HOUSE BILL NO. 528

INTRODUCED BY E. BYRNE, S. KELLY, S. KLAKKEN, K. LOVE, T. SHARP, T. MILLETT, M. DUNWELL

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING PROPERTY TAX RATES; REVISING THE PROPERTY TAX RATES FOR CLASS THREE AGRICULTURAL PROPERTY AND CLASS FOUR RESIDENTIAL AND COMMERCIAL PROPERTY; PROVIDING THAT THE RATE REDUCTIONS MAY NOT REDUCE SCHOOL EQUALIZATION OR UNIVERSITY REVENUE BY MORE THAN $50 MILLION IN 2025; PROVIDING LEGISLATIVE INTENT REGARDING LOCAL GOVERNMENT ADJUSTMENTS TO CERTAIN FIXED MILL LEVIES; REQUIRING A LOCAL GOVERNMENT WITH A FIXED MILL LEVY TO SUPERSEDE A CHARTER MILL LEVY LIMIT; AMENDING SECTIONS 7-1-114, 15-6-133~~, AND~~ 15-6-134, 15-10-109, AND 15-10-420, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

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

Section 1. Section 7-1-114, MCA, is amended to read:

"**7-1-114. Mandatory provisions.** (1) A local government with self-government powers is subject to the following provisions:

(a) all state laws providing for the incorporation or disincorporation of cities and towns, for the annexation, disannexation, or exclusion of territory from a city or town, for the creation, abandonment, or boundary alteration of counties, and for city-county consolidation;

(b) Title 7, chapter 3, part 1;

(c) all laws establishing legislative procedures or requirements for units of local government;

(d) all laws regulating the election of local officials;

(e) all laws that require or regulate planning or zoning;

(f) any law directing or requiring a local government or any officer or employee of a local government to carry out any function or provide any service;

(g) except as provided in subsection (3), any law regulating the budget, finance, or borrowing procedures and powers of local governments;

(h) Title 70, chapters 30 and 31.

(2) These provisions are a prohibition on the self-government unit acting other than as provided.

(3) (a) Notwithstanding the provisions of subsection (1)(g) and except as provided in subsection (3)(b), self-governing local government units are not subject to the mill levy limits established by state law.

(b) The provisions of 15-10-420 apply to self-governing local government units, and expressly override any mill levy limits set forth in the charter."

Section 2. Section 15-6-133, MCA, is amended to read:

"**15-6-133. Class three property -- description -- taxable percentage.** (1) Class three property includes:

(a) agricultural land as defined in 15-7-202;

(b) nonproductive patented mining claims outside the limits of an incorporated city or town held by an owner for the ultimate purpose of developing the mineral interests on the property. For the purposes of this subsection (1)(b), the following provisions apply:

(i) The claim may not include any property that is used for residential purposes, recreational purposes as described in 70-16-301, or commercial purposes as defined in 15-1-101 or any property the surface of which is being used for other than mining purposes or has a separate and independent value for other purposes.

(ii) Improvements to the property that would not disqualify the parcel are taxed as otherwise provided in this title, including that portion of the land upon which the improvements are located and that is reasonably required for the use of the improvements.

(iii) Nonproductive patented mining claim property must be valued as if the land were devoted to agricultural grazing use.

(c) parcels of land of 20 acres or more but less than 160 acres under one ownership that are not eligible for valuation, assessment, and taxation as agricultural land under 15-7-202(1), which are considered to be nonqualified agricultural land. Nonqualified agricultural land may not be devoted to a commercial or industrial purpose. Nonqualified agricultural land is valued at the average productive capacity value of grazing land.

(2) Subject to subsection (3), class three property is taxed at ~~2.16%~~ 1.7% of its productive capacity value.

(3) The taxable value of land described in subsection (1)(c) is computed by multiplying the value of the land by seven times the taxable percentage rate for agricultural land."

Section 3. Section 15-6-134, MCA, is amended to read:

"**15-6-134. Class four property -- description -- taxable percentage.** (1) Class four property includes:

(a) subject to subsection (1)(e), all land, except that specifically included in another class;

(b) subject to subsection (1)(e):

(i) all improvements, including single-family residences, trailers, manufactured homes, or mobile homes used as a residence, except those specifically included in another class;

(ii) appurtenant improvements to the residences, including the parcels of land upon which the residences are located and any leasehold improvements;

(iii) vacant residential lots; and

(iv) rental multifamily dwelling units.

(c) all improvements on land that is eligible for valuation, assessment, and taxation as agricultural land under 15-7-202, including 1 acre of real property beneath improvements on land described in 15-6-133(1)(c). The 1 acre must be valued at market value.

(d) 1 acre of real property beneath an improvement used as a residence on land eligible for valuation, assessment, and taxation as forest land under 15-6-143. The 1 acre must be valued at market value.

(e) all commercial and industrial property, as defined in 15-1-101, and including:

(i) all commercial and industrial property that is used or owned by an individual, a business, a trade, a corporation, a limited liability company, or a partnership and that is used primarily for the production of income;

(ii) all golf courses, including land and improvements actually and necessarily used for that purpose, that consist of at least nine holes and not less than 700 lineal yards;

(iii) commercial buildings and parcels of land upon which the buildings are situated; and

(iv) vacant commercial lots.

(2) If a property includes both residential and commercial uses, the property is classified and appraised as follows:

(a) the land use with the highest percentage of total value is the use that is assigned to the property; and

(b) the improvements are apportioned according to the use of the improvements.

(3) (a) Except as provided in 15-24-1402, 15-24-1501, 15-24-1502, and subsection (3)(b), class four residential property described in subsections (1)(a) through (1)(d) of this section is taxed at ~~1.35%~~ 0.76% of market value.

(b) The tax rate for the portion of the market value of a single-family residential dwelling in excess of $1.5 million is ~~the residential property tax rate in subsection (3)(a) multiplied by 1.4~~ 1.35%.

(c) The tax rate for commercial property is ~~the residential property tax rate in subsection (3)(a) multiplied by 1.4~~ 1.35%.

(4) Property described in subsection (1)(e)(ii) is taxed at one-half the tax rate established in subsection (3)(c)."

SECTION 4. SECTION 15-10-109, MCA, IS AMENDED TO READ:

"**15-10-109. (Temporary) Tax levy for university system.** ~~There~~ Subject to 15-10-420, there is levied upon the taxable value of all real estate and personal property subject to taxation in the state of Montana 6 mills for the continued support, maintenance, and improvement of the Montana university system. The funds raised from the levy must be deposited in the state special revenue fund. (Terminates December 31, 2028--sec. 4, Ch. 73, L. 2017.)"

SECTION 5. 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 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) <u>(a)</u> ~~The~~ <u>Subject to subsection (8)(b), the</u> 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.

(b) For the property tax year beginning January 1, 2025, the department shall calculate, on a statewide basis, the number of mills to be imposed for the purposes of 15-10-109, 20-9-331, 20-9-333, and 20-9-360 that result in a reduction in revenue to the school equalization and property tax reduction account in 20-9-336 and to the state special revenue fund of not more than $50 million. The number of mills calculated by the department pursuant to this subsection (8)(b) must be used in subsequent tax years.

(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(3)(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."

NEW SECTION. **Section 6. Legislative findings -- local government charters and fixed mill levy limits superseded.** (1) (a) The legislature finds that most local governments have transitioned to mill levies that adjust downward when taxable value increases to comply with 15-10-420 revenue limitations. This floating mill levy concept lowers the number of mills levied when property values increase, which mitigates increases in property taxes. However, when mill levies are fixed and property values increase, property taxes are not mitigated for taxpayers that are levied based on a fixed mill levy. Consequently, fixed mill levies prevent the legislature from exercising the power to tax in a manner that is fair and consistent for all taxpayers in the state.

(b) The legislature finds further that it is prohibited under Article VIII, section 2, of the Montana constitution, from suspending or contracting away the power to tax. The legislature also recognizes and respects the power of local governments under Article XI, section 5(1), of the Montana constitution to adopt, amend, revise, or abandon a charter.

(2) As a matter of policy, the legislature intends to supersede local government charters that fix mill levy limits for the limited purpose of exercising the power to tax while also maintaining local government revenue sources without raising taxes on residential taxpayers. Having considered all options on a statewide basis, the legislature finds the statutory structure of the property tax has evolved significantly since the passage of Initiative 105 on November 4, 1986, and the enactment of 15-10-420 by the legislature in 1999. Given the significant change in the structure of the property tax and the rising cost of residential property in the last 5 years, there is a compelling interest to all the citizens of the state to lower residential property tax rates for primary residences in a consistent manner, which can only be accomplished by this section and 15-10-420. These statutory provisions do not preempt, limit or otherwise modify city charter provisions establishing executive, legislative, or administrative structures in accordance with Article XI, section 5(3), of the Montana constitution.

(3) Commencing in fiscal year 2026, the provisions of 15-10-420 apply to and are controlling for all

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self-governing local government units, and any mill levy limits set forth in a self-governing local government's charter are null and void.

(4) Local governments with a voted mill levy authorized as a specific number of mills prior to [the effective date of this act] may, starting in fiscal year 2026, levy the number of mills each successive fiscal year that will generate the amount of property taxes assessed in fiscal year 2025 for the voted mill levy until the taxable value of the local government equals or exceeds the taxable value in fiscal year 2025, then levy the specific number of mills approved by the voters.

NEW SECTION. **Section 7. Codification instruction.** [Section 6] is intended to be codified as an integral part of Title 15, chapter 10, part 4, and the provisions of Title 15, chapter 10, part 4, apply to [section 6].

NEW SECTION. **Section 8. Effective date.** [This act] is effective on passage and approval.

NEW SECTION. **Section 9. Retroactive applicability.** [This act] applies retroactively, within the meaning of 1-2-109, to tax years beginning after December 31, 2024, and to the reappraisal cycle beginning January 1, 2025.

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