

SYNOPSIS OF THE CASE¹**2023 MT 225, OP 23-0635: MONTANA ASSOCIATION OF COUNTIES, MICHAEL MCGINLEY, and DAVID STROHMAIER, Petitioners, v. STATE OF MONTANA, and MONTANA DEPARTMENT OF REVENUE, Respondents.**

On October 26, 2023, the Montana Association of Counties (MACo) asked the Montana Supreme Court to declare that the Department of Revenue may not require counties to levy mills intended to equalize funding for public education in Montana.

In a 7-0 decision, the Court declared that the Department has exclusive authority to calculate school-equalization mills, and that counties must levy them consistent with the Department's calculations.

The dispute between the counties and State stems from the recent spike in Montana property values. The Department will collect roughly \$80 million in additional tax revenue as a result of increased mills for the current tax year. MACo argued the total amount of mills levied should instead be *decreased* to offset the impact of rising property values on Montanans, and it asserts counties have independent authority to make that decision.

In its Petition for Declaratory Judgment, MACo argued the Department's calculation of the school-equalization mills was based on a misreading of relevant law.

The statute at the center of this controversy prescribes a calculation that the Department must use to determine the total amount of mills that could theoretically be levied according to property tax values for a given year. If that value exceeds the 95-mill statutory cap, the law provides that a "governmental entity" may then carry forward the difference for that year and apply the excess mills in a future year when the Department's total mills calculation yields a value less than the 95 mill cap.

MACo argued the Montana Legislature did not intend the term "governmental entity" to include the Department when it enacted the carry-forward provision of the statute. Rather, it argued the Legislature only intended local governments to carry forward excess mills.

The Court agreed with the Department that it must be a "governmental entity" to harmonize Montana property tax law with the Montana Constitution's directive to ensure equal educational opportunity across Montana.

Following this decision, Montana counties must levy school-equalization mills consistent with the Department's calculations for current and future tax years.

¹ This synopsis has been prepared for the convenience of the reader. It constitutes no part of the Opinion of the Court and may not be cited as precedent.