

1 SENATE BILL NO. 169

2 INTRODUCED BY J. LASLOVICH

3 BY REQUEST OF THE LAW AND JUSTICE INTERIM COMMITTEE

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT ADJUSTING THE REDUCTION IN THE BASE ENTITLEMENT
6 SHARE, FOR FUNDING RESPONSIBILITIES FOR PUBLIC DEFENDER SERVICES, FOR CASCADE COUNTY,
7 FLATHEAD COUNTY, GALLATIN COUNTY, LEWIS AND CLARK COUNTY, MISSOULA COUNTY, AND
8 YELLOWSTONE COUNTY; AMENDING SECTION 15-1-121, MCA; AND PROVIDING AN IMMEDIATE
9 EFFECTIVE DATE AND AN APPLICABILITY DATE."
10

11 WHEREAS, the Legislature established the statewide Montana public defender system by the passage
12 of Senate Bill No. 146, Chapter 449, Laws of 2005; and

13 WHEREAS, the Legislature provided that funding responsibilities for public defender services through
14 the statewide system will be shared by state and local government and that the counties', consolidated
15 governments', and cities' share of costs will be paid through a reduction in the county's, consolidated
16 government's, or city's base entitlement share under section 15-1-121, MCA; and

17 WHEREAS, the Legislature provided for an audit of the actual costs for public defender services in District
18 Court and Justice's Court proceedings incurred from July 1, 1998, through June 30, 2004, in Cascade County,
19 Flathead County, Gallatin County, Lewis and Clark County, Missoula County, and Yellowstone County and
20 required that the audit results be reported to the Governor's budget office, the Legislative Audit Committee, the
21 Legislative Finance Committee, and the Law and Justice Interim Committee; and

22 WHEREAS, the Legislature directed the Law and Justice Interim Committee to prepare legislation to be
23 introduced in the 2007 legislative session to amend section 15-1-121, MCA, to provide that the base entitlement
24 share for Cascade County, Flathead County, Gallatin County, Lewis and Clark County, Missoula County, and
25 Yellowstone County be adjusted by an appropriate amount arrived at based on the audit and in consultation with
26 the Legislative Audit Committee, the Legislative Finance Committee, representatives of the counties, the
27 Governor's budget office, the American Civil Liberties Union, the Attorney General's office, and all other interested
28 and participating parties; and

29 WHEREAS, the audit was performed and reported as required; and

30 WHEREAS, the Law and Justice Interim Committee, in consultation with interested parties, has

1 determined the appropriate amounts to be used to adjust the base entitlement share for each of the named
2 counties; and

3 WHEREAS, the Law and Justice Interim Committee recommends the adjustments to the base entitlement
4 share for each of the named counties as proposed in this act.

5

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

7

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

9 **"15-1-121. Entitlement share payment -- appropriation.** (1) The amount calculated pursuant to this
10 subsection, as adjusted pursuant to subsection (3)(a)(i), is each local government's base entitlement share. The
11 department shall estimate the total amount of revenue that each local government received from the following
12 sources for the fiscal year ending June 30, 2001:

13 (a) personal property tax reimbursements pursuant to sections 167(1) through (5) and 169(6), Chapter
14 584, Laws of 1999;

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

16 (i) Title 23, chapter 2, part 5;

17 (ii) Title 23, chapter 2, part 6;

18 (iii) Title 23, chapter 2, part 8;

19 (iv) 61-3-317;

20 (v) 61-3-321;

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

23 (vii) Title 61, chapter 3, part 7;

24 (viii) 5% of the fees collected under 61-10-122;

25 (ix) 61-10-130;

26 (x) 61-10-148; and

27 (xi) 67-3-205;

28 (c) gaming revenue pursuant to Title 23, chapter 5, part 6, except for the permit fee in 23-5-612(2)(a);

29 (d) district court fees pursuant to:

30 (i) 25-1-201, except those fees in 25-1-201(1)(d), (1)(g), and (1)(j);

- 1 (ii) 25-1-202;
2 (iii) 25-1-1103;
3 (iv) 25-9-506; and
4 (v) 27-9-103;
5 (e) certificate of title fees for manufactured homes pursuant to 15-1-116;
6 (f) financial institution taxes collected pursuant to the former provisions of Title 15, chapter 31, part 7;
7 (g) all beer, liquor, and wine taxes pursuant to:
8 (i) 16-1-404;
9 (ii) 16-1-406; and
10 (iii) 16-1-411;
11 (h) late filing fees pursuant to 61-3-220;
12 (i) title and registration fees pursuant to 61-3-203;
13 (j) veterans' cemetery license plate fees pursuant to 61-3-459;
14 (k) county personalized license plate fees pursuant to 61-3-406;
15 (l) special mobile equipment fees pursuant to 61-3-431;
16 (m) single movement permit fees pursuant to 61-4-310;
17 (n) state aeronautics fees pursuant to 67-3-101; and
18 (o) department of natural resources and conservation payments in lieu of taxes pursuant to Title 77,
19 chapter 1, part 5.

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

24 (b) The amount estimated pursuant to subsections (1) and (2)(a) is each local government's base year
25 component. The sum of all local governments' base year components is the base year entitlement share pool.
26 For the purpose of calculating the sum of all local governments' base year components, the base year component
27 for a local government may not be less than zero.

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

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

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

5	Beaverhead	\$6,972	
6	Big Horn	\$52,551	
7	Blaine	\$13,625	
8	Broadwater	\$2,564	
9	Carbon	\$11,537	
10	Carter	\$407	
11	Cascade	\$157,151	<u>\$100,000</u>
12	Chouteau	\$3,536	
13	Custer	\$7,011	
14	Daniels	\$143	
15	Dawson	\$3,893	
16	Fallon	\$1,803	
17	Fergus	\$9,324	
18	Flathead	\$33,655	<u>\$100,000</u>
19	Gallatin	\$222,029	<u>\$160,000</u>
20	Garfield	\$91	
21	Glacier	\$3,035	
22	Golden Valley	\$2,282	
23	Granite	\$4,554	
24	Hill	\$31,740	
25	Jefferson	\$5,700	
26	Judith Basin	\$1,487	
27	Lake	\$38,314	
28	Lewis and Clark	\$247,886	<u>\$160,000</u>
29	Liberty	\$152	
30	Lincoln	\$3,759	

1	Madison	\$8,805	
2	McCone	\$1,651	
3	Meagher	\$2,722	
4	Mineral	\$2,361	
5	Missoula	\$172,600	<u>\$200,000</u>
6	Musselshell	\$23,275	
7	Park	\$6,582	
8	Petroleum	\$36	
9	Phillips	\$653	
10	Pondera	\$10,270	
11	Powder River	\$848	
12	Powell	\$5,146	
13	Prairie	\$717	
14	Ravalli	\$93,090	
15	Richland	\$3,833	
16	Roosevelt	\$9,526	
17	Rosebud	\$19,971	
18	Sanders	\$30,712	
19	Sheridan	\$271	
20	Stillwater	\$12,117	
21	Sweet Grass	\$2,463	
22	Teton	\$5,560	
23	Toole	\$7,113	
24	Treasure	\$54	
25	Valley	\$6,899	
26	Wheatland	\$918	
27	Wibaux	\$72	
28	Yellowstone	\$266,644	<u>\$270,000</u>
29	Anaconda-Deer Lodge	\$20,707	
30	Butte-Silver Bow	\$53,057	

1	Alberton	\$675
2	Bainville	\$258
3	Baker	\$2,828
4	Bearcreek	\$143
5	Belgrade	\$11,704
6	Belt	\$1,056
7	Big Sandy	\$1,130
8	Big Timber	\$2,910
9	Billings	\$163,499
10	Boulder	\$2,340
11	Bozeman	\$52,805
12	Bridger	\$1,303
13	Broadus	\$766
14	Broadview	\$258
15	Brockton	\$414
16	Browning	\$1,830
17	Cascade	\$1,374
18	Chester	\$1,430
19	Chinook	\$2,275
20	Choteau	\$3,050
21	Circle	\$1,018
22	Clyde Park	\$572
23	Colstrip	\$4,090
24	Columbia Falls	\$6,805
25	Columbus	\$3,245
26	Conrad	\$4,562
27	Culbertson	\$1,216
28	Cut Bank	\$5,316
29	Darby	\$1,348
30	Deer Lodge	\$5,708

1	Denton	\$503
2	Dillon	\$6,928
3	Dodson	\$194
4	Drummond	\$561
5	Dutton	\$661
6	East Helena	\$2,888
7	Ekalaka	\$689
8	Ennis	\$1,518
9	Eureka	\$1,733
10	Fairfield	\$1,120
11	Fairview	\$1,152
12	Flaxville	\$143
13	Forsyth	\$3,286
14	Fort Benton	\$2,579
15	Fort Peck	\$393
16	Froid	\$328
17	Fromberg	\$855
18	Geraldine	\$457
19	Glasgow	\$5,361
20	Glendive	\$8,099
21	Grass Range	\$254
22	Great Falls	\$96,422
23	Hamilton	\$7,148
24	Hardin	\$5,920
25	Harlem	\$1,422
26	Harlowton	\$1,678
27	Havre	\$16,223
28	Helena	\$45,877
29	Hingham	\$263
30	Hobson	\$397

1	Hot Springs	\$912
2	Hysham	\$482
3	Ismay	\$43
4	Joliet	\$1,006
5	Jordan	\$606
6	Judith Gap	\$263
7	Kalispell	\$28,144
8	Kevin	\$304
9	Laurel	\$10,804
10	Lavina	\$361
11	Lewistown	\$10,170
12	Libby	\$4,475
13	Lima	\$397
14	Livingston	\$12,145
15	Lodge Grass	\$889
16	Malta	\$3,389
17	Manhattan	\$2,485
18	Medicine Lake	\$410
19	Melstone	\$234
20	Miles City	\$14,152
21	Missoula	\$104,264
22	Moore	\$319
23	Nashua	\$536
24	Neihart	\$149
25	Opheim	\$180
26	Outlook	\$125
27	Philipsburg	\$1,612
28	Pinesdale	\$1,413
29	Plains	\$2,007
30	Plentywood	\$3,185

1	Plevna	\$225
2	Polson	\$7,722
3	Poplar	\$1,544
4	Red Lodge	\$3,903
5	Rexford	\$263
6	Richey	\$309
7	Ronan	\$3,262
8	Roundup	\$3,280
9	Ryegate	\$465
10	Saco	\$354
11	Scobey	\$1,798
12	Shelby	\$5,677
13	Sheridan	\$1,150
14	Sidney	\$7,747
15	Stanford	\$737
16	Stevensville	\$3,063
17	St. Ignatius	\$1,367
18	Sunburst	\$709
19	Superior	\$1,521
20	Terry	\$1,011
21	Thompson Falls	\$2,272
22	Three Forks	\$3,130
23	Townsend	\$3,286
24	Troy	\$1,654
25	Twin Bridges	\$695
26	Valier	\$817
27	Virginia City	\$223
28	Walkerville	\$1,183
29	West Yellowstone	\$2,083
30	Westby	\$263

1	White Sulphur Springs	\$1,734
2	Whitefish	\$9,932
3	Whitehall	\$1,889
4	Wibaux	\$893
5	Winifred	\$259
6	Winnett	\$314
7	Wolf Point	\$4,497

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

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

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

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

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

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

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

22 (A) for counties, 54%;

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

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

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

27 (A) for counties, 54%;

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

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

30 (4) As used in this section, "local government" means a county, a consolidated local government, an

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

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

13 (b) (i) The growth amount is the difference between the entitlement share pool in the current fiscal year
14 and the entitlement share pool in the previous fiscal year. For the purposes of subsection (5)(b)(ii)(A), a county
15 with a negative base year component has a base year component of zero. The growth factor in the entitlement
16 share must be calculated separately for:

17 (A) counties;

18 (B) consolidated local governments; and

19 (C) incorporated cities and towns.

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

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

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

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

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

1 (B) 50% of the growth amount must be allocated based upon the percentage that each consolidated local
 2 government's population bears to the state's total population residing within consolidated local governments as
 3 determined by the latest interim year population estimates from the Montana department of commerce as
 4 supplied by the United States bureau of the census.

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

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

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

12 (v) In each fiscal year, the amount of the entitlement share pool not represented by the growth amount
 13 is distributed to each local government in the same manner as the entitlement share pool was distributed in the
 14 prior fiscal year.

15 (6) (a) If a tax increment financing district was not in existence during the fiscal year ending June 30,
 16 2000, then the tax increment financing district is not entitled to any block grant. If a tax increment financing district
 17 referred to in subsection (6)(b) terminates, then the block grant provided for in subsection (6)(b) terminates.

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

21	Cascade	Great Falls - downtown	\$468,966
22	Deer Lodge	TIF District 1	3,148
23	Deer Lodge	TIF District 2	3,126
24	Flathead	Kalispell - District 1	758,359
25	Flathead	Kalispell - District 2	5,153
26	Flathead	Kalispell - District 3	41,368
27	Flathead	Whitefish District	164,660
28	Gallatin	Bozeman - downtown	34,620
29	Lewis and Clark	Helena - #2	731,614
30	Missoula	Missoula - 1-1B & 1-1C	1,100,507

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

4 (7) The estimated base year entitlement share pool and any subsequent entitlement share pool for local
5 governments do not include revenue received from countywide transportation block grants or from countywide
6 retirement block grants.

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

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

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

16 (10) When there has been an underpayment of a local government's share of the entitlement share pool,
17 the department shall distribute the difference between the underpayment and the correct amount of the
18 entitlement share. When there has been an overpayment of a local government's entitlement share, the local
19 government shall remit the overpaid amount to the department.

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

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

25

26 **NEW SECTION. Section 2. Effective date.** [This act] is effective on passage and approval.

27

28 **NEW SECTION. Section 3. Applicability.** [This act] applies to entitlement share payments under
29 15-1-121 made in fiscal year 2007 and subsequent fiscal years. The department of revenue shall adjust the fourth
30 quarterly payments for fiscal year 2007 to reflect the base entitlement share for each county as adjusted in [this

1 act].

2

- END -