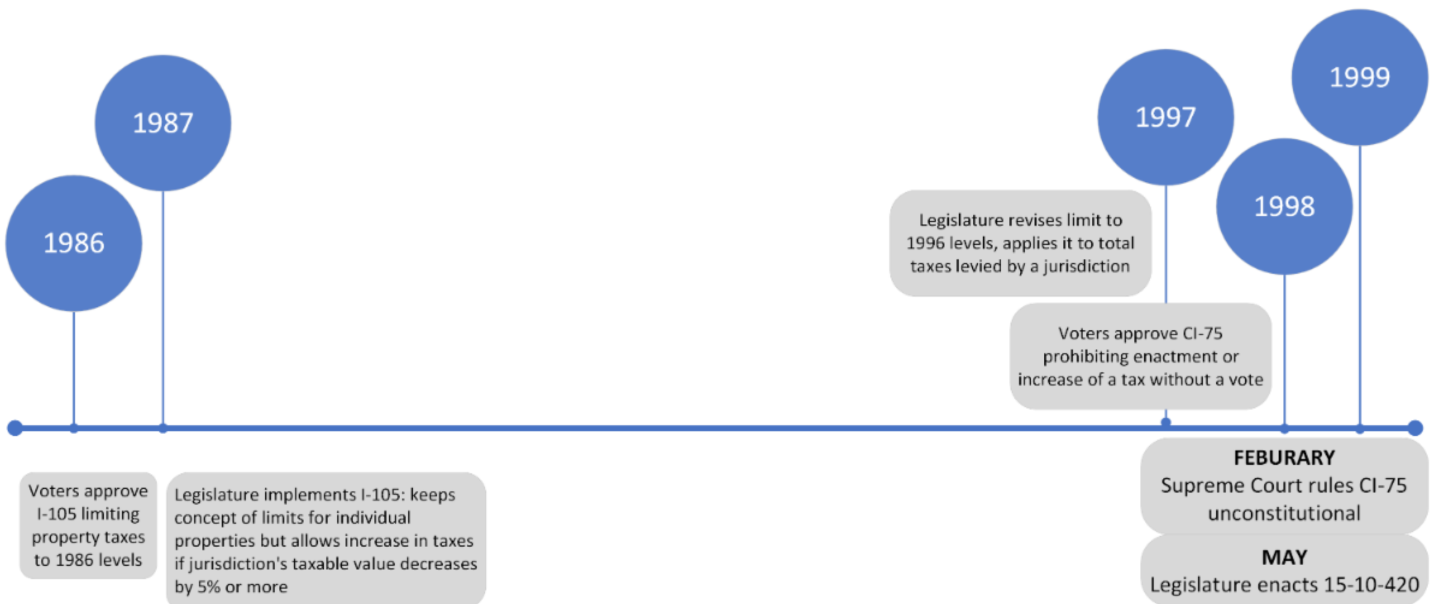
MONTANA LEGISLATURE
OFFICE OF RESEARCH & POLICY ANALYSIS

MAX MILL LEVY: OVERVIEW & HISTORY

REVENUE INTERIM COMMITTEE
MEGAN MOORE - SEPTEMBER 2023

1986 TO 1999: INITIATIVES DRIVE PROPERTY TAX LIMITS

In 1986 and 1998 voters passed initiatives impacting the state's tax policy. The implementation of and reaction to those initiatives led to the creation of 15-10-420.



15-10-420: ROOTS IN I-105, FEW SUBSTANTIVE CHANGES SINCE 2001

While 15-10-420 is often referred to as a limit on property taxes, the section expands the authority of taxing jurisdictions to raise revenue. The limit of a taxing jurisdiction's taxes to 1996 levels still exists in 15-10-402 but that section is subject to 15-10-420, which allows for growth in property tax collections.

1999: ENACTMENT CONTAINS EXISTING AND NEW PROVISIONS

When enacted in 1999, 15-10-420 contained some familiar provisions, from I-105 implementation and 1996 amendments to 15-10-402, but also enacted new concepts.

SUMMARY OF 15-10-420 PROVISIONS WHEN ENACTED IN 1999

Existing Provisions	New Provisions
Description of mill levy calculation for taxing jurisdictions	Requirement to decrease mills for an increase in a statutory adjustment
	Allowance for increase in mills for a decrease in a statutory adjustment
Calculation excludes taxable value of certain property ("newly taxable" in 15-10-420)	Exclusion from calculation for certain school district levies
	Prohibition on state mills exceeding mill levies listed in statute
	Department of Revenue required to calculate state mills

2001: "BIG BILL" AND SB 117 INCLUDE SIGNIFICANT CHANGES

The most significant changes to 15-10-420 occurred in the session after its enactment. House Bill 124, or "The Big Bill," and Senate Bill 117 contained the changes.

The Big Bill revised state and local government revenue collection and allocation laws and created the entitlement share payment. The amendments to 15-10-420 provided an annual inflationary adjustment to a taxing jurisdiction's revenue limit, allowed unused mills to be carried forward, and required state mills to be established in whole mills.

Senate Bill 117 exempted all school district levies from 15-10-420.

> The appendix includes a color-coded history of changes by year.

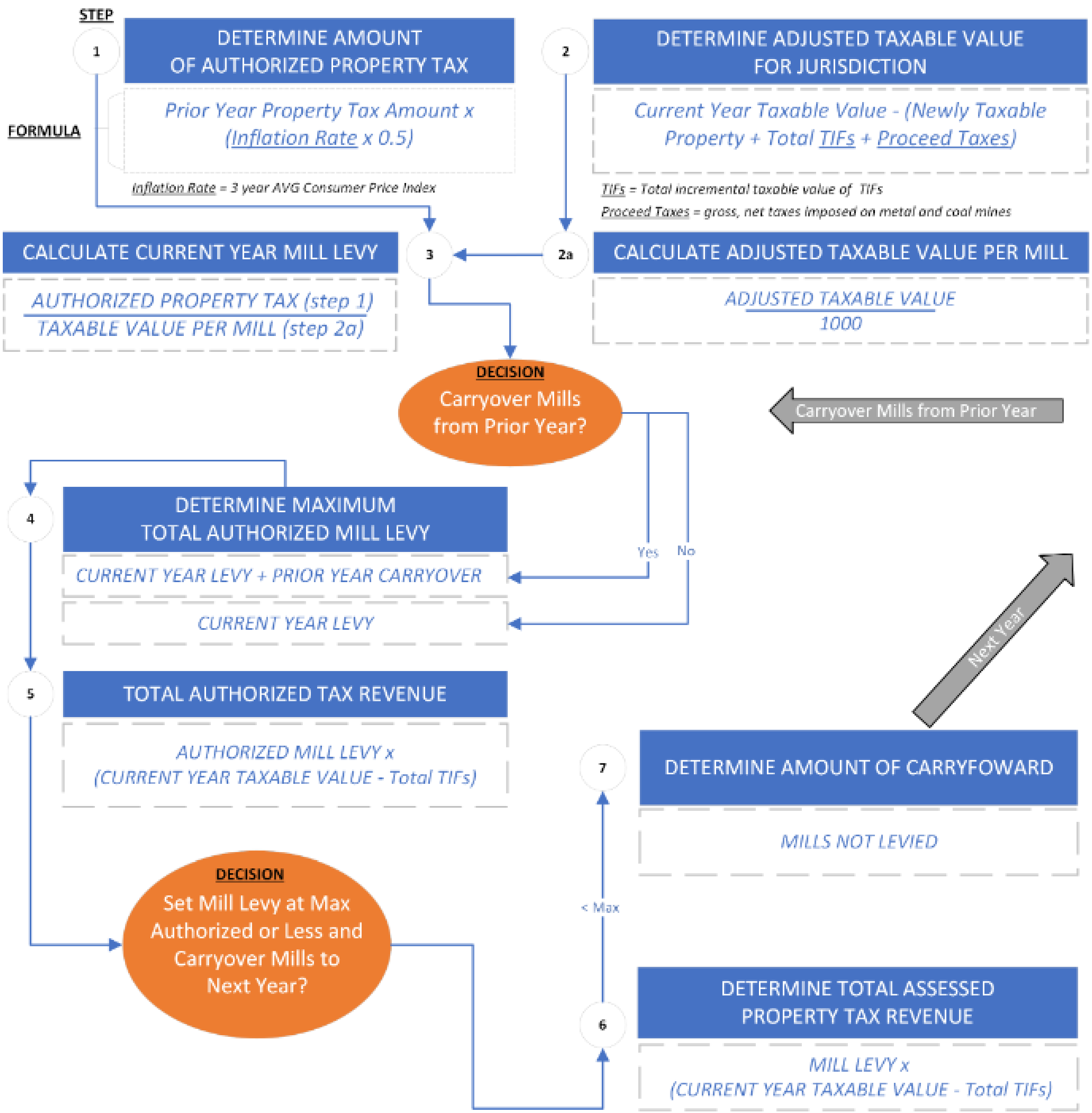
FEW CHANGES SINCE 2001

The changes to 15-10-420 since 2001 mostly include listing levies that are not limited under 15-10-420 and clarifying reimbursement provisions and how to determine newly taxable property.

One noteworthy change is the revision to 15-10-420(8) in 2009 in House Bill 658. The amendment required state mills to be established in tenths of mills rather than whole mills.

HOW 15-10-420 WORKS TODAY

Section 15-10-420 provides direction on how to calculate the maximum mill levy for a taxing jurisdiction subject to the section. The following graphic shows the basic steps for determining the maximum mill levy.



LEGISLATIVE SERVICES DIVISION

TAXING JURISDICTIONS OTHER THAN SCHOOL DISTRICTS SUBJECT TO 15-10-420

Permissive levies for all taxing jurisdictions, except school districts, are subject to 15-10-420. The maximum mill levy calculation does not apply to a levy for the support of a newly established regional resource authority.

The section likely does not apply to voted levies, which are voted as a dollar amount to be raised or a specific number of mills. However, if 15-10-420 is referenced in the ballot language, the section may apply.

NEWLY TAXABLE PROPERTY EXCLUDED FROM MAXIMUM LEVY CALCULATION

When calculating the maximum mill levy, newly taxable property is subtracted from the total taxable value of the taxing jurisdiction. In the next year, the property is included in the total taxable value and the following year's newly taxable property is removed from the calculation. Removing newly taxable value from the maximum mill levy calculation provides additional tax revenue as a taxing jurisdiction grows.

The subtraction of newly taxable property can be traced to the implementation of I-105 in the former 15-10-412. The bill creating 15-10-420 in 1999 contained much of the current language, though amendments in 2001 and 2005 made clarifications about how to treat property value in districts that use tax increment financing (TIF).

Newly taxable property includes:

- annexation or transfer of property into a taxing jurisdiction;
- construction, expansion, or remodeling of improvements;
- subdivision of real property;
- conversion of property from tax-exempt to taxable status; and
- release of taxable value from the incremental taxable value of a district that uses TIF because of the termination of a district, a change in the boundary of the district, or an increase in the base value of the district.

CERTAIN LEVIES NOT RESTRICTED BY 15-10-420

Nine levy types are not prevented or restricted by the maximum mill levy calculation in 15-10-420(1):

- a judgement levy;
- a levy to repay taxes paid under protest;
- an emergency levy;
- a levy for the support of a study commission;
- a levy for the support of a newly established regional resource authority;
- a levy for the amount above the base contribution for a local government's health insurance costs;
- a levy for reimbursing a county for the cost of transferring property records to an adjoining county;
- a levy used to fund the sheriff's retirement system; and
- a levy for an airport authority created before May 7, 2019.

15-10-425: VOTERS MAY APPROVE LEVY ABOVE MAXIMUM

A taxing jurisdiction may exceed the maximum mill levy authorized in 15-10-420 upon the affirmative vote of the qualified electors of the jurisdiction as provided in 15-10-425.

The resolution for the election must include the specific purpose for which the additional money will be used, the specific amount of money to be raised or specific number of mills to be levied, and the durational limit of the levy.

A governing body may reduce an approved levy without losing the authority to levy the full amount or number of mills in a subsequent year.

APPENDIX: COLOR-CODED HISTORY OF 15-10-420

LEGEND

Year of Enactment

1999	2001	2003	2005
2007	2009	2011	2017
2019	2021		

15-10-420. Procedure for calculating levy.[i] (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.[ii] 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.[iii]

(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.[iv]

(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:

(i) that arises because of an increase in the incremental value within a tax increment financing district;[v] or

(ii) caused by the termination of an exemption that occurs due to the American Rescue Plan Act, Public Law 117-2, and section 14, Chapter 506, Laws of 2021.[vi]

(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.[vii]

(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.[viii]

(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.[ix]

(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).[x]

1999: Original bill provided for mill adjustments for changes in statutory reimbursements

(5) Subject to subsection (8), subsection (1)(a) does not apply to:

(a) school district levies established in Title 20; or[xi]

(b) a mill levy imposed for a newly created regional resource authority.[xii]

(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;[xiii] 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).[xiv]

(8) The 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[xv] 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.[xvi]

2001: Enacted as "whole mills"

(9) (a) The provisions of subsection (1) do not prevent or restrict:

(i) a judgment levy under 2-9-316, 7-6-4015,[xvii] 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;[xviii]

2001: Enacted in (5) without reference to base contribution

(iv) a levy for the support of a study commission under 7-3-184;[xix]

(v) a levy for the support of a newly established regional resource authority;[xx]

(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;[xxi]

(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;[xxii]

(viii) a levy used to fund the sheriffs' retirement system under 19-7-404(2)(b);[xxiii] 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.[xxiv]

(b) A levy authorized under subsection (9)(a) may not be included in the amount of property taxes actually assessed in a subsequent year.[xxv]

(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.[xxvi]

(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. *(Subsection (3)(b)(ii) terminates December 31, 2025—sec. 13(5), Ch. 506, L. 2021.)*

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[i] Enacted Senate Bill 184, 1999.
[ii] House Bill 124, 2001.
[iii] House Bill 124 and Senate Bill 265, 2001.
[iv] House Bill 124, 2001.

[v] Senate Bill 345, 2005.
[vi] House Bill 303, 2021.
[vii] House Bill 124, 2001.
[viii] Senate Bill 345, 2005.
[ix] House Bill 658, 2009.
[x] House Bill 124, 2001.
[xi] Senate Bill 117, 2001.
[xii] Senate Bill 8, 2009.
[xiii] House Bill 124, 2001.
[xiv] House Bill 495 and Senate Bill 372, 2011.
[xv] House Bill 658, 2009.
[xvi] House Bill 124, 2001.
[xvii] Senate Bill 31, 2003.
[xviii] House Bill 124, 2001.
[xix] Senate Bill 550, 2007.
[xx] Senate Bill 8, 2009.
[xxi] Enacted House Bill 409, 2001; Amended Senate Bill 491, 2009.
[xxii] Senate Bill 283, 2011.
[xxiii] House Bill 383, 2017.
[xxiv] Senate Bill 334, 2019.
[xxv] House Bill 124, 2001.
[xxvi] House Bill 517, 2003.