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INTRODUCED BY Kitzenberg **House** BILL NO. 470

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING TAXING JURISDICTIONS WITH DECREASING OR STATIC PROPERTY TAX REVENUE TO INCREASE MILL LEVIES TO MAINTAIN REVENUE AT THE RATE OF GOVERNMENTAL INFLATION INDEXES; AMENDING SECTION 15-10-412, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

NEW SECTION. Section 1. Mill levy increases because of inflation. If the property tax revenue received by a taxing jurisdiction since the 1986 tax year has increased by less than the rate of inflation, the taxing jurisdiction may levy additional mills to compensate for the loss in revenue. The mills levied may not exceed a number necessary to raise the amount of revenue from property taxes equal to the revenue that would have been raised if revenue had increased at the same rate as the price index for government purchases, state and local index, promulgated by the U.S. department of commerce.

Section 2. Section 15-10-412, MCA, is amended to read:

"15-10-412. Property tax limited to 1986 levels -- clarification -- extension to all property classes.

Section 15-10-402 is interpreted and clarified as follows:

(1) The limitation to 1986 levels is extended to apply to all classes of property described in Title 15, chapter 6, part 1.

(2) The limitation on the amount of taxes levied is interpreted to mean that, except as otherwise provided in this section, the actual tax liability for an individual property is capped at the dollar amount due in each taxing unit for the 1986 tax year. In tax years thereafter, the property must be taxed in each taxing unit at the 1986 cap or the product of the taxable value and mills levied, whichever is less for each taxing unit, except in a taxing unit that levied a tax in tax years 1983 through 1985 but did not levy a tax in 1986, in which case the actual tax liability for an individual property is capped at the dollar amount due in that taxing unit for the 1985 tax year.

(3) The limitation on the amount of taxes levied does not prohibit a further increase in the total

- 1 taxable valuation of a taxing unit as a result of:
- 2 (a) annexation of real property and improvements into a taxing unit;
- 3 (b) construction, expansion, or remodeling of improvements;
- 4 (c) transfer of property into a taxing unit;
- 5 (d) subdivision of real property;
- 6 (e) reclassification of property;
- 7 (f) increases in the amount of production or the value of production for property described in
- 8 15-6-131 or 15-6-132;
- 9 (g) transfer of property from tax-exempt to taxable status; or
- 10 (h) revaluations caused by:
- 11 (i) cyclical reappraisal; or
- 12 (ii) expansion, addition, replacement, or remodeling of improvements.
- 13 (4) The limitation on the amount of taxes levied does not prohibit a further increase in the taxable
- 14 valuation or in the actual tax liability on individual property in each class as a result of:
- 15 (a) a revaluation caused by:
- 16 (i) construction, expansion, replacement, or remodeling of improvements that adds value to the
- 17 property; or
- 18 (ii) cyclical reappraisal;
- 19 (b) transfer of property into a taxing unit;
- 20 (c) reclassification of property;
- 21 (d) increases in the amount of production or the value of production for property described in
- 22 15-6-131 or 15-6-132;
- 23 (e) annexation of the individual property into a new taxing unit; or
- 24 (f) conversion of the individual property from tax-exempt to taxable status.
- 25 (5) Property in class four is valued according to the procedures used in 1986, including the
- 26 designation of 1982 as the base year, until the reappraisal cycle beginning January 1, 1986, is completed
- 27 and new valuations are placed on the tax rolls and a new base year designated, if the property is:
- 28 (a) new construction;
- 29 (b) expanded, deleted, replaced, or remodeled improvements;
- 30 (c) annexed property; or

1 (d) property converted from tax-exempt to taxable status.

2 (6) Property described in subsections (5)(a) through (5)(d) that is not class four property is valued
3 according to the procedures used in 1986 but is also subject to the dollar cap in each taxing unit based on
4 1986 mills levied.

5 (7) The limitation on the amount of taxes, as clarified in this section, is intended to leave the
6 property appraisal and valuation methodology of the department of revenue intact. Determinations of
7 county classifications, salaries of local government officers, and all other matters in which total taxable
8 valuation is an integral component are not affected by 15-10-401 and 15-10-402 except for the use of
9 taxable valuation in fixing tax levies. In fixing tax levies, the taxing units of local government may anticipate
10 the deficiency in revenues resulting from the tax limitations in 15-10-401 and 15-10-402, while
11 understanding that regardless of the amount of mills levied, a taxpayer's liability may not exceed the dollar
12 amount due in each taxing unit for the 1986 tax year unless:

13 (a) except as provided in subsection (8)(a), the taxing unit's taxable valuation decreases by 5%
14 or more from the 1986 tax year. If a taxing unit's taxable valuation decreases by 5% or more from the
15 1986 tax year, it may levy additional mills to compensate for the decreased taxable valuation, but the mills
16 levied may not exceed a number calculated to equal the revenue from property taxes for the 1986 tax year
17 in that taxing unit.

18 (b) the property tax revenue received since tax year 1986 by the taxing unit increased by less than
19 the rate of inflation. If the increase in revenue failed to match the rate of inflation, the taxing unit may levy
20 additional mills to compensate for the loss in revenue as provided in [section 1].

21 ~~(b)(c)~~ a levy authorized under Title 20 raised less revenue in 1986 than was raised in either 1984
22 or 1985, in which case the taxing unit may, after approval by the voters in the taxing unit, raise each year
23 thereafter an additional number of mills but may not levy more revenue than the 3-year average of revenue
24 raised for that purpose during 1984, 1985, and 1986;

25 ~~(d)~~ a levy authorized in 50-2-111 that was made in 1986 was for less than the number of mills
26 levied in either 1984 or 1985, in which case the taxing unit may, after approval by the voters in the taxing
27 unit, levy each year thereafter an additional number of mills but may not levy more than the 3-year average
28 number of mills levied for that purpose during 1984, 1985, and 1986.

29 (8) (a) Except as provided in subsection (8)(b), if a taxing unit has levied additional mills under
30 subsection (7)(a) to compensate for a decrease in taxable valuation, it may continue to levy additional mills

1 to equal the revenue from property taxes for the 1986 tax year when the taxing unit's taxable valuation
2 is greater than 95% but less than 100% of the taxing unit's taxable valuation in tax year 1986.

3 (b) When the taxable valuation of a taxing unit that levied additional mills under subsection (7)(a)
4 or (8)(a) is equal to or greater than the taxing unit's taxable valuation in tax year 1986, it may not levy
5 additional mills to compensate for a subsequent decrease in taxable valuation unless the conditions of
6 subsection (7)(a) are satisfied.

7 (9) The limitation on the amount of taxes levied does not apply to the following levy or special
8 assessment categories, whether or not they are based on commitments made before or after approval of
9 15-10-401 and 15-10-402:

10 (a) rural improvement districts;

11 (b) special improvement districts;

12 (c) levies pledged for the repayment of bonded indebtedness, including tax increment bonds;

13 (d) city street maintenance districts;

14 (e) tax increment financing districts;

15 (f) satisfaction of judgments against a taxing unit;

16 (g) street lighting assessments;

17 (h) revolving funds to support any categories specified in this subsection (9);

18 (i) levies for economic development authorized pursuant to 90-5-112(4);

19 (j) levies authorized under 7-6-502 for juvenile detention programs;

20 (k) levies authorized under 76-15-531 and 76-15-532 for conservation district special
21 administrative assessments;

22 (l) elementary and high school districts; and

23 (m) voted poor fund levies authorized under 53-2-322.

24 (10) The limitation on the amount of taxes levied does not apply in a taxing unit if the voters in
25 the taxing unit approve an increase in tax liability following a resolution of the governing body of the taxing
26 unit containing:

27 (a) a finding that there are insufficient funds to adequately operate the taxing unit as a result of
28 15-10-401 and 15-10-402;

29 (b) an explanation of the nature of the financial emergency;

30 (c) an estimate of the amount of funding shortfall expected by the taxing unit;

1 (d) a statement that applicable fund balances are or by the end of the fiscal year will be depleted;

2 (e) a finding that there are no alternative sources of revenue;

3 (f) a summary of the alternatives that the governing body of the taxing unit has considered; and

4 (g) a statement of the need for the increased revenue and how it will be used.

5 (11) (a) The limitation on the amount of taxes levied does not apply to levies required to address
6 the funding of relief of suffering of inhabitants caused by famine, conflagration, or other public calamity.

7 (b) The limitation set forth in this chapter on the amount of taxes levied does not apply to levies
8 to support:

9 (i) a city-county board of health as provided in Title 50, chapter 2, if the governing bodies of the
10 taxing units served by the board of health determine, after a public hearing, that public health programs
11 require funds to ensure the public health. A levy for the support of a local board of health may not exceed
12 the 5-mill limit established in 50-2-111.

13 (ii) county, city, or town ambulance services authorized by a vote of the electorate under
14 7-34-102(2); and

15 (iii) a rail authority, as provided in Title 7, chapter 14, part 16, authorized by a board of county
16 commissioners. A levy for the support of a rail authority may not exceed the 6-mill limit established in
17 7-14-1632.

18 (12) The limitation on the amount of taxes levied by a taxing jurisdiction subject to a statutory
19 maximum mill levy does not prevent a taxing jurisdiction from increasing its number of mills beyond the
20 statutory maximum mill levy to produce revenue equal to its 1986 revenue.

21 (13) The limitation on the amount of taxes levied does not apply to a levy increase to repay taxes
22 paid under protest in accordance with 15-1-402.

23 (14) A taxing jurisdiction that included special improvement district revolving fund levies in the
24 limitation on the amount of taxes levied prior to April 22, 1993, may continue to include the amount of the
25 levies within the dollar amount due in each taxing unit for the 1986 tax year even if the necessity for the
26 revolving fund has diminished and the levy authority has been transferred."

27
28 **NEW SECTION. Section 3. Codification instruction.** [Section 1] is intended to be codified as an
29 integral part of Title 15, chapter 10, part 4, and the provisions of Title 15, chapter 10, part 4, apply to
30 [section 1].

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0470, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

An act allowing taxing jurisdictions with decreasing or static property tax revenue to increase mill levies to maintain revenue at the rate of governmental inflation indexes; and providing an effective date.

ASSUMPTIONS:

1. For the purposes of this fiscal note it is assumed that the intent of the proposal is to allow for property tax revenue growth since 1986 to equal an inflation rate as measured by the price index for state and local government purchases. (See technical note number 1)
2. The growth rate in the price index for state and local government purchases from 1986 to 1994 was 30% (See technical note number 2).
3. Total property tax revenues for county governments was \$125,000,000 for tax year 1986 and \$120,600,000 for tax year 1994. (MDOR)
4. Total property tax revenues for city/town governments was \$45,500,000 for tax year 1986 and \$51,630,000 for tax year 1994. (MDOR)
5. Property tax revenue data for other taxing jurisdictions that would be affected by the proposal is not available.

FISCAL IMPACT:


The proposal has no impact on Department of Revenue expenditures or revenues. (See technical note number 3)

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

The impact of the proposal would depend on local governments that qualify for increased mill levies under the proposal exercising their choice to increase mill levies. If all county governments increased mill levies to such a level as allowed under the proposal, the total property tax revenue for county government for tax year 1994 would have been \$162,500,000 ($\$125,000,000 \times 1.30$). This is an increase of 35% over actual 1994 property tax revenues. In many counties property tax revenues decreased from 1986 to 1994 due to moving oil, gas and coal proceeds from the property tax system to the current LGST system (see technical note #4). Only five counties realized a growth in property tax revenue of 30% or greater from 1986 to 1994.

If all city/town governments increased mill levies to such a level as allowed under the proposal, the total property tax revenue for city/town government for tax year 1994 would have been \$59,150,000 ($\$45,500,000 \times 1.30$). This is an increase of 15% over actual 1994 property tax revenues.

(Technical Notes - Page 2)

 2-14-95

DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

SAM KITZENBERG, PRIMARY SPONSOR DATE
Fiscal Note for HB0470, as introduced

HB 470

TECHNICAL NOTES:

1. The language of the proposal is confusing;
 - a) In the first sentence of section 1, the proposal suggests a test that compares the property tax revenue received by a taxing jurisdiction since the 1986 tax year with the rate of inflation. The phrase "property tax revenue received by a taxing jurisdiction since the 1986 tax year" can easily be interpreted to mean the total property tax revenue received since tax year 1986. In that case this value is found by summing the property tax revenues for each year since 1986. This value is an inert value. Once calculated it will neither increase nor decrease.
 - b) Also in the first sentence of section 1, the proposal allows for "additional mills to compensate for the loss in revenue". "Loss in revenue" is never defined.

A possible substitute for the first sentence in section 1 is "If the growth rate in property tax revenue received by a taxing jurisdiction since the 1986 tax year has been less than the rate of inflation, the taxing jurisdiction may levy additional mills to compensate for the difference in growth rate in property tax revenue and inflation".

Likewise, the first sentence of the amendment to 15-10-412(7), MCA, is confusing. A possible substitute is "the growth rate of property tax revenue received since tax year 1986 by the taxing unit is less than the rate of inflation."

2. The proposal does not indicate specifically which index to use in computing an inflation factor. For example, use of the index of the implicit price deflators for gross domestic product will result in a slightly lower measure for inflation than the fixed weight price index for government purchases. The proposal is not clear on which time period to use in computing an inflation factor for an upcoming tax year.
3. This bill will not have an effect on the department if the intent is to codify this new section within either 15-10-203 or 15-10-204. This would require the local taxing jurisdictions to monitor the taxes as compared to the inflation indexes. If the intent is to codify this section in 15-10-202 requiring the department to monitor the tax revenues with the inflation indexes, the department would require additional FTE to make the calculations. This would also result in additional programming changes in MODS.
4. The bill speaks to "property taxes levied in 1986" and "property taxes levied in the current tax year" as if these were comparable terms. Yet between these time periods the property tax base has been changed to the point where this is a true "apples and oranges" comparison. For example, in 1986 the taxable value of oil, natural gas, and coal was included in the property tax base, but was removed in 1990. This had the effect of dramatically reducing "property tax revenues", but at the same time local governments are receiving substantial amounts of revenue from the LGST tax system that today is in lieu of what were once property taxes. To compare the amount of "property taxes" levied today with the amount levied in 1986, without taking into consideration the revenues that local government receive from LGST and Coal Gross Proceeds taxes results in significant distortions in the comparison. This also hold true for the fact that in 1986 business equipment was being taxed at rates of 11, 13, and 16%, but this tax rate was reduced to a uniform 9% in HB20, 1989 special session. However, local

government taxing jurisdictions are today receiving state reimbursements in lieu of the property taxes that were once levied on business equipment at the higher rates. This also tends to distort the comparison between 1986 and today when comparing "property taxes" levied.