

SENATE BILL NO. 184

INTRODUCED BY MANGAN

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4 A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING ALL MUNICIPALITIES AND COUNTIES, BY A VOTE
5 OF THE ELECTORATE, TO ADOPT A LOCAL OPTION SALES TAX ON LUXURY GOODS AND SERVICES;
6 PRECLUDING THE TAXATION OF MEDICINE, ~~AND~~ MEDICAL SUPPLIES, AND LEGAL FORMS OF
7 GAMBLING; PROVIDING THAT LOCAL OPTION SALES TAX REVENUE MAY BE USED FOR ANY PURPOSE
8 REFLECTED IN THE RESOLUTION AUTHORIZING THE LOCAL OPTION SALES TAX; PROHIBITING
9 DOUBLE TAXATION; PROVIDING THAT AN EXISTING RESORT TAX IMPOSED BY A RESORT
10 COMMUNITY, RESORT AREA, OR RESORT AREA DISTRICT ~~REMAINS~~ MAY REMAIN IN EFFECT OR MAY
11 BE DISCONTINUED; REMOVING CERTAIN RESTRICTIONS ON WHAT CONSTITUTES A RESORT AREA
12 OR A RESORT COMMUNITY; CLARIFYING THAT A MILL LEVY REDUCTION RESULTING FROM TAX RELIEF
13 DUE TO IMPOSITION OF A LOCAL OPTION SALES TAX MAY NOT BE REINSTATED WHILE THE TAX IS IN
14 EFFECT WITHOUT AN ELECTION; AMENDING SECTIONS 7-6-1501, ~~7-6-1508~~, ~~7-6-1532~~, 7-7-4424, ~~AND~~
15 ~~7-7-4428~~, AND 15-10-420, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

16
17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

18
19 NEW SECTION. Section 1. Local option sales tax -- definitions. As used in [sections 1 through 8],
20 the following definitions apply:

21 (1) (a) "Luxury goods and services" means any gift item, luxury item, or other item or any service
22 normally sold to the public, ~~and to~~ transient visitors, or tourists, including but not limited to the following:

23 (i) lodging facilities and campgrounds as defined in 15-65-101;

24 (ii) meals prepared either for onsite consumption or to take out;

25 (iii) alcoholic beverages sold by the drink;

26 (iv) rentals of automobiles, boats, snowmobiles, off-highway vehicles, and other vehicles used for travel
27 or recreation;

28 (v) rentals of camping, hunting, fishing, or other recreational equipment;

29 (vi) ski lift tickets ~~at destination resorts~~, hunting and fishing guide services, guided tours, trail rides, and
30 other recreational services and facilities;

1 (vii) admissions for movies, theatrical presentations, exhibits, and sporting events other than
2 school-related events or nonprofit events;

3 (viii) daily fees at golf courses ~~that are not owned by a governmental entity~~;

4 (ix) admissions for water slides, amusement parks, or hot springs or other resorts; and

5 (x) souvenir items.

6 (b) The term does not include MOTOR FUELS, food purchased unprepared or unserved, medicine, medical
7 supplies and services, appliances, hardware supplies and tools, goods used in agricultural production, clothing
8 other than souvenirs, household bedding, and furnishings, or any necessities of life.

9 (2) "Medical supplies" means items that are sold to be used for curative, prosthetic, or medical
10 maintenance purposes, whether or not prescribed by a physician.

11 (3) "Medicine" means substances sold for curative or remedial purposes, including both
12 physician-prescribed and over-the-counter medications.

13

14 **NEW SECTION. Section 2. Local option taxing authority -- specific delegation.** As required by
15 7-1-112, [sections 1 through 8] specifically delegate to the electors of each respective municipality or county the
16 power to authorize their municipality or county to impose a local option sales tax within the county or within the
17 corporate boundary of the municipality.

18

19 **NEW SECTION. Section 3. Limit on local option sales tax rate -- goods and services subject to**
20 **tax.** (1) The rate of the local option sales tax must be established by the election petition or resolution provided
21 for in [section 4]. The rate may not exceed 4%. The tax rate must be applied uniformly to all luxury goods and
22 services subject to the tax.

23 (2) (a) The local option sales tax is a tax on the retail value of all luxury goods and services sold as
24 provided in the petition or resolution. The tax may not be imposed on LEGAL FORMS OF GAMBLING UNDER TITLE 23,
25 CHAPTER 5, medicine, medical supplies, or goods and services sold for resale within the municipality or county.

26 (b) Establishments that sell luxury goods or services, or both, shall collect the sales tax on luxury goods
27 and services subject to the tax.

28

29 **NEW SECTION. Section 4. Local option sales tax -- election required -- procedure -- notice.** (1)
30 A municipality or county may not impose or, except as provided in [section 5], amend or repeal a local option

1 sales tax unless the local option sales tax question has been submitted to the electorate of the municipality or
2 county and approved by a majority of the electors voting on the question.

3 (2) The local option sales tax question may be presented to the electors of:

4 (a) a municipality by a petition of the electors, as provided by 7-1-4130 and 7-5-131 through 7-5-137,
5 or by a resolution of the governing body of the municipality; or

6 (b) a county by a resolution of the board of county commissioners or by a petition of electors as provided
7 in 7-5-131 through 7-5-137.

8 (3) The petition or resolution referring the local option sales tax question must state:

9 (a) the luxury goods and services subject to the local option sales tax;

10 (b) the rate of the local option sales tax;

11 (c) the duration of the local option sales tax, which may not exceed ~~20~~ 10 years;

12 (d) the date when the local option sales tax becomes effective, which may not be earlier than 35 days
13 after the election; and

14 (e) the purposes that may be funded by the local option sales tax revenue.

15 (4) Upon receipt of an adequate petition, the governing body may:

16 (a) call a special election on the local option sales tax question; or

17 (b) have the local option sales tax question placed on the ballot at the next regularly scheduled election.

18 (5) (a) Before the local option sales tax question is submitted to the electorate of a municipality or
19 county, the governing body of the municipality or the board of county commissioners in the county, as applicable,
20 shall publish notice of the luxury goods and services subject to the local option sales tax in a newspaper that
21 meets the qualifications of subsection (5)(b). The notice must be published twice, with at least 6 days separating
22 publications. The first publication must be no more than 30 days prior to the election and the last no less than
23 3 days prior to the election.

24 (b) The newspaper must be:

25 (i) of general, paid circulation with a second-class mailing permit;

26 (ii) published at least once a week; and

27 (iii) published in the county where the election will take place.

28 (6) The question of the imposition of a local option sales tax may not be placed before the electors more
29 than once in any fiscal year.

30

1 **NEW SECTION. Section 5. Local option sales tax administration.** (1) In this section, "governing
2 body" means:

3 (a) the governing body of a municipality; or
4 (b) if the local option sales tax has been approved by the electors of a county, the board of county
5 commissioners.

6 (2) Not less than 30 days prior to the date that the local option sales tax becomes effective, the
7 governing body shall enact an administrative ordinance governing the collection and reporting of the local option
8 sales tax. This administrative ordinance may be amended at any time as may be necessary to effectively
9 administer the local option sales tax.

10 (3) The administrative ordinance must specify:

11 (a) the times that local option sales taxes collected by businesses are to be remitted to the governing
12 body;

13 (b) the office, officer, or employee of the governing body responsible for receiving and accounting for
14 the local option sales tax receipts;

15 (c) the office, officer, or employee of the governing body responsible for enforcing the collection of the
16 local option sales tax and the methods and procedures to be used in enforcing the collection of local option sales
17 taxes due; and

18 (d) the penalties for failure to report local option sales taxes due, failure to remit taxes due, and
19 violations of the administrative ordinance. The penalties may include:

20 (i) criminal penalties not to exceed a fine of \$1,000, imprisonment for 6 months, or both;

21 (ii) civil penalties if the governing body prevails in a suit for the collection of local option sales taxes, not
22 to exceed 50% of the taxes found due plus the costs and attorney fees incurred by the governing body in the
23 action;

24 (iii) revocation of a county or municipal business license held by the offender; and

25 (iv) any other penalties that may be applicable for violation of an ordinance.

26 (4) The administrative ordinance may include:

27 (a) further clarification and specificity in the categories of luxury goods and services that are subject to
28 the local option sales tax consistent with [section 3];

29 (b) authorization for business administration and prepayment discounts. The discount authorization
30 must allow each vendor and commercial establishment to withhold ~~up to 2%~~ A FLAT FEE OR AN AMOUNT NOT TO

1 EXCEED 5% of the local option sales tax collected to defray its costs for the administration of the tax collection.

2 (c) other administrative details necessary for the efficient and effective administration of the tax.

3

4 NEW SECTION. Section 6. Use of local option sales tax revenue -- bond issue -- pledge. (1)

5 Unless otherwise restricted by the voter-approved tax authorization provided for in [section 4], a municipality or
6 county may appropriate and expend revenue derived from a local option sales tax for any activity, undertaking,
7 or administrative service that the municipality or county is authorized by law to perform, including costs resulting
8 from the imposition of the tax. The municipality or county may award grants of local option sales tax revenue
9 to local governments in the counties adjoining the county imposing the tax or in which the municipality is located.

10 (2) A municipality or county may issue bonds to provide, install, or construct any of the public facilities,
11 improvements, or undertakings authorized under 7-7-4101, 7-7-4404, and 7-12-4102. Bonds issued under this
12 section must be authorized by a resolution of the governing body, stating the terms, conditions, and covenants
13 of the municipality or county that the governing body considers appropriate. The bonds may be sold at a discount
14 at a public or private sale.

15 (3) A municipality or county may pledge for repayment of bonds issued under this section the revenue
16 derived from a local option sales tax, special assessments levied for and revenue collected from the facilities,
17 improvements, or undertakings for which the bonds are issued, and any other source of revenue authorized by
18 the legislature to be imposed or collected by the municipality or county. The bonds do not constitute debt for
19 purposes of any statutory debt limitation, provided that in the resolution authorizing the issuance of the bonds,
20 the municipality or county determines that the local option sales tax revenue, special assessments levied for and
21 revenue from the facilities, improvements, or undertakings, or other sources of revenue, if any, pledged to the
22 payment of the bonds will be sufficient in each year to pay the principal and interest of the bonds when due.
23 Bonds may not be issued pledging proceeds of the local option sales tax for repayment unless the municipality
24 or county that adopted the resolution authorizing issuance of the bonds determines that in any fiscal year the
25 annual revenue expected to be derived from the local option sales tax will pay the amount of the principal and
26 interest payable on the bonds and any other outstanding bonds payable from the local option sales tax except
27 any bonds to be refunded upon the issuance of the proposed bonds even if the county in which a municipality
28 is located or other municipalities within a county enact a local option sales tax.

29

30 NEW SECTION. Section 7. Distribution of local option sales tax proceeds. (1) (A) Revenue from

1 a ~~municipal~~ local option sales tax ~~is retained by the municipality~~ MUST BE ALLOCATED AS FOLLOWS:

2 (I) 75% MUST BE ALLOCATED TO THE ENTITY IMPOSING THE TAX;

3 (II) 15% MUST BE ALLOCATED TO THE REGION IN WHICH THE ENTITY IMPOSING THE TAX IS LOCATED; AND

4 (III) 10% MUST BE ALLOCATED TO THE SUBREGION IN WHICH THE ENTITY IMPOSING THE TAX IS LOCATED.

5 (B) LOCAL OPTION SALES TAX REVENUE RECEIVED BY REGION OR SUBREGION MUST BE DISTRIBUTED, AT LEAST
6 QUARTERLY, TO THE ELIGIBLE MUNICIPALITIES AND COUNTIES AND WITHIN THE REGION OR SUBREGION ON A PER CAPITA
7 BASIS. FOR PURPOSES OF DISTRIBUTING THE REVENUE, INDIVIDUALS RESIDING WITHIN A MUNICIPALITY ARE NOT
8 CONSIDERED COUNTY RESIDENTS.

9 (2) A local option sales tax imposed by the county must be levied countywide. ~~The~~ UNLESS OTHERWISE
10 PROVIDED BY AGREEMENTS WITH MUNICIPALITIES, THE county shall, at least quarterly, distribute local option sales
11 tax revenue to the municipalities in the following manner:

12 (a) 50% of the amount of local option sales tax revenue received by the county must be distributed
13 based on population by calculating the ratio of the population of each municipality in the county to the population
14 of the county as derived from the most recent estimates by the U.S. bureau of the census or, if estimates are
15 not available, derived from the most recent federal decennial census; and

16 (b) the remaining 50% of the amount retained by the county must be distributed based on the point of
17 origin of the local option sales tax revenue.

18 (3) (A) For purposes of revenue distribution under this section, a resort community, resort area, or resort
19 area district that has imposed a tax pursuant to Title 7, chapter 6, part 15, must be excluded from the revenue
20 distribution and population calculations.

21 (B) A RESORT COMMUNITY, RESORT AREA, OR RESORT AREA DISTRICT THAT HAS AGREED TO NOT IMPOSE ITS TAX
22 AND BE SUBJECT TO A COUNTY LOCAL OPTION TAX AS PROVIDED IN [SECTION 8(3)] IS ENTITLED TO RECEIVE COUNTY LOCAL
23 OPTION SALES TAX PROCEEDS.

24 (4) FOR THE PURPOSES OF THIS SECTION:

25 (A) REGION 1 CONSISTS OF THE FOLLOWING SUBREGIONS:

26 (I) FLATHEAD AND LINCOLN COUNTIES; AND

27 (II) GRANITE, LAKE, MINERAL, MISSOULA, RAVALLI, AND SANDERS COUNTIES;

28 (B) REGION 2 CONSISTS OF THE FOLLOWING SUBREGIONS:

29 (I) BROADWATER, JEFFERSON, LEWIS AND CLARK, AND MEAGHER COUNTIES;

30 (II) BEAVERHEAD, DEER LODGE, POWELL, AND SILVER BOW COUNTIES; AND

- 1 (III) GALLATIN, MADISON, AND PARK COUNTIES;
 2 (C) REGION 3 CONSISTS OF THE FOLLOWING SUBREGIONS:
 3 (I) CASCADE, CHOUTEAU, FERGUS, GLACIER, JUDITH BASIN, PONDERA, TETON, AND TOOLE COUNTIES; AND
 4 (II) BLAINE, HILL, LIBERTY, AND PHILLIPS COUNTIES;
 5 (D) REGION 4 CONSISTS OF THE FOLLOWING SUBREGIONS:
 6 (I) BIG HORN, CARBON, GOLDEN VALLEY, MUSSELSHELL, PETROLEUM, ROSEBUD, STILLWATER, SWEET GRASS,
 7 TREASURE, WHEATLAND, AND YELLOWSTONE COUNTIES;
 8 (II) DANIELS, GARFIELD, MCCONE, ROOSEVELT, SHERIDAN, AND VALLEY COUNTIES; AND
 9 (III) CARTER, CUSTER, DAWSON, FALLON, POWDER RIVER, PRAIRIE, RICHLAND, AND WIBAUX COUNTIES.

10
 11 NEW SECTION. Section 8. Double taxation prohibited. (1) Except as provided in subsection (2), a
 12 local option sales tax may not be imposed on the same goods or services by more than one local government,
 13 including a resort community, resort area, or resort area district imposing a tax under Title 7, chapter 6, part 15.

14 (2) (a) If both a county and a municipality adopt a local option sales tax, the combined rate may not
 15 exceed 4%. The second entity to adopt the tax is limited to imposing a tax rate that is equal to or less than the
 16 difference between the amount of the existing rate and 4%. If a county adopts a 4% sales tax ON ANY ITEM, no
 17 municipality within the county may impose a local option sales tax ~~and any municipality that imposes a local~~
 18 ~~option sales tax shall repeal the tax without a vote of the electorate~~ ON THAT ITEM. HOWEVER, A MUNICIPALITY
 19 WITHIN A COUNTY MAY IMPOSE A LOCAL OPTION SALES TAX ON ITEMS THAT ARE NOT SUBJECT TO THE COUNTY LOCAL
 20 OPTION SALES TAX, AND THE RATE OF TAX IMPOSED BY THE MUNICIPALITY MAY BE 4% ON THOSE ITEMS. IF A COUNTY
 21 ADOPTS A 4% SALES TAX, A MUNICIPALITY WITHIN THE COUNTY SHALL REPEAL OR AMEND THE MUNICIPAL TAX WITHOUT
 22 A VOTE OF THE ELECTORATE.

23 ~~(b) A county or a municipality that adopts a local option sales tax in an area where a local option sales~~
 24 ~~tax has already been adopted is limited to taxing the same goods and services as are taxed by the first entity~~
 25 ~~to adopt a local option sales tax.~~

26 ~~(c)~~(B) To coordinate two local option sales taxes imposed within the same area, the rate of the local
 27 option sales tax, the goods and services to be taxed, the duration of the tax, and restrictions on the use of tax
 28 revenue may be changed by submitting the question to the electorate of the local government that has an
 29 existing local option sales tax. The ballot question may be submitted contingent upon adoption of a local option
 30 sales tax by another entity. The governing bodies of the municipality and county may, by agreement, establish

1 common administrative procedures for the administration and collection of the tax.

2 (3) A county local option sales tax may not be imposed in an existing resort community, resort area, or
 3 resort area district. HOWEVER, AN EXISTING RESORT COMMUNITY, RESORT AREA, OR RESORT AREA DISTRICT MAY AGREE
 4 TO NOT IMPOSE ITS TAX AND BE SUBJECT TO A COUNTY LOCAL OPTION SALES TAX.

5
 6 **Section 9.** Section 7-6-1501, MCA, is amended to read:

7 **"7-6-1501. Resort tax -- definitions.** As used in 7-6-1501 through 7-6-1509, the following definitions
 8 apply:

9 (1) "Luxuries" means any gift item, luxury item, or other item normally sold to the public or to transient
 10 visitors or tourists. The term does not include food purchased unprepared or unserved, medicine, medical
 11 supplies and services, appliances, hardware supplies and tools, or any necessities of life.

12 (2) "Medical supplies" means items that are sold to be used for curative, prosthetic, or medical
 13 maintenance purposes, whether or not prescribed by a physician.

14 (3) "Medicine" means substances sold for curative or remedial properties, including both physician
 15 prescribed and over-the-counter medications.

16 (4) "Resort area" means an area that:

17 ~~—— (a) is an unincorporated area and is a defined contiguous geographic area;~~

18 ~~—— (b) has a population of less than 2,500 according to the most recent federal census or federal estimate;~~

19 ~~—— (c) derives the major portion of its economic well-being from businesses catering to the recreational and
 20 personal needs of persons traveling to or through the area for purposes not related to their income production;~~

21 and

22 ~~—— (d) has been designated by the department of commerce as a resort area prior to its establishment by~~

23 ~~the county commissioners as provided in 7-6-1508~~ HAS A RESORT TAX IN EFFECT PRIOR TO [THE EFFECTIVE DATE OF
 24 THIS ACT].

25 (5) "Resort community" means a community that:

26 ~~—— (a) is an incorporated municipality;~~

27 ~~—— (b) has a population of less than 5,500 according to the most recent federal census or federal estimate;~~

28 ~~—— (c) derives the primary portion of its economic well-being related to current employment from
 29 businesses catering to the recreational and personal needs of persons traveling to or through the municipality~~

30 ~~for purposes not related to their income production; and~~

1 ~~_____ (d)(b) has been designated by the department of commerce as a resort community~~ HAS A RESORT TAX
 2 IN EFFECT PRIOR TO [THE EFFECTIVE DATE OF THIS ACT]."

3
 4 ~~_____ **Section 10.** Section 7-6-1508, MCA, is amended to read:~~

5 ~~_____ **"7-6-1508. Establishment of a resort area -- taxing authority -- approval by electorate.** (1) (a) The~~
 6 ~~Subject to subsection (1)(b), the establishment of a resort area for the purpose of imposing a resort tax may be~~
 7 ~~initiated by a written petition to the board of county commissioners of the county in which the area is located. The~~
 8 ~~petition must contain a description of the proposed resort area and must be signed by at least 15% of the~~
 9 ~~electors residing in the proposed area.~~

10 ~~_____ (b) A new resort area may not be created in a county that has imposed a local option sales tax as~~
 11 ~~provided in [sections 1 through 8].~~

12 ~~_____ (2) The petition must include a proposal to impose a resort tax within the proposed resort area, including~~
 13 ~~the rate, duration, effective date, and purpose of the tax as provided in 7-6-1504.~~

14 ~~_____ (3) Upon receiving a petition to establish a resort area, the board of county commissioners shall present~~
 15 ~~the question to the electors residing in the proposed resort area as provided in 7-6-1504."~~

16
 17 ~~_____ **Section 11.** Section 7-6-1532, MCA, is amended to read:~~

18 ~~_____ **"7-6-1532. Resort area district authorized.** (1) Electors Except as provided in subsection (2), the~~
 19 ~~electors residing within the boundaries of a resort area may create a resort area district by proceeding under the~~
 20 ~~provisions of 7-6-1531 through 7-6-1550.~~

21 ~~_____ (2) A new resort area district may not be created in a county if the county has imposed a local option~~
 22 ~~sales tax as provided in [sections 1 through 8]."~~

23
 24 **Section 10.** Section 7-7-4424, MCA, is amended to read:

25 **"7-7-4424. Undertakings to be self-supporting.** (1) The governing body of a municipality issuing
 26 bonds pursuant to this part shall prescribe and collect reasonable rates, fees, or charges for the services,
 27 facilities, and commodities of the undertaking and shall revise the rates, fees, or charges from time to time
 28 whenever necessary so that the undertaking is and remains self-supporting. The property taxes specifically
 29 authorized to be levied for the general purpose served by an undertaking, ~~or~~ any resort taxes approved, levied,
 30 and appropriated to an undertaking in compliance with 7-6-1501 through 7-6-1509, and any local option sales

1 taxes approved, levied, and appropriated to an undertaking in compliance with [sections 1 through 8] constitute
2 revenue of the undertaking and may not result in an undertaking being considered not self-supporting.

3 (2) The rates, fees, or charges prescribed, along with any appropriated property or resort tax collections,
4 must produce revenue at least sufficient to:

5 (a) pay when due all bonds and interest on the bonds, the payment of which the revenue has been
6 pledged, charged, or otherwise encumbered, including reserves for the bonds; and

7 (b) provide for all expenses of operation and maintenance of the undertaking, including reserves."
8

9 **Section 11.** Section 7-7-4428, MCA, is amended to read:

10 **"7-7-4428. Covenants in resolution authorizing issuance of bonds.** Any resolution or resolutions
11 authorizing the issuance of bonds under this part may contain covenants as to:

12 (1) the purpose or purposes to which the proceeds of the sale of the bonds may be applied and the
13 disposition of the proceeds;

14 (2) the use and disposition of the revenue of the undertaking for which the bonds are to be issued,
15 including the creation and maintenance of reserves and including the pledge or appropriation of all or a portion
16 of the property and resort tax revenue referred to in 7-7-4424 or local option sales tax revenue referred to in
17 [section 6];

18 (3) the transfer, from the general fund of the municipality to the account or accounts of the undertaking,
19 of an amount equal to the cost of furnishing the municipality or any of its departments, boards, or agencies with
20 the services, facilities, or commodities of the undertaking;

21 (4) the issuance of other or additional bonds payable from the revenue of the undertaking;

22 (5) the operation and maintenance of the undertaking;

23 (6) the insurance to be carried on the undertaking and the use and disposition of insurance money;

24 (7) books of account and the inspection and audit of the books; and

25 (8) the terms and conditions upon which the holders or trustees of the bonds or any proportion of the
26 bonds are entitled to the appointment of a receiver by the district court having jurisdiction. The receiver may:

27 (a) enter and take possession of the undertaking;

28 (b) operate and maintain the undertaking;

29 (c) prescribe rates, fees, or charges, subject to the approval of the public service commission; and

30 (d) collect, receive, and apply all revenue thereafter arising from the undertaking in the same manner

1 as the municipality itself might do."

2

3 **SECTION 12. SECTION 15-10-420, MCA, IS AMENDED TO READ:**

4 **"15-10-420. Procedure for calculating levy.** (1) (a) Subject to the provisions of this section, a
5 governmental entity that is authorized to impose mills may impose a mill levy sufficient to generate the amount
6 of property taxes actually assessed in the prior year plus one-half of the average rate of inflation for the prior 3
7 years. ~~The~~ Subject to subsection (10), the maximum number of mills that a governmental entity may impose is
8 established by calculating the number of mills required to generate the amount of property tax actually assessed
9 in the governmental unit in the prior year based on the current year taxable value, less the current year's value
10 of newly taxable property, plus one-half of the average rate of inflation for the prior 3 years.

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

15 (c) For the purposes of subsection (1)(a), the department shall calculate one-half of the average rate
16 of inflation for the prior 3 years by using the consumer price index, U.S. city average, all urban consumers, using
17 the 1982-84 base of 100, as published by the bureau of labor statistics of the United States department of labor.

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

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

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

23 (b) construction, expansion, or remodeling of improvements;

24 (c) transfer of property into a taxing unit;

25 (d) subdivision of real property; and

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

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

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

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

- 1 (iii) the termination of a tax increment financing district.
- 2 (b) For the purpose of subsection (3)(d), the subdivision of real property includes the first sale of real
3 property that results in the property being taxable as class four property or as nonagricultural land as described
4 in 15-6-133(1)(c).
- 5 (c) For the purposes of this section, newly taxable property does not include an increase in appraised
6 value of land that was previously valued at 75% of the value of improvements on the land, as provided in
7 15-7-111(4) and (5), as those subsections applied on December 31, 2001.
- 8 (5) Subject to subsection (8), subsection (1)(a) does not apply to:
- 9 (a) school district levies established in Title 20; or
- 10 (b) the portion of a governmental entity's property tax levy for premium contributions for group benefits
11 excluded under 2-9-212 or 2-18-703.
- 12 (6) For purposes of subsection (1)(a), taxes imposed do not include net or gross proceeds taxes
13 received under 15-6-131 and 15-6-132.
- 14 (7) In determining the maximum number of mills in subsection (1)(a), the governmental entity may
15 increase the number of mills to account for a decrease in reimbursements.
- 16 (8) The department shall calculate, on a statewide basis, the number of mills to be imposed for
17 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
18 calculated by the department may not exceed the mill levy limits established in those sections. The mill
19 calculation must be established in whole mills. If the mill levy calculation does not result in a whole number of
20 mills, then the calculation must be rounded up to the nearest whole mill.
- 21 (9) (a) The provisions of subsection (1) do not prevent or restrict:
- 22 (i) a judgment levy under 2-9-316, 7-6-4015, or 7-7-2202;
- 23 (ii) a levy to repay taxes paid under protest as provided in 15-1-402; or
- 24 (iii) an emergency levy authorized under 10-3-405, 20-9-168, or 20-15-326.
- 25 (b) A levy authorized under subsection (9)(a) may not be included in the amount of property taxes
26 actually assessed in a subsequent year.
- 27 (10) A mill levy reduction resulting from tax relief due to imposition of a local option sales tax as provided
28 in [sections 1 through 8] may not be reinstated while the local option sales tax is in effect unless the levy
29 increase is approved at an election pursuant to 15-10-425.
- 30 ~~(11)~~ A governmental entity may levy mills for the support of airports as authorized in 67-10-402,

1 67-11-301, or 67-11-302 even though the governmental entity has not imposed a levy for the airport or the
2 airport authority in either of the previous 2 years and the airport or airport authority has not been appropriated
3 operating funds by a county or municipality during that time.

4 ~~(11)~~(12) The department may adopt rules to implement this section. The rules may include a method
5 for calculating the percentage of change in valuation for purposes of determining the elimination of property, new
6 improvements, or newly taxable property in a governmental unit."

7

8 NEW SECTION. **Section 13. Codification instruction.** [Sections 1 through 8] are intended to be
9 codified as an integral part of Title 7, chapter 6, and the provisions of Title 7, chapter 6, apply to [sections 1
10 through 8].

11

12 NEW SECTION. **Section 14. Saving clause.** [This act] does not affect rights and duties that matured,
13 penalties that were incurred, or proceedings that were begun before [the effective date of this act].

14

15 NEW SECTION. **Section 15. Effective date.** [This act] is effective on passage and approval.

16

- END -