

Governor's Property Tax Advisory Council
Education Subcommittee
February 28, 2024

Agenda

- **Call to Order**
- **Opening Remarks**
- **State and Local K-12 Education Revenue Sources**
- **Identification of Options for Tax Policy Change**
- **Requests for Additional Information**
- **Work Plan**
- **Public Comment**
- **Adjourn**

A scenic mountain landscape with snow patches and purple flowers in the foreground. The background shows rugged mountains with patches of snow under a cloudy sky. The foreground is a field of green grass and purple flowers.

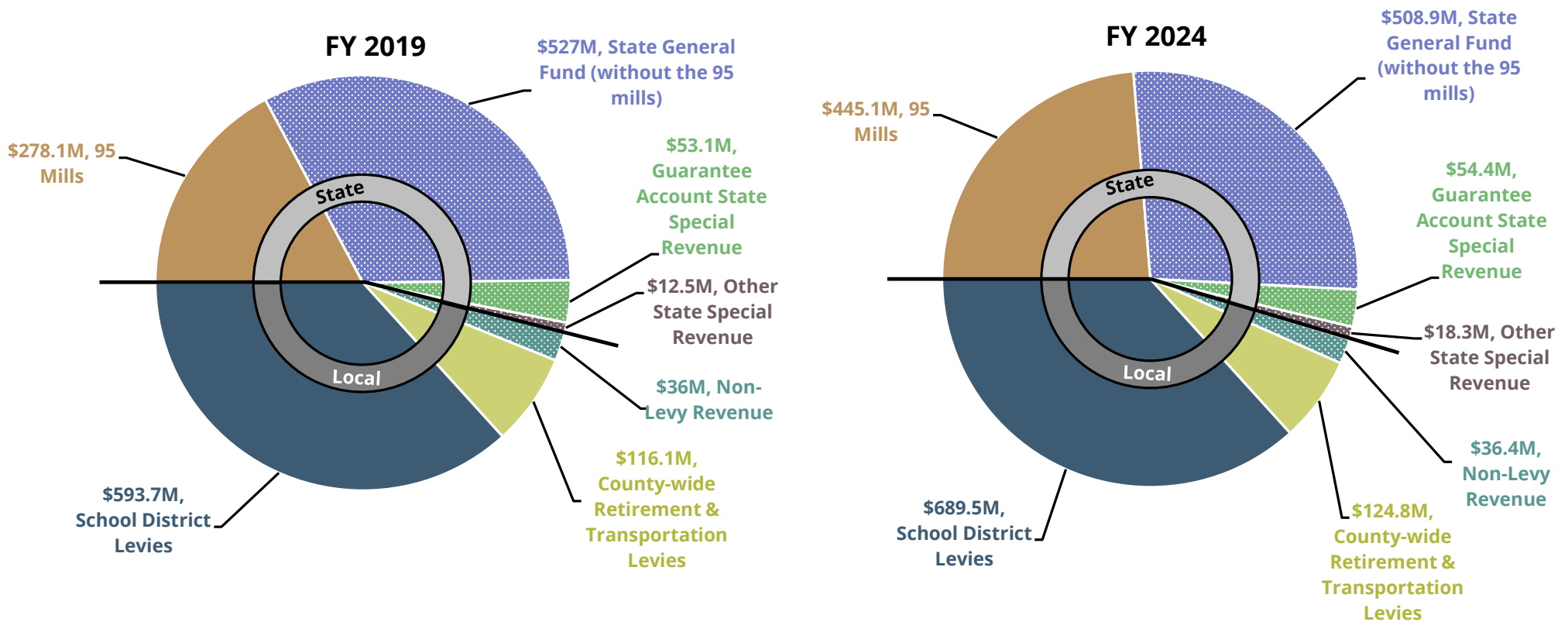
K-12 Revenue Sources

**Governor's Property Tax Advisory Council
Education Subcommittee**

February 28, 2024

State & Local Revenue Sources FY 2019 vs. FY 2024 Comparison

This graphic includes school funding from the state and local (county & school district) sources. It does not include federal funds for education. "Other State Special Revenue" includes state major maintenance aid, debt service assistance, traffic safety education, comprehensive school and community treatment, etc. Fund balance reappropriated within school district funds were not included in these charts.

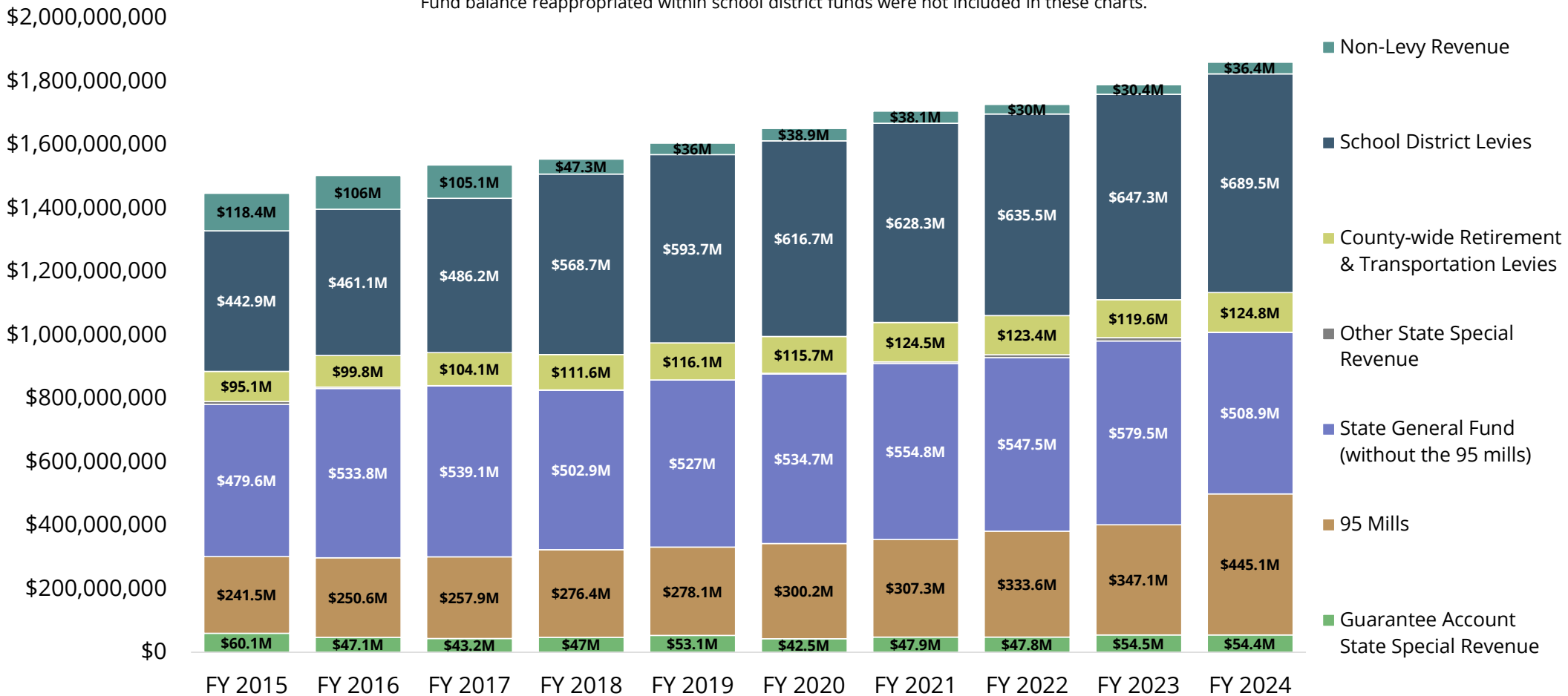


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State & Local Revenue Sources Timeline

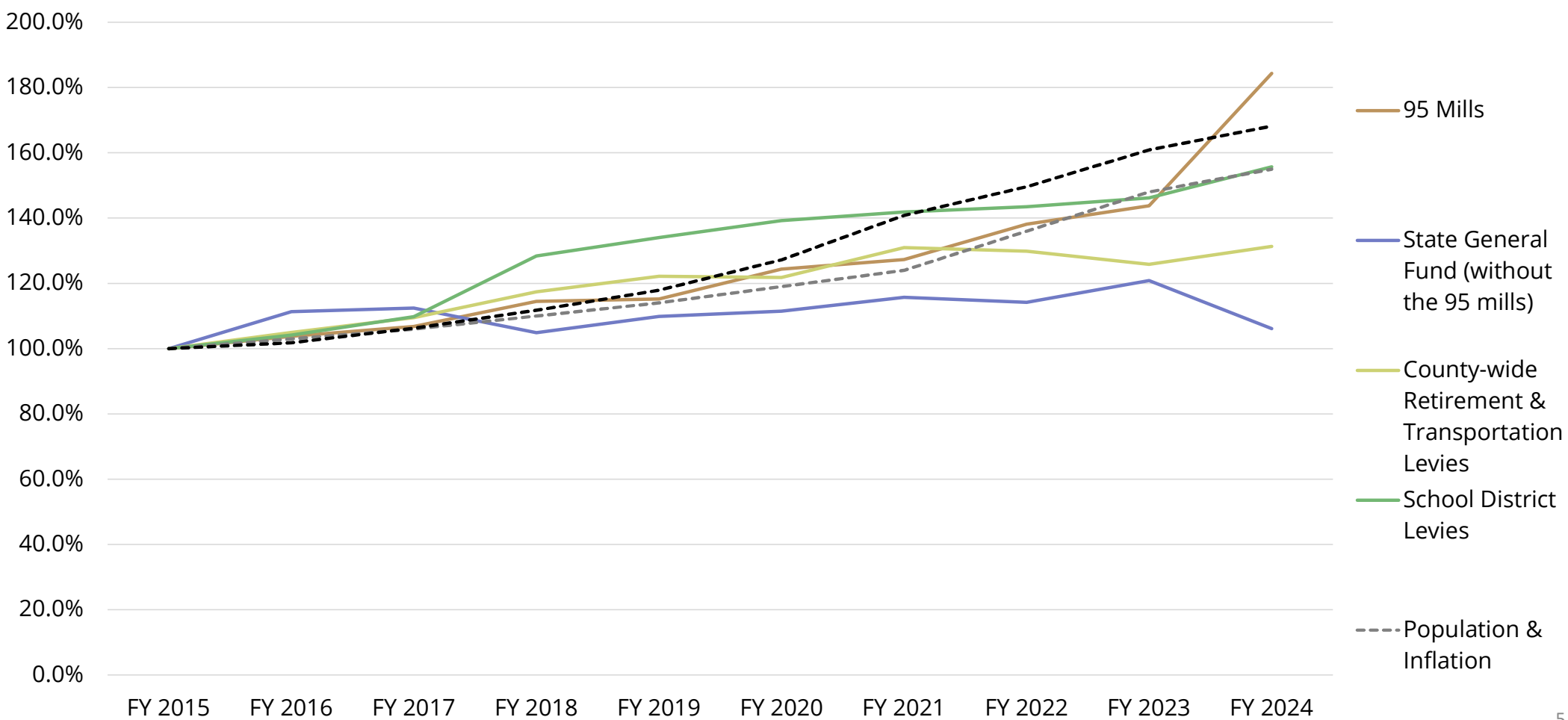
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State & Local Revenue Sources

Growth Rates of Property Tax Levies & the State General Fund

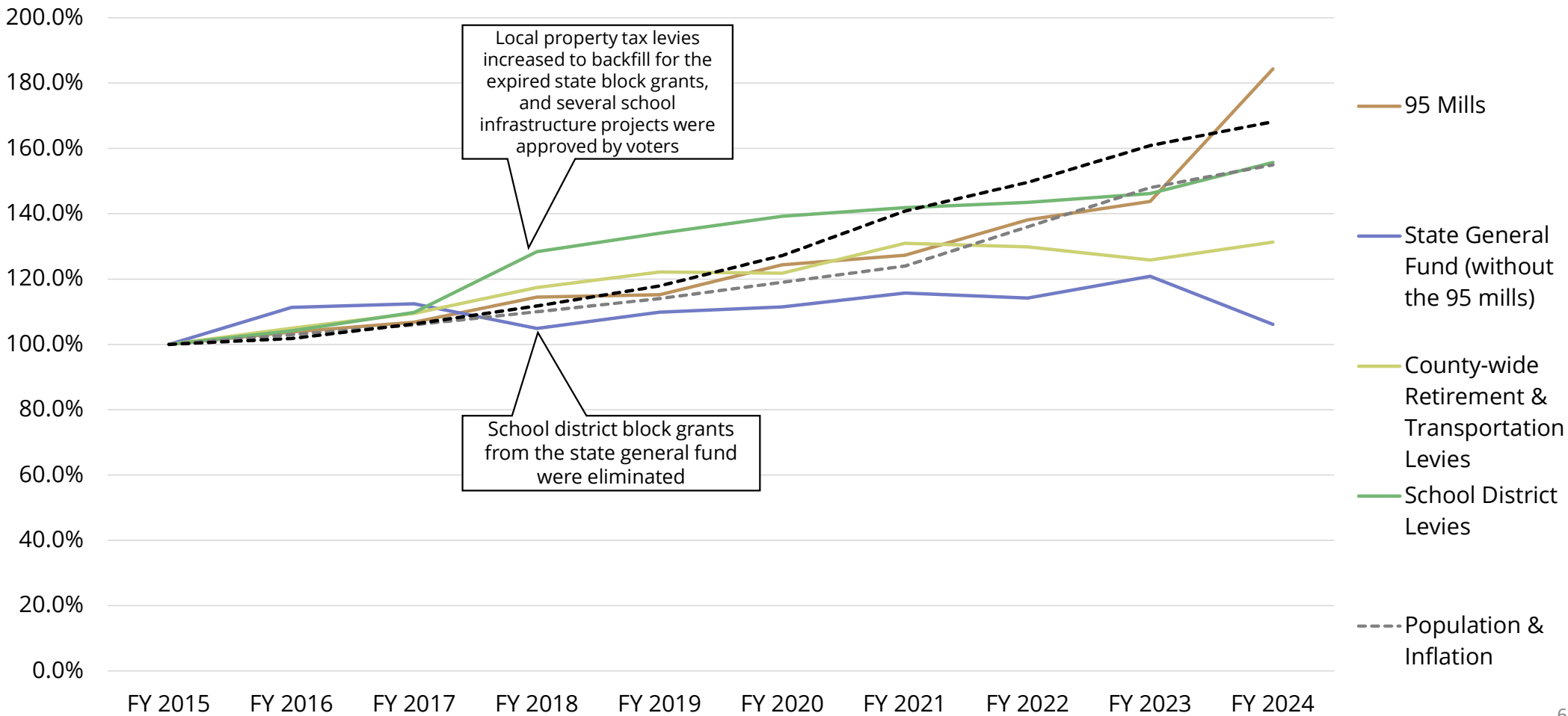
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State & Local Revenue Sources

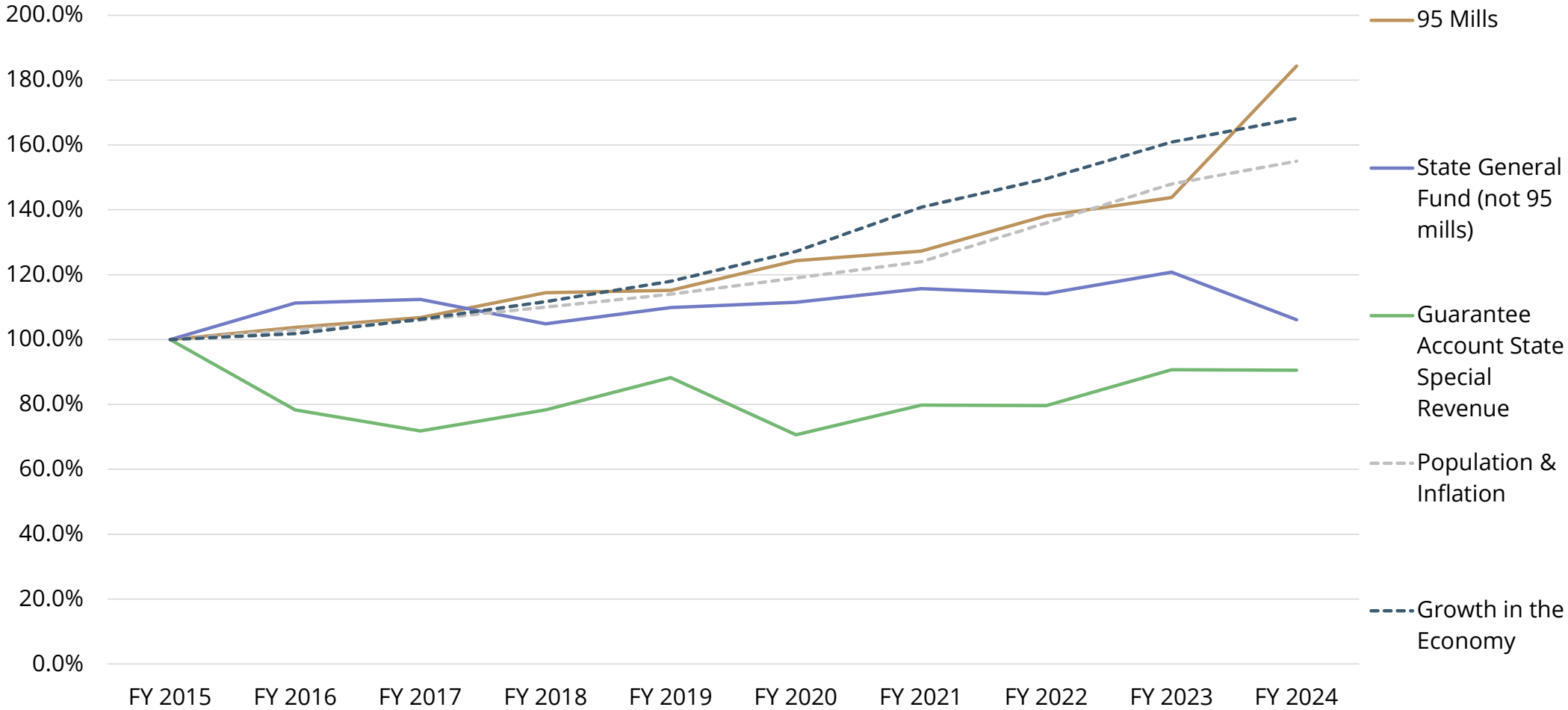
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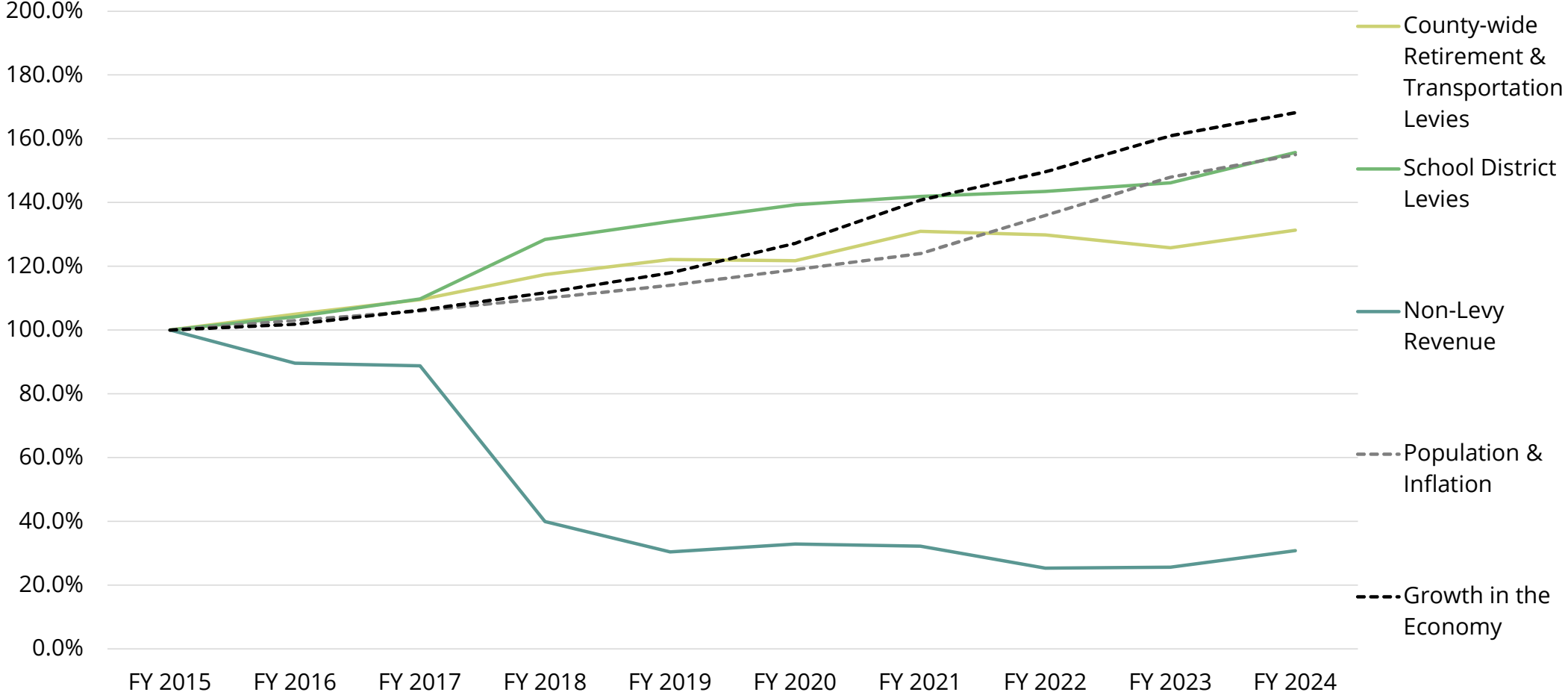
State Revenue Sources Growth Rates

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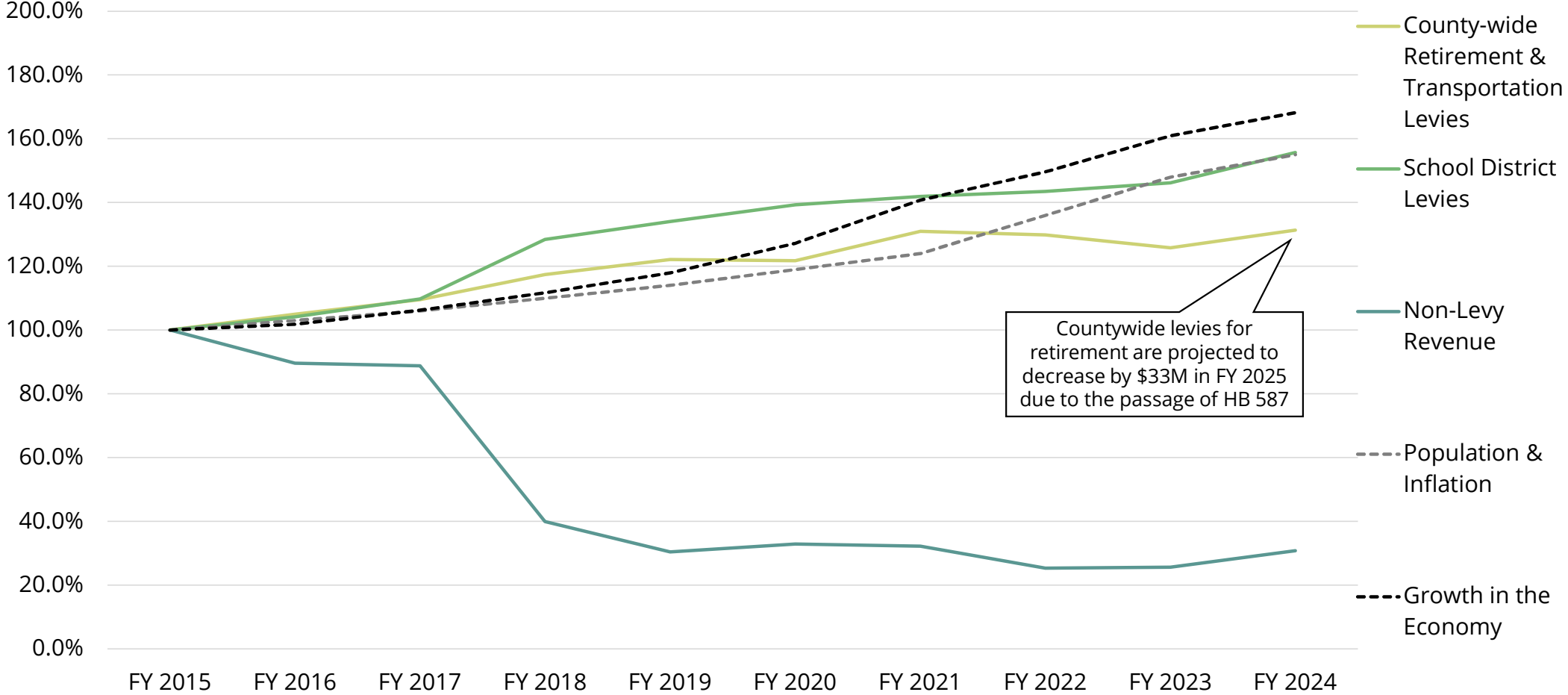
Local Revenue Sources Growth Rates

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Countywide levies for retirement are projected to decrease by \$33M in FY 2025 due to the passage of HB 587

A scenic photograph of a sunset over a mountain range. The sun is a bright, multi-pointed star in the center of the sky, casting a warm glow. The sky transitions from a deep orange near the horizon to a dark purple at the top. The mountains in the foreground are silhouetted against the bright sky, with some peaks catching the low light of the setting sun. The overall mood is serene and majestic.

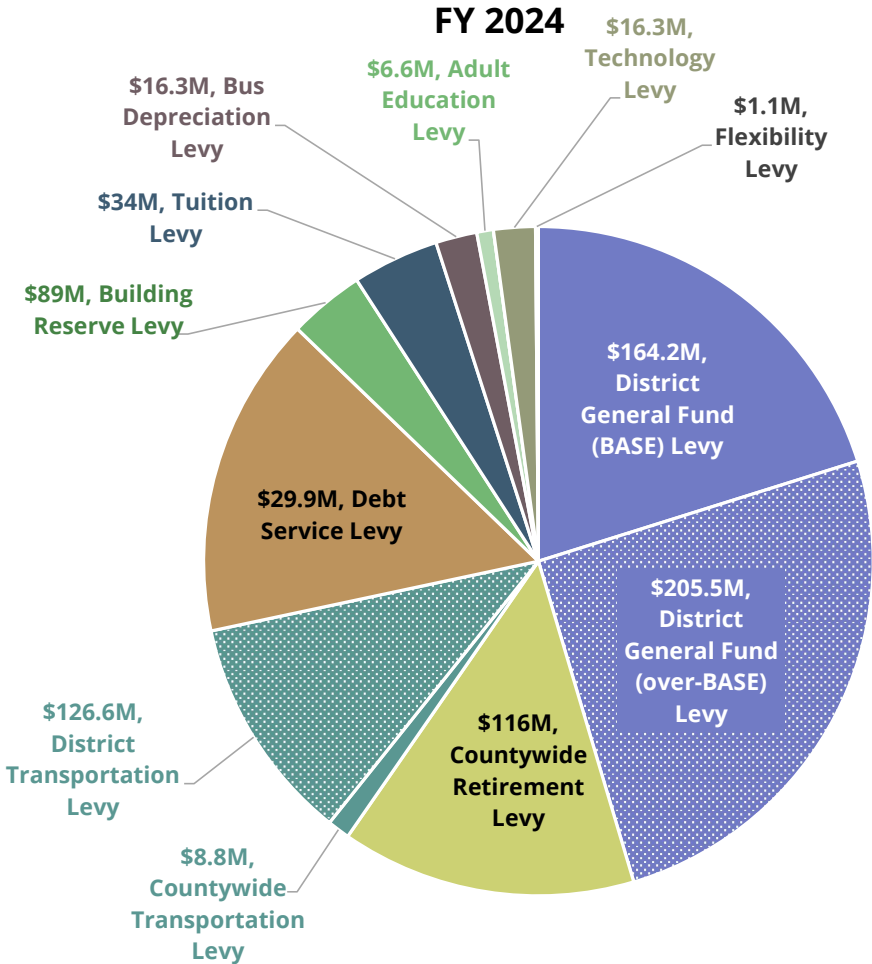
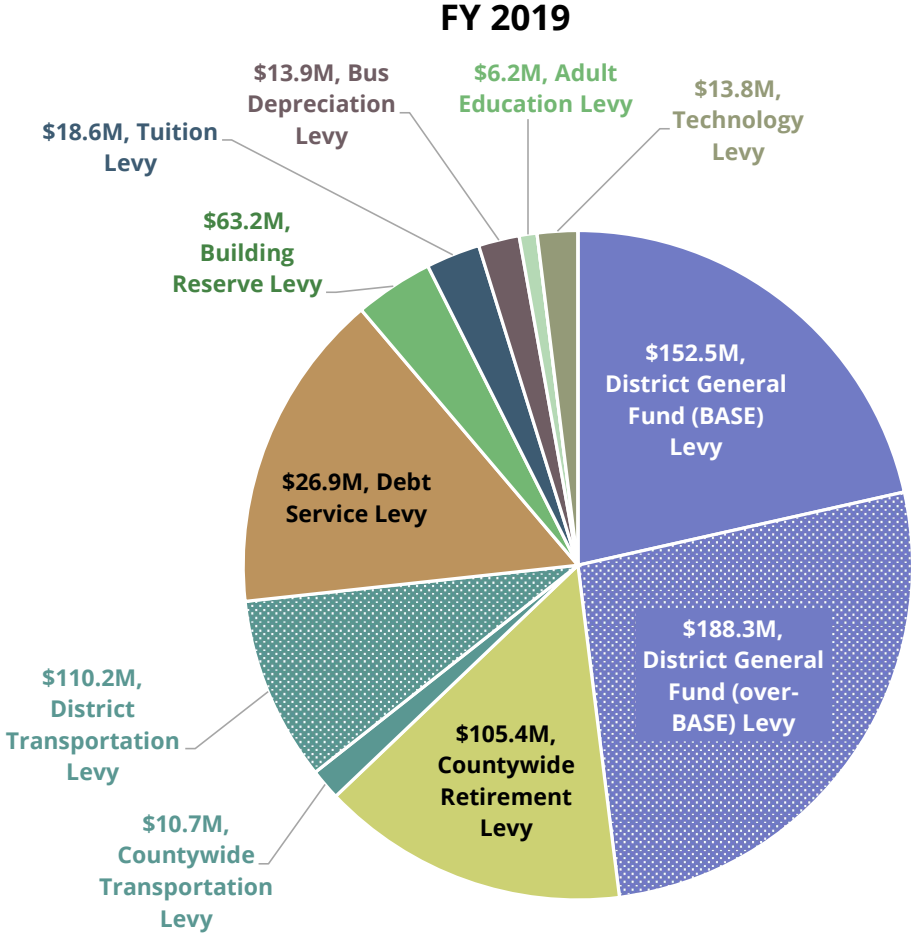
County & District Levies

Countywide & School District Budgeted Funds and Property Tax Levies

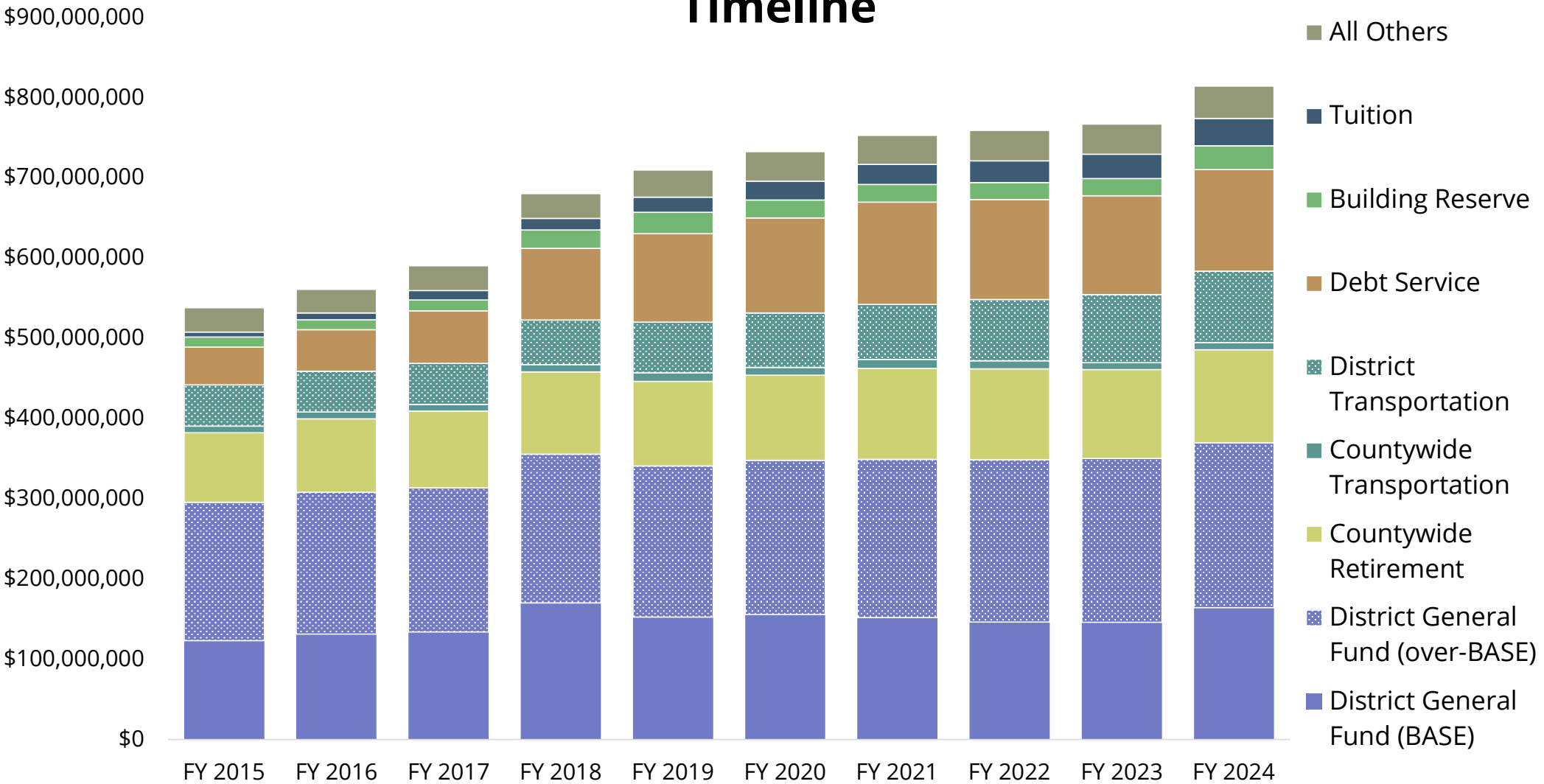
Fund	Purpose/Use	Funding Sources (most funds allow use of NLR)	Levy Authority	Cap/Duration if voted	MCA
Transportation	Costs of providing transportation (to/from school only)	State on-schedule reimbursement County on-schedule reimbursement District over-schedule levy	Trustees (aka a permissive or non-voted levy)	Costs of providing transportation not covered by state and county on-schedule reimbursements	20-10-101 20-10-143 20-10-144
Bus Depreciation Reserve	Raise funds to replace buses over time	District levy	Trustees	20% of bus cost per year, not to exceed 150% of cost	20-10-147
Tuition	Finance costs of resident students attending out-of-district; pay for certain in-district student IEP costs	District levy	Trustees	Estimated costs of tuition Costs of providing special education under a student's IEP not covered by other state and federal funding	20-5-323 20-5-324
Adult Education	Provide instruction to 16+ year olds who are not enrolled/receiving ANB Limited match for state Advanced Opportunity Grants	Fees District levy	Trustees	Costs of adult education program Up to 25% of Advanced Opportunity Grant	20-7-705 20-7-1506
Technology Acquisition and Depreciation Fund	To acquire technology, including network access, cloud computing, and training	State technology payment (\$1 million statewide) District levy	Voters (aka a voted levy)	Costs of technology and varies if levy approved prior to July 1, 2013 Levies approved after July 1, 2013, have 10-year limit	20-9-533
Debt Service	To repay principal, interest, and fees on construction bonds	State debt service assistance (GTB-like) District levy	Voters (requires supermajority based on turnout)	The amount of bond is limited based on district taxable value; bonds may be issued for up to 30 years	20-9-406 20-9-428 20-9-438
Flexibility	The flexibility fund has broad uses, but the only property tax levy is for a match of Transformational Learning Grants		Trustees	Up to 100% match of Transformational Learning Grant (4-year grant)	20-7-1602
Building Reserve	Finance building projects and maintenance; safety and security enhancements	District levy State Major Maintenance Aid (GTB-like)	Voters Trustees (for Major Maintenance Aid)	Cost of projects; no longer than 20 years For Major Maintenance Aid, formulaic cap; no more than 10 mills	20-9-502
Retirement	Costs of school district (employer) contributions to TRS and PERS	State RET GTB County levy	Statutory requirement	Estimated costs of employer contributions	20-9-501
General (Base)	General operating costs, largely personnel	District levy (numerous state)	Statutory requirement	Amount required to meet BASE minus state funding and NLR	20-9-141
General (over-BASE)	General operating costs, largely personnel	District levy	Voters	Allowable over-BASE area (formula; generally MAX budget)	20-9-353

Note – intention to increase a permissive (non-voted) levy requires trustee resolution and public notice, including estimate property tax impact no later than March 31, pursuant to [20-9-116](#)

County & District Levies FY 2019 vs. FY 2024 Comparison

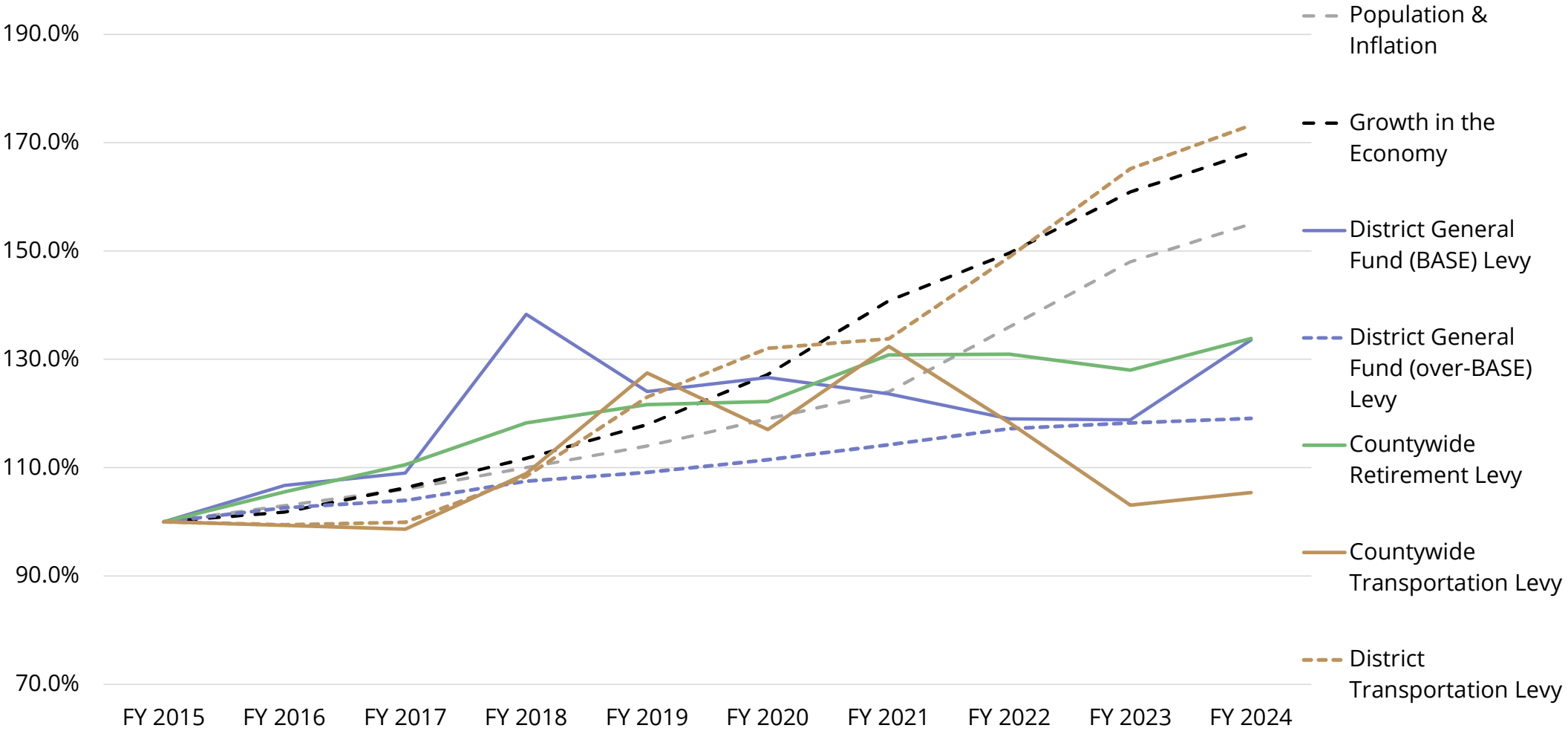


County & District Levies Timeline



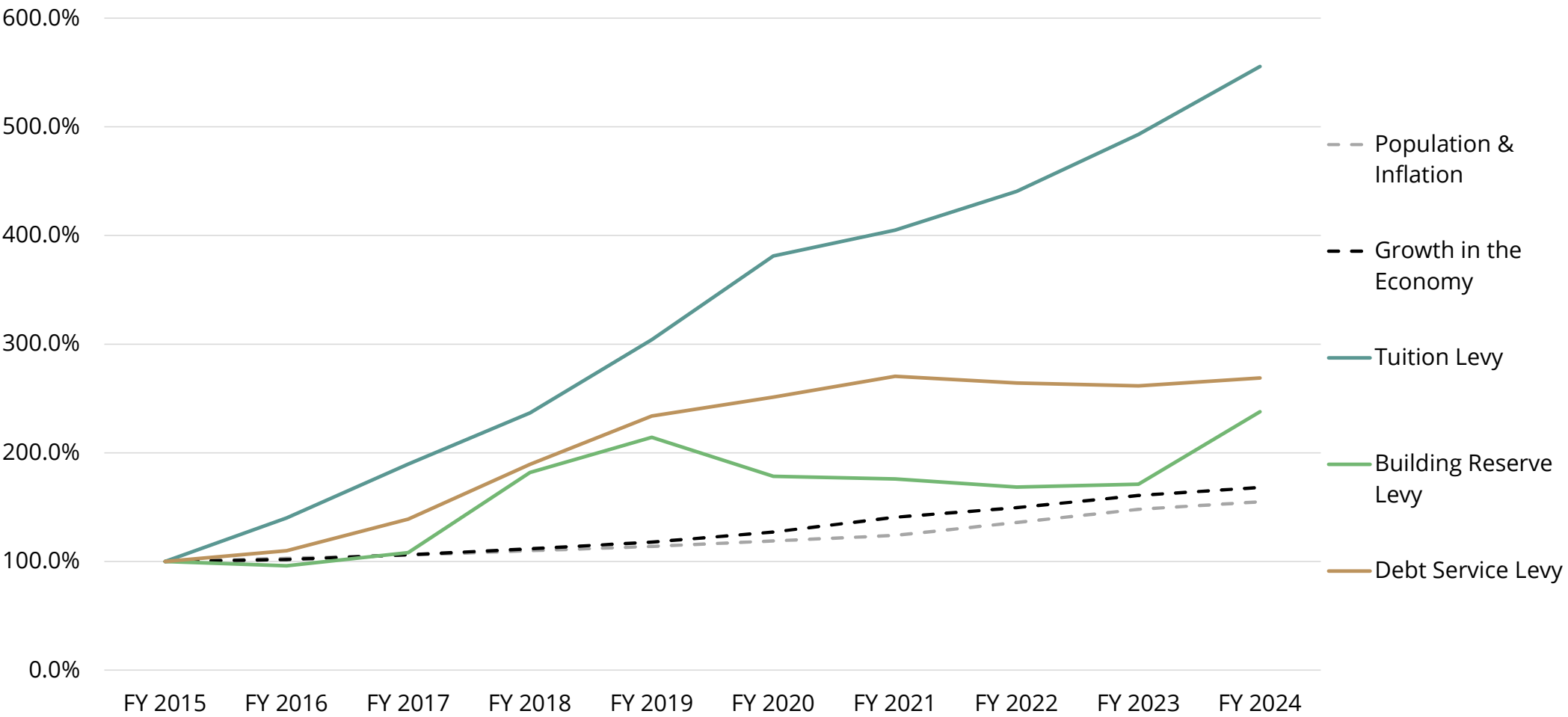
County & District Levies

Growth Rates of Selected School District Property Tax Levies



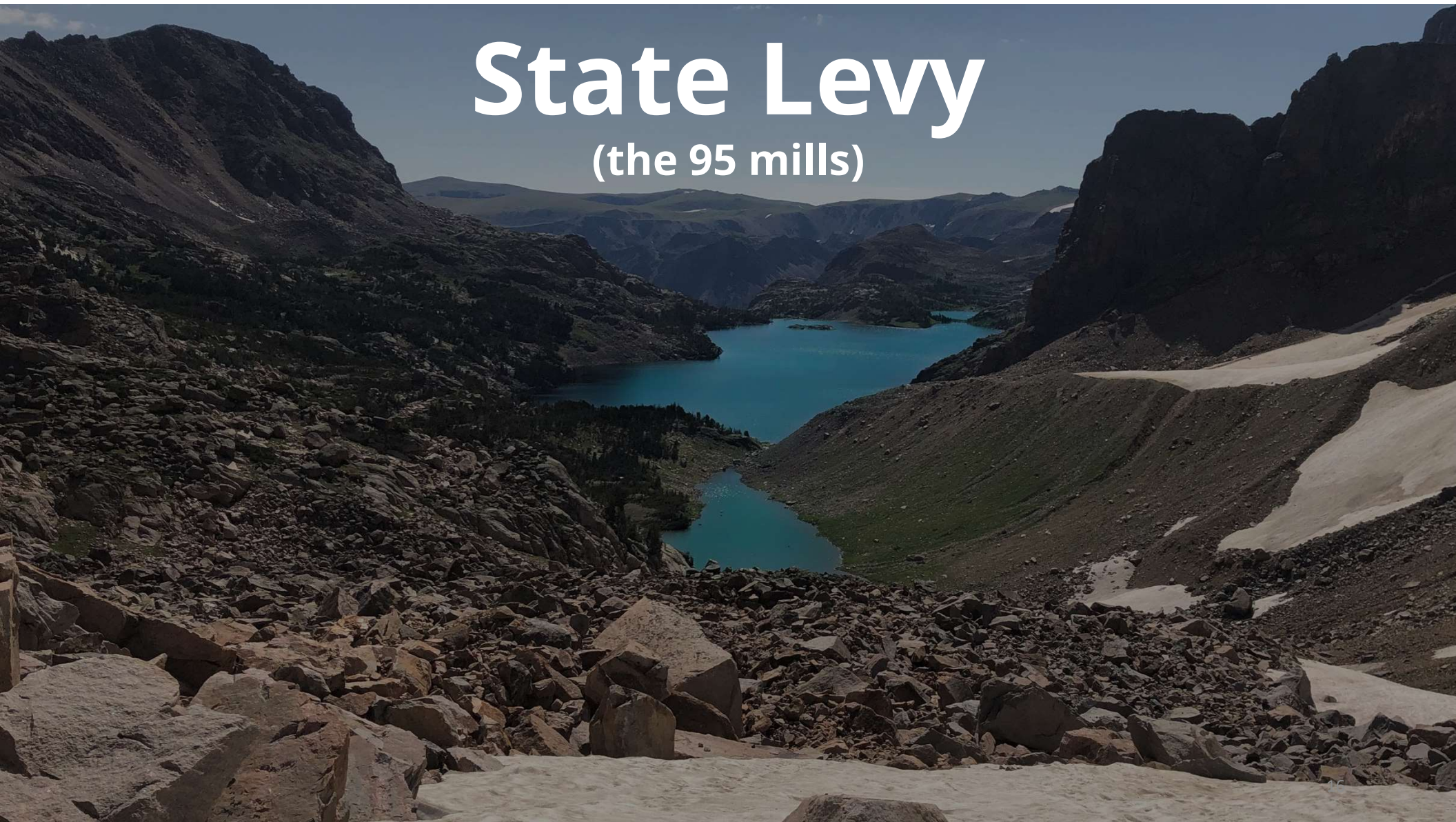
County & District Levies

Growth Rates of Selected School District Property Tax Levies



State Levy

(the 95 mills)





Montana Constitution

Article X – Education and Public Lands. Section 1. Educational goals and duties.

(1) It is the goal of the people to establish a system of education which will develop the full educational potential of each person. **Equality of educational opportunity is guaranteed to each person of the state.**

(2) The state recognizes the distinct and unique cultural heritage of the American Indians and is committed in its educational goals to the preservation of their cultural integrity.

(3) The legislature shall provide a basic system of free quality public elementary and secondary schools. The legislature may provide such other educational institutions, public libraries, and educational programs as it deems desirable. **It [the legislature] shall fund and distribute in an equitable manner to the school districts the state's share of the cost of the basic elementary and secondary school system.**

History of the State Levy

Year	County Elementary Equalization Mills	County High School Equalization Mills	Statewide Equalization Mills	Other
1951	15	10		Foundation Program Funding Formula; mills were authorized, but to receive state funding districts needed to levy full amount
1963 (Ch 267)	25	15		Legislature raised
1965	24	14		Legislature lowered
1969	25	15		Legislature raised
1973 (Ch 355)	25	15		Mills required and fixed; excess revenue from county mills to SEA** for redistribution; new state property tax levy for deficiency if needed
1983	28	17		Legislature raised
1989 SS (HB 28)	33	22	40	Equity lawsuit; increased required mills to 95, added GTB for GF and RET
1993 (HB 667)	33	22	40	New BASE Funding Formula; GTB for debt service
1995	33	22	40	SEA** eliminated; revenue from 95 to state general fund
1999 (SB 184)	33*	22*	40*	*Subject to 15-10-420 added to the three equalization levies
2005	33*	22*	40*	Definition of basic quality system added (20-9-309); new funding components added to reflect definition; funding increased
2023 (HB 587)	33*	22*	40*	SEPTR created; revenue from 95 mills to SEPTR; mechanisms to lower other school property taxes with portion of revenue increases from 95 mills

** SEA = State Equalization Account

Major School Funding Lawsuits

1989 decision (equity lawsuit) – must avoid excessive reliance on local levy funding; can't have lower-wealth districts spending far less per pupil than wealthy districts under the constitutional guarantee of equality of educational opportunity

2004 decision (adequacy lawsuit) – funding is inadequate; need to define what is a quality system, then fund it adequately

Key School Funding and Property Tax Statutes

Section Catchline/Nutshell	MCA
<p>Procedure for calculating levy. This section establishes limits on increases in property taxes but exempts school district levies. The application of 15-10-420 to the 95 mills has been the subject of much debate and a recent MT Supreme Court Decision.</p>	15-10-420
<p>Mill levy election. This section describes the voting requirements for imposing a new mill levy or increasing an existing mill levy or exceeding the limit in 15-10-420. Includes requirements describing how money will be used, the durational limit of the levy, and estimated property tax impacts on homes valued at \$100K, \$300K, and \$600K. This section is referenced and applies to the following school district levy elections in Title 20: the general fund over-BASE levy, the voted building reserve levies, and the technology levy. School district bond elections have their own requirements described in Title 20, chapter 9, part 4.</p>	15-10-425
<p>Basic county tax for elementary equalization and other revenue for county equalization of elementary BASE funding program. This section describes the 33-mill levy and how the funds are treated and used.</p>	20-9-331
<p>Basic county tax for high school equalization and other revenue for county equalization of high school BASE funding program. This section describes the 22-mill levy and how the funds are treated and used.</p>	20-9-333
<p>State equalization aid levy. This section describes the 40-mill levy and how the funds are used for state equalization aid.</p>	20-9-360
<p>Definition of and revenue for state equalization aid. This section defines "state equalization aid" as the necessary revenue for GTB aid, BASE aid, and state debt service assistance.</p>	20-9-343
<p>School equalization and property tax reduction account -- uses. This is the section created by HB 587 establishing what is known as the SEPTR Account which receives revenue from the 95 mills. When that revenue increases year-to-year, a portion of that increase is used to calculate increases in various equalization mechanisms to lower property taxes. The first mechanism is countywide school retirement GTB.</p>	20-9-336
<p>Definitions. This section is the keystone for three guaranteed tax base (GTB) aid mechanisms in Montana school funding: BASE GTB for the district general fund, debt service assistance, and retirement GTB (to support countywide school retirement levies). This section is where the multipliers for these three mechanisms reside. The Legislature has increased the BASE GTB multipliers in recent years, decreasing reliance on local property taxes. The calculation in the SEPTR account described above will do similar for county retirement GTB if revenue from the 95 mills continues to increase. The GTB calculations can be found in the sections following 20-9-366.</p>	20-9-366

Equalization Levies in Montana's School Funding Formula

On the heels of the 1972 Constitutional revision and its requirement that property values be equalized across the state, the Legislature enacted for the first time a statewide property tax levy for education (the previous levies were countywide) which quickly triggered a court challenge. Former Legislative Legal Director Greg Petesch was asked about the constitutional provision related to taxation and school funding during the flurry of activity in the summer and fall of 2005 when the Legislature was trying to revamp the school funding formula to meet constitutional muster. An excerpt from his memo "[Constitutional Provisions on School Funding and Taxation](#)" (August 16, 2005) follows.

While the framers of the 1972 Montana Constitution may have contemplated the use of statewide levies for funding education, the Legislature's enactment of statewide levies resulted in a legal challenge to the use of statewide levies for funding schools that proved prophetic. In *State ex rel. Woodahl v. Straub*, 164 Mont. 141, 520 P.2d 776 (1974), certiorari denied, 419 US 845 (1974), the Montana Supreme Court stated:

It is respondents' position that Art. X, Sec. 1(3), requires the legislature fund its share of the cost of education solely from the traditional sources of foundation program funding--oil and gas royalties, income taxes, and corporation license taxes or other traditional general fund sources. This view is not correct. The only mandate contained in Art. X, Sec. 1(3), Montana Constitution 1972, is that the legislature fully fund the state's share of the cost of basic education. It is silent as to the means the legislature may employ for this purpose. By enacting Chapter 355, the legislature elected to employ a statewide property tax. While the wisdom of that legislative choice may be questioned, its constitutional validity may not. That other sources of revenue may be available, such as severance, excise and sales taxes as suggested, is true. But, the legislature has chosen property taxes to the dismay of many property owners. As our foregoing discussion indicates, the legislature could adopt a property tax and having done so it is free to use the proceeds realized by the tax for any public purpose, including fulfillment of the duty to fund public education. (emphasis added) Straub at 148-149.

The Straub decision upheld the statute levying a general property tax for educational purposes and requiring that excess funds be remitted to the state. The statute constituted a rational method of providing for the basic system of free quality public elementary and secondary schools required by Article X, section 1, of the Montana Constitution.

Equalization Levies in Montana's School Funding Formula

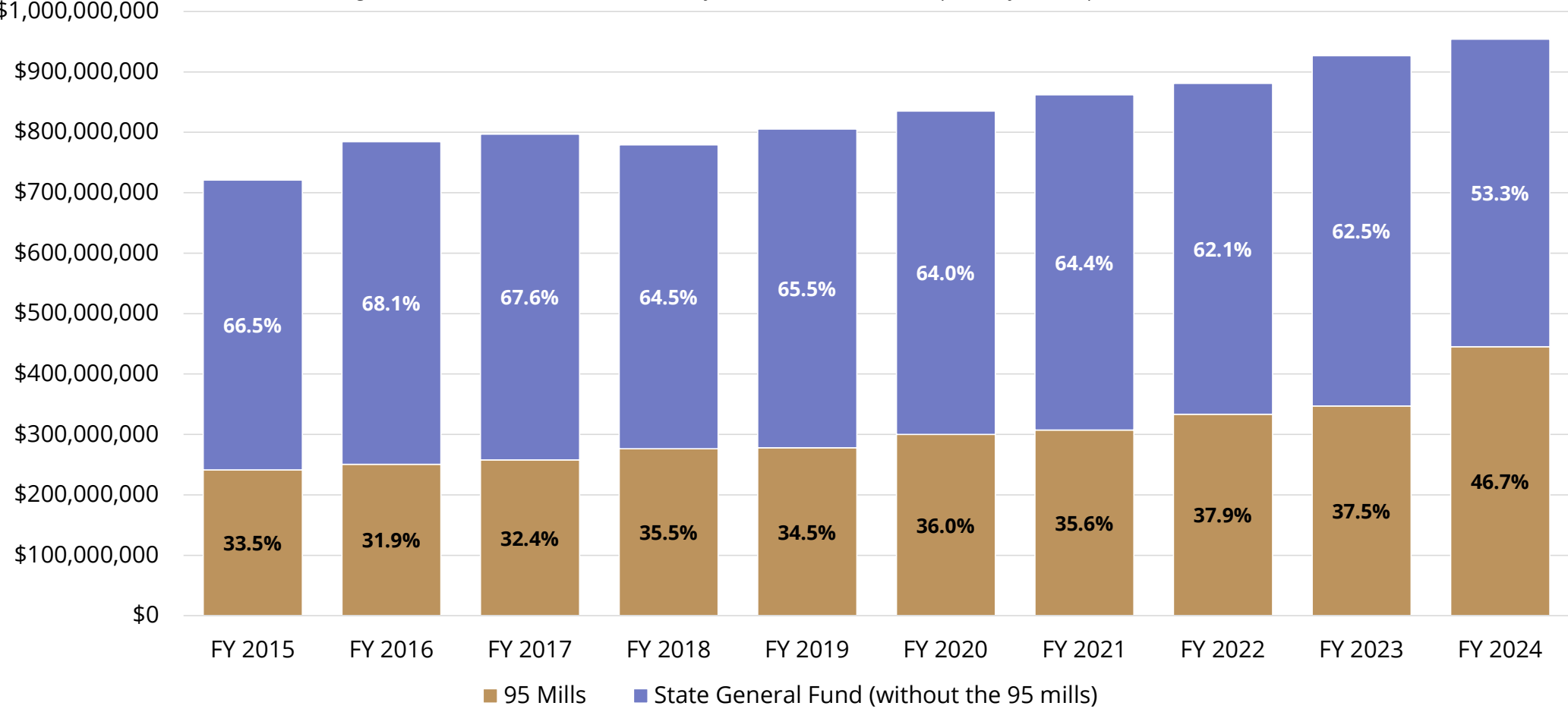
It's not a question of *whether* to fund the basic system of free quality public elementary and secondary schools, but *how*, using *what* form of taxation. Answering this question will implicate *who* pays.

An additional excellent resource on this topic is Andrea Merrill's 1992 report ["The Montana School Foundation Program and State Equalization Aid: A Legislative and Financial History, 1949-1991"](#)

State Levy vs. State General Fund (primarily income tax) Timeline

For FY 2023 and years prior, the 95 mills were deposited into the state general fund. Beginning in FY 2024, the 95 mills are deposited into a state special revenue account specifically dedicated to school funding.

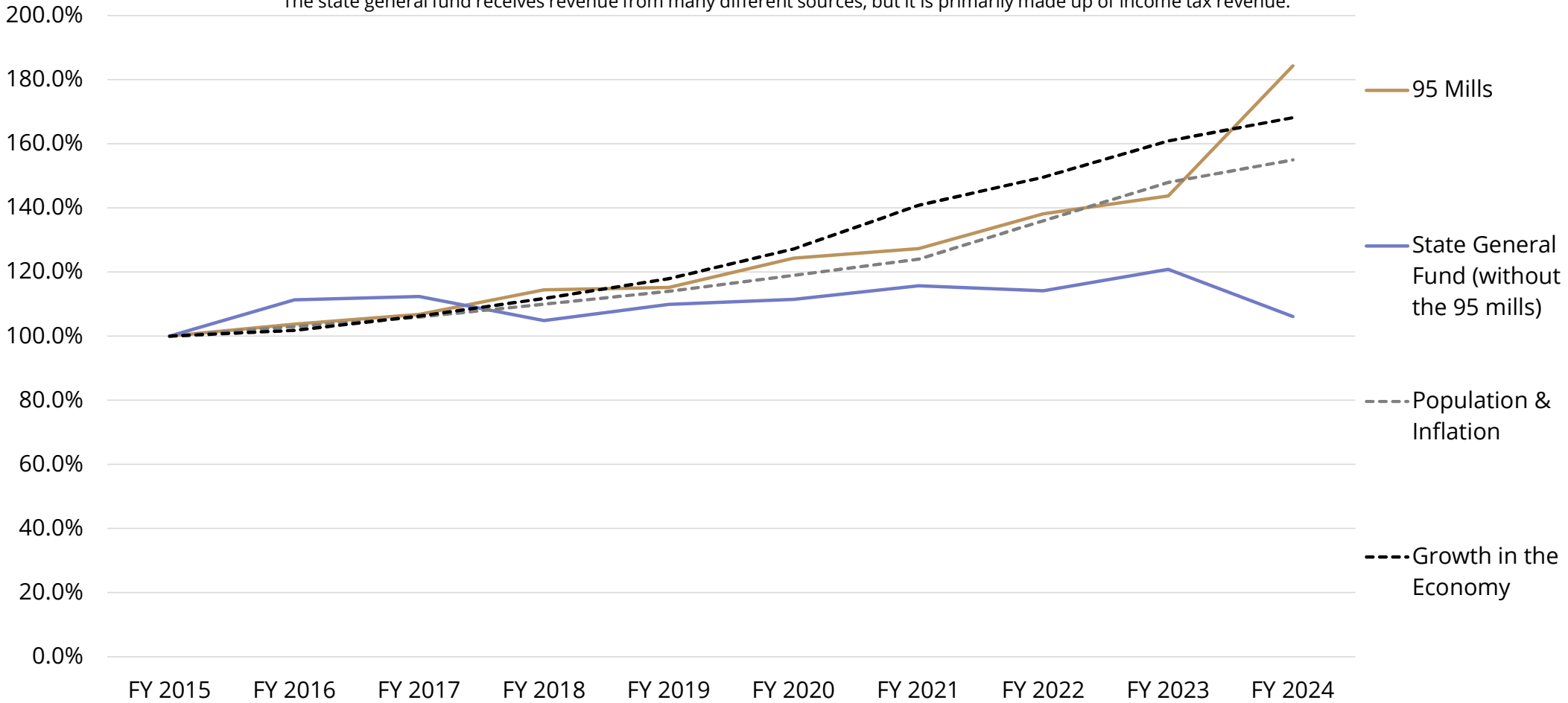
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State Levy vs. State General Fund Growth Rates

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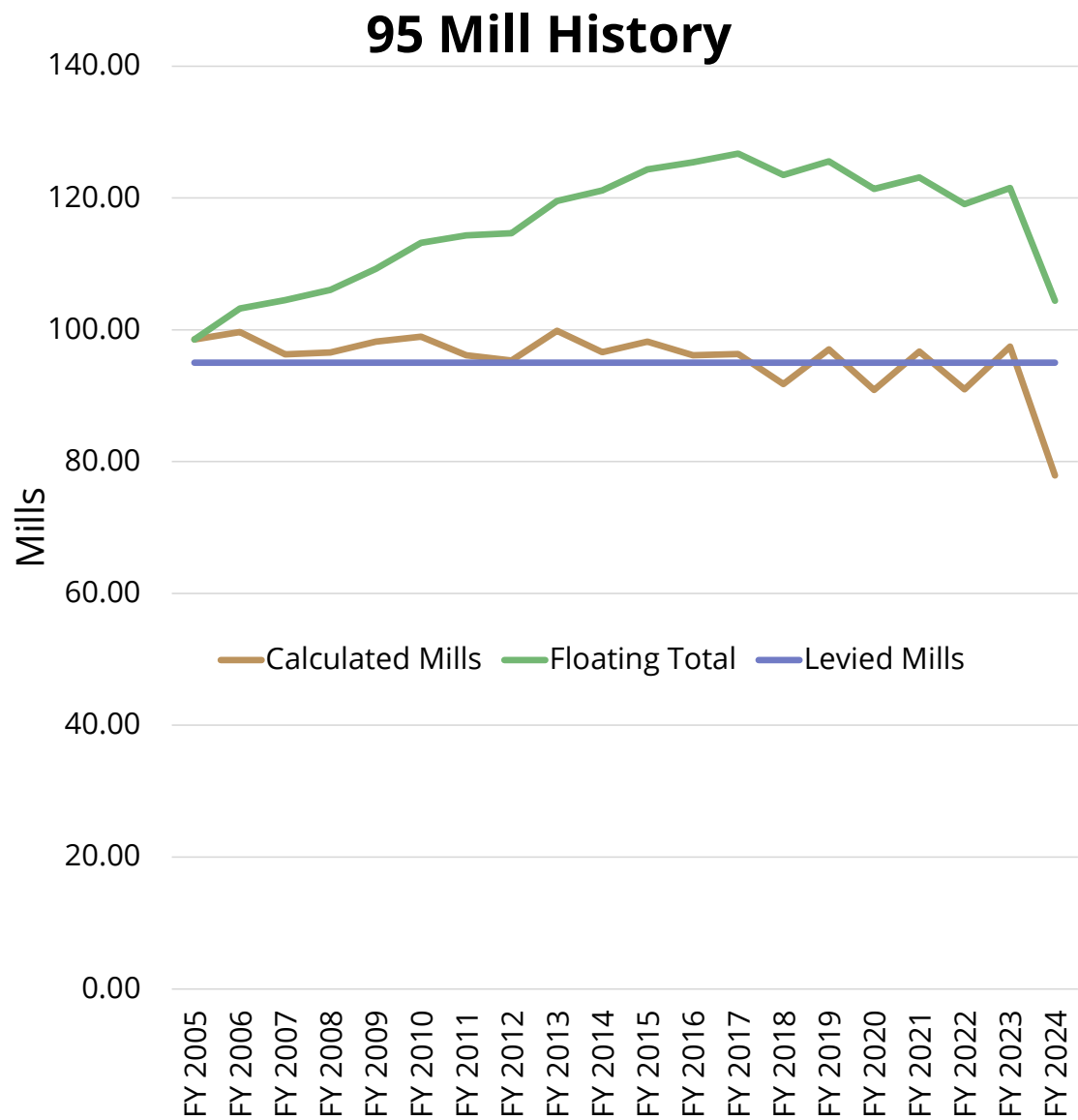
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Current Determination of the 95 Mill Levy



Tax Year	Fiscal Year	Calculated Mills	Floating Total	Levied Mills	Banked Mills	Banked Mill Change
2004	2005	98.55	98.55	95.00	3.55	3.55
2005	2006	99.67	103.22	95.00	8.22	4.67
2006	2007	96.27	104.49	95.00	9.49	1.27
2007	2008	96.55	106.04	95.00	11.04	1.55
2008	2009	98.20	109.24	95.00	14.24	3.20
2009	2010	98.97	113.21	95.00	18.21	3.97
2010	2011	96.11	114.32	95.00	19.32	1.11
2011	2012	95.34	114.66	95.00	19.66	0.34
2012	2013	99.86	119.52	95.00	24.52	4.86
2013	2014	96.61	121.13	95.00	26.13	1.61
2014	2015	98.18	124.31	95.00	29.31	3.18
2015	2016	96.12	125.43	95.00	30.43	1.12
2016	2017	96.32	126.75	95.00	31.75	1.32
2017	2018	91.75	123.50	95.00	28.50	(3.25)
2018	2019	97.03	125.53	95.00	30.53	2.03
2019	2020	90.86	121.39	95.00	26.39	(4.14)
2020	2021	96.70	123.09	95.00	28.09	1.70
2021	2022	90.97	119.06	95.00	24.06	(4.03)
2022	2023	97.43	121.49	95.00	26.49	2.43
2023	2024	77.89	104.38	95.00	9.38	(17.11)





Determination of Tax Revenue and Mill Levy Limitations

Section 15-10-420, MCA

Aggregate of all Funds/or _____ Fund

FYE June 30, 2023

Entity Name: _____

Reference Line		Enter amounts in yellow cells	Auto-Calculation (if completing manually enter amounts as instructed)
(1)	Enter ad valorem tax revenue <u>ACTUALLY</u> assessed in the prior year (from Prior Year's form Line 17)	\$ 325,849,309	\$ 325,849,309
(2)	Add: Current year inflation adjustment @ 1.77%		\$ 5,767,533
(3)	Subtract: Ad valorem tax revenue <u>ACTUALLY</u> assessed in the prior year for Class 1 and 2 property, (net and gross proceeds) (from Prior Year's form Line 20) (enter as negative)	\$ (4,345,093)	\$ (4,345,093)
(3.5)	Subtract: Entitlement Share Class 8 Business Equipment Personal Property Tax Reimbursement (15-1-123 MCA) *New for FY2023 (enter as negative)	\$ -	\$ -
(4)	Adjusted ad valorem tax revenue		\$ 327,271,749
-(1) + (2) + (3)			\$ 327,271,749
	ENTERING TAXABLE VALUES		
(5)	Enter "Total Taxable Value" - from Department of Revenue Certified Taxable Valuation Information form, line # 2	\$ 3,630,380,247	\$ 3,630,380,247
(6)	Subtract: "Total Incremental Value" of all tax increment financing districts (TIF Districts) - from Department of Revenue Certified Taxable Valuation Information form, line # 6 (enter as negative)	\$ (68,853,843)	\$ (68,853,843)
(7)	Taxable value per mill (after adjustment for removal of TIF per mill incremental district value)		\$ 3,561,526,404
-(5) + (6)			\$ 3,561,526,404
(8)	Subtract: "Total Value of Newly Taxable Property" - from Department of Revenue Certified Taxable Valuation Information form, line # 3 (enter as negative)	\$ (145,141,654)	\$ (145,141,654)
(9)	Subtract: "Taxable Value of Net and Gross Proceeds, (Class 1 & 2 properties)" - from Department of Revenue Certified Taxable Valuation Information form, line # 5 (enter as negative)	\$ (51,901,404)	\$ (51,901,404)
(10)	Adjusted Taxable value per mill		\$ 3,364,483,346
-(7) + (8) + (9)			\$ 3,364,483,346
(11)	CURRENT YEAR calculated mill levy		97.27
-(4) / (10)			97.27
(12)	CURRENT YEAR calculated ad valorem tax revenue		\$ 346,429,673
-(7) x (11)			\$ 346,429,673
	CURRENT YEAR AUTHORIZED LEVY/ASSESSMENT		
(13)	Enter total number of carry forward mills from prior year (from Prior Year's form Line 22)	26.73	26.73
(14)	Total current year authorized mill levy, including Prior Years' carry forward mills		124.00
-(11) + (13)			124.00
(15)	Total current year authorized ad valorem tax revenue assessment		\$ 441,629,274
-(7) x (14)			\$ 441,629,274
	CURRENT YEAR ACTUALLY LEVIED/ASSESSED		
(16)	Enter number of mills actually levied in current year (Number should equal total non-voted mills, which includes the number of carry forward mills, actually imposed per the final approved current year budget document. Do Not include voted or permissive mills imposed in the current year.)	95.00	95.00
(17)	Total ad valorem tax revenue actually assessed in current year		\$ 338,345,008
-(7) x (16)			\$ 338,345,008
	RECAPITULATION OF ACTUAL:		
(18)	Ad valorem tax revenue actually assessed		\$ 319,625,918
-(10) x (16)			\$ 319,625,918
(19)	Ad valorem tax revenue actually assessed for newly taxable property		\$ 13,788,457
(20)	Ad valorem tax revenue actually assessed for Class 1 & 2 properties (net-gross proceeds)		\$ 4,930,633
(21)	Total ad valorem tax revenue actually assessed in current year		\$ 338,345,008
-(18) + (19) + (20)			\$ 338,345,008
(22)	Total carry forward mills that may be levied in a subsequent year (Number should be equal to or greater than zero. A (negative) number indicates an over levy.)		29.00
-(14) - (16)			29.00

Maximum Mill Levy Calculation Sheet



Determination of Tax Revenue and Mill Levy Limitations

Section 15-10-420, MCA

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	<u>ENTERING TAXABLE VALUES</u>		
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Identification of Options for Tax Policy Change

- **Some Key Considerations**
 - extent of tax relief provided
 - tax shifts between various property tax classes
 - tax shifts between property taxpayers and income taxpayers
 - tax shifts between Montana residents and out-of-state residential property owners
 - impact on public school funding
 - differential effects on school districts across the state
 - long-term effects on Montana's tax system
- **General Option Categories**
 - Adjust the State (95 mill) Levy
 - Increase participation in levy and bond elections.
 - Address an apparent anomaly in the GTB formula.
 - Adjust school equalization and property tax reduction (SEPTR) statutes.
 - Others?

Going Forward

- **Requests for Additional Information**
- **Work Plan**
 - Refine details of potential options.
 - Project the effects of each option over time.
 - Discuss selected options.
 - Recommend options to the Advisory Council.
- **Public Comment**
- **Adjourn**