Year 2024 are hereby fixed.

DATED this 03rd day of October, 2023

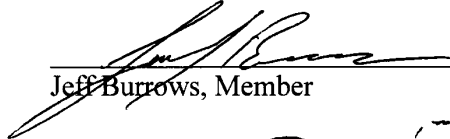
BOARD OF RAVALLI COUNTY COMMISSIONERS



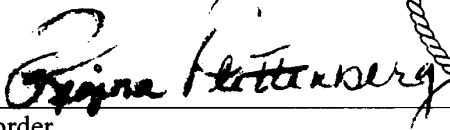
Dan Huls, Chairman



Greg Chilcott, Member



Jeff Burrows, Member

ATTEST: 

Clerk & Recorder

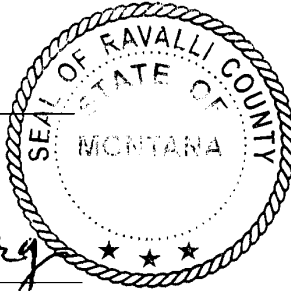


EXHIBIT 6I

Resolution - Carter County

RESOLUTION NO. 09292023-01

A RESOLUTION FIXING THE MILL LEVY FOR THE STATE EQUALIZATION, COUNTY HIGH SCHOOL EQUALIZATION AND COUNTY ELEMENTARY EQUALIZATION MILL LEVY AUTHORITY FOR THE FISCAL YEAR BEGINNING JULY 1, 2023 AND ENDING JUNE 30, 2024

WHEREAS, the Department of Revenue has indicated the number of mills that the board of county commissioners may levy upon all property in the state and has determined that the ad valorem tax for Fiscal Year 2024 for the State Equalization Aid is 40.00 mills, the County Elementary Equalization Levy is 33.00 mills, and the High School Equalization Levy is 22.00 mills; and,

WHEREAS, Section 15-10-420(8), MCA states The department shall calculate, on a statewide basis, the number of mills to be imposed for purposes of 15-10-109, 20-9-331, 20-9-333, 20-9-360, and 20-25-439. However, the number of mills calculated by the department may not exceed the mill levy limits established in those sections. The mill calculation must be established in tenths of mills. If the mill levy calculation does not result in an even tenth of a mill, then the calculation must be rounded up to the nearest tenth of a mill; and,

WHEREAS, The Montana Department of Revenue performed the calculation under 15-10-420, MCA, and reported that the levy authority for FY2024 is 77.89 mills; and

WHEREAS, The Board of County Commissioners has determined that the correct number of mills to be levied for Fiscal Year 2024 for the State Equalization Aid is 32.90 mills, the County Elementary Equalization Levy is 27.00 mills, and the High School Equalization Levy is 18.00 mills, for a total of 77.9 mills;

NOW THEREFORE BE IT RESOLVED by the Carter County Board of County Commissioners that the State Equalization Aid Levy of 32.90 mills, the County Elementary Equalization Levy of 27.00 mills, and the High School Equalization Levy of 18.00 mills, for a total of 77.9 mills, as determined by the Montana Department of Revenue, for Fiscal Year 2024 are hereby fixed.

DATED this 29 day of September , 2023

BOARD OF COMMISSIONERS
CARTER COUNTY

Rod Tauck

Rod Tauck, Chair

Judy Wright

Clerk and Recorder

Absent

Mike Watkins, Vice Chair

Pamela J. Castleberry

Pamela J. Castleberry, Member

EXHIBIT 6J

Resolution - Liberty County

RESOLUTION NO. 23-15

A RESOLUTION FIXING THE MILL LEVY FOR THE STATE EQUALIZATION, COUNTY HIGH SCHOOL EQUALIZATION AND COUNTY ELEMENTARY EQUALIZATION MILL LEVY AUTHORITY FOR THE FISCAL YEAR BEGINNING JULY 1, 2023 AND ENDING JUNE 30, 2024

WHEREAS, the Department of Revenue has indicated the number of mills that the board of county commissioners may levy upon all property in the state and has determined that the ad valorem tax for Fiscal Year 2024 for the State Equalization Aid is 40.00 mills, the County Elementary Equalization Levy is 33.00 mills, and the High School Equalization Levy is 22.00 mills; and,

WHEREAS, Section 15-10-420(8), MCA states The department shall calculate, on a statewide basis, the number of mills to be imposed for purposes of 15-10-109, 20-9-331, 20-9-333, 20-9-360, and 20-25-439. However, the number of mills calculated by the department may not exceed the mill levy limits established in those sections. The mill calculation must be established in tenths of mills. If the mill levy calculation does not result in an even tenth of a mill, then the calculation must be rounded up to the nearest tenth of a mill; and,

WHEREAS, The Montana Department of Revenue performed the calculation under 15-10-420, MCA, and reported that the levy authority for FY2024 is 77.89 mills; and

WHEREAS, The Board of County Commissioners has determined that the correct number of mills to be levied for Fiscal Year 2024 for the State Equalization Aid is 32.90 mills, the County Elementary Equalization Levy is 27.00 mills, and the High School Equalization Levy is 18.00 mills, for a total of 77.9 mills;

NOW THEREFORE BE IT RESOLVED by the Liberty County Board of County Commissioners that the State Equalization Aid Levy of 32.90 mills, the County Elementary Equalization Levy of 27.00 mills, and the High School Equalization Levy of 18.00 mills, for a total of 77.9 mills, as determined by the Montana Department of Revenue, for Fiscal Year 2024 are hereby fixed.

DATED this 4 day of October, 2023

ATTEST:


Clerk




Chairman


Commissioner


Commissioner

EXHIBIT 6K

Resolution - Garfield County

RESOLUTION NO. 10-2023

A RESOLUTION ADOPTING THE FINAL OPERATING BUDGET AND SETTING APPROPRIATION AUTHORITY FOR THE FISCAL YEAR BEGINNING JULY 1, 2023 AND ENDING JUNE 30, 2024

WHEREAS, Section 7-6-4030, MCA, provides that the governing body shall adopt the final budget by resolution. The resolution must:

- Authorize appropriations to defray the expenses or liabilities for the fiscal year;
- Establish legal spending limits at the level of detail in the resolution; and
- Include any increase in property taxes, including an increase authorized under 15-10-420(1) and the amount by which property taxes will increase on homes valued at \$100,000, \$300,000 and \$600,000.

WHEREAS, Section 7-6-4020 requires that a preliminary annual operating budget must be prepared for the local government; and

WHEREAS, Section 7-6-4021 requires that the governing body shall cause a notice of public hearing on the preliminary or amended budget to be published, and

WHEREAS, Section 7-6-4024, provides that the governing body must hold a public hearing in accordance with the notice given pursuant to 7-6-4021; and

WHEREAS, The Board of County Commissioners held a public hearing on 09-18-2023 where residents of the County were allowed to express their concerns about the proposed budget; and

WHEREAS, The Board of County Commissioners has reviewed the proposed budget, received the estimated ending cash balances for all county funds, made changes to the budget as deemed necessary following the public hearing(s) and from input by elected officials and department heads, and computed the estimated taxes, fees and assessments needed to fund the fiscal year 2024 budget.

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Garfield County that:

The final budget after any amendments to the preliminary budget and after considering any public comment is adopted.

This resolution authorizes:

- Appropriations to defray the expenses or liabilities for the fiscal year.
- It sets the legal spending limits at the county fund level. Fund level detail is stated in the formal budget document and established in the County’s accounting system.
- An increase(decrease) in property taxes due to (15-10-420 calculation), permissive and/or voted levies of \$(36.59), \$(109.76), and \$(219.51), respectively for a home valued at \$100,000, \$300,000 and \$600,000 is included in this fiscal year budget.

The effective date of this resolution is July 1, 2023, even if the resolution is adopted after that date.

DATED this ____ day of _____, 2023

GARFIELD COUNTY COMMISSIONERS

Kelly Witt, Chairman

Jerry Collins, Vice-Chair

Carla McWilliams, Member

ATTEST:

Jayci Saylor, Clerk & Recorder

EXHIBIT 6L

Resolution – Beaverhead County



112586 Fee:\$ 0.00 File: AMDED RES NO 2023-26
BEAVERHEAD COUNTY Filed 10/2/2023 At 10:56 AM
Stacey Reynolds, Clerk and Recorder
 By: _____ *CSMA*



RESOLUTION NO.: 2023-26 AMENDED

**RESOLUTION SETTING MILL LEVIES
 FOR BEAVERHEAD COUNTY FOR FISCAL YEAR 2023-2024**

WHEREAS, pursuant to 7-6-4036 MCA the Beaverhead County Board of Commissioners shall fix the tax levy for each taxing jurisdiction at levels that will balance the budgets as provided in 7-6-4034.

WHEREAS, the Department of Revenue has indicated the number of mills that the board of county commissioners may levy upon all property in the state and has determined that the ad valorem tax for Fiscal Year 2024 for the State Equalization Aid is 40.00 mills, the County Elementary Equalization Levy is 33.00 mills, and the High School Equalization Levy is 22.00 mills; and,

WHEREAS, Section 15-10-420(8), MCA states The department shall calculate, on a statewide basis, the number of mills to be imposed for purposes of 15-10-109, 20-9-331, 20-9-333, 20-9-360, and 20-25-439. However, the number of mills calculated by the department may not exceed the mill levy limits established in those sections. The mill calculation must be established in tenths of mills. If the mill levy calculation does not result in an even tenth of a mill, then the calculation must be rounded up to the nearest tenth of a mill; and,

WHEREAS, The Montana Department of Revenue performed the calculation under 15-10-420, MCA, and reported that the levy authority for FY2024 is 77.89 mills; and

WHEREAS, The Board of County Commissioners has determined that the correct number of mills to be levied for Fiscal Year 2024 for the State Equalization Aid is 32.90 mills, the County Elementary Equalization Levy is 27.00 mills, and the High School Equalization Levy is 18.00 mills, for a total of 77.9 mills;

NOW THEREFORE BE IT RESOLVED, by the Beaverhead County Board of Commissioners that the levies are hereby set for fiscal year 2023-2024 as set out on attached **Schedule "A", Beaverhead County Levied Funds and Attachment "B", School District Levies-AMENDED.**

DATED THIS 2ND day of October, 2023.

BEAVERHEAD COUNTY COMMISSIONERS

John H. Jackson

 John H. Jackson
 Commissioner

C. THOMAS RICE

 C. Thomas Rice
 Commissioner

Michael J. McGinley

 Michael J. McGinley
 Commissioner Chairman

Attest:

Stacey Reynolds

 Stacey C. Reynolds
 Beaverhead County Clerk and Recorder



**Attachment "B"- Amended
 SCHOOL DISTRICT LEVIES 2023-2024
 Beaverhead County, Montana**

STATEWIDE LEVY.....	32.90 Mills
BASIC COUNTY LEVY FOR ELEMENTARY SCHOOLS.....	27.00 Mills
BASIC COUNTY LEVY FOR HIGH SCHOOLS.....	18.00 Mills
UNIVERSITY SYTEM (VOTED).....	6.00 Mills
COUNTY LEVY FOR COUNTY TRANSPORTATION.....	5.85 Mills
COUNTY LEVY FOR ELEM. SOCIAL SECURITY & RET.....	23.33 Mills
COUNTY LEVY FOR H.S. SOCIAL SECURITY AND RET.....	17.24 Mills
GRANT DISTRICT #7	
General Fund.....	17.61 Mills
Transportation.....	0.00 Mills
Building Reserve.....	0.00 Mills
TOTAL LEVY.....	17.61 Mills
DILLON DISTRICT #10	
General Fund.....	66.28Mills
Transportation.....	4.51 Mills
Technology.....	2.11 Mills
Building Reserve.....	1.91 Mills
TOTAL LEVY.....	74.81 Mills
Debt Services.....	23.67 Mills
Levy With Debt Services.....	98.48 Mills
WISE RIVER DISTRICT #11	
General Fund.....	25.83 Mills
Building Reserve.....	0.00 Mills
TOTAL LEVY.....	25.83 Mills
LIMA K-12 DISTRICT #12	
General Fund.....	105.14 Mills
Transportation.....	25.57 Mills
Bus Depreciation.....	9.11 Mills
Adult Education.....	4.34 Mills
Building Reserve.....	9.91 Mills
TOTAL LEVY.....	154.07 Mills

**Attachment "B" (Cont.)- Amended
School District Levies 2023-2024**

WISDOM DISTRICT #16	
General Fund.....	34.53 Mills
TOTAL LEVY.....	34.53 Mills
POLARIS DISTRICT # 21	
General Fund.....	21.88 Mills
Non Operating Fund.....	0.00 Mills
TOTAL LEVY.....	21.88 Mills
JACKSON DISTRICT #24	
General Fund.....	50.62 Mills
TOTAL LEVY.....	50.62 Mills
REICHLER DISTRICT #26	
General Fund.....	48.52 Mills
Transportation.....	15.93 Mills
Bus Depreciation.....	7.14 Mills
Building Reserve	4.19 Mills
TOTAL LEVY.....	75.78 Mills
BEAVERHEAD COUNTY HIGH SCHOOL	
General Fund.....	35.31 Mills
Transportation.....	20.94 Mills
Bus Depreciation.....	4.95 Mills
Tuition.....	0.20 Mills
Adult Education.....	0.00 Mills
Technology.....	1.55 Mills
Building Reserves.....	.84 Mills
TOTAL LEVY.....	63.79 Mills
Debt Service	24.64 Mills
Levy With Debt Service	88.43 Mills

EXHIBIT 7

Annual Statement of Tax Levy Extension

From: Local Government Services <MTLGS@announcements.mt.gov>

Sent: Friday, September 29, 2023 3:11 PM

To: Grey, Cheryl <chgrey@mt.gov>

Subject: Annual Budget and Statement of Tax Levy Extension



LOCAL GOVERNMENT SERVICES

September 29, 2023

Annual Budget and Statement of Tax Levy Extension

The Department of Administration, Local Government Services Bureau has granted a two-week extension on the filing of the fiscal year 2024 annual budget reporting requirements for Montana local governments. The fiscal year 2024 annual budget document, together with a statement of tax levies, will be due on October 16, 2023.

MONTANA DEPARTMENT OF ADMINISTRATION

State Financial Services Division | Local Government Services

125 N Roberts St | PO Box 200547 | Helena, MT 59620-0547 | (406) 444-9101



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This service is provided to you at no charge by [Montana Department of Administration](#).

This email was sent to chgrey@mt.gov using GovDelivery Communications Cloud on behalf of: Montana Department of Administration



EXHIBIT 8

*Columbia Falls Elementary School Dist. No. 6
v. State of Montana Findings and Conclusions,
Lewis and Clark County District Court, Cause
No. BDV-2002-528*



KeyCite Red Flag - Severe Negative Treatment
Affirmed in Part, Vacated in Part by Columbia Falls Elementary School
Dist. No. 6 v. State, Mont., March 22, 2005

2004 WL 844055

Only the Westlaw citation is currently available.
District Court of Montana.

COLUMBIA FALLS ELEM. SCHOOL DIST. NO.
6; East Helena Elem. Dist. No. 9; Helena Elem.
Dist. No. 1 and H.S. Dist No. 1; Billings Elem. Dist.
No. 2 and H.S. Dist No. 2; White Sulphur Springs
Elem. Dist. No. 8 and H.S. Dist. No. 8; Troy Elem.
Dist. No. 1 and H.S. Dist. No. 1; Mea-Mft; Montana
School Boards Association; Montana Rural Education
Association; School Administrators of Montana; Alan
& Nancy Nicholson; Gene Jarussi; Peter & Cheryl
Marchi; and Michael and Susan Nicosia, for themselves
and as parents of their minor children, Plaintiffs,
v.

THE STATE of Montana, Defendant.

No. BDV-2002-528.
I
April 15, 2004.

FINDINGS OF FACT, CONCLUSIONS
OF LAW AND ORDER

SHERLOCK, J.

*1 Trial in this matter occurred from January 20 to February 4, 2004. The Court received numerous exhibits and heard the testimony from a large number of witnesses. Plaintiffs were represented by James P. Molloy of Helena and Brian K. Gallik of Bozeman. The State of Montana was represented by Brian M. Morris and Ali N. Bovingdon, both of Helena.

The Court would take this opportunity to tip its judicial hat to all of the attorneys involved in this case for the excellent job they have done in presenting their cases and assisting the Court. The Court hereby enters the following:

FINDINGS OF FACT

1. This case involves a challenge to the constitutionality of Montana's current system for funding its public elementary and secondary schools. The constitutional provision involved reads as follows:

Educational goals and duties. (1) It is the goal of the people to establish a system of education which will develop the full educational potential of each person. Equality of educational opportunity is guaranteed to each person of the state.

(2) The state recognizes the distinct and unique cultural heritage of the American Indians and is committed in its educational goals to the preservation of their cultural integrity.

(3) The legislature shall provide a basic system of free quality public elementary and secondary schools. The legislature may provide such other educational institutions, public libraries, and educational programs as it deems desirable. It shall fund and distribute in an equitable manner to the school districts the state's share of the cost of the basic elementary and secondary school system.

Mont. Const. art. X, § 1.

2. Montana's public school system is governed by legal requirements and mandates imposed upon school districts by virtue of state and federal law. These requirements include Montana's accreditation standards, content and performance standards, legal mandates for special education, and, most recently, the federal No Child Left Behind Act.

3. Plaintiffs in this case include 11 Montana public school districts (6 elementary and 5 high school districts) from six communities through Montana. The high school and elementary districts in Columbia Falls, Helena, Billings, White Sulphur Springs and Troy operate as single administrative units. East Helena Elementary District No. 9 is an independent elementary district.

4. Plaintiff Montana Education Association-Montana Federation of Teachers (MEA-MFT) is a labor organization with more than 16,000 members, including teachers in Montana's public schools.

5. Plaintiff Montana School Boards Association (MTSBA) is a statewide association of public school boards whose membership encompasses virtually all the state's locally elected boards of trustees.

6. Plaintiff Montana Rural Education Association (MREA) is an organization of public elementary and secondary school districts located in rural communities in Montana.

7. Plaintiff School Administrators of Montana (SAM) is a coalition of educational organizations whose memberships include public school administrators and educators throughout Montana. The organizations include the Montana Association of School Superintendents, the Montana Association of Secondary School Principals, the Montana Association of Elementary and Middle School Principals, the Montana Council of Administrators of Special Education, and the Montana Association of County Superintendents of Schools.

*2 8. Six individually named individuals sue on behalf of themselves and their children who presently attend school in Helena (Nicholsons), Columbia Falls (Nicosias) and White Sulphur Springs (Marchis).

9. Defendant State of Montana is a duly established state within the United States of America.


10. With leave of Court, an *amicus curiae* brief was filed by the Montana Indian Education Association, in conjunction with the Blackfeet Tribe, the Assiniboine and Sioux Tribes of the Fort Peck Indian Reservation, the Gros Ventre and Assiniboine Sioux Tribes of the Fort Belknap Indian Reservation, the Crow Tribe, the Confederated Salish and Kootenai Tribes, the Northern Cheyenne Tribe, and the state-recognized Little Shell Tribe, as co-signers, as well as the Indian Law Resource Center of Helena, the Montana Indian School Board Caucus, the Montana Association of Bilingual Education, the Indian Impact Aid Schools, the Blackfeet Community College, the Lame Deer Public Schools, the Browning Public Schools, the Harlem Public Schools, the Lame Deer School Parent Indian Education Committee, the Colstrip School Parent Indian Education Committee, and the Montana Peoples Action and Indian Peoples Action.

I. Montana's Public School System

A. Basic Facts

11. During the 2002–03 school year, 440 school districts operated in Montana, with a total student enrollment of 149,936, and a total “average number belonging” (ANB) of 151,511.

12. The term “average number belonging” (ANB) is the enrollment measure used for calculating a school district's budget and for allocation of state revenue for education. A school district's ANB results from the application of a statutory formula to the enrollment, attendance and absence of regularly enrolled full-time pupils during the school term.

See  Section 20–9–311, MCA. The ANB for a given year is based on the attendance record of the preceding fiscal year.

13. Of the 440 school districts in Montana, 275 were elementary districts, with a total ANB of 89,251, representing approximately 59 percent of the total Montana ANB. An elementary school district provides public education for all grades up to and including grade 8, including, where provided, preschool and kindergartens. Section 20–6–101(2)(a), MCA.

14. There were 110 secondary districts, with a total ANB of 43,751, or 29 percent of the total Montana ANB. A secondary or “high school” district provides public education for all grades beyond grade 8, including post-secondary programs, except community college districts or the Montana University System. Section 20–6–101(2)(b), MCA.


15. There were also 55 K–12 districts with a total ANB of 18,472, or 12.2 percent of the total Montana ANB. AK–12 school district means a high school district with an elementary district that has been attached to the high school district under the procedures allowed by law. Section 20–6–701, MCA.



16. The 2002–03 enrollments for school districts in Montana ranged from 2 ANB in Knees and Warrick Elementary Districts located in Chouteau County to 9,974 ANB in the Billings Elementary District. At the high school level, enrollments ranged from 22 ANB in Willow Creek High School in Gallatin County to 5,630 ANB in the Billings High School District. Among K–12 districts, enrollments ranged from 29 ANB in the Flaxville K–12 School District to 1,845 ANB in the Libby K–12 School District.

B. Governance

*3 17. Responsibility for governance of Montana's public elementary and secondary schools is vested in entities and officials at both the state and local levels.

18. The State Board of Public Education, together with the Board of Regents of Higher Education, are responsible for long-range planning and for evaluating policies and programs



for the state's educational systems.  Mont. Const. art. X, § 9. The Board of Public Education consists of seven members appointed by the governor, and confirmed by the senate, to overlapping terms as provided by law. *Id.* The Governor, Commissioner of Higher Education and State Superintendent of Public Instruction are ex-officio non-voting members of the board. *Id.* The State Board of Education reviews and unifies budget requests of education entities assigned by law to the Board of Public Education, the Board of Regents or the State Board of Education and submits unified budget requests with recommendations to the appropriate state agency. Section 20–2–101, MCA. In addition, upon recommendations of the Superintendent of Public Instruction, the Board of Public Education also adopts standards of accreditation for all schools in the state of Montana. Section 20–7–101, MCA.

19. The Superintendent of Public Instruction has the general supervision of the public schools and districts of the state, and powers and duties which are set by law, generally found within Title 20, Chapter 3, Part 1, Sections 105–106 of the Montana Code Annotated. The Superintendent supervises the school budgeting procedures prescribed by law, has supervisory authority over school financial administration provisions, estimates the statewide equalization level for base amount for school equity (BASE) funding program, and distributes BASE aid and special education allowable cost payments in accordance with set provisions. *See generally*  Section 20–3–106(1)— (29), MCA.

20. County Superintendent of Schools are elected in each county of the state unless a county manager form of government has been organized in that county. Section 20–3–201(1), MCA. The county superintendent has general supervision of the schools of the county and duties which relate primarily to administrative, organizational and budgetary matters between the state superintendent and local school districts. Duties and powers are generalized in Montana Code Annotated Title 20, Chapter 3, Part 2, and Section 205.

21. Article X, Section 8 of the Montana Constitution vests supervision and control of school districts in a locally elected board of trustees.


22. Local boards of trustees are separate governing entities for elementary and high school districts. Section 20–6–101(3), MCA. Their powers and duties include, but are not limited to, employing the district superintendent and




teachers and assistants upon recommendation by the district superintendent, and conducting the fiscal business of the district. A general list of powers and duties of trustees of a school district can be found in  Sections 20–3–324(1)— (29), MCA (general powers and duties) and 20–9–213(1)–(9), MCA (financial duties of trustees).


II. Montana's School Funding System

A. Sources of Revenue

*4 23. The funding for Montana public elementary and secondary schools comes from three general sources: state, local and federal revenues.

24. There are two principal sources of state revenue specifically earmarked for schools. The first of these state sources is a property tax of 95 mills levied statewide. Fifty-five of the 95 mills are actually “County Equalization Aid.”  Sections 20–9–331, –333, MCA. Each county in Montana levies 55 mills on all taxable property within the district and that money is then applied to the BASE budget funding levels for all districts in the county (as more fully described below). If the amount of revenue raised by the 55 mills exceeds what is necessary to meet the BASE funding programs of all elementary and secondary schools in the county, the county remits the surplus to the Montana Department of Revenue for deposit into the State's general fund.

25. The second source of state revenues are revenues derived from school trust lands.  Sections 20–9–331, MCA (33 mill county-wide tax for elementary districts);  20–9–333, MCA (22 mill county-wide tax for high school districts); 20–9–343, MCA (Definition of and revenue for State equalization aid);  20–9–360, MCA (40 mill State equalization aid levy); and 20–9–342, MCA (Deposit of interest and income money by state board of land commissioners).

26. Local revenues for school districts are derived primarily from local property taxes and fees in lieu of taxes.  Sections 20–9–308(4)(5), –353, MCA.

27. The largest single source of federal funds received by Montana school districts is P.L. 874 money, which is explained in greater detail below. The other significant sources of federal revenues are Title I funds and School Foods funds. Some districts also obtain revenues through federal

grants, based upon application and selection procedures that apply to these various grants.

B. School District Budgets and Funds

28. Montana's school district accounting systems are organized and established on a "fund" basis. Section 20–9–201(1), MCA. A "budgeted fund" means a separate detailed account of receipts and expenditures for a specific purpose authorized by the legislature and for which a budget must be adopted in order to spend money from the fund. Section 20–0–201(1)(a), MCA. A budget must be adopted by a board of trustees in order to spend money from a budgeted fund. *Id.*

29. Presently there are the following "budgeted funds" in Montana:

- General Fund (multiple statutes);
- Transportation Fund (Section 20–10–143, MCA);
- Bus Depreciation Fund (Section 20–10–147, MCA);
- Tuition Fund (Section 20–5–320 to –321, MCA);
- Retirement Fund (Section 20–9–501, MCA);
- Adult Education Fund (Section 20–7–705, MCA);
- Technology Acquisition and Depreciation Fund (Section 20–9–533, MCA);
- Flexibility Fund (Section 20–9–543, MCA);
- Debt Service Fund (Section 20–9–438, MCA);
- Non–Operating Fund (Section 20–9–505, MCA); and
- *5 · Building Reserve Fund (Section 20–9–502, MCA).

See also Section 20–9–201(1)(a), MCA (listing budgeted funds).

30. A non-budgeted fund is any fund for which an official budget is not required to be adopted in order to spend money on deposit in the fund. Section 20–9–201(1)(b), MCA. Expenditures from these funds are limited to the amount of cash balance in the fund. Section 20–9–210, MCA. Examples of non-budgeted funds are:

- Food Service Fund (Section 20–10–207, MCA);

- Impact Aid Fund (Section 20–9–514, MCA);
- Building Fund (Section 20–9–508, MCA);
- Extracurricular Fund (Section 20–9–504, MCA);
- Lease or Rental Agreement Fund (Section 20–9–509, MCA);
- Endowment Fund (Section 20–9–604, MCA);
- Litigation Reserve Fund (Section 20–9–515, MCA);
- Traffic Education Fund (Section 20–9–510, MCA);
- Metal Mines Tax Reserve Fund (Section 20–9–231, MCA);
- Interlocal Cooperative Fund (Section 20–9–511, MCA);
- Internal Service Fund (Section 20–3–331(2), MCA);
- Miscellaneous Programs Fund (Section 20–9–507, MCA); and
- Compensated Absence Liability Fund (Section 20–9–512, MCA).

C. The General Fund

31. The general fund is the largest and most important fund for the vast majority of public elementary and secondary school districts in Montana. The general fund is used to finance "instructional, administrative, facility maintenance, and other operational costs of a school district not financed by other funds established for special purposes..." Section 20–9–307(3), MCA. The general fund is funded from local, county and state sources as further described below.

32. With limited exceptions, Montana's present system of funding schools requires schools to generally adopt general fund budgets within a range between a "BASE" and "maximum" budget established by the legislature. Section 20–9–308(1), MCA ("The trustees of a district shall adopt a general fund budget that is at least equal to the BASE budget established for the district and, as except as provided in [Section 20–9–308(3), MCA], does not exceed the maximum general fund budget established for the district.") The BASE and maximum general fund budget levels are calculated on state entitlements that are primarily driven by

the student enrollment in the elementary, high school or K-12 district.

1. Minimum or BASE General Fund Budgets

80% of basic entitlement

- + 80% of the per-ANB entitlement
- + up to 140% of state special education allocation
- + 40% of special education co-op allocation (if any).

Section 20-9-306(3), MCA.

a. Basic Entitlement

34. The "basic entitlement" is the first component used to calculate a district's BASE budget amount. The amount of the basic entitlement is determined by the legislature. Section 20-9-306(6), MCA. For the 2002-03 school year the basic entitlement for elementary districts, regardless of size, was \$19,244. For high school districts, the basic entitlement was \$213,819, again regardless of the size of the high school district. The basic entitlement is scheduled to increase by \$212 to \$19,456 for elementary districts in 2004, and by another \$403 to \$19,859 in 2005. For high school districts, the basic entitlement is scheduled to increase by \$2,352 to \$216,171 for 2004, and by another \$4,475 to \$220,646 for 2005.

b. Per-ANB Entitlement

*6 35. The next component of a district's BASE general fund budget is the district's "per-ANB entitlement." Section 20-9-306(10), MCA. The per-ANB entitlement, which is added to the district's basic entitlement, is an additional amount of budget authority for elementary and high school districts. It is based upon the total number of ANB in the elementary or high school district. Again, the amount of the per-ANB entitlement is set by the legislature.

36. For elementary districts, the per-ANB entitlement in 2003 begins at \$3,906, and decreases by \$.20 for each additional elementary ANB up to 1,000 ANB at which point the decrease

100 % of the district's basic entitlement

- + 100% of the district's per-ANB entitlement

33. All Montana school districts must adopt a budget in an amount that equals, at a minimum, that district's BASE budget, as defined by law. Section 20-9-308(1), MCA. A district's minimum general fund budget, or "BASE budget," is calculated as follows:

in funding for each additional ANB stops ("stop loss"). The per-ANB entitlement for each ANB over 1,000 is \$3,706.20 in 2003. Section 20-9-306(10)(b), MCA. In FY 2004, the per-ANB entitlement begins at \$3,949.00 and hits a stop loss level at \$3,747.20.

37. For high school districts, the per-ANB entitlement in 2003 begins at \$5,205 and decreases by \$.50 for each additional elementary ANB up to 800 ANB at which point the decrease in funding for each additional ANB stops ("stop loss"). The per-ANB entitlement for each ANB over 800 is \$4,805.50 in 2003. Section 20-9-306(10)(a), MCA. In FY 2004, the per-ANB entitlement begins at \$5,262.00 and hits a stop loss level at \$4,862.50.

38. For elementary and K-12 districts with an approved junior high or middle school program, the per-ANB entitlement formula works the same way, relying on a proration of the foregoing entitlements. Section 20-9-306(10)(c), MCA.

39. In addition to the BASE entitlement and per-ANB entitlements, a district's BASE general fund budget is determined by the district's special education entitlements.

2. The Maximum General Fund Budget

40. With limited exceptions, a school district's maximum general fund budget is defined by the Montana legislature. A district's maximum general fund budget calculation is determined, in general, by adding the following components:

- + 175% to 200% of state special education entitlement
- + 75% to 100% of special education cooperative entitlement

Sections 20–9–308, –321, MCA.

41. Subject to two exceptions described below, a district may not adopt a general fund budget in excess of its maximum general fund budget amount as defined every two years by the legislature. Section 20–9–308(1), (3), MCA.

a. “Grandfathered Districts”—The 1992–93 General Fund Budget Exception.

42. The first exception to the maximum general fund budget concerns school districts whose 1992–93 general fund budget exceeded its 1993–94 maximum general fund budget, as defined by the school funding legislation implemented in that year. Section 20–9–308(a)(ii), MCA. If the district's 1992–93 general fund budget exceeded the 1993–94 maximum general fund budget, as defined by the legislature, that district's general fund budget was capped at the 1992–93 level, or an equal amount over the maximum, whichever is less. Section 20–9–308(3)(a)(ii)(A)(B), MCA. Some districts have remained capped at that level for the past ten years. Voter approval is required each year for the amount over the maximum. Section 20–9–353(1)(b), MCA.

b. “Soft Caps”—Declining Enrollments and the Maximum General Fund Budget Amount Exception

*7 43. The second “exception” to the maximum general fund budget concerns those districts with declining student enrollments. If a school district's student enrollment declines from the prior year, its BASE and maximum budgets in the year of declining enrollment may decrease from the prior year's BASE and maximum budgets because its per-ANB entitlement decreases. This may cause the current year budget to exceed the district's maximum general fund budget authority for the next school year. In such a situation, the district may maintain, but may not raise, its budget over its current level (i.e. the budget in the year prior to the decline in enrollment) and must reduce the general fund budget to the maximum allowed by law, based upon its ANB, within five years. Section 20–9–308(3)(a)(I), MCA.

44. If a district's enrollment decrease is greater than 30 percent of its total ANB population (primarily a small school issue), that district must reduce its general fund budget to the maximum allowed by law within five years, using a formula mandated by the legislature which requires the following budget reductions in each of the five years: 20 percent, 25 percent, 33.3 percent, 50 percent and 100 percent. Section 20–9–308(3)(a)(i)(A)–(E), MCA.

45. For those districts where the decline in student enrollment is less than 30 percent of the district's total ANB population, there is no formula outlining the amount or year during which the budget must be reduced to the maximum amount allowed by law. Section 20–9–308(3)(a)(i), MCA. Instead, the legislature simply commands the district to reduce its budget to the maximum amount within five years. *Id.*

46. As more fully described below, districts may adopt a general fund budget in excess of the BASE budget only with voter approval. This applies as well to budgets in excess of the maximum general fund budget (as outlined above). Funding for the budgeted amount in excess of the BASE is derived primarily from revenue generated from local property taxes in the school district. Section 20–9–308(2); –353, MCA.

D. Funding the General Fund Budget

1. Sources of Funding the General Fund (Section 20–9–307(4), MCA)

47. A school district funds its general fund budget from the following sources:

- *Direct State Aid* equal to 44.7 percent of the district's BASE and per-ANB entitlements (Sections 20–9–306(2)(a), –307(4), MCA);
- *Special Education Allowable Cost Funding* from the state (Sections 20–9–321, –307(4)(c), MCA);
- *Non–Levy Revenue and Reappropriated Funds* (Section 20–9–141(1)(b)(I), MCA);

- *Non-Voted Local Levies Subsidized with Guaranteed Tax Base* (GTB) aid to fund up to 35.3 percent of the district's basic and per-ANB entitlement and 40 percent of its special education allowable cost payment (Section 20-9-306(2)(b), MCA); and
- *Voted Levies*, with no GTB aid, for that portion of the general fund budget that exceeds the district's BASE budget (Sections 20-9-307(4)(e), -308, -353(2), MCA).

2. Funding the BASE Budget—80 Percent of the Maximum General Fund Budget

*8 48. A district's BASE budget is funded by adding “direct state aid,” local revenue and state GTB aid, if applicable.

Sections 20-9-306(2)(3), -307(4), MCA.

49. The State is responsible for funding 44.7 percent of the district's BASE budget (i.e. 80 percent of the district's basic entitlement plus 80 percent of the district's per-ANB entitlement). The 44.7 percent is referred to as “direct state aid.” Section 20-9-306(2), MCA. In addition, the State provides revenue for allowable costs of special education. Section 20-9-321, MCA.

50. Direct state aid and allowable special education revenue is derived from a combination of sources. These include:

a. *County Equalization Aid*. First, each county in the state must levy an annual basic county tax (33 mills for elementary and 22 mills for high school) on the dollar of the taxable value of all taxable property (with certain exceptions) within the county for the purpose of elementary and high school equalization aid and state BASE funding program support. Section 20-9-331, MCA (elementary districts) and Section 20-9-333, MCA (high school districts). The revenue generated by these mills, together with other sources of revenue, including Taylor Grazing Act funds, federal flood control funds, fines for violations of law, federal and state payments in lieu of taxes, gross proceed taxes from coal, and local government severance taxes are referred to as “county equalization aid.” Sections 20-9-331(2), -333(2), MCA.

b. *State Equalization Aid*. Next, revenue from various sources, including income from State school lands, United

States mineral royalties, surplus revenues from county equalization, interest income, and a 40 mill state equalization levy are paid into a “guarantee account” for purposes of providing revenue to school districts in support of the BASE budget. Section 20-9-343, MCA.

51. *Local Revenue and GTB Aid*. The remaining sources of revenue for a school district's BASE budget are local revenue and guaranteed tax base (GTB) aid, if a district qualifies.


Sections 20-9-308, -353, MCA (local); Section 20-9-366 to -369, MCA (GTB). The revenue for this portion of the BASE budget equals 35.3 percent of the basic entitlement, 35.3 percent of the per-student entitlement and 40 percent of special education allowable cost funding. Section 20-9-367(1), MCA. The local revenue portion of the BASE budget is funded through a local permissive (non-voted) tax levy, non-tax revenue sources available to a district, and for districts that qualify, GTB aid. Section 20-9-308(5), MCA.


52. In order to determine the amount of the mandatory local levy to support the district's BASE budget (i.e., “BASE mill levy”), the county superintendent starts with a district's BASE budget and subtracts from that budget amount all non-tax revenue sources available to the district, including state funding, non-levy revenues such as HB 124 block grant revenue, coal gross proceeds taxes, tuition, investment earnings, fund balance reappropriated, and others. Section 20-9-141, MCA. The remainder of the BASE budget must be funded with the BASE mill levy. Section 20-9-141(1)(c), MCA. The state subsidizes the BASE mill through GTB aid for districts that qualify. Section 20-9-367, MCA.


*9 53. GTB aid is a state subsidy for BASE mills and is a state revenue source that helps school districts reach the minimum BASE budget level. Section 20-9-367(1), MCA. If a district's taxable value, compared to the locally funded part of the BASE budget is below the comparable statewide ratio, the district receives GTB aid to assist in funding up to the BASE budget level. Section 20-9-368, MCA. A district's GTB ratio is the ratio of the district's taxable valuation to its GTB budget area. *Id.*

3. Funding the Over-BASE Portion of the General Fund Budget

54. If a district adopts a general fund budget over the BASE minimum budget, that amount of the budget is called the

“over-BASE” budget.  Section 20–9–353(1), MCA. The over-BASE budget, in general, represents the amount of the budget between the district's BASE budget and the district's maximum budget. *Id.*

55. Any amount of a school district's budget that exceeds the BASE is funded primarily by a local over-BASE tax levy (non-levy revenue, to the extent it is available, can also be used to fund this portion of the budget).  Sections 20–9–306(9), –353, MCA. GTB aid does not apply to the over-BASE tax levy.

56. A district must seek and obtain voter approval from the residents of the district for an over-BASE tax levy or an over-maximum budget amount.  Section 20–9–353(2)(3), MCA. Trustees adopt a resolution calling for an election and if the voters do not approve the budget, the district may adopt a budget that is no greater than its “highest budget without a vote.” For a district with a prior year's budget between the BASE and maximum, the budget cannot exceed the BASE budget amount plus the prior year's over-BASE levy. For a district whose prior year budget exceeded the maximum budget, that district's budget cannot exceed the maximum.

D. Funding For Other Budgeted Funds

57. Although the general fund is the most significant fund for public school districts, as described above, there are other budgeted funds that districts use to operate their programs.

58. The revenue sources and expenditures in these other budgeted funds vary and were fully described at trial. Districts may assess non-voted (i.e. permissive) tax levies in funding the transportation, bus depreciation, tuition, retirement, and adult education funds. Voter approval is required, however, for local tax levies to support building reserve, debt service, technology, and flexibility funds.

59. Districts may finance capital projects by selling school bonds for up to 20 years and/or by establishing a building reserve to finance a building project on a pay-as-you-go basis. Both of these financing mechanisms require voter approval. There is limited state aid available to reimburse eligible districts for a portion of their debt payments on school bonds.

III. Background and Historical Facts

60. In 1985, a lawsuit was filed challenging Montana's then-existing school funding system in this Court bearing the caption, *Helena Elementary School District No. 1, et al. v. State*, Cause No. ADV–85–370. At the time, funding for school districts' general funds was provided through the Montana Foundation Program.

*10 61. In January 1988, the Honorable Henry Loble, District Judge, declared Montana's system of school finance unconstitutional. *Helena Elem. Sch. Dist. No. 1 v. State*, No. ADV–85–370 (Mont. 1st Jud. Dist., Jan. 13, 1988).

62. In that order, Judge Loble issued the following findings of fact concerning the importance of education. These findings remain accurate and applicable:

13. The importance of education is universally recognized in our society. In an often-quoted passage from *Brown v. Board of Education*, the United States Supreme Court aptly described the role of education:



Today, education is perhaps the most important function of state and local governments. Compulsory school attendance laws and the great expenditures for education both demonstrate our recognition of the importance of education to our democratic society. It is required in the performance of our most basic public responsibilities, even service in the armed forces. It is the very foundation of good citizenship. Today, it is a principal instrument in awakening the child to cultural values, in preparing him for later professional training, and in helping him to adjust normally to his environment. In these days, it is doubtful that any child may reasonably be expected to succeed in life if he is denied the opportunity of an education. Such an opportunity, where the state has undertaken to provide it, must be made available to all on equal terms.

 *Brown v. Board of Education*, 347 U.S. 483, 493 (1954).

14. Contemporary society demands increasing levels of sophistication, and increased knowledge and understanding of technology. Education plays the central role in developing a person's abilities to achieve that sophistication, knowledge and understanding. Consequently, the quality of an individual's life is increasingly dependent on the level and quality of that individual's education.

15. Public education is, without doubt, a fundamental and most important function of the State of Montana and its political subdivisions. It is a State and local responsibility jointly shared.

Helena Elem. Sch. Dist. No. 1 v. State, No. ADV-85-370, at 10-11 (Mont. 1st Jud. Dist., Jan. 13, 1988).

63. The importance of education is also recognized by the Montana Supreme Court's decision in  *Helena Elem. Sch. Dist. No. 1 v. State*, 236 Mont. 44, 769 P.2d 684 (1989), modified by 236 Mont. 44, 784 P.2d 412 (1990) (hereinafter "*Helena Elementary I*"). The supreme court noted that equality of educational opportunity is the only right that is expressly guaranteed in the  Montana Constitution. *Helena Elementary I*, 236 Mont. at 53, 769 P.2d at 689.


64. On appeal, the Montana Supreme Court held that Montana's then-existing school finance system violated Article X, Section 1 of the Montana Constitution. In arriving at its holding, the supreme court focused in part on historically declining levels of state support for elementary and secondary education:

*11 The evidence shows that, in 1985-86, most school districts ... utilized a third stage of funding under which monies were obtained primarily from property tax levies voted by each school district [and other, less significant sources]. By 1985-86, 35% of all General Fund budgets were obtained from this level of funding. In contrast, in 1950, the Foundation Program furnished 81.2% of all general fund revenues in Montana, leaving less than 20% of revenues to be obtained by local levies and other sources.

...


In 1972, when our Constitutional Convention met, approximately 65% of General Fund revenues were funded through the Foundation Program. Con.Con. Tr. 2157. The transcript of the debate on Art. X, § 1(3), Mont. Const.

clearly expresses the delegates' concern with the level of funding. See, for example, Con.Con. Tr.1981-86, 2152-59.

 *Id.*, at 48, 54-55, 769 P.2d at 686, 690.


65. In addition, the supreme court expressly addressed the relationship (or lack thereof) between state funding and the mandated educational program as established by minimum accreditation standards:

The evidence presented at the trial of this case clearly and unequivocally established large differences, unrelated to "educationally relevant factors," in per pupil spending among the various school districts of Montana....There was also unrebutted testimony that the Foundation Program funding [i.e. state support for general fund expenditures] falls short of even meeting the costs of complying with Montana's minimum accreditation standards.

 *Id.*, at 53-54, 769 P.2d at 690.

66. In holding that the system was unconstitutional, the court focused on the lack of adequate state funding:

We conclude that as a result of the failure to *adequately fund* the Foundation Program, forcing an excessive reliance on permissive and voted levies, the State has failed to provide a system of quality public education granting to each student the equality of educational opportunity guaranteed under Art. X, § 1, Mont. Const.

 *Id.*, at 55, 769 P.2d at 690 (emphasis added).

67. The Montana Legislature, in a special session in 1989, adopted new school funding legislation through House Bill 28.

68. In 1991, two companion lawsuits were filed, challenging the constitutionality of the revised system of school finance. *Helena Elem. Sch. Dist. v. State*, No. BDV-91-1334 (Mont. 1st Jud. Dist.), and *Mont. Rural Educ. Ass'n v. State*, No. BDV-91-2065 (Mont 1st Jud. Dist.). These lawsuits came before this Court for trial in the early months of 1993, while the 1993 Montana Legislature was in session.

69. In 1993, the Montana Legislature adopted House Bill 667 (HB 667). Through that legislation, the legislature changed from the Foundation Program to the BASE budgeting system for funding general funds in Montana's public elementary and secondary schools. As a result of the changes in the finance system, the pending lawsuits were ultimately dismissed on mootness grounds.

IV. House Bill 667

*12 70. As a result of the 1991 lawsuits mentioned in the above Finding of Fact No. 68, the 1993 Montana Legislature adopted HB 667.

71. Testifying at trial in this matter was James Gillett, an auditor with the Montana Legislative Auditor's Office. Gillett indicated that in creating what has become HB 667 in Montana's current finance system, his office analyzed school spending data for the year 1991. The Legislative Auditor's Office used a statistical analysis known as a regression analysis.

72. The purpose of the regression analysis, which was later reflected in HB 667, was to design a system that addressed the issues of spending and taxpayer disparities among similarly sized school districts. This purpose was generally accomplished by HB 667, which prevented wide spending differences among similarly sized elementary and high school districts.

73. The evidence appears clear that HB 667 eliminated the wide spending disparities that existed in prior law. However, some of the inherent problems that exist in the construction of HB 667 are the problems that bedevil us today.

74. First, the school financing scheme evidenced by HB 667 is clearly complicated and hard to understand. Not only is

that the opinion of the numerically-challenged author of this opinion, but also the opinion of well-respected national and state education leaders. (See e.g. Myers Test.; Miller Test.)

75. The major problems of HB 667 are as follows:

a. HB 667 provided no mechanism to deal with inflation. John L. Myers found this particularly alarming.

b. HB 667 did not base its numbers on any study of teacher pay, the cost of meeting accreditation standards, the fixed costs of school districts, or the costs of special education.

c. Any increases allowable to school districts under HB 667 were in no way tied to the costs of increased accreditation standards or content and performance standards.

d. The information upon which HB 667 relied was already two years old when it was enacted into law.

e. HB 667 did not conduct any study to justify the disparity in ANB dollars provided for high school and elementary students. (See Quinlan Test.)

76. Shortly after enacting HB 667, the legislature met in special session and enacted House Bill 22 (HB 22). (See Pls.' Ex. 5.) HB 22 reduced state support of public education by 4.5 percent, or \$19 million to the state general fund.


V. Developments Since 1993

A. Technology Fund

77. The Montana Legislature enacted a technology fund in 1995 to allow school districts to spend funds outside a district's general fund for the purchase and maintenance of technology-related equipment, especially computers. The problem with the State's contribution to the technology fund is that it is not predictable. For example, in 2002, the State funding to the technology funding was put on hold for two years. It may or may not be reinstated.

78. Some districts have been able to raise additional revenues for their technology funds, while other districts have not. GTB aid does not apply to the technology fund, and the amount of money raised for this fund is dependent upon the property wealth of the school district.

B. The Flex Fund

*13 79. The “School Flexibility Fund” (flex fund) was created by the legislature in 2001. This fund allows yet another means for school districts to shift expenditures for expenses outside the general fund. See  Section 20–9–542 to –544, MCA. In general, the flex fund was designed to allow school districts to spend money outside the spending caps imposed by HB 667. Again, since GTB aid does not apply to the flex fund, the revenue a school district is able to raise in support of the flex fund is dependent upon the wealth of the district.

80. As far as the State contribution goes, the 2001 legislature appropriated money for this fund, and some districts raised additional revenue through voted levies. The 2003 legislature, however, did not appropriate any money to the flex fund for the 2004–05 biennium.

C. House Bill 424

81. House Bill 424 (HB 424) was enacted by the Montana Legislature and found its way into law as Section 20–9–501, MCA. The issue with this enactment is that, beginning in 2005, school district employees whose salaries are funded with federal revenues may not have their retirement benefits paid from the district retirement funds. The costs of these retirement benefits will have to be funded either by federal dollars or general fund dollars.

VI. Mandates and Standards


82. A central issue in this case has been the legal requirements imposed on school districts both by the federal government and the State of Montana. In almost every instance, the mandates, whether they be federal or state, impose financial requirements on the school districts without providing a funding source.

A. Montana School Accreditation Standards

83. The Court viewed the accreditation standards that have been established by the constitutionally-established Board of Public Education. (*See generally* Pls.’ Ex. 82.) Generally, these accreditation standards are found at ARM 10.55.601. The accreditation standards are enforced by the Office of Public Instruction (OPI).


84. The accreditation standards require school districts to offer certain programs and classes; hire and train licensed teachers, administrators, counselors, and library personnel; have certain class size limitations; provide for professional

development; provide adequate text books; and provide buildings that meet or exceed the accreditation standards.

85. The Board of Public Education has recently established certain content and performance standards. These content and performance standards can be found at ARM 10.54.2501– 10.54.9598. The content standards describe what students are expected to know in certain content areas. Progress towards meeting these standards is measured at the end of grade 4, the end of grade 8 and upon graduation.

86. Pursuant to ARM 10.55.601(7), on or before July 1, 2004, each Montana school district must align its curriculum to the State’s content and performance standards. The accreditation standards have increased over the years. For example, Defendants’ Exhibit 685A shows the 1989 accreditation standard requirements versus current requirements. In the high school program for 1989, the basic program was to consist of at least 16 units, while under current requirements, the basic program must include at least 20 units.

*14 87. Another example of the problems imposed by increasing accreditation standards was testified to by Rodney Svec, Superintendent of Billings School District. Svec discussed Plaintiffs’ Exhibit 149, which is the Billings Public Schools facility planning document. At page 11, it is indicated that the two Billings high schools will require approximately 57 new classrooms. According to Svec, most of these new classrooms are required because of increased federal and state mandates. However, no funding is provided despite the imposition of the increasing mandates.

88. According to Dr. Kirk Miller (Chairman of the Board of Education and Superintendent of Schools in Havre), Rodney Svec and Charles Brown (Superintendent of Schools in Lewistown), the accreditation standards do not define a quality education, but, rather, set forth the basic or minimum standards that schools must provide. Indeed, the Montana Supreme Court agreed with the concept that the accreditation standards do not fully define a quality education, but, rather, are minimum standards. See  *Helena Elementary I*, 236 Mont. at 57, 769 P.2d at 692.

89. Each year, school districts submit their reports to OPI. Based upon those reports, OPI then makes a recommendation to the Board of Public Education as to whether a school district has met the standards. This then results in a school being placed in certain categories of accreditation.

90. Exhibits 85, 613 and 685C show the schools accredited under advice or deficiency criteria. These schools are below the acceptable accreditation or accreditation with minor deviation standards. In 1994–95, about four percent of Montana's elementary, middle and high schools were accredited under advice or deficiency status. However, in fiscal year 2002–03, that number had risen to over 18 percent. (Pls.' Ex. 85.)

91. Complying with the accreditation standards has imposed additional financial burdens on school districts without corresponding increases in state aid to meet the new standards. This and the lack of any inflationary component in HB 667 has resulted in many of the accreditation problems shown on Exhibit 685C.

92. According to Dr. Miller, the money problems inherent in HB 667's scheme has resulted in many teachers leaving Montana and teachers teaching without full endorsements in specialized areas such as special education, math, science, and counseling.

B. No Child Left Behind Act

93. The No Child Left Behind Act of 2001 (NCLB) makes federal financial aid for schools conditional on schools meeting certain academic standards and abiding by policies set by the federal government.

94. Pursuant to the NCLB, every classroom must be staffed by a teacher qualified to teach in his or her subject area. Further, the states must improve the quality of their schools from year-to-year by achieving "Adequate Yearly Progress" (AYP). The percentage of students proficient in reading and math must continue to grow, and the test score gap between advantaged and disadvantaged students must narrow.

*15 95. The exact impact of the NCLB is unknown. However, it would be safe to say that there will be a financial impact on Montana schools for having to meet the NCLB mandates. Unfortunately, it does not appear that the costs associated with compliance with the NCLB are being paid by the state or federal governments. Although the federal government may provide some of the necessary revenue, it will be insufficient to cover all the costs associated with NCLB mandates. (See, e.g., McCullough Test.) According to Superintendent McCullough, Montana now broadly endorses teachers so that, for example, a teacher with a general science background could teach botany. On the other hand, under the

NCLB's requirement for highly qualified teachers, a botany teacher would have to have a major or certificate in botany in order to teach that class.

C. Special Education

96. Under the "block grant" system, the legislature appropriates a set amount of funding to the Office of Public Instruction to be distributed to school districts and special education cooperatives for approved allowable special education costs.

97. State special education monies are then distributed by OPI to districts through a system of block grants and reimbursements. The block grants include an instructional-services grant and a related-services grant. Both of these grants are distributed based on the number of students (ANB) in the district. For every \$3 a district expends in state special education block grant monies, the district matches the state payment with \$1 of special education expenditures paid from local sources. If a district's special education expenditures exceed the state and local match requirement by more than ten percent, the district then becomes eligible for a reimbursement from the state ("disproportionate reimbursement").

98. School districts must provide special education and related services to all eligible students with disabilities. Eligibility is determined under the terms of the Federal Individual with Disabilities Education Act (IDEA). Special education mandates are imposed on school districts by both federal and state laws. Individuals with disabilities receive a wide range of services that are individually determined based upon their educational needs.

99. Although both state and federal governments mandate school districts to provide the sometime considerable services necessary for each individual child, neither government provides the necessary funds to fully pay the costs of providing the required services. As will be noted elsewhere, there is a significantly increasing reliance upon local school districts to cover the costs of necessary services. This creates a competition for dollars between regular and special education programs.

VII. Funding Trends

A. State Funding Trends

100. At trial, Plaintiffs introduced Exhibit 22 which shows school district general fund budget trends from fiscal year 1991 through fiscal year 2003. Although student enrollment is declining, the ANB count in fiscal year 2003 is 3,541 higher than in fiscal year 1991. (Pls.' Ex. 22, 1. 2.) The state share of the general fund budget has dropped from 71.44 percent in fiscal year 1991 to 60.95 percent in 2003. *Id.*, 1. 29. During the same time period, the local share of the general fund budget has gone from 28.91 percent to 39.30 percent. *Id.* ¶ 31 at 1. Adjusted for inflation, the total state aid for the same time period has gone down by 17 percent. *Id.* ¶ 41 at 2. During the same time period, school district local property taxes have increased 120.5 percent. *Id.* ¶ 47 at 2. And, according to line 52 of Exhibit 22, state support for ANB has gone from \$2,751 in fiscal year 1991 to \$2,230 in fiscal year 2003—a drop of 18.9 percent.

*16 101. At the time Montana's constitution was adopted in 1972, state support for general fund budgets was approximately 65 percent. According to Plaintiffs' Exhibits 32 and 33, when all budgeted funds are considered, the same trends mentioned in Finding No. 100 continue. State support for all funds fell from 54.29 percent in 1993 to 42.59 percent in 2002, while local support increased from 36.68 percent in 1993 to 44.40 percent in 2002.

102. These same trends hold true for state support for special education. Plaintiffs' Exhibit 115 is a document prepared by the Montana School Renewal Commission on September 8, 2003. That exhibit deals with special education finance. At page 11, it is noted that in 1989–90, the state share of special education costs was 81.49 percent, while the local share was 7.12 percent. By 2001–02, the state share had dropped to 41.49 percent, while the local share had risen to 38.13 percent. These same trends are also shown on Plaintiffs' Exhibit 111.

103. According to various school district officials, over time the requirements of federal law concerning services to disabled students have increased. The state's contribution has declined over time, while the local contribution has increased. The extra money that the local districts need is taken out of their regular funding sources, which creates a competition between the general fund and funding for special education. (See e.g., Johnson Test.; Svec Test.; Brown Test.; Nicosia Test.) This testimony was also echoed by Dr. William Hickey, Executive Director of Special Services for Anaconda Public Schools, who testified that recent increases in state funding towards special education are lost by the increased costs of providing services to disabled students. Hickey testified that,

in his opinion, the State of Montana was not funding its share of special education costs, which adversely affected all school district children due to the competition for dollars mentioned above.

B. Increasing Trends Towards Budget Maximums

104. When HB 667 was enacted, it implemented the mandatory BASE budget amount (80 percent of the maximum). The purpose of establishing the BASE budget amount was to assure all districts budgeted at a minimum level—a level that would presumably be adequate to meet minimum standards. The concept was then to allow local districts the option of adopting additional budget authority, up to the maximum general fund budget allowed by law (the 100 percent level).

105. Since 1991, the number of districts and ANB at or above the budget maximum have increased. In fiscal year 1994, a total of 75 districts and 7,971 ANB were at 100 percent of the maximum general fund budget allowed by law. (Pls.' Ex. 49.) By fiscal year 2003, the number of districts had increased to 172 and the ANB to 35,495. *Id.* This trend seems to be more marked for elementary districts than high school districts.

106. When considering the number of districts and ANB at 98 percent or more of maximum general fund budget allowed by law, we find that in 1994, 92 districts representing 12,511 ANB were at 98 percent of maximum general fund budget allowed by law. (Pls.' Ex. 49.) By 2003, the number of districts had increased to 220, and the total students increased to 81,915. *Id.*

*17 107. The information shown in Plaintiffs' Exhibit 49 indicates that the budget maximums established by HB 667 are not related to the costs that districts must incur to deliver quality education programs and that state funding for public schools is inadequate.

108. Districts that are currently operating above the caps face serious difficulties as they approach the five-year deadline for returning to the budget maximums. Trustee Peter Marchi from the White Sulphur Springs District explained, for example, that his district has two years left before it must return to the budget maximum, but they “really don't have anything to cut as far as staff members or programs.” (Marchi Test.) Under current law, however, they must find a way within two years to implement additional “substantial cuts” that will adversely affect the quality of the program. *Id.* This is in a district that already has accreditation problems due to its inability to hire

a language instructor to offer foreign language. This raises concern that the state funding of public education is not based on educationally-relevant factors.

VIII. Problems Related to Funding

A. Violations of Accreditation Standards

109. Earlier this Court discussed the increasing number of school districts that are having problems meeting Montana's accreditation standards. (*See* Pls.' Ex. 85; Miller Test.) According to Dr. Miller, the rising number of schools failing to meet accreditation standards is tied to the failure of the funding mechanism of HB 667 to keep up with inflation.

110. It should be kept in mind that the accreditation standards are duly adopted by the State of Montana. Thus, any suggestion raised by the State at the trial of this matter that the violation of the accreditation standards is not serious is rejected by the Court. If the State is going to require schools to meet the accreditation standards, the State cannot say that violations of those standards are not a serious issue.

111. The increasing violation of minimum accreditation standards is evidence to this Court that Montana's quality public education system is being damaged and that it is related to a decreasing supply of funds provided by the State of Montana.

B. Teacher Salaries and Benefits

112. According to Dr. Linda Darling–Hammond of Stanford University, quality teachers are essential for successful students and a quality education. According to Dr. Darling–Hammond, adequate salaries, working benefits and conditions are a big factor in getting and maintaining a teacher corp.

113. It is undisputed that Montana teachers' salaries have been lagging behind national averages. For example, the average salary for a beginning teacher in the United States is \$32,000, while in Montana it is \$22,000. (Pls.' Ex. 72.) The average salary for an experienced teacher in the United States is \$44,000, while in Montana it is \$34,000. *Id.*

114. In fiscal year 1992, Montana teachers' average salaries were 39th in the country, while in fiscal year 2003, Montana ranked 47th in the amount it pays its average teacher. (Pls.' Ex. 34.)

*18 115. Plaintiffs' Exhibit 36 graphically shows the declining trend of the average salary paid to Montana's teachers. In approximately fiscal year 1980, Montana's teachers were 28th in the nation and now they are 47th.

116. There also appears to be a clear trend of decreasing benefits for teachers. For example, Charles Brown, Superintendent of Schools in Lewistown, testified that his district is shifting more and more health insurance costs to the employees.

117. Many superintendents and other school officials testified at the trial regarding this matter. Most testified to a noticeable decline in the number and quality of applicants applying for job openings. In some areas, such as special education, music, language, and science, school districts have difficulties finding qualified candidates. For example, Superintendent McCullough indicated that 70 percent of the graduates getting a B.A. degree in education from the Montana University System leave the state. According to McCullough, other states offer signing bonuses, repayment of student loans and financial help with advanced degrees, none of which are offered in Montana.

118. Dr. Miller indicated that in 1996 a job opening in the Havre School District would attract 60 to 100 applications. He testified that a job opening last year garnered 15 applications, of whom he would classify 5 as being good. Dr. Miller noted that the quality of the pool of applicants is decreasing, and that the State of Montana is not adequately funding a quality education. (*See also* Cameron Test.; Marchi Test.; Schmidt Test.)

119. Roger Armstrong, Superintendent of Schools in White Sulphur Springs, testified that at one job fair he went to, not one application was received for an opening in his district. Indeed, Armstrong indicated that he intended to retire soon from the Montana system and move to Washington state to regain employment, all strictly for financial reasons.

120. John McNeil, Superintendent of Schools in Savage, indicated that when his district had an opening for a music teacher, the only applicant was a 70–year–old individual.

121. According to Dr. Bruce Messinger, Superintendent of the Helena School District, the State is not supplying adequate resources for schools to do their job. Dr. Messinger agreed that the number of applicants is down, especially now that regional competition for teaching candidates is becoming a

factor. Dr. Messenger noted that the Helena School District was not able to use general fund monies for professional development, but is looking to federal grants for that type of program.

122. Michael Nicosia, Superintendent of Columbia Falls School District, indicated that his district uses retirement incentives to lure older, higher paid teachers to retire so that they may be replaced by lower paid, inexperienced teachers.

123. It cannot be said that the State does not recognize the problems that exist in recruiting and retaining teachers. Plaintiffs' Exhibit 75 is the Governor's Task Force on Teacher Shortage and Teacher Salaries Final Report prepared in September 2000 at the request of Governor Marc Racicot. Although identifying the problems and some solutions, few of the solutions recommended in the task force report have been implemented.

*19 124. In addition, the Montana Board of Public Education commissioned Dr. Dori Burns Nielson to conduct a study on the teacher problem in Montana. Dr. Nielson's document entitled "Who will Teach Montana's Children?" was received into evidence. (Pls.' Ex. 78.) This document is dated February 2001. The 2002 follow-up study was received as Exhibit 79. According to Dr. Nielson, Montana is projected to need approximately 900 new teachers per year. Although Montana's university system produces about 900 students finishing education programs each year, only about 29 percent of those students stay in Montana. (Pls.' Ex. 78 at 1.) Dr. Nielson's report noted shortages in subject areas, as noted above, in special education, music and the sciences. She also noted the decline in applications in even some of the more attractive parts of Montana. Where some of these school districts once had 115 applicants for a position, those districts now only receive about 40. *Id.* at 5.

125. Dr. Nielson also noted that not only it is difficult to recruit teachers, but retaining them is a growing problem since as many, especially in smaller districts, are required to accomplish multiple assignments. Dr. Nielson also noted the powerful competition from out of state where new teachers are offered high salaries, bonuses and moving expenses. Dr. Nielson noted that some school districts in Montana provide no benefits for their teachers.

126. In Dr. Nielson's follow-up study in 2002 (Pls.' Ex. 79), she noted no improvement. Dr. Nielson noted that the number one reason certified staff leave their positions in

Montana is to obtain higher salaries. *Id.* at 7. Factors that might improve staff retention and recruitment are ranked in order of importance from higher salary and better benefits to mentoring programs and smaller classrooms. *Id.* at 10.

127. Dr. Nielson also surveyed Montana superintendents and principals. (Pls.' Ex. 81.) Dr. Nielson noted that approximately 48 percent of the administrators surveyed indicated that they planned to retire within the next five years. *Id.* at 1. Almost one-half of that group is expected to leave Montana and continue working out of state as either a teacher or administrator.

128. This trend, both as to teachers and administrators, is alarming in light of the testimony of Dr. Darling-Hammond, who testified that proven research establishes a significant relationship between teacher quality and student achievement and gains. According to Dr. Darling-Hammond, if it is difficult to recruit and retain teachers, the entire education system at risk.

129. Dr. Darling-Hammond also noted that the recent economic changes to which our economy has been subjected place an increasing demand for skill and training on the workforce. The standard-based movement, through criteria reference tests, allows educators to see if their students are meeting expected progress. This allows educators to determine if students are meeting the new demands of society and allows educators to measure and allocate resources as appropriate.

C. Other Consequences of Dwindling Funding

*20 130. As noted above, more and more school districts are reaching budget caps. When that occurs, the only options available are to reduce budgets, cut programs and reduce staff. (*See Miller Test.*) Some of these problems have already been mentioned, such as difficulty in paying for professional development programs. For example, Kent Kultgen, Superintendent of Choteau School District, indicated that next year his district will eliminate all non-instructional aides. Richard Cameron, Superintendent of Glendive School District, indicated that, in violation of the accreditation standards, his district does not have a curriculum coordinator. Ron Whitmoyer, Superintendent of East Helena Elementary School District, indicated that his district does not have a gifted and talented program as required under the accreditation standards. He added that his district has also cut programs in art, computer education and Spanish. Charles Brown, Superintendent in Lewistown, indicated that

in some of his schools, the supplies for elementary students are furnished by parents as opposed to the school district. According to Brown, the Lewistown School District is slowly dismantling its school system under the current funding formulas.

131. The Court has already mentioned the trouble created when there is competition for dollars within school districts where general fund dollars are being diverted to pay for special education programs.

D. Facilities, Construction and Maintenance

132. Adequate and safe school facilities are an essential component of a quality education system. This is specifically addressed in Montana's accreditation standards.

130. Richard A. Whitney, Director of Billings School District Facilities Services, presented a list of building projects that his district needs to undertake over the next two years in order to meet various building and safety codes. (Pls.' Ex. 147.) Whitney indicated that approximately \$64 million is required for these projects. *Id.* at 2.

133. Due to lack of classroom space in Billings schools, the Billings School District was forced to resort to a program called "Teachers on Carts." These teachers have no classrooms assigned to them, but carry their instructional supplies on a cart while they roam to a vacant room. (Pls.' Ex. 149 at 7–8.)

134. The Court has already referenced the testimony of Rodney Svee, wherein he indicated that Billings High Schools needs 57 new classrooms resulting from increased federal and state requirements.

135. The Court heard evidence that both Eureka and Livingston recently had school buildings that were deemed unsafe and were either condemned or are on the verge of being condemned. While a new building was being built, students in Eureka were educated in various building around town, including a church building and part of a high school.

E. Other Problems with the School Finance System

136. Montana, like many other states, is implementing a standards-based approach to education, as part of an effort to improve student performance. The Court has already mentioned the implementation of the NCLB,

Montana's accreditation standards, and performance and content standards.


*21 137. In implementing a standards-based approach, a state needs to do three things: (1) specify its expectations for student performance; (2) develop procedures to measure how well students are meeting those expectations; and (3) hold providers of education services (school districts, schools, teachers) accountable for student performance. The logic of the approach implies that a state will assure that sufficient resources are available in all school districts, if not in all schools, so that they can reasonably be expected to meet state standards. (Pls.' Ex. 68 at 2.)

138. A discussion of adequacy involves a determination of funding necessary to produce a specific level of student performance. *Id.* at 1. For the standards-based approach to have any chance of success, the state must assure that districts have sufficient resources available so that they can reasonably be expected to meet the state's standards concerning student performance. This requires that the foundation or base level of funding should reflect the expenditures a district must make to enable students without special needs to meet state performance expectations. The foundation or base level funding should also be adjusted to reflect increased costs associated with special needs characteristics of students or districts.

139. In school finance terminology, a school finance system should satisfy principles of equity and adequacy. That is, it should provide adequate funding to allow districts to meet the expectations established under state law, and the funding should be allocated in an equitable manner to assure equal opportunities for all students in the state. Significantly, experts for both Plaintiffs and the State were in complete agreement on these fundamental principles. The State's primary expert, Dr. Thomas Downes, for example, agreed that to define adequacy, one must ask what resources are necessary for a school district to achieve the standards established by a state.

140. In drafting Montana's constitution, it appears that the framers were concerned that the needs of a basic quality system of education be realistically assessed. *See* Con. Con. Tr., Vol. II, 725 (Educ. and Pub. Lands Comm. comment).

141. In *Helena Elementary I*, the Montana Supreme Court also recognized the importance of relating the school finance system to the educational programs and opportunities made

available in Montana's elementary and secondary schools. The supreme court concluded that expenditure disparities among Montana schools were not related to “educationally relevant factors.” Based in part on this conclusion, the court declared the funding system unconstitutional under Article X, Section 1 of the Montana Constitution.  *Helena Elementary I*, 236 Mont. at 55, 769 P.2d at 690.

142. One of the main problems with Montana's current school funding system is that it is not based upon educationally relevant factors, nor is it based upon a determination of the funding levels that are necessary to meet the standards required for public education. Rather, it was designed to be a mathematical, statistical regression analysis based on previous expenditure patterns. According to Superintendent McCullough in designing the current funding system, the State made no effort to determine the components of a basic system of quality education, nor did it make any attempt to relate the funding formula to the cost of providing that education or to meet the requirements of its accreditation standards. According to Rodney Svec, the base amount of funding under HB 667 is not tied to the actual cost of providing an education.

*22 143. The base amounts allowable under HB 667 were never based on a determination of the costs of meeting mandates and expectations. Any number of superintendents testified that the base amounts would not allow their districts to meet minimum accreditation standards. (Svec Test.; Whitmoyer Test.; Armstrong Test.; McNeil Test.; Kultgen Test.)

144. As noted earlier, the funding formula allows for different funding between elementary and high schools. However, it appears that there was no study or research done that would indicate that these funding differentials accurately reflect any cost differences that may exist. Dr. Messinger indicated that the inadequacies and differences in the elementary funding level have caused the Helena School District to take money out of its middle school program to make up for shortfalls at the elementary level. According to Dr. Messinger, this has harmed the quality of education in Helena's middle school program.

145. Other evidence points to the fact that HB 667's funding formula may not be based on educationally relevant factors. HB667's formula provides for decreasing general fund budget authority as ANB may decrease. This decline in general fund budget authority as a result of declining enrollment, however,

does not appear to be rationally related to the economic reality of operating a school district.

146. Ron Whitmoyer of East Helena indicated that as enrollment in his district has dropped, the district loses money under the funding formula, but costs do not go down because many of the costs are fixed. A school district must continue with the same physical plant, heating bills and electrical bills. (See also Armstrong Test.; Quinlan Test.)

147. After continued, unsuccessful attempts to convince the State to undertake an effort to correlate funding to educational costs and needs, the Montana School Boards Association, in conjunction with other interested groups, commissioned a study of the cost of providing an adequate education in Montana. The study was performed by the nationally-recognized school finance consulting firm of Augenblick & Myers (A & M). Plaintiffs' Exhibit 68 is the resultant study which looked to determine the adequacy of school funding in Montana. The study was designed to determine the funding levels necessary for different school districts to produce a specific level of student performance or an adequate education. (Pls.' Ex. 68 at 1.)

148. A & M's finance experts utilized a “professional judgment” approach to studying the costs of education in Montana. This is one of four methods that have been developed to study the costs of education. In conjunction with the national experts, approximately 80 educators from Montana participated in the study process. These Montana educators include well-recognized and respected educators and leaders from throughout the State, including several members of the Montana Board of Public Education, as well as award-winning administrators, teachers and school trustees. Several educators who participated in the study testified at trial. They consistently endorsed the methodology and results of the study, and stated that the resources identified were not “pie in the sky” or ideal, but were instead realistic assessments of the resources necessary to meet existing standards and requirements.

*23 149. According to the study, the professional judgment approach asked educators to specify the resource needs of quality schools. It asked educators to identify the resources they feel need to be in place in prototype schools in order for students to achieve a specific set of objectives. *Id.* at i.

150. A & M explained its procedure as follows: First, A & M created prototype districts. Then, a school level panel

of educators focused exclusively on estimating the resources needed at the prototype school site. A school district level panel then reviewed the work of the school level panel and estimated the resource needs of the prototype districts. Finally, one expert panel reviewed the work of all the district panels and made choices regarding the price of resources. *Id.* at ii.

151. According to the A & M study, Montana's school funding formula is not currently providing adequate funding to allow school districts to meet the standards, expectations and mandates that apply to public schools in Montana. This is consistent with the testimony of Dr. Miller, Mr. McNeil, and Dr. Lawrence Picus, a nationally known school finance expert from the University of Southern California.

152. The A & M study merely supports other evidence that shows that the State of Montana is not adequately funding public education. Also, it demonstrates methods the State could employ to analyze and construct a funding system that is rationally based on the costs that must be necessarily incurred to meet the standards and requirements that govern public education in Montana.

153. John Myers testified that the A & M study may not necessarily be the answer for a new funding system for Montana. There are, for example, extra needs that have not been factored in such as the unknown costs of the NCLB. Further, the A & M study does not deal with building construction or transportation, nor does it have a built-in inflationary adjustment.

154. The Court notes that under Montana's current system, the average expenditure per pupil is \$7,007, while the prototype districts had average expenditures per pupil ranging from \$7,681 to \$9,954. *Id.* at 23.

155. This Court notes four deficiencies with the professional judgment methodology as explained by Dr. Thomas Downes, an economics professor at Tufts University: (1) the results cannot be duplicated; (2) the panel members have no incentive to think about tradeoffs; (3) the process requires many panels members to predict out of samples beyond their own experience; and (4) the process suffers from an inherent upward bias driven by self-serving behaviors of even one panel member. In addition, one panel member expressed concern that the plan may call for more than Montana's economy could support. (Defs.' Ex. 685KKK.)

156. There is no question that John Myers and his firm are nationally renowned experts in the field of educational finance, and that their study, although not perfect, certainly is a good start.

*24 157. According to Dr. Larry Picus, there are four methods to test adequacy to see if a state's educational system allows students to meet standards. The first is the professional judgment study just mentioned. The second is the evidence-based approach, where evaluators look at models of school systems, such as was done in Arkansas and Kentucky. The third is the successful school model where evaluators identify good schools, and then determine the costs associated with those schools and apply those costs to other schools. Finally, there is the cost function approach, which, according to Dr. Picus, has not been used by any state.

158. As noted earlier, the A & M study does not address building costs. The Montana Legislative Fiscal Analyst Office conducted a study in 1990 and found "the results indicated that many of Montana's inadequate school buildings are concentrated in the state's poorest districts and that 4 of every 10 districts will need a new facility or extensive remodeling of existing facilities by fiscal year 1996." (Pls.' Ex. 160 at 23.)

159. State funding for capital outlay costs is proportionately not large. For example, Plaintiffs' Exhibit 56 shows the ratio of state revenue for debt service compared to total expenditures for debt service by district level. The state share of the total debt service for building construction ranges, for fiscal year 2002, from about 6.7 to 9.8 percent. The cost of constructing and maintaining school facilities remain primarily a local burden, funded primarily through local property taxes. (Pls.'s Ex. 56.)

160. In sum, evidence of the State's failure to adequately fund its share of the elementary and secondary school system in Montana is evidenced by the following:

- A. The growing number of school districts budgeting at or near their maximum budget authority. (Picus Test.)
- B. The increasing number of schools with accreditation problems.
- C. The difficulty in attracting and retaining teachers, which is based, to a large degree, on the decreasing salaries and

benefits that are offered to Montana teachers compared to their counterparts in the United States.

D. The large number of programs that have been cut in recent years as evidenced by the testimony of numerous superintendents.

E. The increasing difficulties that schools are having constructing safe and adequate buildings or maintaining the code compliance of the buildings that currently exist.


F. The increasing competition for general fund dollars between special education and regular education, which lowers the available money to students in regular education programs.


G. The results of the A & M study.

H. The testimony of various superintendents that, if they were forced to provide their educational programs at the BASE general fund amount, they could not meet accreditation standards or offer a quality educational program.

I. The declining share of the State's contribution to the general fund budget of Montana's school districts.

*25 J. The fact that Montana's funding formula is not reasonably related to the costs of providing a basic system of quality public elementary and secondary schools. Further, it is clear that the current funding system was not based on a study of the funding necessary to meet what the state and federal governments expect of Montana's schools.

K. The fact that the Montana Supreme Court has stated that it is the State's obligation to adequately fund its share of the school financing formula.  *Helena Elementary I*, 236 Mont. at 55, 769 P.2d at 690.

L. The fact that the Montana Supreme Court noted that “[i]n 1972, when our Constitutional Convention met, approximately 65% of General Fund revenues were funded through the Foundation Program. The transcript of the debate on Art. X, § 1(3), Mont. Const. clearly expresses the delegates' concern with the level of funding.”  *Helena Elementary I*, 236 Mont. at 48, 769 P.2d at 690.

IX. Equity

161. Dr. Picus, a nationally recognized expert in school finance and the author of a leading text in the field, conducted an equity analysis of Montana's school funding system. According to Dr. Picus' analysis, using recognized measures of equity, approximately one-third of Montana's children live in school districts where there are substantial differences in expenditures or revenues per-ANB. (Picus Test.) Dr. Picus testified that Plaintiffs' Exhibit 60, on pages 1 and 2, shows that smaller elementary school districts are substantially unequal. In addition, Dr. Picus felt that there was substantial inequity for K–12 districts as shown in Plaintiff's Exhibit 43. Further, Dr. Picus noted that only the smallest high school districts shown on Plaintiffs' Exhibit 62 had worrisome inequity problems.

162. On cross-examination, however, Dr. Picus conceded that he had conducted equity studies in both Massachusetts and Kansas in which he had used identical methods as the study he conducted in Montana. (Picus Test.) In both Massachusetts and Kansas, Dr. Picus evaluated the equity of spending across school districts on a statewide basis due to the fact that all districts in those states are consolidated K–12 types. (Picus Test.) Dr. Picus did not attempt to break down the districts by size in either state. (Picus Test.)

163. In both Massachusetts and Kansas, Dr. Picus found acceptable levels of inequality based upon a series of statistical measures used by researchers in the field of school finance, including the Federal Range Ratio, the Coefficient of Variation, the Gini Coefficient, the McLoone Index, and the Versteegen Index. (Picus Test.)

164. A comparison of these various indices between Montana and Massachusetts and Kansas, however, undermines the credibility of Dr. Picus's conclusions regarding the unacceptable levels of inequality in Montana. For example, according to Dr. Picus's own analysis, Montana's elementary school districts showed higher levels of equality than either Massachusetts and Kansas. (Defs.' Exs. 685EE, 685UU.)

*26 165. Despite this result, Dr. Picus testified that Montana's elementary districts show unacceptable levels of equality beginning in those districts with enrollments between 151 and 400 students and continuing through the smaller districts. (Picus Test.) A review of his analysis for Montana's elementary districts with enrollments between 151 and 400 students reveals that Montana exceeds Massachusetts in all measures of equity, except the Versteegen Index. (Defs.' Ex. 685II.) Montana's Versteegen Index for these districts was

1.10, compared with 1.09 for Massachusetts. A comparison between these districts in Montana with Kansas results in a similar outcome: Montana exceeds Kansas in all measures of equity except the Verstegen Index. (Defs.' Ex. 685YY.)

166. A comparison of Montana's high school districts with enrollments of between 201 and 400 students to Massachusetts and Kansas also calls into question Dr. Picus's conclusions regarding Montana. These Montana high school districts exceeded Massachusetts in all measures of equity. (Defs.' Ex. 685OO.) These Montana high school districts also exceeded Kansas in all measures of equity except the Verstegen Index. (Defs.' Ex. 685CCC.) Finally, with respect to K–12 districts, Montana's districts with more than 400 students show higher levels of equity than Kansas in all categories except one. (Defs.' Ex. 685EEE.)

167. In an attempt to rehabilitate Dr. Picus's analysis, Plaintiffs asked him to conduct a statewide analysis for Montana in order to get an “apples to apples” comparison with the statewide equity analyses that he had conducted in Massachusetts and Kansas. According to Dr. Picus, the levels of inequality in Montana on a statewide basis far exceed that found in Massachusetts or Kansas on a statewide basis. (Picus Test.; Defs.' Ex. 166.)

168. As noted by Dr. Thomas Downes, who testified on behalf of the State, Dr. Picus's “apples to apples” comparison of Montana on a statewide basis to Massachusetts and Kansas on a statewide basis, fails to take into account important differences. For instance, Massachusetts and Kansas have only K–12 districts. By contrast, Montana has elementary districts, high school districts, and K–12 districts. More importantly, Montana's funding system provides different levels of a base entitlement between the various types of districts and a different level of ANB between elementary and high school students. (Downes Test.)

169. In light of Dr. Picus's conclusions that the levels of inequality found in Massachusetts and Kansas were acceptable, the Court finds it difficult to suggest that similar levels of inequality in Montana should be deemed unacceptable.

170. This leaves the Court in quite a conundrum, since both Dr. Picus and Dr. Downes are well-respected scholars. Concerning this conundrum, the Court takes the suggestion of Plaintiffs' counsel and calls this dispute a tie. The laws enacted by the legislature are presumed constitutional unless proven

otherwise beyond a reasonable doubt. *Zempel v. Uninsured Employers Fund*, 282 Mont. 424, 428, 938 P.2d 658, 661 (1997). Since Plaintiffs have the burden to show that a statute is unconstitutional, the Court must find that concerning school equity issues, Plaintiffs have not met their burden.

*27 171. Plaintiffs suggest two other areas of inequity. First, Plaintiffs suggest that the burdens of paying for the construction of school facilities still fall primarily on local taxpayers, which is true. According to Plaintiffs, since local taxpayers must pay virtually the entire cost of constructing buildings, the poor districts are unable to construct badly needed facilities. (See e.g., *Quinlan Test.*) Further, Plaintiffs suggest that the competition between the special education funds and general education funds for non-special education students creates equity issues.

172. Plaintiffs' factual assertions are correct in regard to construction and special education. However, the Court disagrees with Plaintiffs' categorization of these matters as issues of equity. Rather, the Court treats these two issues as further evidence of inadequacy rather than inequity.

XI. Indian Education

173. As noted earlier, Article X, Section 1(2) of the Montana Constitution provides: “The state recognizes the distinct and unique cultural heritage of the American Indians and is committed in its educational goals to the preservation of their cultural integrity.”

174. In *Helena Elementary I*, the Montana Supreme Court addressed this subsection and held that “[T]he provision establishes a special burden in Montana for the education of American Indian children which must be addressed as part of the school funding issues.” 236 Mont. 58, 769 P.2d at 693.

175. Despite this admonition by the supreme court, it would appear that nothing has been done to effectuate subsection (2) of Article X, Section 1 of the Montana Constitution. As shown on Plaintiffs' Exhibit 141 at page 53, the 1995 Montana Legislature adopted Senate Joint Resolution No. 11, directing the committee on Indian Affairs to study issues relating to the implementation of the Article X, Section 1(2) principles. The committee published its report to the Fifty-Fifth Legislature in December 1996. The committee's conclusions included the following:

1. The intent of Article X, section 1, subsection (2), of the Montana Constitution is for all public schools to develop appropriate policies and programs to recognize and preserve the value of the American Indian culture and traditions.

2. Many public schools are attempting to educate their students about the role of Indians in the history of Montana and the nation by integrating Indian history into the regular history and social studies curricula and by celebrating Native American Day every September.

3. Many public schools do not provide any instruction or sponsor any activities relating to Indian history and culture.

4. Very few school districts require any specific training in Indian studies for their certified personnel, nor do they provide such instruction through inservice training....

(Pls.' Ex. 141 at 53.)

176. In 1999, the legislature enacted House Bill 528, which has come to be known as the Indian Education for All Act. It is codified at Sections 20-1-501 to -503, MCA. The law incorporates mandates that are intended to give effect to the constitutional principles of subsection (2) of Article X, Section 1. (Juneau Test.; McCullough Test.; Silverthorne Test.)

*28 177. To have any meaning or effect, the Indian Education for All Act requires resources and programs, which, in turn, require funding. Despite this, the legislature has provided no funding. In this regard, the Court relies on the testimony of two well-respected Native American educators, Carol Juneau and Joyce Silverthorne, a member of the Montana Board Public Education.

178. In reality, the State appears to be defenseless on Plaintiffs' claim that Article X, Section 1(2) of the Montana Constitution has not been implemented by the State despite the constitution's direction to do so.

X. The State has Acknowledged a Problem

179. The 2001 legislature created the Governor's K-12 Public School Funding Study Advisory Council. That advisory council's report and recommendations is dated December 31, 2001. (Pls.' Ex. 96 .) In that study, it is noted that "the Council concluded that an adequacy study would have several

benefits..." *Id.* at 31. However, it appears that no adequacy study was ever completed.

180. The Office of Public Instruction is also on publicly on record in identifying problems with Montana's school funding system. (*See* Pls.' Exs. 2, 2A, 98, 99, 111, 112, 113, 116-121.)

181. The Montana Board of Public Education is on record recognizing that there are serious problems with Montana's school funding system through its Action Plan (Pls.' Ex. 84) and Position Paper on Public School Funding and Structure (Pls.' Ex. 87.) Further, the Board, as noted earlier, was the sponsor of the studies conducted by Dr. Nielson concerning problems with attracting and retaining teachers and administrative staff. (Pls.' Exs. 78 through 81.)

182. Part of the State's defense seems to encompass a view that a lot of the problems mentioned by the educators are future problems. However, the continued existence of Montana's system of quality public schools is threatened. As Superintendent McCullough testified:

If we don't seriously address the very real problems, such as a looming educator shortage and adequate state support for state schools, we will very likely see a decline in the quality of the education our children receive. We need to address these problems now. Waiting will only create far worse and more costly problems.

(McCullough Test.)


183. Dr. Miller stated: "If we fail to work together now to provide a quality system of education in Montana, it will take a generation to recover from the erosion we are currently facing. Our children, and our state, deserve our best effort!" (Pls.' Ex. 88 at 6.)


XII. The State's Defenses

184. The State urges three defenses of the current funding system: (1) Montana's relative spending in light of its fiscal capacity compared to other states; (2) Montana's ability to recruit and retain quality teachers; and (3) achievement levels

of Montana students as measured by available standardized tests.

185. The State produced two very impressive witnesses in Dr. Thomas Downes of Tufts University and Dr. Susanna Loeb of Stanford University.

*29 186. The fiscal capacity issue is essentially the same one that was advanced by the State in *Helena Elementary I*. In that decision, the Montana Supreme Court held that statewide fiscal difficulties cannot justify an unconstitutional funding system.  236 Mont. at 54, 769 P.2d at 690. The constitution says what it says and does not allow for such a defense.

187. The State also relies on evidence that Montana's students do well on standardized national tests. Defendants' Exhibit 685F sets forth various encouraging statistics concerning Montana students' achievements on the National Assessment of Education Progress (NAEP) test and on college entrance examinations. The State attempted this same defense in  *Helena Elementary I*, and it was rejected there. 236 Mont. at 54, 769 P.2d at 690.

188. The educators who testified at trial indicated that performance on standardized tests, such as are mentioned in Exhibit 685F, are an incomplete measure of adequacy. Indeed, Dr. Downes, the State's main expert, admitted that he was unable to draw any conclusions one way or the other with respect to the adequacy of Montana's funding based upon available test score data. Primarily, the Court would assume this is so because the tests here in question, the NAEP and the Iowa Test of Basic Skills, are standardized norm tests, whereas a better measure would be criteria tests, which are not yet in place. These criteria tests measure how well a school is doing on the standards-based approach that was mentioned above.

189. The Court notes that Superintendent McCullough testified that there is evidence suggesting Montana's relative ranking is stagnating, and Dr. Darling-Hammond testified that Montana's ranking has actually declined on some tests. For example, the fourth grade NAEP test for reading shows that Montana fell from fourth in 1998 to ninth in 2003. (Pls.' Ex. 173.)

190. Further, the Court must give some weight to the fact that neither Dr. Downes nor Dr. Loeb strayed far from any statistical data, and neither one of them communicated

directly with educators in Montana. In this regard, the Court must find more credible the overwhelming evidence that has been presented by Montana's leading educators.

XIII. Suggested Remedies

191. This Court does not find it necessary or proper to define or specifically determine the components of a "basic system of free quality public elementary and secondary schools." Also, it is unnecessary to declare a specified percentage that would be sufficient to satisfy the State's share of the cost of this system. Suffice it to say, under the current system, the Court concludes that the State is currently not meeting its obligation to fund its share of the costs of the system as it is required to by Article X, Section 1 of the Montana Constitution.

192. In this regard, it is important to further recognize and find that the State's constitutional obligations are not limited to general fund budgets. Rather, the cost of the basic system includes all costs, whether funded through the general fund or other funds, including such significant funds as capital outlay/debt service, retirement and transportation. When these additional costs are considered, the State is funding an even smaller percentage of the total costs of the basic system.

*30 193. The Court notes that there are methods recognized by policy makers and experts for identifying the costs of meeting standards established by the State for its system of public education. One of these costing-out methodologies is the professional judgment approach, such as the A & M study. The Court finds this approach to determine an adequate level of funding is much more reliable and accurate than the approach that was used in formulating the current system and the actions taken by the State in respect to funding since the enactment of HB 667. However, for the reasons noted earlier in this decision, the Court finds it would be inappropriate to rely entirely on a professional judgment approach.

194. As noted by the State in its proposed Finding of Fact No. 72, Plaintiffs' own expert, Dr. Picus, has modified his future adequacy studies to combine the professional judgment methodology with the cost-based approach.


195. A particular requirement is that the funding system must be based on educationally-relevant factors. This requires that the funding system be based on the costs of meeting the standards that govern the operation of Montana's schools. Once adequate levels of funding are determined, the State

must then fund its share of the cost of the system. The State's share must be an amount that is adequate at the BASE or foundation levels to allow districts to meet the standards. As previously established, this applies not only to general funds, but to the overall costs of the elementary and secondary system. In accomplishing this, it would be appropriate for the State to include a reasonable phase-in plan for implementing a new funding system.

196. At trial, John Myers testified that it is difficult for any funding formula to maintain itself over any period of time, especially without some provision for periodic review and/or a provision for inflationary cost increases.

197. In view of the language of the constitution, this Court does not feel it appropriate to tell the legislature how to design a system. However, hopefully the suggestions given by the Court will help the legislature in avoiding some of the problems that currently exist.

198. The Court also notes that it would be appropriate for it to exercise continuing jurisdiction over this case so as to avoid unnecessary, costly delays and complications absent continuing jurisdiction.

199. For the same reasons that attorney fees were denied in  *Helena Education I*, this Court will deny attorney fees to Plaintiffs' attorneys. 236 Mont. at 59, 769 P.2d at 693.

From the foregoing Findings of Fact, the Court hereby enters the following:

CONCLUSIONS OF LAW AND ORDER

1. To the extent that any of the foregoing Findings of Fact incorporate Conclusions of Law or the application of law to fact, they are incorporated herein as Conclusions of Law.

2. Montana's current school funding system, described above, does not violate the equal protection provisions of Article II, Section 4 of the Montana Constitution.


*31 3. Article X, Section 1 of the Montana Constitution requires:



Educational goals and duties. (1) It is the goal of the people to establish a system of education which will develop the full educational potential of each person. Equality of

educational opportunity is guaranteed to each person of the state.

(2) The state recognizes the distinct and unique cultural heritage of the American Indians and is committed in its educational goals to the preservation of their cultural integrity.

(3) The legislature shall provide a basic system of free quality public elementary and secondary schools. The legislature may provide such other educational institutions, public libraries, and educational programs as it deems desirable. It shall fund and distribute in an equitable manner to the school districts the state's share of the cost of the basic elementary and secondary school system.

4. This Court concludes that the rights in Article X, Section 1 were very important to the people who wrote the Montana Constitution. As noted by the Montana Supreme Court, there is no other instance in the constitution where that document guarantees a particular right.  *Helena Elementary I*, 236 Mont. at 53, 769 P.2d at 689. Further, the Montana Constitution, in Article X, Section 1, imposes clear mandatory duties upon the Montana Legislature. Among those duties is the requirement that the legislature fund the State's share of the costs of the basic elementary and secondary school system.

5. This Court determines that a middle-tier analysis of the constitution is most appropriate in this case.  *Mont. Env'tl. Info. Center v. Dep't of Env'tl. Quality*, 1999 MT 248, ¶ 57, 296 Mont. 207, ¶ 57, 988 P.2d 1236, ¶ 57 (“MEIC”); See also  *Kaptein v. Conrad Sch. Dist.*, 281 Mont. 152, 931 P.2d 1311 (1997).

6. Under such a test, where a constitutionally significant interest is implicated, middle-tier scrutiny requires that the State demonstrate two factors: (1) that its classification is reasonable, and (2) that its interest in classifying is more important than the peoples' interest in obtaining constitutionally significant benefits. *MEIC*, ¶ 58.

7. Under this level of scrutiny, there is no question that the current funding system is not reasonable, since the overwhelming evidence supports Plaintiffs' contention that the funding system and the classifications contained therein are not based on educationally-relevant factors. Further, there is no evidence that the State's interest in such classification is more important than the peoples' interest in being guaranteed

the rights set forth in Article X, Section 1 of the Montana Constitution.

8. This Court hereby rules that the current state funding system violates Article X, Section 1(2) of the Montana Constitution in that the State has failed to recognize the distinct and unique cultural heritage of American Indians and has shown no commitment in its educational goals to the preservation of their cultural identity.

*32 9. This Court hereby rules that the current Montana school funding system violates Article X, Section 1 of the Montana Constitution in that it fails to provide adequate funding for Montana's public schools.

10. This Court further rules that the State of Montana has violated Article X, Section 1 of the Montana Constitution in that the State is not paying its share of the cost of the basic elementary and secondary school system.

11. With respect to Montana's accreditation standards, this Court concludes that certain Conclusions of Law found by the Montana Supreme Court in *Helena Elementary I* remain accurate to this day. "Thus, the Montana School Accreditation Standards do not fully define either the constitutional rights of students or the constitutional responsibilities of the State of Montana for funding its public elementary and secondary schools." 236 Mont. at 52, 769 P.2d at 692.

12. This Court takes into account the fact that some of the damage that the educators testified to at trial is prospective in nature. However, this evidence is persuasive and relevant. Just as the Montana Supreme Court did not feel it necessary to wait for "dead fish [to] float on the surface of our state's rivers and streams before its farsighted environmental protections can be invoked" (*MEIC*, ¶ 77), this Court finds that it should not have to wait until Montana's school system collapses in financial ruin prior to entering an order this case.

13. To satisfy Montana Constitution, the State's school finance system must be based upon a determination of the needs and costs of the public school system, and the school finance system must be designed and based upon educationally-relevant factors.

14. Just as this Court's predecessor did in 1989, this Court denies Plaintiffs' their attorney fees. See *Helena Elementary I*, 236 Mont. at 59, 769 P.2d at 693.

15. Being mindful of the fact that Article X, Section 1 of the Montana Constitution requires legislative action, this Court rules that its decision shall and hereby is stayed pending resolution of this matter before the Montana Supreme Court. Unless otherwise ordered by the supreme court, this Court further orders that the effects of this Court's decision shall not go into effect until October 1, 2005, which will give the next Montana Legislature ample time to address the very complicated and difficult issues involved in this case. Prior to the expiration of that date, all existing contractual obligations and bonded indebtedness of the public school districts in Montana shall in no way be affected by this Court's decision.

From the foregoing Findings of Fact and Conclusions of Law, the Court enters the following:

ORDER

The Court hereby incorporates all of the aforementioned Conclusions of Law, Nos. 1 through 15, into this Court's Order. Each of these Conclusions of Law is hereby entered as an Order of this Court.

All Citations

Not Reported in P.3d, 2004 WL 844055

EXHIBIT 9

HJ 35



A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING A REVENUE AND TRANSPORTATION INTERIM COMMITTEE STUDY OF MONTANA'S STATE AND LOCAL TAX SYSTEMS USING A SUBCOMMITTEE THAT INCLUDES NONLEGISLATIVE MEMBERS.

WHEREAS, a comprehensive study of the state and local tax system has not been undertaken in many years; and

WHEREAS, the Montana economy is changing, and commerce is increasingly taking place on the Internet; and

WHEREAS, the state's increasing population and changing demographics impact the state tax system; and

WHEREAS, the 66th Legislature considered multiple pieces of legislation to revise state and local taxes; and

WHEREAS, a study of the state's tax policies should include legislators and nonlegislators that represent a broad array of stakeholders and provide opportunity for public involvement.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislative Council be requested to designate that the revenue and transportation interim committee, established in section 5-5-227, MCA, study Montana's state and local tax systems and make recommendations about whether to revise the state's current tax structure to:

- (1) establish a tax structure that works with the current economy;
- (2) stabilize state revenue and reduce volatility;
- (3) promote the long-term economic prosperity of the state and its citizens;
- (4) reflect principles of sound tax policy, including simplicity, competitiveness, efficiency, predictability, stability, and ease of compliance and administration;

(5) ensure the tax structure is fair and equitable; and

(6) allow Montana to compete with other states and nations for jobs and investments.

BE IT FURTHER RESOLVED, that the committee be directed to appoint a subcommittee, pursuant to section 5-5-211(7), MCA, to undertake the study for the purpose of including nonlegislative members in the study process. Members of the subcommittee may include but are not limited to:

(1) a representative of city government;

(2) a representative of county government;

(3) a representative of a school district;

(4) a tax policy expert;

(5) an infrastructure expert;

(6) a representative of business or industry;

(7) an economist or other academic with tax policy expertise; and

(8) a representative of the department of revenue as a nonvoting member.

BE IT FURTHER RESOLVED, that all aspects of the study, including presentation and review requirements, be concluded prior to September 15, 2020.

BE IT FURTHER RESOLVED, that the final results of the study, including any findings, conclusions, comments, or recommendations of the appropriate committee, be reported to the 67th Legislature.

- END -

I hereby certify that the within joint resolution,
HJ 0035, originated in the House.

Speaker of the House

Signed this _____ day
of _____, 2019.

Chief Clerk of the House

President of the Senate

Signed this _____ day
of _____, 2019.



HOUSE JOINT RESOLUTION NO. 35
INTRODUCED BY A. REDFIELD
BY REQUEST OF THE HOUSE TAXATION STANDING COMMITTEE

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING A REVENUE AND TRANSPORTATION INTERIM COMMITTEE STUDY OF MONTANA'S STATE AND LOCAL TAX SYSTEMS USING A SUBCOMMITTEE THAT INCLUDES NONLEGISLATIVE MEMBERS.

EXHIBIT 10

Memorandum, Jaret Coles to HJ 35 Tax Study
Committee, dated August 21, 2020



Montana Legislative Services Division
Legal Services Office

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August 21, 2020

TO: HJ 35 Tax Study Subcommittee

FR: Jaret Coles, Legislative Staff Attorney

RE: Carry Forward Authority for State Mill Levies -- Section 15-10-420, MCA

INTRODUCTION

At the request of the HJ 35 Tax Study subcommittee of the Revenue Interim Committee, I was asked to analyze carry forward authority under section 15-10-420(1)(b), MCA, as applied toward the statewide mill levies listed in section 15-10-420(8), MCA.

Before I provide you with my opinion and analysis, a few caveats are necessary. Due to the constitutional constraints inherent in the separate powers of each branch of state government, a legal opinion provided to you by a Legislative Branch attorney is obviously not binding on the Executive Branch.

QUESTIONS PRESENTED

Does section 15-10-420, MCA, permit a carry forward of statewide mill levy authority to subsequent tax years?

BRIEF ANSWER

Not likely. Section 15-10-420, MCA, is not a model of clarity. Under the plain language of the statute, the key inquiry is whether the statewide mill levy limits are included in the prior year's assessment plus inflation calculation. If not, then a carry forward may be present. However, if the statewide mill levy limits are considered in the calculation, then a carry forward is most likely not present. These concepts are addressed in the plain language section of the analysis.

In the event a court were to consider legislative history, then it would most likely determine that a carry forward is only available for mills imposed by a local government and not statewide mills. This concept is addressed in the legislative intent section of the analysis.

It should be noted that great deference and respect must be given to interpretations of a statute by persons and agencies charged with its administration. *Mont. Contractors' Ass'n, Inc. v. Dept. of Highways*, 220 Mont. 392, 395, 715 P.2d 1056, 1058 (1986). There are legitimate arguments on both sides of the question at issue.

STATUTORY BACKGROUND

Section 15-10-420(1)(a), MCA, allows a governmental entity that is authorized to levy mills to impose a mill levy sufficient to generate the amount of property taxes actually assessed in the prior year plus one-half of the average rate of inflation for the prior 3 years. This authority is often referred to as “floating” mills. Section 15-10-420(1)(b), MCA, allows a governmental entity that does not impose the maximum number of mills to carry forward the authority to a future year.

Education in Montana is funded through a combination of local and statewide property tax levies. The statewide levies include funding for the K-12 system, the university system, and vocational-technical education. The K-12 levies are often referred to as the “95 mills” but they actually consist of three different mill levies, including: 33 mills for county elementary equalization provided for in section 20-9-331, MCA; 22 mills for county high school equalization provided for in section 20-9-333, MCA; and 40 mills for state equalization provided for in section 20-9-360, MCA. The university system levy is a temporary levy of 6 mills provided for in section 15-10-109, MCA. The current levy terminates December 31, 2028. The vocational-technical education levy is provided for in section 20-25-439, MCA. Unlike the K-12 and university system levies, which are levied on all property in the state, the vocational-technical levy is only levied on property in certain counties that have vocational-technical schools. Those counties are Cascade County, Lewis and Clark County, Missoula County, Silver Bow County, and Yellowstone County. The statewide mills are referenced in section 15-10-420(8), MCA. All of the statewide mill levies provide that they are subject to section 15-10-420, MCA, with the exception of the university levy.

The full text of section 15-10-420, MCA, for reference purposes, is as follows:

15-10-420. Procedure for calculating levy. (1) (a) Subject to the provisions of this section, a governmental entity that is authorized to impose mills may impose a mill levy sufficient to generate the amount of property taxes actually assessed in the prior year plus one-half of the average rate of inflation for the prior 3 years. The maximum number of mills that a governmental entity may impose is established by calculating the number of mills required to generate the amount of property tax actually assessed in the governmental unit in the prior year based on the current year taxable value, less the current year's newly taxable value, plus one-half of the average rate of inflation for the prior 3 years.

(b) A governmental entity that does not impose the maximum number of mills authorized under subsection (1)(a) may carry forward the authority to impose the number of mills equal to the difference between the actual number of mills imposed and the maximum number of mills authorized to be imposed. The mill authority carried forward may be imposed in a subsequent tax year.

(c) For the purposes of subsection (1)(a), the department shall calculate one-half of the average rate of inflation for the prior 3 years by using the consumer price index,

U.S. city average, all urban consumers, using the 1982-84 base of 100, as published by the bureau of labor statistics of the United States department of labor.

(2) A governmental entity may apply the levy calculated pursuant to subsection (1)(a) plus any additional levies authorized by the voters, as provided in 15-10-425, to all property in the governmental unit, including newly taxable property.

(3) (a) For purposes of this section, newly taxable property includes:

- (i) annexation of real property and improvements into a taxing unit;
- (ii) construction, expansion, or remodeling of improvements;
- (iii) transfer of property into a taxing unit;
- (iv) subdivision of real property; and
- (v) transfer of property from tax-exempt to taxable status.

(b) Newly taxable property does not include an increase in value that arises because of an increase in the incremental value within a tax increment financing district.

(4) (a) For the purposes of subsection (1), the taxable value of newly taxable property includes the release of taxable value from the incremental taxable value of a tax increment financing district because of:

- (i) a change in the boundary of a tax increment financing district;
- (ii) an increase in the base value of the tax increment financing district pursuant to 7-15-4287; or
- (iii) the termination of a tax increment financing district.

(b) If a tax increment financing district terminates prior to the certification of taxable values as required in 15-10-202, the increment value is reported as newly taxable property in the year in which the tax increment financing district terminates. If a tax increment financing district terminates after the certification of taxable values as required in 15-10-202, the increment value is reported as newly taxable property in the following tax year.

(c) For the purpose of subsection (3)(a)(ii), the value of newly taxable class four property that was constructed, expanded, or remodeled property since the completion of the last reappraisal cycle is the current year market value of that property less the previous year market value of that property.

(d) For the purpose of subsection (3)(a)(iv), the subdivision of real property includes the first sale of real property that results in the property being taxable as class four property under 15-6-134 or as nonqualified agricultural land as described in 15-6-133(1)(c).

(5) Subject to subsection (8), subsection (1)(a) does not apply to:

- (a) school district levies established in Title 20; or
- (b) a mill levy imposed for a newly created regional resource authority.

(6) For purposes of subsection (1)(a), taxes imposed do not include net or gross proceeds taxes received under 15-6-131 and 15-6-132.

(7) In determining the maximum number of mills in subsection (1)(a), the governmental entity:

- (a) may increase the number of mills to account for a decrease in reimbursements;
- and

(b) may not increase the number of mills to account for a loss of tax base because of legislative action that is reimbursed under the provisions of 15-1-121(7).

(8) The department shall calculate, on a statewide basis, the number of mills to be imposed for purposes of 15-10-109, 20-9-331, 20-9-333, 20-9-360, and 20-25-439. However, the number of mills calculated by the department may not exceed the mill levy limits established in those sections. The mill calculation must be established in tenths of mills. If the mill levy calculation does not result in an even tenth of a mill, then the calculation must be rounded up to the nearest tenth of a mill.

(9) (a) The provisions of subsection (1) do not prevent or restrict:

(i) a judgment levy under 2-9-316, 7-6-4015, or 7-7-2202;

(ii) a levy to repay taxes paid under protest as provided in 15-1-402;

(iii) an emergency levy authorized under 10-3-405, 20-9-168, or 20-15-326;

(iv) a levy for the support of a study commission under 7-3-184;

(v) a levy for the support of a newly established regional resource authority;

(vi) the portion that is the amount in excess of the base contribution of a governmental entity's property tax levy for contributions for group benefits excluded under 2-9-212 or 2-18-703;

(vii) a levy for reimbursing a county for costs incurred in transferring property records to an adjoining county under 7-2-2807 upon relocation of a county boundary;

(viii) a levy used to fund the sheriffs' retirement system under 19-7-404(2)(b); or

(ix) a governmental entity from levying mills for the support of an airport authority in existence prior to May 7, 2019, regardless of the amount of the levy imposed for the support of the airport authority in the past. The levy under this subsection (9)(a)(ix) is limited to the amount in the resolution creating the authority.

(b) A levy authorized under subsection (9)(a) may not be included in the amount of property taxes actually assessed in a subsequent year.

(10) A governmental entity may levy mills for the support of airports as authorized in 67-10-402, 67-11-301, or 67-11-302 even though the governmental entity has not imposed a levy for the airport or the airport authority in either of the previous 2 years and the airport or airport authority has not been appropriated operating funds by a county or municipality during that time.

(11) The department may adopt rules to implement this section. The rules may include a method for calculating the percentage of change in valuation for purposes of determining the elimination of property, new improvements, or newly taxable value in a governmental unit.

ANALYSIS

I. Plain Language -- Section 15-10-420, MCA

When interpreting the meaning of a statute, courts first look to its plain language. *Mont. Sports Shooting Ass'n, Inc. v. State*, 2008 MT 190, ¶ 11, 344 Mont. 1, 185 P.3d 1003, citing *State v.*

Letasky, 2007 MT 51, ¶ 11, 336 Mont. 178, 152 P.3d 1288. The statute is read as a whole “without isolating specific terms from the context in which they are used by the Legislature”. *City of Great Falls v. Morris*, 2006 MT 93, ¶ 19, 332 Mont. 85, 134 P.3d 692. When a general and particular provision are inconsistent, the latter is paramount to the former, so a particular intent will control a general one that is inconsistent with it. Section 1-2-102, MCA.

Section 15-10-420, MCA, read as a whole, is somewhat complex. As applied, subsection (1)(b) allows a governmental entity that does not impose the maximum number of mills "**authorized**" to carry forward the mill authority to another year. Subsection (1)(b) provides as follows:

(b) A governmental entity that does not impose ***the maximum number of mills authorized under subsection (1)(a)*** may carry forward the authority to impose the number of mills equal to the difference between the actual number of mills imposed and the maximum number of mills ***authorized to be imposed***. The mill authority carried forward may be imposed in a subsequent tax year. (emphasis added)

Statewide mills are imposed by a "governmental entity". Consequently, the carry forward provision arguably applies to statewide mills under the section (1)(b) language. Given that the carry forward provision likely applies to statewide mills, the next step is to determine the amount of the carry forward. In order to have a carry forward, subsection (1)(b) requires that the government entity "not impose ***the maximum number of mills authorized by subsection (1)(a)***." Subsection (1)(a), in turn, provides as follows:

(1) (a) ***Subject to the provisions of this section***, a governmental entity that is authorized to impose mills may impose a mill levy sufficient to generate the amount of property taxes actually assessed in the prior year plus one-half of the average rate of inflation for the prior 3 years. The maximum number of mills that a governmental entity may impose is established by calculating the number of mills required to generate the amount of property tax actually assessed in the governmental unit in the prior year based on the current year taxable value, less the current year's newly taxable value, plus one-half of the average rate of inflation for the prior 3 years. (emphasis added)

The formula for the maximum mill levy calculation in subsection (1)(a) does not specifically mention statewide mills. However, the beginning language of the subsection states that it is "subject to the provisions of" the section. One of the provisions of the section regarding statewide mills is subsection (8), which provides as follows:

(8) The department shall calculate, on a statewide basis, the number of mills to be imposed for purposes of 15-10-109, 20-9-331, 20-9-333, 20-9-360, and 20-25-439. However, ***the number of mills calculated by the department may not exceed the mill levy limits established in those sections***. The mill calculation must be

established in tenths of mills. ***If the mill levy calculation does not result in an even tenth of a mill, then the calculation must be rounded up to the nearest tenth of a mill.***

Given the interplay of subsections (1)(a), (1)(b), and (8), there appears to be one primary question. Does the authorized mill levy limit in subsection (1)(a) include the statewide mill levy limits (i.e., 95 mills) or exclude the limits?

If a court were to determine that the plain language of subsections (1)(a) does not include the statewide mill levy limits, then mill levy authority could be carried forward to future years when the prior year assessment plus inflation calculation in subsection (1)(a) exceeds the mill levy limits. For example, if the prior year assessment plus inflation calculation for the education levy is 100 mills, there would be 5 mills to use in a future year given that the maximum number of mills available is 95 ($100 - 95 = 5$). This appears to be the approach that is followed on the [worksheets](#) that are prepared by the Department of Revenue.

If a court were to determine that the plain language of subsections (1)(a) includes the imposition of the statewide mill levy limits, then the potential for mill levy authority to be carried forward to future years would not exist. Using the example in the previous paragraph, if the prior year plus inflation calculation is 100 mills, but the "subject to the provisions of this section" language requires a reduction for the 5 mills that cannot be imposed, then the mills would be capped at 95 for that tax year.

Reading the statute as a whole, one could reasonably argue for the usage of either approach. I favor the approach that considers the statewide mill levy limits referenced in subsection (8) as part of the subsection (1)(a) calculation given that the beginning language in subsection (1)(a) references the other provisions of section 15-10-420, MCA. An approach that allows for the carry forward of mills that could not be legally imposed during the tax year seems to defeat the intent of allowing mills to float downward to an amount less than the maximum levy and would typically result in levy amounts equal to the maximum amount.

II. Legislative Intent

It is certainly arguable that section 15-10-420, MCA, is not a model of clarity to understand. When a statute may have some ambiguities due to a large variety of possible situations that are covered, a court is not required under due process standards to find vagueness in the terms used in a statute so as to destroy an act; rather, it is the court's duty to construe a statute so as to be consistent with the will of the Legislature and to comport with constitutional limitations. *In re Mont. Pac. Oil & Gas Co.*, 189 Mont. 11, 18, 614 P.2d 1045, 1049 (1980). Legislative intent may be determined in a number of ways when a statute is ambiguous. A court presumes that the Legislature would not pass a meaningless statute, and the court must harmonize statutes relating to the same subject so as to give each effect. The court can look to the legislative history of the statute. Great deference and respect must be given to interpretation of the statute by persons and

agencies charged with its administration. *Mont. Contractors' Ass'n, Inc. v. Dept. of Highways*, 220 Mont. 392, 395, 715 P.2d 1056, 1058 (1986).

The subsection regarding carry forward authority was enacted by [Senate Bill No. 265 \(2001\)](#) during the 57th Legislative Session. The subsection reads the same today as when it was enacted nearly 20 years ago. The title of the bill was:

AN ACT ALLOWING A LOCAL GOVERNMENTAL ENTITY TO IMPOSE LESS THAN THE MAXIMUM NUMBER OF MILLS AUTHORIZED AND TO CARRY FORWARD THE AUTHORITY TO IMPOSE THE MAXIMUM NUMBER OF MILLS IN A SUBSEQUENT TAX YEAR; AND AMENDING SECTIONS 7-6-2531, 7-6-4431, AND 15-10-420, MCA.

[Senate Bill No. 265](#) was debated in the [Senate Committee on Local Government](#) and the [House Committee on Local Government](#). The legislation had a variety of proponents representing local governments and no opponents. Sen. Hargrove sponsored the legislation. In the [Senate Committee on Local Government](#), the sponsor stated there was a "use it" or "lose it" system, and that if "the maximum mills authorized were not used, they could not be used the next time around."¹ In the [House Committee on Local Government](#), a question was raised as to whether a local government that assesses fewer mills can "bank those" and use them in addition to the cap and the response was "no."² The totality of the testimony supported the idea that a local government could voluntarily levy fewer mills than the maximum for any tax year and then get back to where the local government would have been had it not levied less than the maximum amount (the cap concept).

Based on the legislative history, the subsection at issue regarding carry forward authority was limited to allowing a local government entity to carry forward mills and it did not pertain to statewide mill levies. There was no fiscal note attached to the bill indicating a statewide revenue impact, the legislation was never received by a tax committee, and no one mentioned the impacts on statewide mills in the local government committees. Consequently, there is a strong argument that the legislature did not intend to carry forward statewide levy authority to a future tax year.

In conclusion, it is my opinion that there is no carry forward of statewide mill levy authority when the section 15-10-420, MCA, calculation creates a mill levy that is greater than the statutory statewide mill levy limits. However, it should be noted that great deference and respect must be given to interpretations of a statute by persons and agencies charged with its administration. *Mont. Contractors' Ass'n, Inc. v. Dept. of Highways*, 220 Mont. 392, 395, 715 P.2d 1056, 1058 (1986). There are certainly arguments that cut both ways.

¹ Minutes of the Montana Senate Committee on Local Government, 57th Legislature, p. 16 (Feb. 8, 2001), available at https://leg.mt.gov/bills/2001/MinutesPDF/Senate/010208LOS_Sm1.pdf

² Minutes of the Montana House Committee on Local Government, 57th Legislature, p. 4 (March 13, 2001), available at https://leg.mt.gov/bills/2001/MinutesPDF/House/010313LOH_Hm1.pdf

EXHIBIT 11

HJ 35 Study of State and Local Tax Policy Final
Report to the 67th Montana Legislature, dated
September, 2020



HJ 35 STUDY OF STATE AND LOCAL TAX POLICY

September 2020
Revenue Interim Committee
Megan Moore

FINAL REPORT TO THE 67TH MONTANA LEGISLATURE

REVENUE INTERIM COMMITTEE MEMBERS

Before the close of each legislative session, the House and Senate leadership appoint lawmakers to interim committees. The members of the Revenue Interim Committee, like most other interim committees, serve one 20-month term. Members who are reelected to the Legislature, subject to overall term limits and if appointed, may serve again on an interim committee. This information is included in order to comply with 2-15-155, MCA.

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The logo for the Montana Legislative Services Division features a black outline of the state of Montana on the left. To the right of the outline, the words "LEGISLATIVE SERVICES DIVISION" are written in a large, bold, black, sans-serif font, stacked vertically.

LEGISLATIVE SERVICES DIVISION

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Website: <https://www.leg.mt.gov/committees/interim/2019vic/>

Revenue Interim Committee Staff

Jaret Coles, Attorney | Megan Moore, Legislative Research Analyst | Laura Sherley, Secretary

This report is a summary of the work of the Revenue Interim Committee, specific to the Revenue Interim Committee’s 2019-2020 study of state and local tax policy as outlined in the Revenue Interim Committee’s 2019-20 work plan and House Joint Resolution 35 (2019). Members received additional information and public testimony on the subject, and this report is an effort to highlight key information and the processes followed by the Revenue Interim Committee in reaching its conclusions. To review additional information, including audio minutes and exhibits, visit the Revenue Interim Committee website: <https://www.leg.mt.gov/committees/interim/2019rvic>.

A full report including links to the documents referenced in this print report is available at the Revenue Interim Committee website: <https://www.leg.mt.gov/committees/interim/2019rvic>.

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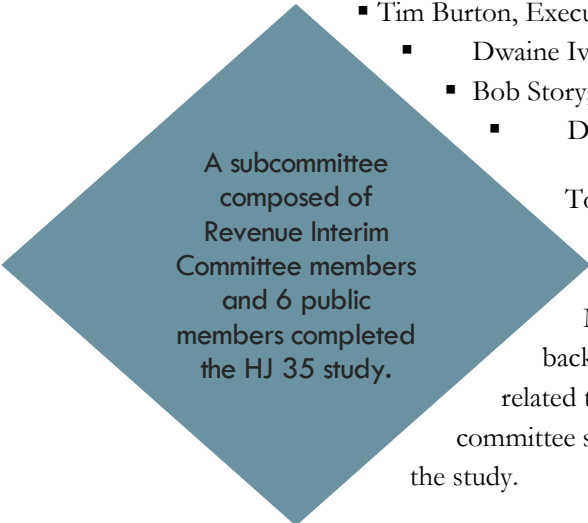
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HJ 35: STATE AND LOCAL TAX POLICY

BACKGROUND

The Legislature ranked the [House Joint Resolution 35](#) study of state and local tax policy first among the 27 studies ranked by legislators. As provided in the study resolution, the Revenue Interim Committee appointed a subcommittee to undertake the study in order to include public members. The subcommittee included all 12 members of the Revenue Interim Committee and 6 public members:

- Rose Bender, Senior Fiscal Policy Analyst, Montana Budget and Policy Center;
- Eric Bryson, Executive Director, Montana Association of Counties;
 - Tim Burton, Executive Director, Montana League of Cities and Towns;
 - Dwaine Iverson, Certified Public Accountant;
 - Bob Story, Executive Director, Montana Taxpayers Association; and
 - Doug Young, Professor Emeritus, Montana State University.



A subcommittee composed of Revenue Interim Committee members and 6 public members completed the HJ 35 study.

To help narrow the scope of the study, the committee used the National Conference of State Legislatures' [Principles for Evaluating State Tax Sources](#)¹ as a structure for examining Montana's state and local tax systems. The committee received background information about each principle along with details related to the principle and specific to Montana's tax system. A committee survey and small group discussions helped the committee focus the study.

The committee focused on two main topics: consideration of the adequacy of revenue for the state of Montana and for local governments and whether the tax system relies on diverse and balanced sources of revenue. Committee work centered on reviewing existing revenue sources, including the property tax, the individual income and corporate income taxes, and natural resources taxes, and exploring other revenue options such as a sales tax.

FINDINGS AND RECOMMENDATIONS

The Revenue Interim recommended to the 2021 Legislature two bill drafts resulting from the HJ 35 study:

- [HJ35-02](#): Providing for a property tax circuit breaker income tax credit to replace existing property tax assistance programs; and
- [HJ35-03](#): Increasing the minimum corporate income tax to \$200.

¹ National Conference of State Legislatures, "[Tax Policy Handbook for State Legislators](#)," February 2010.

HJ 35: STATE AND LOCAL TAX POLICY

PROPERTY TAX

The HJ 35 Committee began its evaluation of revenue sources with the property tax. The property tax is an important source of revenue for local governments and school districts and a common source of taxpayer complaints.

The committee delved into the property tax, spending an entire meeting on the topic in January 2020. The meeting covered the basics of property taxation, a history of property taxation in Montana, legal issues associated with property taxes, and a primer on school funding.

Agenda items focused on evaluating the property also included data on city and county mill levies, property taxes paid by class of property, and changes in taxable values and taxes over the years. The committee also considered other states' property tax policies by learning about property tax limits and property tax assistance programs throughout the country.

Property Tax Legislation

The HJ 35 Committee recommended two property tax-related bills to the Revenue Interim Committee:

- [HJ35-01](#): Allowing taxing jurisdictions to use the full rate of inflation when calculating maximum mill levies; and
- [HJ35-02](#): Providing for a property tax circuit breaker income tax credit to replace existing property tax assistance programs.

The HJ 35 Committee also considered, but did not recommend, [HJ35-07](#) to tax second homes at the commercial tax rate.

INDIVIDUAL INCOME TAX

The individual income tax is the largest source of state general fund revenue. In addition to reviewing the structure of Montana's individual income tax, the committee also considered the state's reliance on the tax and how demographic changes may impact individual income tax revenue.

Other specific topics of interest included income tax collections by county, types of capital gains and capital gains collections by income decile, exempt tip income, and changes to the net operating loss deduction contained in the Coronavirus Aid, Relief, and Economic Security Act passed by Congress in March 2020.

Individual Income Tax Legislation

The HJ 35 Committee considered three individual income tax-related proposals and recommended [HJ35-04](#) and [HJ35-08](#) to the Revenue Interim Committee.

HJ 35: STATE AND LOCAL TAX POLICY

- [HJ35-04](#)²: Revising the capital gains tax credit by calculating the credit on the lesser of net capital gains or taxable income.
- [HJ35-05](#): Providing for a public infrastructure program using individual income and corporate income tax collections that exceed inflation.
- [HJ35-08](#): Revising the net operating loss deduction for individual income taxpayers to decouple from changes contained in the federal Coronavirus Aid, Relief, and Economic Security Act.

The committee also recommended [HJ35-02](#), an income tax credit for property taxes paid. See the property tax section of this report for more information.

CORPORATE INCOME TAX

The \$50 minimum corporate income tax was an area of interest to the HJ 35 Committee, specifically how many taxpayers and which industries tend to pay the minimum tax. The committee also requested information on a gross receipts tax, which some states levy in lieu of a corporate income tax.

Corporate Income Tax Legislation

The HJ 35 Committee recommended to the Revenue Interim Committee [HJ35-03](#) to increase the minimum corporate income tax to \$200.

NATURAL RESOURCE TAXES

A presentation on Montana's natural resources covered the state's fiscal policies for hard rock mining, coal, and oil, and included recommendations on good fiscal policies related to these natural resources.

The HJ 35 Committee did not consider any natural resource tax legislation.

SALES TAX

While Montana levies selective sales taxes on lodging, rental cars, alcohol, and tobacco and allows small resort communities to levy a resort tax on luxury goods, the state is one of five states without a general statewide sales tax. The HJ 35 Committee received information on how sales taxes fit into an overall tax system and how other states structure sales taxes. The Department of Revenue also reviewed its sales tax model, which provides estimated revenue from a sales tax.

² The link shows the version of the draft considered by the Revenue Interim Committee on September 11, 2020. The committee requested changes to the [draft](#) considered on July 20, 2020.

HJ 35: STATE AND LOCAL TAX POLICY

Sales Tax Legislation

Following the sales tax discussion, the HJ 35 Committee voted to request a draft of a statewide sales tax proposal for discussion purposes.

The committee considered [HJ35-06](#), which provides for a 4% sales and use tax modeled after South Dakota's and allows cities and counties to adopt a 3% local option sales tax upon a vote of the electorate. Another [document](#) included options the committee could include in a sales tax proposal. The options revise other taxes and fees to offset the additional revenue from a sales tax.

The HJ 35 Committee did not recommend a sales tax draft to the Revenue Interim Committee.

EXHIBIT 12

Email from E. Dale to R. Osmundson, et al re:
Analysis of Impact of 77.89 vs. 95 mills, dated
October 10, 2023

Subject: RE: Analysis of impact of 77.89 vs. 95 mills

Date: Tuesday, October 10, 2023 at 11:05:16 AM Mountain Daylight Time

From: Dale, Eric <EDale@mt.gov>

To: Osmundson, Ryan <Ryan.Osmundson@mt.gov>, Lance Melton <lmelton@mtsba.org>, Beatty, Brendan <bbeatty@mt.gov>, Mendenhall, Scott <Scott.Mendenhall@mt.gov>, Hall, Travis <Travis.Hall@mt.gov>

CC: Adamson, Sherry <Sherry.Adamson@mt.gov>, Evans, Ryan <RyanEvans@mt.gov>

Here you are.

Let me know if you have any questions or would like more detail and I will see what I can find out.

1. The estimated impact of a 95 mill reduction to 77.89 mills to [median valued home](#)

Co	Value	Tax Savings
Beaverhead	\$261,700	\$60.45
Big Horn	\$83,750	\$19.34
Blaine	\$125,900	\$29.08
Broadwater	\$325,300	\$75.14
Carbon	\$303,500	\$70.10
Carter	\$55,900	\$12.91
Cascade	\$237,800	\$54.93
Chouteau	\$137,100	\$31.67
Custer	\$145,300	\$33.56
Daniels	\$82,953	\$19.16
Dawson	\$133,300	\$30.79
Deer Lodge	\$185,915	\$42.94
Fallon	\$123,850	\$28.61
Fergus	\$166,900	\$38.55
Flathead	\$444,700	\$102.72
Gallatin	\$646,400	\$149.31
Garfield	\$78,087	\$18.04
Glacier	\$122,595	\$28.32
Golden Valley	\$81,310	\$18.78
Granite	\$304,410	\$70.31
Hill	\$168,200	\$38.85
Jefferson	\$395,700	\$91.40
Judith Basin	\$110,000	\$25.41
Lake	\$354,600	\$81.91
Lewis and Clark	\$343,900	\$79.44
Liberty	\$125,400	\$28.97
Lincoln	\$256,600	\$59.27
Madison	\$533,800	\$123.30

McCone	\$69,485	\$16.05
Meagher	\$185,880	\$42.94
Mineral	\$201,900	\$46.64
Missoula	\$413,200	\$95.44
Musselshell	\$86,070	\$19.88
Park	\$409,400	\$94.57
Petroleum	\$45,610	\$10.54
Phillips	\$101,850	\$23.53
Pondera	\$159,500	\$36.84
Powder River	\$50,400	\$11.64
Powell	\$182,700	\$42.20
Prairie	\$61,300	\$14.16
Ravalli	\$389,600	\$89.99
Richland	\$177,033	\$40.89
Roosevelt	\$72,685	\$16.79
Rosebud	\$84,893	\$19.61
Sanders	\$229,030	\$52.90
Sheridan	\$91,685	\$21.18
Silver Bow	\$213,900	\$49.41
Stillwater	\$286,900	\$66.27
Sweet Grass	\$268,693	\$62.06
Teton	\$188,589	\$43.56
Toole	\$105,700	\$24.42
Treasure	\$56,966	\$13.16
Valley	\$94,800	\$21.90
Wheatland	\$94,050	\$21.72
Wibaux	\$70,675	\$16.32
Yellowstone	\$302,800	\$69.94

2. Estimated impact of a 95-mill reduction to 77.89 mills top centrally assessed companies.

Name	Market Value	Taxable Value	Tax Savings
NORTHWESTERN ENERGY	2,656,650,403.00	267,029,696.00	4,568,878.00
BNSF RAILWAY CO	2,120,463,311.00	64,880,963.00	1,110,113.00
ONEOK	1,005,353,028.00	120,642,362.00	2,064,190.00
EXPRESS PIPELINE LLC	598,604,186.00	62,256,015.00	1,065,200.00
MONTANA RAIL LINK	491,092,716.00	15,026,980.00	257,113.00
CLEARWATER WIND 1 LLC	414,198,451.00	6,212,977.00	106,304.00
PACIFICORP	279,387,416.00	10,682,570.00	182,778.00
AVISTA CORPORATION	276,684,641.00	18,459,587.00	315,843.00
FLATHEAD ELECTRIC COOP INC.	255,214,941.00	10,621,131.00	181,723.00
MONTANA DAKOTA UTILITIES	241,405,696.00	23,483,266.00	401,798.00

3. Estimated impact of a 95-mill reduction to 77.89 mills to the top industrial companies:

Name	Market Value	Taxable Value	Tax Savings
CHS INC-Yellowstone Co	855,524,391	24,466,847	418,627.75

PHILLIPS 66 COMPANY-Yellowstone Co	920,119,685	22,294,823	381,464.42
MONTANA RENEWABLES LLC-Silver Bow Co	370,938,507	8,341,233	142,718.50
STILLWATER MINING COMPANY-Sweet Grass Co	278,540,206	8,309,568	142,176.71
EXXON MOBIL CORPORATION-Yellowstone Co	241,426,299	7,158,896	122,488.71
MONTANA REFINING COMPANY INC Cascade Co	214,107,483	6,812,938	116,569.37
REC ADVANCED SILICON MATERIALS LLC-Silver Bow Co	166,531,062	4,906,659	83,952.94
STILLWATER MINING COMPANY- Sweet Grass Co	139,026,318	4,146,761	70,951.08
MONTANA RESOURCES-Silver Bow Co	120,774,061	3,536,841	60,515.35
SIGNAL PEAK ENERGY LLP-Musselshell Co	115,392,495	3,371,775	57,691.07
MTSUN LLC-Yellowstone Co	102,033,531	2,981,541	51,014.17
STILLWATER MINING COMPANY--Sweet Grass Co	94,841,915	2,828,799	48,400.75

From: Osmundson, Ryan <Ryan.Osmundson@mt.gov>

Sent: Tuesday, October 10, 2023 10:58 AM

To: Lance Melton <lmelton@mtsba.org>; Dale, Eric <EDale@mt.gov>; Beatty, Brendan <bbeatty@mt.gov>; Mendenhall, Scott <Scott.Mendenhall@mt.gov>; Hall, Travis <Travis.Hall@mt.gov>

Subject: Re: Analysis of impact of 77.89 vs. 95 mills

Eric, if you could help Mr. Melton with this request that would be great.

Thanks

Ryan Osmundson
State of Montana Budget Director

From: Lance Melton <lmelton@mtsba.org>

Sent: Tuesday, October 10, 2023 11:54:23 AM

To: Dale, Eric <EDale@mt.gov>; Osmundson, Ryan <Ryan.Osmundson@mt.gov>

Subject: [EXTERNAL] Analysis of impact of 77.89 vs. 95 mills

To: Eric Dale, Tax Policy and Research Director, Montana Department of Revenue

Dear Eric,

I understand that the Department of Revenue has completed some analysis and developed some charts showing the projected impact if counties impose 77.89 mills instead of the 95 school equalization mills that the Department has calculated. I would greatly appreciate if you would be willing to email that analysis to me at your earliest convenience. What I am looking for specifically is:

1. A chart showing the reduction in taxes for median priced homes in each county based on the values reported on the DOR website.
2. A chart showing the reduction in taxes for the top 10 centrally assessed properties in Montana.
3. A chart showing the reduction in taxes for the top 10 industrial properties in Montana.

If at all possible, I am hoping you might be able to send this information to me before Noon.

Thank you in advance for any assistance you can provide.

Sincerely,

Lance L. Melton
Executive Director
Montana School Boards Association
863 Great Northern Blvd. Suite 301
Helena Montana 59601
For immediate assistance, call: 406-439-2180

EXHIBIT 13

Letter Template from Governor G. Gianforte to
County Commissioners, dated September 8, 2023

September 8, 2023

From Governor to Counties

The Honorable [NAME]
Lewis and Clark County County
800 South Main
Helena, MT 59620

Dear Commissioner [LAST NAME],

As I've been visiting each county on my third annual 56 County Tour as governor, I have had the pleasure of meeting with county commissioners while on the road. Many have shared with me how the state is working together and partnering cooperatively with local governments. I always appreciate your frank feedback and the strong working relationship we share.

Over the last few months, I've found that, when we've talked directly about the most recent legislative session, we've both walked away realizing what a win it was for Montana counties and other local jurisdictions.

I write today to elaborate on those conversations, because I've found many commissioners aren't fully aware of the historic nature of what counties achieved from the legislative session. I want to use this opportunity to fill in gaps from information you may not have received and to address misinformation.

The most recent legislative session was an extraordinary victory for counties across the state. Working with commissioners and legislators, we delivered unprecedented results for counties.

First, the state provided more than \$222 million directly to counties and other local jurisdictions to support them, some of which could be leveraged to nearly \$850 million with federal matching funds, including:

- **Boosting infrastructure projects for local jurisdictions.**
 - Signed into law in May 2023, Senate Bill 536 provides local jurisdictions with funding for the reconstruction or repair of off-system bridges, secondary highways, and urban highways. Counties are eligible for \$80 million of the \$100 million appropriation, and cities within the counties will receive the remaining \$20 million. Local jurisdictions may receive funds through a formula distribution, grants, and a Montana Department of Transportation match. Additionally, county projects may be eligible for a federal funding match, providing a potential total investment of up to \$640 million.
 - **\$100 million** – state's direct investment in counties and local jurisdictions, with a potential of up to \$640 million including the federal match

- Our Budget for Montana Families, which I introduced in November 2022, dedicated \$100 million of the budget surplus toward a local disaster resiliency fund. Proceeds from the fund would support state and local projects that reduce or eliminate long-term risk to people and property from future disasters, and the state could leverage its dollars for up to a 9-to-1 federal match. While the local disaster resiliency fund was tabled in the House Appropriations Committee and did not make it to my desk, House Bill 424 included up to \$16 million toward projects to mitigate disasters, and with those state funds, we anticipate being able to leverage approximately \$84 million in federal funds toward such projects.
 - **\$100 million** – total potential investment in counties and local jurisdictions

- Signed into law in June 2023, the State-Local Infrastructure Partnership Act 2023 (House Bill 355) provides local jurisdictions with funding for infrastructure projects. Under the new law, local jurisdictions may apply for a grant from the Montana Department of Commerce to maintain or repair existing local infrastructure, including streets, roads, bridges, drinking water systems, wastewater treatment systems, and fire suppression systems, among other projects – undeniably to the benefit of Montana counties. To qualify for the grant, an application must include a statement identifying a local cash match equal to no less than 25% of the total project cost.
 - **\$20 million** – state’s investment in local jurisdictions

- **Jumpstarting school maintenance projects by maximizing the School Facilities Trust Fund.** Signed into law in May 2023, House Bill 321 provides roughly \$75 million in funding toward the School Facilities Trust Fund, bringing the fund to \$200 million, jumpstarting it toward its new \$300 million cap and maximizing the fund’s proceeds for Montana’s public schools. The School Facilities Trust Fund is designed to help public school districts pay for major maintenance projects.
 - **\$15 million** – state’s projected, ongoing annual funding for local schools and communities

- **Reducing county retirement levies.** Signed into law in June 2023, House Bill 587 provides Montanans with property tax relief by assisting with county retirement levies. About a third of a new special revenue account will reduce county taxes levied for school retirement funds, keeping property taxes down.
 - **\$38 million** – state’s investment in counties and local jurisdictions

- **Shoring up sheriffs’ pension.** With House Bill 569, signed into law in May, the state invested \$96 million of the state’s surplus to shore up pensions for law enforcement, including \$27 million to stabilize sheriffs’ pension.
 - **\$27 million** – state’s investment in counties and local jurisdictions

- **Boosting jail reimbursement rate for counties by nearly 20%.** Since 2015, state law capped the maximum reimbursement to counties holding state inmates to \$69 per day. With House Bill 174 going into law on July 1, 2023, the state’s reimbursement rate increases from \$69 to \$82, with the potential for it to increase in subsequent years. Fiscal analysis estimates counties will see a total increase in revenue of \$6 million over the next four years.
 - **\$6 million** – state’s investment in counties

Second, many other bills, which the legislature passed and I signed into law, provide counties and other local jurisdictions with more indirect support and protect your existing revenue.

- **Investing in local infrastructure to increase the housing supply for Montanans and our communities.** Our Budget for Montana Families proposed to invest \$200 million to expand housing capacity throughout the state with the HOMES Program, or Home Ownership Means Economic Security. While federal funding has allowed local jurisdictions to maintain or improve existing water and sewer infrastructure but has not allowed for its expansion, the HOMES Program would dedicate \$200 million to expanding water and sewer infrastructure for local jurisdictions that meet density measures. Ultimately, the House did not pass the HOMES Act, but a version of it was included in House Bill 819, which I signed into law in June 2023. Through House Bill 819, the state invests \$106 million to expand counties’ water and sewer infrastructure provided certain conditions, including density measures, are met. The Montana Board of Investments administers the program.
 - **\$106 million** – state’s investment in counties and local jurisdictions
- **Maintaining and improving state roads and bridges.** Investing in Montana roads and bridges was another important element of our Budget for Montana Families. Signed into law in March 2023, House Bill 267 invests \$100 million of the state’s surplus in a newly created Securing Access to Federal Expenditures to Repair (SAFER) Montana Roads and Bridges account. The new law provides up to \$15 million per year for the Montana Department of Transportation to use, leveraging about 7 federal dollars for every state dollar, to repair the state’s roads and bridges. Importantly, repairing county bridges may also be eligible for funding, including enhanced, leveraged funding, through SAFER Montana Roads and Bridges.
 - **\$100 million** – state’s investment in repairing roads and bridges, including county bridges, with the potential for substantial federal matching funds
- **Lowering borrowing costs for counties.** Through House Bill 251 and using the state’s budget surplus to advance fiscal responsibility, the State of Montana is going debt-free in ’23. As a result of paying off the state’s general obligation debt, much of which was originally created to be able to grant or loan money to local governments, counties and other local jurisdictions will see a reduction in future borrowing costs.
 - **\$40 million** – state’s investment in counties and local jurisdictions

- **Supporting conservation districts and Montana’s coal counties.** Through House Bill 321, the State of Montana established a new Conservation District Trust Fund to support Montana’s 58 conservation districts. The new Conservation District Trust Fund will receive 65% of the Coal Severance Tax Bond Fund until the new fund reaches \$100 million, providing over \$5 million per year in ongoing funding to localities. Once the Conservation District Trust Fund is funded to its \$100 million cap, 65% of the Coal Severance Tax Bond Fund will be dedicated to the Coal Board Fund, which goes directly to support Montana’s coal counties.
 - **\$5 million** – state's projected, ongoing annual funding to local jurisdictions

- **Backfilling counties as we cut the business equipment tax for Montana small businesses.** Since 2021, we have increased the business equipment tax exemption from \$100,000 to \$1 million, eliminating the burden of the tax for more than 5,000 Montana small businesses, including family farms and ranches. The increasing exemption for class 8 business equipment property tax will allow small business owners to invest in their operations, their employees, and our communities. While we have increased the business equipment tax exemption, I understand a portion of business equipment tax revenues go to counties, which is why we committed the state to backfilling those lost revenues to counties through entitlement share payments.
 - **\$16 million** – state’s investment in counties and local jurisdictions

Third, working with legislators, our administration invested in counties well beyond typical investments, including **providing a historic increase in Medicaid provider rates that benefits county nursing homes.** In our Budget for Montana Families, we proposed the largest increase in Medicaid provider rates in state history, and we delivered on that proposal. Our historic investment provides stability to health care providers and expands access to services for those who participate in Medicaid. Specifically, our fiscal year 2024 appropriation for county nursing homes intergovernmental transfer is more than \$4.7 million, an increase of 34.3% of what was spent in fiscal year 2023. Additionally, the state appropriated \$158 million for Medicaid-eligible nursing homes throughout the state, an increase over fiscal year 2023 spending of \$44 million, or 38.5%. We made these investments, even while the increasing trend is seniors choosing to age in place.

- **\$371 million** – state’s investment, including federal funds, for provider rate increases which include county nursing homes

Working together with legislators and individual commissioners, we secured a series of major wins for our local jurisdictions, and primarily our counties.

From the actions the state took to reduce burdens on counties and support them, to the federal aid counties received over the last few years, many Montana counties are in a strong financial position. That’s why I ask you to do everything in your authority to limit the growth of both government spending and property taxes in your county.

As it is required to do under state law, the Montana Department of Revenue conducted its biennial reappraisal of property in your county, including residential property, which estimates the market value

for a property as of January 1, 2022. Montanans across the state were surprised to discover their residential property values increased by an average of 46 percent since the last reappraisal two years ago.

When notifying property owners of their reappraisal, state law requires the Department of Revenue to advise property owners of “the total amount of mills levied against the property in the prior year.” Coupling the notice of the prior year’s mill levies with the average 46 percent growth in market value of residential property following reappraisal, Montana taxpayers are concerned, and rightfully so, their property tax bills for 2023 are going to skyrocket.

Therefore, I ask you to address their concerns immediately, reassure them, and reaffirm to your constituents you will hold the line on new spending, provide for essential services, draw down mill levies that are within your control, and keep property taxes as low as possible.

Admittedly, lobbyists have made a lot of hay recently as they work to draw down the 95 public school mills. As you are aware, the state collects the 95 public school mills and distributes them fully back to school districts for equalization of school funding. Drawing down the 95 public school mill rate not only would provide a windfall for a few large industrial corporations and a few school districts already flush with resources, like Big Sky, but also over time would increase the tax burden on Montanans in most local jurisdictions. If we were to reduce the 95 public school mills, our students, our public schools, and nearly all school districts would suffer. We will not do it.

We take our responsibility seriously to distribute the 95 public school mills to ensure each student in our public schools has access to a quality education. We would do this anyway, as it is our moral obligation, but we are also required to do so by law and by our Constitution which reads, “It is the goal of the people to establish a system of education which will develop the full educational potential of each person. Equality of educational opportunity is guaranteed to each person of the state.”

To anyone asking us to reduce the 95 public school mills to the detriment of Montana students, the state hasn’t done it in the more than 30 years since the legislature established the 95 public school mills, we won’t start now, and we won’t act against the interests of providing each Montana student with a quality education.

I appreciate seeing you, like all Montanans, where you live and work as I’ve been on my third annual 56 County Tour. I look forward to continuing to work with you and other county commissioners, as well as to continuing our partnership to make Montana an even better place to live, work, raise a family, and achieve the American dream.

Sincerely,
Greg Gianforte
Governor

EXHIBIT 14

Letter from MACo to Governor G. Gianforte,
dated October 4, 2023



Montana Association of Counties

Serving Montana Counties Since 1909

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www.mtcounties.org

October 4, 2023

Governor Greg Gianforte
Office of the Governor
PO Box 200801
Montana State Capitol
1301 E. 6th Avenue
Helena, MT 59620-0801

Re: Concerns and Feedback on Legislative Session and Tax Policy from MACo Board of Directors

Dear Governor Gianforte,

We hope this letter finds you well. The Montana Association of Counties (MACo) Board of Directors wishes to address several matters of concern as well as provide feedback on the recent legislative session and tax policy.

Montana counties value the relationships we have with the State. Your administration has been excellent to work with at the agency level, and you should be proud of the team you have assembled to work on behalf of the State of Montana.

We too have assembled a team to work on our behalf, which enables us to fulfill the duties of our offices and administer the county governments in which we live. We feel there is some confusion on our Association functions. MACo is our member-services organization, comprised of Montana's county officials and led by Montana county commissioners who are elected by our peers to leadership positions within the organization.

We, the Board, provide the policy direction which is in turn carried out by our executive director and staff and would like to emphasize that we support our executive director and will continue to retain his service to us.

During the past session, our membership was actively engaged in the legislative process, both outside the Capitol communicating with their Senators and Representatives, as well as inside the Capitol Building. Our Executive Committee and Past Presidents, along with our staff, were present for all negotiations on significant bills, diligently carrying out our directives through advocating for local decision-making, local control, and local elected officials.

Measures such as HB 176, HB 262, HB 299, SB 98, SB 143, SB 173, SB 174, SB 220, and SB 229 originated directly from our members. We worked with our staff and individual legislators to introduce these bills, and we appreciate your willingness to sign them into law.

However, we wish to highlight some areas where our experiences and perspectives differ in terms of advocating for local decision-making, local control, and local elected officials. In particular, the letter you wrote and distributed on September 8th to county commissioners describes "wins" for counties in the form of various legislative actions, which does not align with our interpretation and experience in the Legislature.

For example, HB 424 does not provide funding for local governments but instead supplies additional contingency funds for your office via unanticipated General Fund excess revenue. Specifically, it increases the Governor's emergency appropriation from \$16 million to \$20 million. We hope the State never needs to use those funds, but we must clarify that those are not local government funds as indicated in your letter.

You cited in your letter that HB 355 undeniably benefits Montana's counties; however, it's specifically limited to incorporated cities and towns via Section 4 (3), which explicitly excludes counties from accessing the funds.

HB 267, although important for state road and bridge projects, does not include provisions for county projects. Similarly, HB 251 is a great investment for the State of Montana; however, these funds are allocated to help the State be debt free—absolutely no dollars go to the counties. Likewise, HB 321 provides no direct benefit to counties, but instead provides a stable funding source for conservation districts, and keeping conservation districts operational is a direct benefit to the State of Montana.

We appreciate the consideration to keep the counties whole when the State makes policy decisions impacting our revenues. Yet, we must make it known that each subsequent year since the business equipment tax exemption of 2021, newly taxable business equipment under that exemption does not come onto the tax rolls. This was a one-time-only adjustment that was only applicable to what was taxable as of the implementation; therefore, we believe that subsequent years would require ongoing adjustments to reflect the actual loss in revenue.

Additionally, HB 174 increases the reimbursement for State inmates who should be serving time in State facilities but are instead held in county detention centers awaiting placement to a State facility. While beneficial, the increase does not cover the actual costs and therefore county property taxpayers continue to bear the cost of the difference between the actual cost of incarceration and what the State is willing to provide in reimbursement. We hope to see improved compensation to counties for this critical service in the future.

Although you signed SB 536, it was strongly opposed by your administration and heavily amended in the House to funnel money through the Department of Transportation rather than deliver needed funding to counties. On a positive note, our collective staff worked on the process to make funds available for county bridges, and we are grateful that in the end a large portion of the funding is intended to help with county bridge infrastructure.

We also appreciate the cash infusion from HB 569, but it must be clarified that the state-administered Sheriff's Pension System doesn't reach solvency via the one-time appropriation but instead by increasing the employer (county) contribution from 9.535% to 13.115%. This is a 3.58% increase paid entirely by property taxpayers in each county. Property taxes will rise again via a mechanism in the bill that increases contributions when/if the actuary determines there needs to be an increase.

Moreover, while HB 587 ensures that a portion of the property tax collected by the State for schools via the 95 mills actually gets to schools, and that 55% of the excess funds are to be directed at teacher retirement levies, it's also property over-taxation collected by the State with a portion provided to reduce another property tax established to fund teacher retirement and transportation.

Regarding the 95 mills, we urge you to consider the property tax burden shift to residential taxpayers in Montana. Counties take their fiscal responsibility very seriously, and we believe it's essential to follow MCA 15-10-420 guidelines, ensuring that the appropriate amounts are levied not only by the counties but by the State. While the mills are authorized to be levied at 22, 33, and 40 per Title 20, they are all "subject to 15-10-420" as an additional levy cap.

When values increase rapidly, mills subject to that provision-in-law (MCA 15-10-420) are intended to be limited to the amount actually assessed in the previous year plus half the rate of inflation. This year, the calculation shows that the State has 77.89 mills to levy, but the counties are nonetheless being asked to levy the full 95 mills with the explanation that there are “mills in reserve.” Since the creation of those mills, the State has never levied less than 95 mills, which means there are no mills in reserve.

Lastly, we feel it is imperative you be made aware that you are misinformed about the reduction in the mill levy impacting school levies or school funding—that is 100% incorrect. School funding and local mill levy authorities are in no way tied to the revenue the State receives from the equalization mills. All of the revenue from the 95 mills goes to the State General Fund. The schools will still receive the same amount of money they have been appropriated in the past. We urge you to take your projected 20% increase in revenue, year-over-year, and make do with what you have.

We share your commitment to fiscal responsibility and transparency in government, and we strive to provide essential services and maintain infrastructure while keeping property taxes as low as possible. We think it would be beneficial to meet and further discuss the concerns outlined in this letter so we may all ensure the best possible outcome for our constituents.

Thank you for your attention to these matters, and we look forward to continued collaboration for the betterment of Montana.

Respectfully Submitted by the Board of Directors of the Montana Association of Counties (MACo)

MACO EXECUTIVE COMMITTEE



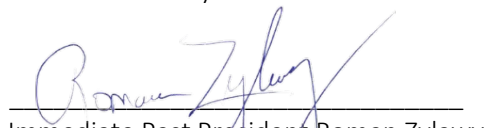
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Fergus County Commissioner



1st Vice President Joette Woods
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Gordon Oelkers, 2nd Vice President
Roosevelt County Commissioner

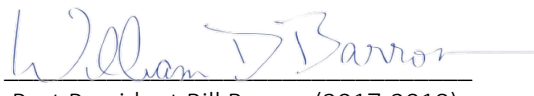


Immediate Past President Roman Zylawy
Mineral County Commissioner

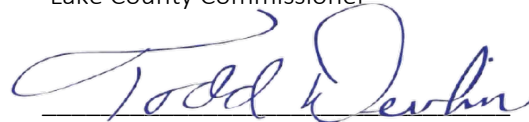
MACO PAST PRESIDENTS



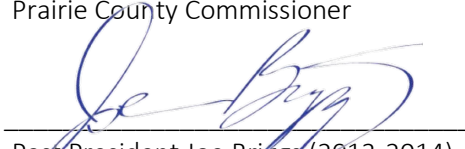
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Richland County Commissioner



Past President Bill Barron (2017-2018)
Lake County Commissioner



Past President Todd Devlin (2016-2017)
Prairie County Commissioner



Past President Joe Briggs (2013-2014)
Cascade County Commissioner


Jason Strouf, Fiscal Officer
Custer County Commissioner

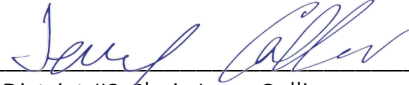

Randy Brodehl, Urban Co. Representative,
Flathead County Commissioner


Past President Greg Chilcott (2012-2013)
Ravalli County Commissioner


Past President John Ostlund (2010-2011)
Yellowstone County Commissioner

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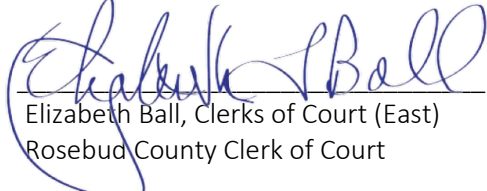

District #7 Chair Bill Wallace
Sweet Grass County Commissioner

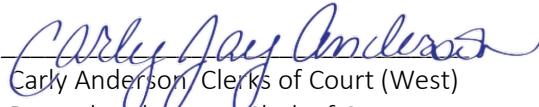

Past President Carl Seilstad (2009-2010)
Fergus County Commissioner


Past President Bob Mullen (1985-1986)
Jefferson County Commissioner

MACO ASSOCIATION REPRESENTATIVES


Maritza Reddington, Clerk & Records
Park County Clerk & Recorder

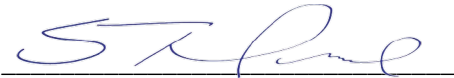

Elizabeth Ball, Clerks of Court (East)
Rosebud County Clerk of Court


Carly Anderson, Clerks of Court (West)
Beaverhead County Clerk of Court

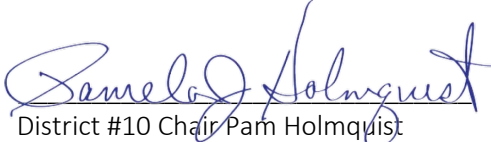

Terri Kunz, Treasurers
Jefferson County Treasurer



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Broadwater County Commissioner
(Proxy for Chair Cory Kirsch, Jefferson County Commissioner)



District #9 Chair Scott MacFarlane
Gallatin County Commissioner



District #10 Chair Pam Holmquist
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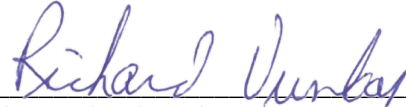


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Missoula County Commissioner
(Proxy for Chair Dave Strohmaier, Missoula County Commissioner)




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