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**** Bill No. ****

Introduced By *****

By Request of the Law and Justice Interim Committee

A Bill for an Act entitled: "An Act adjusting the reduction in the base entitlement share, for funding responsibilities for public defender services, for Cascade County, Flathead County, Gallatin County, Lewis and Clark County, Missoula County, and Yellowstone County; amending section 15-1-121, MCA; and providing an immediate effective date and an applicability date."

WHEREAS, the Legislature established the statewide Montana Public Defender system by the passage of Senate Bill No. 146, Ch. 449, L. 2005; and

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

WHEREAS, the Legislature provided for an audit of the actual costs for public defender services in district court and

Unofficial Draft Copy

As of:

LC8888

justice's court proceedings incurred from July 1, 1998, through June 30, 2004, in Cascade County, Flathead County, Gallatin County, Lewis and Clark County, Missoula County, and Yellowstone County and required that the audit results be reported to the Governor's budget office, the Legislative Audit Committee, the Legislative Finance Committee, and the Law and Justice Interim Committee; and

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

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

WHEREAS, the Law and Justice Interim Committee, in consultation with interested parties, has determined the appropriate amounts to be used to adjust the base entitlement

2LC 8888

As of:

LC8888

share for each of the named counties; and

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

Be it enacted by the Legislature of the State of Montana:

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

"15-1-121. Entitlement share payment -- appropriation. (1)

The amount calculated pursuant to this subsection, as adjusted pursuant to subsection (3)(a)(i), is each local government's base entitlement share. The department shall estimate the total amount of revenue that each local government received from the following sources for the fiscal year ending June 30, 2001:

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

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

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

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

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

(iv) 61-3-317;

(v) 61-3-321;

Unofficial Draft Copy

As of:

LC8888

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

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

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

(ix) 61-10-130;

(x) 61-10-148; and

(xi) 67-3-205;

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

(d) district court fees pursuant to:

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

(ii) 25-1-202;

(iii) 25-1-1103;

(iv) 25-9-506; and

(v) 27-9-103;

(e) certificate of title fees for manufactured homes pursuant to 15-1-116;

(f) financial institution taxes collected pursuant to the former provisions of Title 15, chapter 31, part 7;

(g) all beer, liquor, and wine taxes pursuant to:

(i) 16-1-404;

(ii) 16-1-406; and

4LC 8888

As of:

LC8888

- (iii) 16-1-411;
- (h) late filing fees pursuant to 61-3-220;
- (i) title and registration fees pursuant to 61-3-203;
- (j) veterans' cemetery license plate fees pursuant to 61-3-459;
- (k) county personalized license plate fees pursuant to 61-3-406;
- (l) special mobile equipment fees pursuant to 61-3-431;
- (m) single movement permit fees pursuant to 61-4-310;
- (n) state aeronautics fees pursuant to 67-3-101; and
- (o) department of natural resources and conservation payments in lieu of taxes pursuant to Title 77, chapter 1, part 5.

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

(b) The amount estimated pursuant to subsections (1) and (2) (a) is each local government's base year component. The sum of all local governments' base year components is the base year entitlement share pool. For the purpose of calculating the sum of

As of:

LC8888

all local governments' base year components, the base year component for a local government may not be less than zero.

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

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

Beaverhead	\$6,972
Big Horn	\$52,551
Blaine	\$13,625
Broadwater	\$2,564
Carbon	\$11,537
Carter	\$407
Cascade	\$157,151 <u>\$100,000</u>
Chouteau	\$3,536
Custer	\$7,011
Daniels	\$143

Unofficial Draft Copy

As of:

LC8888

Dawson	\$3,893	
Fallon	\$1,803	
Fergus	\$9,324	
Flathead	\$33,655	<u>\$100,000</u>
Gallatin	\$222,029	<u>\$160,000</u>
Garfield	\$91	
Glacier	\$3,035	
Golden Valley	\$2,282	
Granite	\$4,554	
Hill	\$31,740	
Jefferson	\$5,700	
Judith Basin	\$1,487	
Lake	\$38,314	
Lewis and Clark	\$247,886	<u>\$160,000</u>
Liberty	\$152	
Lincoln	\$3,759	
Madison	\$8,805	
McCone	\$1,651	
Meagher	\$2,722	
Mineral	\$2,361	
Missoula	\$172,600	<u>\$200,000</u>
Musselshell	\$23,275	
Park	\$6,582	

7LC 8888

Unofficial Draft Copy

As of:

LC8888

Petroleum \$36

Phillips \$653

Pondera \$10,270

Powder River \$848

Powell \$5,146

Prairie \$717

Ravalli \$93,090

Richland \$3,833

Roosevelt \$9,526

Rosebud \$19,971

Sanders \$30,712

Sheridan \$271

Stillwater \$12,117

Sweet Grass \$2,463

Teton \$5,560

Toole \$7,113

Treasure \$54

Valley \$6,899

Wheatland \$918

Wibaux \$72

Yellowstone ~~\$266,644~~ \$270,000

Anaconda-Deer Lodge \$20,707

Butte-Silver Bow \$53,057

8LC 8888

Unofficial Draft Copy

As of:

LC8888

Alberton \$675

Bainville \$258

Baker \$2,828

Bearcreek \$143

Belgrade \$11,704

Belt \$1,056

Big Sandy \$1,130

Big Timber \$2,910

Billings \$163,499

Boulder \$2,340

Bozeman \$52,805

Bridger \$1,303

Broadus \$766

Broadview \$258

Brockton \$414

Browning \$1,830

Cascade \$1,374

Chester \$1,430

Chinook \$2,275

Choteau \$3,050

Circle \$1,018

Clyde Park \$572

Colstrip \$4,090

9LC 8888

Unofficial Draft Copy

As of:

LC8888

Columbia Falls \$6,805

Columbus \$3,245

Conrad \$4,562

Culbertson \$1,216

Cut Bank \$5,316

Darby \$1,348

Deer Lodge \$5,708

Denton \$503

Dillon \$6,928

Dodson \$194

Drummond \$561

Dutton \$661

East Helena \$2,888

Ekalaka \$689

Ennis \$1,518

Eureka \$1,733

Fairfield \$1,120

Fairview \$1,152

Flaxville \$143

Forsyth \$3,286

Fort Benton \$2,579

Fort Peck \$393

Froid \$328

10LC 8888

Unofficial Draft Copy

As of:

LC8888

Fromberg \$855

Geraldine \$457

Glasgow \$5,361

Glendive \$8,099

Grass Range \$254

Great Falls \$96,422

Hamilton \$7,148

Hardin \$5,920

Harlem \$1,422

Harlowton \$1,678

Havre \$16,223

Helena \$45,877

Hingham \$263

Hobson \$397

Hot Springs \$912

Hysham \$482

Ismay \$43

Joliet \$1,006

Jordan \$606

Judith Gap \$263

Kalispell \$28,144

Kevin \$304

Laurel \$10,804

11LC 8888

Unofficial Draft Copy

As of:

LC8888

Lavina	\$361
Lewistown	\$10,170
Libby	\$4,475
Lima	\$397
Livingston	\$12,145
Lodge Grass	\$889
Malta	\$3,389
Manhattan	\$2,485
Medicine Lake	\$410
Melstone	\$234
Miles City	\$14,152
Missoula	\$104,264
Moore	\$319
Nashua	\$536
Neihart	\$149
Opheim	\$180
Outlook	\$125
Philipsburg	\$1,612
Pinesdale	\$1,413
Plains	\$2,007
Plentywood	\$3,185
Plevna	\$225
Polson	\$7,722

12LC 8888

Unofficial Draft Copy

As of:

LC8888

Poplar	\$1,544
Red Lodge	\$3,903
Rexford	\$263
Richey	\$309
Ronan	\$3,262
Roundup	\$3,280
Ryegate	\$465
Saco	\$354
Scobey	\$1,798
Shelby	\$5,677
Sheridan	\$1,150
Sidney	\$7,747
Stanford	\$737
Stevensville	\$3,063
St. Ignatius	\$1,367
Sunburst	\$709
Superior	\$1,521
Terry	\$1,011
Thompson Falls	\$2,272
Three Forks	\$3,130
Townsend	\$3,286
Troy	\$1,654
Twin Bridges	\$695

13LC 8888

Unofficial Draft Copy

As of:

LC8888

Valier \$817

Virginia City \$223

Walkerville \$1,183

West Yellowstone \$2,083

Westby \$263

White Sulphur Springs \$1,734

Whitefish \$9,932

Whitehall \$1,889

Wibaux \$893

Winifred \$259

Winnett \$314

Wolf Point \$4,497

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

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

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

(iii) The department shall calculate the average annual growth rate of Montana personal income, as published by the bureau of economic analysis of the United States department of

As of:

LC8888

commerce, for the following periods:

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

(B) the 4 calendar years beginning with the year before the first year in the period referred to in subsection

(3) (a) (iii) (A).

(b) (i) The entitlement share pool growth rate for the first year of the biennium must be the following percentage of the average of the growth rates calculated in subsections

(3) (a) (ii) (B) and (3) (a) (iii) (B):

(A) for counties, 54%;

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

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

(ii) The entitlement share pool growth rate for the second year of the biennium must be the following percentage of the average of the growth rates calculated in subsections

(3) (a) (ii) (A) and (3) (a) (iii) (A):

(A) for counties, 54%;

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

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

(4) As used in this section, "local government" means a county, a consolidated local government, an incorporated city, and an incorporated town. A local government does not include a

As of:

LC8888

tax increment financing district provided for in subsection (6).

For purposes of calculating the base year component for a county or consolidated local government, the department shall include the revenue listed in subsection (1) for all special districts within the county or consolidated local government. The county or consolidated local government is responsible for making an allocation from the county's or consolidated local government's share of the entitlement share pool to each special district within the county or consolidated local government in a manner that reasonably reflects each special district's loss of revenue sources listed in subsection (1).

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

(b) (i) The growth amount is the difference between the entitlement share pool in the current fiscal year and the entitlement share pool in the previous fiscal year. For the

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As of:

LC8888

purposes of subsection (5) (b) (ii) (A), a county with a negative base year component has a base year component of zero. The growth factor in the entitlement share must be calculated separately for:

- (A) counties;
- (B) consolidated local governments; and
- (C) incorporated cities and towns.

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

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

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

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

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

17LC 8888

As of:

LC8888

and

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

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

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

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

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

(6) (a) If a tax increment financing district was not in

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As of:

LC8888

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

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

Cascade Great Falls - downtown \$468,966

Deer Lodge TIF District 1 3,148

Deer Lodge TIF District 2 3,126

Flathead Kalispell - District 1 758,359

Flathead Kalispell - District 2 5,153

Flathead Kalispell - District 3 41,368

Flathead Whitefish District 164,660

Gallatin Bozeman - downtown 34,620

Lewis and Clark Helena -

2 731,614

Missoula Missoula - 1-1B & 1-1C 1,100,507

Missoula Missoula - 4-1C 33,343

Silver Bow Butte - uptown 283,801

19LC 8888

As of:

LC8888

Yellowstone Billings 436,815

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

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

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

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

(10) When there has been an underpayment of a local government's share of the entitlement share pool, the department shall distribute the difference between the underpayment and the

As of:

LC8888

correct amount of the entitlement share. When there has been an overpayment of a local government's entitlement share, the local government shall remit the overpaid amount to the department.

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

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

{Internal References to 15-1-121:

ok 15-1-120

ok 17-4-105

ok 17-7-502

ok 77-1-504}

NEW SECTION.Section 2. {standard} Effective date. [This act] is effective on passage and approval.

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

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{Name : Valencia Lane
Title : Staff Attorney
Agency : LSD
Phone : 444-4025 }