

**Background on Limitation on Property Taxes**  
Adequacy of Local Government Revenue Generating Capacity Study  
Prepared for the Revenue and Transportation Interim Committee  
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**Sources of Local Revenue**

More than half (55%) of local revenue in Montana is derived from federal government transfers, state government transfers, and the local share of state taxes. Local taxes account for 26% of local revenue. Tuition and nonutility services contribute 13% of local revenue and the remaining 6% is from interest and miscellaneous sources.<sup>1</sup>

The state taxes of which local governments receive a portion are mostly natural resource taxes. The oil and natural gas production tax is the largest of these revenue sources. In FY 2014, nearly \$96 million went to local governments and school districts, or nearly half of the revenue from the oil and natural gas production tax.<sup>2</sup>

Of the taxes levied by local governments, the property tax accounts for almost 97% of the revenue. Severance and other taxes contribute an additional 1.7%, sales and excise taxes account for 0.8%, and motor vehicle licenses make up 0.6% of revenues.<sup>3</sup>

**Limitation on Property Taxes**

Montana law limits property taxes, which make up about one-quarter of total local government revenue. These property tax limits originated with Initiative 105 (I-105). This section provides a brief overview of I-105 and how current law differs from the initiative. A [legislative history](#) prepared by Douglas J. Young of Montana State University is included as a separate document and covers the history after enactment of I-105 through the year 1996. The paper also discusses actions by the 1987 Legislature to clarify and interpret I-105.

**Initiative 105**

On November 4, 1986, voters approved I-105, which provided that “taxes levied on property classes 3, 4, 6, 9, 12, and 14 could not exceed the amounts levied on those classes of property for the taxable year 1986.” The initiative would not take effect if the 1987 Legislature approved “an act lowering the taxes on the above listed classes of property and establishing alternative revenue sources.” The initiative passed with 166,694 votes for and 136,904 votes against.

Arguments for I-105 indicate an objective to “improve Montana’s economy by freezing property taxes, providing balance to our tax system, generating alternative forms of revenues to fund public services, and stimulating economic development and job creation.” The opponents’ argument agreed with the need for overall tax reform but suggested that the “intricate and complex” tax system “should be altered only with full debate and careful consideration of the impact on other tax revenue.”<sup>4</sup>

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<sup>1</sup> Montana Department of Revenue, “[Biennial Report: July 1, 2012 – June 30, 2014](#),” p. 12.

<sup>2</sup> Montana Department of Revenue, “[Biennial Report: July 1, 2012 – June 30, 2014](#),” p. 13-14, 92.

<sup>3</sup> Montana Department of Revenue, “[Biennial Report: July 1, 2012 – June 30, 2014](#),” p. 14.

<sup>4</sup> “[1986 Voter Information Pamphlet](#),” p. 14-15.

The 1987 Legislature did not approve a policy lowering property taxes and I-105 became law. Two sections of the initiative were codified as the sections indicated below. The 1997 Legislature made significant changes to the sections enacted by I-105 in Senate Bill No. 195 (Ch. 463). The nonhighlighted portions of the sections remain in law today and the comments on the right include language inserted to replace the stricken language.

*Section 15-10-401*

**SECTION 1: Declaration of policy.**

(1) The State of Montana's reliance on the taxation of property to support education and local government has placed an unreasonable burden on the owners of classes three, four, six, nine, twelve, and fourteen property, as those classes are defined in Title 15, ch. 6, part 1.

(2) The legislature's failure to give local governments and local school districts the flexibility to develop alternative sources of revenue will only lead to increases in the tax burden on the already overburdened property taxpayer.

(3) The legislature is the appropriate forum to make the difficult and complex decisions to develop:

- (a) a tax system that is fair to property taxpayers; and
- (b) a method of providing adequate funding for local government and education.

(4) The legislature has failed in its responsibility to taxpayers, education, and local government, to relieve the tax burden on property classes three, four, six, nine, twelve, and fourteen.

(5) The people of the State of Montana declare it is the policy of the State of Montana that no further property tax increases be imposed on property classes three, four, six, nine, twelve, and fourteen.

**Comment [SU1]:** Deleted Ch. 463, L. 1997. Inserted: "all classes of property described in"

**Comment [SU2]:** Deleted Ch. 463, L. 1997.

**Comment [SU3]:** Inserted "Except as provided in 15-10-412," Ch. 463, L. 1997. Reference to 15-10-412 replaced with reference to 15-10-420 in Ch. 584, L. 1999.

**Comment [SU4]:** Deleted Ch. 463, L. 1997. Inserted: "In order to reduce volatility in property taxation and in order to reduce taxpayer uncertainty, it is the policy of the Legislature to develop alternatives to market value for purposes of taxation."

**Comment [SU5]:** Revised catchline to reflect change in limit to 1996 levels.

**Comment [SU6]:** Deleted Ch. 463, L. 1997. Inserted: "in 15-10-420" in Ch. 584, L. 1999.

**Comment [SU7]:** Deleted Ch. 463, L. 1997. Inserted: "Title 15, chapter 6, part 1."

**Comment [SU8]:** Deleted Ch. 463, L. 1997. Inserted: "tax year 1996"

*Section 15-10-402*

**SECTION 2: Property tax limited to 1986 levels.**

(1) Except as provided in subsections (2) and (3), the amount of taxes levied on property described in 15-6-133, 15-6-134, 15-6-136, 15-6-139 [now repealed], 15-6-142 [now repealed], and 15-6-144 [now repealed] may not, for any taxing jurisdiction, exceed the amount levied for taxable year 1986.

(2) the limitation contained in subsection (1) does not apply to levies for rural improvement districts, Title 7, ch. 12, part 21; special improvement districts, Title 7, ch. 12, part 41; or bonded indebtedness.

(3) New construction or improvements to or deletions from property described in subsection (1) is subject to taxation at 1986 levels.

(4) As used in this section, the "amount of taxes levied" and the "amount levied" mean the actual dollar amount of taxes imposed on an individual piece of property, notwithstanding an increase or decrease in value due to inflation, reappraisal, adjustments in the percentage multiplier used to convert appraised value to taxable value, changes in the number of mills levied, or increase or decrease in the value of a mill.

**Comment [SU9]:** Deleted Ch. 463, L. 1997.

### *Effective Dates*

Section 3 of I-105 contained the contingent effective date. The contingency was not met and the initiative went into effect July 1, 1987. Because Section 3 is an effective date, it was not codified but the text appears in the annotations for Title 15, chapter 10, part 4.

### SECTION 3: Contingent effective date.

(1) Except as provided in subsection (2), this act is effective July 1, 1987, and applies to taxable year 1987.

(2) This act will not become effective if, prior to July 1, 1987, an act is passed and approved that:

(a) states that it is being enacted in response to this initiative;

(b) reduces property tax on a statewide basis on property described in 15-6-133, 15-6-134, 15-6-136, 15-6-139 [now repealed], 15-6-142 [now repealed], and 15-6-144 [now repealed]; and

(c) establishes alternative revenue sources to replace revenue lost to local governments, school districts, the university system, and other property taxing jurisdictions as a result of the reduced property taxes.

### 1997 Changes to Limits

The 1997 Legislature changed the limit on property taxes from a limit to 1986 levels to a limit to 1996 levels. The limit in place prior to 1997 applied to an individual property so that the taxes paid for a property were capped at the dollar amount due in each taxing unit for tax year 1986. Exceptions to this limit existed for an increase in taxable value due to a revaluation caused by cyclical reappraisal, construction or remodeling of improvements, subdivision of property, reclassification of property, transfer from tax-exempt to taxable status, and transfer of property into a taxing unit.<sup>5</sup> When the 1997 Legislature revised the property tax limit to 1996 levels, it also replaced the dollar limit for individual properties with a limit on the total dollar amount of taxes levied by the taxing unit in 1996.

### 1999 Enactment of Section 15-10-420

The 1999 Legislature enacted a number of revisions to property tax laws in [Senate Bill No. 184](#) (Ch. 584). The bill included the repeal of section 15-10-412, which contained the details of the property tax limitations, and its replacement with a new section, [15-10-420](#). This section outlines the procedure for calculating a levy and, at the time of enactment in 1999, the procedure allowed a governmental entity authorized to impose mills to impose a mill levy sufficient to generate the amount of property taxes actually assessed in the prior year even if the levy was greater than the levy established by law, which was the 1996 level.

Section 15-10-420 now contains an inflationary adjustment, which the 2001 Legislature enacted in [Senate Bill No. 124](#) (Ch. 574 or "The Big Bill"). The inflationary adjustment is one-half the average rate of inflation for the prior 3 years.

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<sup>5</sup> Section 15-10-412. Enacted Ch. 654, L. 1987, and amended in 1989, 1991, 1993, and 1997. See Douglas J. Young, "[Montana Property Taxes Since Initiative 105 \(1996 Update\)](#)" for a summary of the changes.