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As of: July 20, 2010 (10:42am)

LC8889

**** Bill No. ****

Introduced By *****

By Request of the *****

A Bill for an Act entitled: "An Act clarifying the provisions of the entitlement share payment program; providing that there is no increase in the base entitlement share pool unless certain state revenues have increased by at least the growth rates calculated for local governments; prohibiting an increase in the number of mills a local government may levy for a reimbursed tax base decrease; amending sections 15-1-121 and 15-10-420, MCA; and providing an effective date and an applicability date."

Be it enacted by the Legislature of the State of Montana:

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

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

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~~from the state treasury rather than the ad hoc system that offset certain state payments with local government collections due the state and reimbursements made by percentage splits, with a local government remitting a portion of collections to the state, retaining a portion, and in some cases sending a portion to other local governments. The amount calculated pursuant to this subsection, as adjusted pursuant to subsection (3) (a) (i), is each local government's base entitlement share. The department shall estimate the total amount of revenue that each local government received from the following sources for the fiscal year ending June 30, 2001:~~

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

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

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

~~(i) Title 23, chapter 2, part 5~~7~~_L~~

~~(ii) Title 23, chapter 2, part 6~~7~~_L~~

~~(iii) Title 23, chapter 2, part 8~~7~~_L~~

~~(iv) 61-3-317~~7~~_L~~

~~(v) 61-3-321~~7~~_L~~

~~(vi) Title 61, chapter 3, part 5, except for 61-3-509(3), as that subsection read prior to the amendment of 61-3-509 in 2001~~7~~_L~~

~~(vii) Title 61, chapter 3, part 7~~7~~_L~~

~~(viii) 5% of the fees collected under 61-10-122~~7~~_L~~

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- ~~(ix)~~ 61-10-130~~7~~L
- ~~(x)~~ 61-10-148~~7~~L and
- ~~(xi)~~ 67-3-205;
- ~~(c)~~ gaming revenue pursuant to Title 23, chapter 5, part 6, except for the permit fee in 23-5-612(2)(a);
- ~~(d)~~ district court fees pursuant to~~7~~
- ~~(i)~~ 25-1-201, except those fees in 25-1-201(1)(d), (1)(g), and (1)(j)~~7~~L
- ~~(ii)~~ 25-1-202~~7~~L
- ~~(iii)~~ 25-9-506~~7~~L and
- ~~(iv)~~ 27-9-103;
- ~~(e)~~ certificate of title fees for manufactured homes pursuant to 15-1-116;
- ~~(f)~~ financial institution taxes collected pursuant to the former provisions of Title 15, chapter 31, part 7;
- ~~(g)~~ all beer, liquor, and wine taxes pursuant to~~7~~
- ~~(i)~~ 16-1-404~~7~~L
- ~~(ii)~~ 16-1-406~~7~~L and
- ~~(iii)~~ 16-1-411;
- ~~(h)~~ late filing fees pursuant to 61-3-220;
- ~~(i)~~ title and registration fees pursuant to 61-3-203;
- ~~(j)~~ veterans' cemetery license plate fees pursuant to 61-3-459;
- ~~(k)~~ county personalized license plate fees pursuant to 61-3-406;
- ~~(l)~~ special mobile equipment fees pursuant to 61-3-431;
- ~~(m)~~ single movement permit fees pursuant to 61-4-310;

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~~(n)~~ state aeronautics fees pursuant to 67-3-101; and
~~(o)~~ department of natural resources and conservation payments in lieu of taxes pursuant to Title 77, chapter 1, part 5.

~~(2) (a) From the amounts estimated in subsection (1) for each county government, the department shall deduct fiscal year 2001 county government expenditures for district courts, less reimbursements for district court expenses, and fiscal year 2001 county government expenditures for public welfare programs to be assumed by the state in fiscal year 2002.~~

~~(b)(2) The total amount estimated pursuant to subsections (1) and (2)(a) received in fiscal year 2010 as an entitlement share payment under this section is the base component for the fiscal year 2011 distribution, and in each subsequent year the prior year entitlement share payment, including any reimbursement payments received pursuant to subsection (6), is each local government's base year component. The sum of all local governments' base year components is the base fiscal year entitlement share pool. ~~For the purpose of calculating the sum of all local governments' base year components, the base year component for a local government may not be less than zero.~~~~

(3) (a) ~~The Except as provided in subsection (3)(c), the base year entitlement share pool must be increased annually by a growth rate as provided for in this subsection (3). The amount determined through the application of annual growth rates is the entitlement share pool for each fiscal year. By October 1 of each even-numbered year, the department shall calculate the growth~~

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rate of the entitlement share pool for each year of the next biennium in the following manner:

~~(i) Before applying the growth rate for fiscal year 2007 to determine the fiscal year 2007 entitlement share payments, the department shall subtract from the fiscal year 2006 entitlement share payments the following amounts:~~

Beaverhead	
\$6,972	
Big Horn	
\$52,551	
Blaine	
\$13,625	
Broadwater	
\$2,564	
Carbon	
\$11,537	
Carter	\$407
Cascade	
\$100,000	
Chouteau	
\$3,536	
Custer	
\$7,011	
Daniels	\$143
Dawson	
\$3,893	
Fallon	

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\$1,803

Fergus

\$9,324

Flathead

\$100,000

Gallatin

\$160,000

Garfield

\$91

Glacier

\$3,035

Golden Valley

\$2,282

Granite

\$4,554

Hill

\$31,740

Jefferson

\$5,700

Judith Basin

\$1,487

Lake

\$38,314

Lewis and Clark

\$160,000

Liberty

\$152

Lincoln

\$3,759

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Madison	
\$8,805	
McCone	
\$1,651	
Meagher	
\$2,722	
Mineral	
\$2,361	
Missoula	
\$200,000	
Musselshell	
\$23,275	
Park	
\$6,582	
Petroleum	\$36
Phillips	\$653
Pondera	
\$10,270	
Powder River	\$848
Powell	
\$5,146	
Prairie	\$717
Ravalli	
\$93,090	
Richland	
\$3,833	
Roosevelt	

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\$9,526	
Rosebud	
\$19,971	
Sanders	
\$30,712	
Sheridan	\$271
Stillwater	
\$12,117	
Sweet Grass	
\$2,463	
Teton	
\$5,560	
Toole	
\$7,113	
Treasure	\$54
Valley	
\$6,899	
Wheatland	\$918
Wibaux	\$72
Yellowstone	
\$270,000	
Anaconda-Deer Lodge	
\$20,707	
Butte-Silver Bow	
\$53,057	
Alberton	\$675
Bainville	\$258

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Baker	
\$2,828	
Bearcreek	\$143
Belgrade	
\$11,704	
Belt	
\$1,056	
Big Sandy	
\$1,130	
Big Timber	
\$2,910	
Billings	
\$163,499	
Boulder	
\$2,340	
Bozeman	
\$52,805	
Bridger	
\$1,303	
Broadus	\$766
Broadview	\$258
Brockton	\$414
Browning	
\$1,830	
Cascade	
\$1,374	
Chester	

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\$1,430

Chinook

\$2,275

Choteau

\$3,050

Circle

\$1,018

Clyde Park

\$572

Colstrip

\$4,090

Columbia Falls

\$6,805

Columbus

\$3,245

Conrad

\$4,562

Culbertson

\$1,216

Cut Bank

\$5,316

Darby

\$1,348

Deer Lodge

\$5,708

Denton

\$503

Dillon

\$6,928

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Dodson	\$194
Drummond	\$561
Dutton	\$661
East Helena	
\$2,888	
Ekalaka	\$689
Ennis	
\$1,518	
Eureka	
\$1,733	
Fairfield	
\$1,120	
Fairview	
\$1,152	
Flaxville	\$143
Forsyth	
\$3,286	
Fort Benton	
\$2,579	
Fort Peck	\$393
Froid	\$328
Fromberg	\$855
Geraldine	\$457
Glasgow	
\$5,361	
Glendive	
\$8,099	

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Grass Range	\$254
Great Falls	
\$96,422	
Hamilton	
\$7,148	
Hardin	
\$5,920	
Harlem	
\$1,422	
Harlowton	
\$1,678	
Havre	
\$16,223	
Helena	
\$45,877	
Hingham	\$263
Hobson	\$397
Hot Springs	\$912
Hysham	\$482
Ismay	\$43
Joliet	
\$1,006	
Jordan	\$606
Judith Gap	\$263
Kalispell	
\$28,144	
Kevin	\$304

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Laurel	
\$10,804	
Lavina	\$361
Lewistown	
\$10,170	
Libby	
\$4,475	
Lima	\$397
Livingston	
\$12,145	
Lodge Grass	\$889
Malta	
\$3,389	
Manhattan	
\$2,485	
Medicine Lake	\$410
Melstone	\$234
Miles City	
\$14,152	
Missoula	
\$104,264	
Moore	\$319
Nashua	\$536
Neihart	\$149
Opheim	\$180
Outlook	\$125
Philipsburg	

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\$1,612

Pinesdale _____

\$1,413

Plains _____

\$2,007

Plentywood _____

\$3,185

Plevna _____ \$225

Poison _____

\$7,722

Poplar _____

\$1,544

Red Lodge _____

\$3,903

Rexford _____ \$263

Richey _____ \$309

Ronan _____

\$3,262

Roundup _____

\$3,280

Ryegate _____ \$465

Saco _____ \$354

Scobey _____

\$1,798

Shelby _____

\$5,677

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\$1,150	
Sidney	
\$7,747	
Stanford	\$737
Stevensville	
\$3,063	
St. Ignatius	
\$1,367	
Sunburst	\$709
Superior	
\$1,521	
Terry	
\$1,011	
Thompson Falls	
\$2,272	
Three Forks	
\$3,130	
Townsend	
\$3,286	
Troy	
\$1,654	
Twin Bridges	\$695
Valier	\$817
Virginia City	\$223
Walkerville	
\$1,183	
West Yellowstone	

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~~\$2,083~~

~~Westby~~ ~~_____~~ ~~\$263~~

~~White Sulphur Springs~~ ~~_____~~

~~\$1,734~~

~~Whitefish~~ ~~_____~~

~~\$9,932~~

~~Whitehall~~ ~~_____~~

~~\$1,889~~

~~Wibaux~~ ~~_____~~ ~~\$893~~

~~Winifred~~ ~~_____~~ ~~\$259~~

~~Winnett~~ ~~_____~~ ~~\$314~~

~~Wolf Point~~ ~~_____~~

~~\$4,497~~

~~(ii)(i)~~ The department shall calculate the average annual growth rate of the Montana gross state product, as published by the bureau of economic analysis of the United States department of commerce, for ~~the following periods:~~

~~(A)~~ the last 4 calendar years for which the information has been published; ~~and~~

~~(B)~~ the 4 calendar years beginning with the year before the first year in the period referred to in subsection (3)(a)(ii)(A).

~~(iii)(ii)~~ The department shall calculate the average annual growth rate of Montana personal income, as published by the bureau of economic analysis of the United States department of commerce, for ~~the following periods:~~

~~(A)~~ the last 4 calendar years for which the information has been published; ~~and~~

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~~(B) the 4 calendar years beginning with the year before the first year in the period referred to in subsection (3)(a)(iii)(A).~~

(b) ~~(i)~~ The entitlement share pool growth rate for ~~the first~~ each year of the biennium must be the following percentage of the average of the growth rates calculated in subsections ~~(3)(a)(ii)(B)~~ (3)(a)(i) and ~~(3)(a)(iii)(B)~~ (3)(a)(ii):

~~(A)(i)~~ for counties, 54%;

~~(B)(ii)~~ for consolidated local governments, 62%; and

~~(C)(iii)~~ for incorporated cities and towns, 70%.

~~(ii) The entitlement share pool growth rate for the second year of the biennium must be the following percentage of the average of the growth rates calculated in subsections (3)(a)(ii)(A) and (3)(a)(iii)(A):~~

~~(A) for counties, 54%;~~

~~(B) for consolidated local governments, 62%; and~~

~~(C) for incorporated cities and towns, 70%.~~

(c) The base entitlement share pool may not be increased by a growth factor unless the total audited net revenue collected for the individual income tax under Title 15, chapter 30, the corporation income or license tax under Title 15, chapter 31, and the video gaming tax under Title 23, chapter 5, part 6, except the fee in 23-5-612, for the prior fiscal year increased over the preceding fiscal year by at least the percentage determined for the average of the growth rates calculated in subsections (3)(a)(i) and (3)(a)(ii).

(4) As used in this section, "local government" means a

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county, a consolidated local government, an incorporated city, and an incorporated town. A local government does not include a tax increment financing district provided for in subsection ~~(6)~~ (7). ~~For purposes of calculating the base year component for a county or consolidated local government, the department shall include the revenue listed in subsection (1) for all special districts within the county or consolidated local government.~~ The county or consolidated local government is responsible for making an allocation from the county's or consolidated local government's share of the entitlement share pool to each special district within the county or consolidated local government in a manner that reasonably reflects each special district's loss of revenue sources ~~listed in subsection (1)~~ for which reimbursement is provided in this section.

(5) (a) The entitlement share pools calculated in this section and the ~~block grants~~ funding provided for in subsection ~~(6)~~ (7) are statutorily appropriated, as provided in 17-7-502, from the general fund to the department for distribution to local governments. ~~Each local government is entitled to a pro rata share of each year's entitlement share pool based on the local government's base component in relation to the base year entitlement share pool.~~ The distributions must be made on a quarterly basis.

(b) (i) The growth amount is the difference between the entitlement share pool in the current fiscal year and the entitlement share pool in the previous fiscal year. ~~For the purposes of subsection (5) (b) (ii) (A), a county with a negative~~

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~~base year component has a base year component of zero.~~ The growth factor in the entitlement share must be calculated separately for:

- (A) counties;
- (B) consolidated local governments; and
- (C) incorporated cities and towns.

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

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

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

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

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

(B) 50% of the growth amount must be allocated based upon the percentage that each consolidated local government's population bears to the state's total population residing within consolidated local governments as determined by the latest

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interim year population estimates from the Montana department of commerce as supplied by the United States bureau of the census.

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

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

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

(v) In each fiscal year, the amount of the entitlement share pool ~~not represented by~~ before the growth amount or adjustments made under subsection (6) are applied is to be distributed to each local government in the same manner as the entitlement share pool was distributed in the prior fiscal year.

(6) If the legislature enacts a reimbursement provision that is to be distributed pursuant to this section, the department shall determine the reimbursement amount as provided in the enactment and add the appropriate amount to the entitlement share distribution under this section. The total entitlement share distributions in a fiscal year, including distributions made pursuant to this subsection, equal the local fiscal year entitlement share pool. The ratio of each local

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government's distribution from the entitlement share pool must be recomputed to determine each local government's ratio to be used in the subsequent year's distribution determination under subsections (5) (b) (ii) (A), (5) (b) (iii) (A), and (5) (b) (iv) (A).

~~(6)(7)~~ (a) If a tax increment financing district was not in existence during the fiscal year ending June 30, 2000, then the tax increment financing district is not entitled to any ~~block grant~~ funding. If a tax increment financing district referred to in subsection ~~(6)(b)~~ (7)(b) terminates, then the ~~block grant~~ funding for the district provided for in subsection ~~(6)(b)~~ (7)(b) terminates.

(b) One-half of the payments provided for in this subsection ~~(6)(b)~~ (7)(b) must be made by November 30 and the other half by May 31 of each year. Subject to subsection ~~(6)(a)~~ (7)(a), the entitlement share for tax increment financing districts is as follows:

Cascade	Great Falls - downtown	\$468,966
Deer Lodge	TIF District 1	3,148
Deer Lodge	TIF District 2	3,126
Flathead	Kalispell - District 1	758,359
Flathead	Kalispell - District 2	5,153
Flathead	Kalispell - District 3	41,368
Flathead	Whitefish District	164,660
Gallatin	Bozeman - downtown	34,620
Lewis and Clark	Helena - #2	731,614
Missoula	Missoula - 1-1B & 1-1C	1,100,507
		<u>250,279</u>

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Missoula	Missoula - 4-1C	33,343
Silver Bow	Butte - uptown	283,801
Yellowstone	Billings	436,815

~~(7)~~(8) The estimated ~~base~~ fiscal year entitlement share pool and any subsequent entitlement share pool for local governments do not include revenue received from tax increment financing districts, from countywide transportation block grants, or from countywide retirement block grants.

~~(8) (a) If revenue that is included in the sources listed in subsections (1)(b) through (1)(o) is significantly reduced, except through legislative action, the department shall deduct the amount of revenue loss from the entitlement share pool beginning in the succeeding fiscal year and the department shall work with local governments to propose legislation to adjust the entitlement share pool to reflect an allocation of the loss of revenue.~~

~~(b) For the purposes of subsection (8) (a), a significant reduction is a loss that causes the amount of revenue received in the current year to be less than 95% of the amount of revenue received in the base year.~~

(9) A three-fifths vote of each house of the legislature is required to reduce the amount of the entitlement share calculated pursuant to subsections (1) through (3).

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

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overpayment of a local government's entitlement share, the local government shall remit the overpaid amount to the department.

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

(12) A payment required pursuant to this section may not be offset by a debt owed to a state agency by a local government in accordance with Title 17, chapter 4, part 1."

{Internal References: Good bill drafting practices require that all MCA sections be redrafted using current MCA data - see Bill Drafting Manual section 1-5(1)(a)}

Section 2. Section 15-10-420, MCA, is amended to read:

"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 value of newly taxable property, 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

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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.

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(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)(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) the portion of a governmental entity's property tax levy for premium contributions for group benefits excluded under

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2-9-212 or 2-18-703.

(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;

(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(6).

(8) The department shall calculate, on a statewide basis, the number of mills to be imposed for purposes of 15-10-107, 20-9-331, 20-9-333, 20-9-360, 20-25-423, 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 whole mills. If the mill levy calculation does not result in a whole number of mills, then the calculation must be rounded up to the nearest whole 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; or

(iv) a levy for the support of a study commission under

7-3-184.

(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 property in a governmental unit."

{Internal References: Good bill drafting practices require that all MCA sections be redrafted using current MCA data - see Bill Drafting Manual section 1-5(1)(a)}

NEW SECTION. **Section 3. Saving clause.** [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

NEW SECTION. **Section 4. {standard} Effective date.** [This act] is effective July 1, 2011.

NEW SECTION. **Section 5. {standard} Applicability.** [This

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act] applies to fiscal years beginning after June 30, 2011.

- END -

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