

Changing the Schedule for Reimbursement of Lost Property Taxes and Moving Dedicated Taxes from Special Funds to the State GRF

Foreword

The enacted fiscal year 2012-2013 biennial budget (Am. Sub. H.B. 153, 29th General Assembly) makes significant changes to the calculation of payments to schools and local governments. The estimates contained in this paper of the current-law phase out of property tax replacement payments and of the administration's proposal are based on the best information available to the administration at this time. Some of the underlying data are still being revised or updated, and so the amounts shown in the summary tables in this document may differ from detailed tables that are eventually released. The administration believes that the revisions will not be large and will not change the conclusions reached herein.

Introduction

The administration inherits two very costly legacy programs to reimburse schools and local governments for local property taxes that were eliminated due to state law changes. These law changes were made years ago. To be specific, the law changes that reduced public utility tangible property (PUTP) taxes as part of electric power generation deregulation and natural gas deregulation were made in 1999 and 2000, respectively. The law change that reduced tangible personal property (TPP) taxes as part of a tax reform package meant to stimulate economic growth, particularly in manufacturing, was made in 2005.

Under prior law, there are state taxes dedicated to generating revenue for the property tax replacement payments. The kilowatt-hour (KWH) tax and natural gas distribution (MCF) tax are earmarked in part (KWH) or whole (MCF) for the reimbursement of schools and local governments for property taxes lost due to electricity and gas deregulation. The Commercial Activity Tax (CAT) is earmarked in whole (through fiscal year 2011) and then in part (fiscal year 2012 and subsequent years) for replacing the TPP taxes lost due to tax reform.

The costlier of the two replacement programs, by far, is the TPP tax reimbursement program. The repeal of the TPP tax resulted in \$1.65 billion in lost property tax revenue to school districts and local governments (plus an additional loss of almost \$200 million in repealed property taxes on telecommunications providers, which had before tax reform been classified as public utility property taxes). The law which repealed the TPP tax, HB 66, originally established a five-year "hold harmless" period (2006-2010), during which school districts and local governments would be fully reimbursed for lost property taxes. At the same time, the new CAT was being phased in, with CAT revenues earmarked to pay for the reimbursements. The budgetary problem that has evolved, however, is that in recent years the CAT has actually not generated sufficient revenue to pay for those replacement payments.

As one can see from Table 1, below, while the CAT in its early years generated enough revenue to pay for the TPP tax replacement payments, for FY 2009-2010 there were large shortfalls that had to be paid for by transfers from the state GRF to the replacement funds, and even after FY 2011 estimates for CAT revenue have been revised upward, another large shortfall is expected in FY 2011

Table 1 -Commercial Activity Tax Revenues vs. Required TPP Tax Replacement Payments					
(\$ in millions)					
	FY 2007 Actual	FY 2008 Actual	FY 2009 Actual	FY 2010 Actual	FY 2011 Estimate
Total CAT Revenues (1)	\$594.9	\$963.7	\$1,179.2	\$1,341.6	\$1,436.9
GRF Revenues	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0
Required Tangible Property Tax Replacement Payments	\$571.3	\$931.6	\$1,275.0	\$1,624.0	\$1,649.3
Surplus to GRF / (Shortfall paid from GRF)	\$23.6	\$32.1	(\$95.8)	(\$282.4)	(\$212.4)
<p>1 The state GRF does not directly receive CAT revenues in FY 2007-2011. Any excess revenues over the required TPP replacements may be transferred by the OBM director to the GRF. On the other side, any shortfall in CAT revenues to make the replacement payments must be made up from the GRF. Beginning in FY 2012, the GRF begins to receive a statutory percentage of revenues that had previously been allocated to the school and local government replacement payments.</p>					

For a fuller version of Table 1 that includes projections for fiscal years 2012-2013, please see the Appendix.

The second program, to replace PUTP taxes lost due to electricity and natural gas deregulation, does not suffer from revenues being insufficient to make the required reimbursement payments. In fact, the revenues from the KWH tax and the MCF tax generate somewhat more revenue than needed to make the required replacement payments. So, in FY 2010, about \$32 million in combined KWH tax and MCF tax revenue was transferred from the school district replacement fund back to the GRF.

However, as later sections of this document will show, much of the utility tax reimbursement is going to school districts and local governments where it represents a rather small portion of the district's budget, while there are relatively few districts (mostly those that contain electric generating plants) where the utility reimbursement is a significant source of local resources. The administration has concluded that the replacement payment allocation should be changed to focus on those districts with replacement payments that are a significant share of their budget.

The Mechanics of the Reimbursement Programs

Prior Law

Under prior law, TPP tax replacement payments to schools and local governments run through 2018, before being eliminated in 2019 (although 70% of the CAT is earmarked

to generate money for school districts in perpetuity, through an as-yet unidentified allocation formula). Deregulation PUTP replacement payments for school districts and joint vocational school (JVS) districts may run 15 years, from 2002 through 2016, before being essentially eliminated in 2017. Direct payments for school districts may be eliminated earlier if state aid to the districts increases by a large enough amount. Deregulation PUTP replacement payments to local governments also continue for 15 years, through 2016. However, after payments to local governments are “phased-out”, in fact prior law continues distributing PUTP replacement payments to local governments in perpetuity through an allocation formula adopted when the deregulation bills passed.

When the tax reform package was adopted in 2005, TPP tax replacement payments to school districts were broken into two pieces, those for “fixed-rate” levies, where revenues from the levy change with valuation changes, and “fixed-sum” levies (debt and emergency levies), where revenues from the levies are constant and it is the tax rates that change to bring in constant annual revenue amounts.¹ School district replacement payments were further differentiated from local government replacement payments by the fact that some school reimbursement comes to the school district through the state school aid formula. Because the school aid formula provides more aid to districts with lower taxable values per pupil (lower tax capacity), the reduction in TPP values as the TPP tax was eliminated acted to increase state aid to school districts proportionally. The increased aid to school districts through the state aid formula is permanent. However, under prior law, any fixed-rate TPP tax replacement payments to school districts above what is provided through the state aid formula (“direct payments”) eventually are phased out. Originally, that phasing-out was to begin in FY 2012 and to end in FY 2019. Under the FY 2010/2011 state budget bill, HB 1, 100 percent reimbursement was extended through FY 2013, with the phasing-out now beginning in FY 2014.

A simplified chart of the reimbursement of fixed-rate levies during the phase-out period is shown in Table 1a, below.

¹ The characterization of fixed-rate levy revenue as changing with valuation is an oversimplification. Fixed-rate levy revenue does change with valuation changes, but that change is greatly restricted by what are known as the House Bill 920 tax reduction factors, which essentially work to keep revenue from voted levies constant when valuation changes due to property reappraisal or update. An important exception to this restriction on revenue changes exists for school district fixed-rate levies where the district is at what is known as the 20-mill floor.

Table 1a - TPP Tax Replacement Schedule for "Fixed-Rate" Levies										
HB 66 is the original tax reform/budget bill from 2005; HB 1 is the FY 2101-2011 budget bill, passed in July 2009										
	FY 10	FY 11	FY 12	FY 13	FY 14	FY 15	FY 16	FY 17	FY 18	FY 19
TPP Tax Replacement to Schools										
See ORC 5751.21 (C) (10) through (C) 19										
percentage of direct payment (non-formula reimbursement) guaranteed to district, HB 66	100%	100%	14/17	11/17	9/17	7/17	5/17	3/17	1/17	0
percentage of direct payment (non-formula reimbursement) guaranteed to district, HB 1	100%	100%	100%	100%	9/17	7/17	5/17	3/17	1/17	0
		Tax Year 2010	Tax Year 2011	Tax Year 2012	Tax Year 2013	Tax Year 2014	Tax Year 2015	Tax Year 2016	Tax Year 2017	Tax Year 2018
TPP Replacement to Local Governments										
See ORC 5751.22 (A) (1) (a) through (A) (1) (i)										
percentage of payment guaranteed to district, HB 66		100%	14/17	11/17	9/17	7/17	5/17	3/17	1/17	0
percentage of payment guaranteed to district, HB 1		100%	14/17 (a)	11/17	9/17	7/17	5/17	3/17	1/17	0
(a) The reimbursement to local governments in tax year 2011 is 14/17, except that the May-2011 payment (1/7 of the tax year 2011 total) is at 100 percent										

Utility tax replacement payments to school districts, which actually pre-date the TPP tax replacement payments (the utility tax replacement payments started in FY 2002) share some features with the TPP tax replacement payments. Levies are divided into fixed-rate and fixed-sum levies. Direct payments are made to school districts for any required replacement payments that are not taken care of through the state aid formula. The phasing-out of school district direct payments began in FY 2007 through the application of a test that compared the school district's increase in state aid since FY 2002 with its inflation-adjusted utility property tax loss. For school districts whose state aid increase exceeds its utility property tax loss, utility property tax reimbursement direct payments have been stopped. In FY 2011, only 133 of the 614 school districts were still receiving current expense utility tax reimbursement direct payments.

For local governments, TPP tax replacement payments and utility tax replacement payments do not have the state education aid complication. All replacement payments take the form of direct payments. Under prior law, the TPP tax reimbursement payments begin phasing out in FY 2012 (the first payment subject to the phase-out is the August 2011 payment). Utility tax replacement payments began phasing out in calendar year 2007. However, local government utility tax payments never end, in a sense (see below).

When direct reimbursement payments to schools and local governments end, the dedicated taxes do not revert to the state General Revenue Fund (GRF). Instead, they continue to be deposited into the funds that reimburse the schools and local governments. However, some of the utility tax school district revenue does eventually get transferred back to the GRF. Revenues in the utility tax school reimbursement fund that exceed what is necessary to make the direct payment replacement payments to school districts go to the "Half-Mill Equalization Fund." The Half-Mill Equalization Fund is used to supplement the local contribution to a district's School Facilities Commission-assisted building project if the district has below-average per-pupil property valuation (payments to a school district are to be used for maintenance of new or renovated buildings). However, any balances in the Half-Mill Equalization Fund not needed for that purpose must be transferred to the General Revenue Fund. In FY 2010, about \$32 million in excess utility tax revenues were transferred to the GRF.

For local governments, one-half of the dedicated tax revenue was distributed to each county in proportion to each county's population. The other half was distributed to each county in the proportion that the tax losses from the utility property tax changes for all taxing units in the county is of the total utility tax losses from all local taxing units in the state.

Bond levies are an exception to the fixed-year limitations outlined above. Bond levies qualifying for reimbursement are reimbursed until the debt is retired. Qualifying emergency levies are reimbursed in full as long as the levy remains in place, through FY 2018.

House Bill 153

House Bill 153 changed both the public utility tax reimbursement and TPP tax reimbursement programs. The basic concept underlying House Bill 153 is that continued replacement payments should be based on a measure of relative need, for school districts, JVS districts, and local governments. So, the administration first constructed measures of reliance on the replacement payments for school districts, JVS districts, and local governments. Reliance is measured in terms of the percentage of the total revenue resources available to the district or government for current operating expenses. The reimbursement to the unit is then phased out by a uniform rule, whereby no more than two percent of the unit's total revenue resources are removed each year. The two replacement programs are considered separately, meaning a district could lose up to four percent of its resources in a given year. So, for a school district, JVS, or local government that gets less than 2 percent of its resources from TPP reimbursement or utility deregulation reimbursement, the entire reimbursement amount is eliminated in the

first year of the proposal (the second half of tax year 2011 for local governments and fiscal year 2012 for school districts and JVS districts). For a unit with greater than 2 percent reliance on TPP reimbursement or utility deregulation reimbursement, the reduction in reimbursement in the first year is an amount equal to 2 percent of the calculated total resources for the unit. This 2 percent of resources reduction takes place in all subsequent years, as well. So, for example, a school district with 7.5% reliance on TPP reimbursement and 0.8% reliance on utility deregulation reimbursement would lose its utility deregulation reimbursement in FY 2012, but its TPP reimbursement would be reduced by an amount equal to 2 percent of calculated resources in FY 2012 and FY 2013. Those schools and JVS districts receiving payments in 2013 will continue to be reimbursed at that level.

The changes to the replacement payments are accompanied by law changes that redirect CAT and KWH and MCF tax revenues from the dedicated reimbursement funds to the state GRF.

Under prior law, all CAT revenues go to the school district reimbursement fund (70%) and local government reimbursement fund (30%) through FY 2011. Beginning in FY 2012, as the phase-down of the local government replacement payments begins, some of the CAT is deposited in the state GRF, and the share of the CAT deposited into the local government reimbursement fund declines annually until it reaches zero in FY 2019, at which point the GRF share of CAT revenue becomes 30 percent. The shares of the CAT deposited into the GRF in FY 2012 and FY 2013 are 5.3% and 10.6%, respectively.

House bill 153 instead deposits 25% of the CAT into the state GRF in FY 2012 and 50% of the CAT into the state GRF in FY 2013. These revenues will still not quite be enough to make the reimbursement payments in those years, but the estimated amount of the GRF subsidy required in FY 2012 and 2013 will be much smaller than the amounts shown for FY 2101-2011 in Table 1. The estimated GRF transfers necessary to make the replacement payments are estimated to be \$36 million in FY 2012 and \$58 million in FY 2013. In FY 2014 and subsequent years, the GRF share of the CAT steadily increases until it reaches 100% in FY 2021 (there are still some TPP tax replacement payments to be made in FY 2021 and thereafter, but the amounts are projected to be small enough that they can be dealt with by GRF appropriation rather than requiring a dedicated tax source).

The shares of the CAT dedicated to the GRF and to the two TPP property tax replacement funds under both prior law and HB 153 are shown in Table 2, below.

Table 2: CAT Revenue Allocation by Fund, Prior Law vs. HB 153			
Fiscal year	General Revenue Fund	School District Tangible Property Tax Replacement Fund	Local Government Tangible Property Tax Replacement Fund
Current Law			
2011	0.0%	70.0%	30.0%
2012	5.3%	70.0%	24.7%
2013	10.6%	70.0%	19.4%
2014	14.1%	70.0%	15.9%
2015	17.6%	70.0%	12.4%
2016	21.1%	70.0%	8.9%
2017	24.6%	70.0%	5.4%
2018	28.1%	70.0%	1.9%
2019 and thereafter	30.0%	70.0%	0.0%
Proposal			
2012	25.0%	57.0%	18.0%
2013 and thereafter	50.0%	35.0%	15.0%

For utility deregulation replacement payments, the situation is similar. Under current law, all of the MCF tax revenues are dedicated to the two replacement funds, with 68.7 percent of revenues going to the school replacement fund and the other 31.3 percent of revenues going to the local government replacement fund. KWH tax revenues, in contrast, are split between the state GRF and the two replacement funds. The state GRF gets 63 percent of KWH tax revenue, while 25.4 percent goes to the school district replacement fund and 11.6 percent goes to the local government replacement fund.

The administration proposal would change the allocation of MCF and KWH tax revenues in conjunction with the phasing out of the utility tax replacement payments. The MCF tax would be dedicated 100 percent to the state GRF. The KWH tax allocation would be changed as shown in Table 3, below.

<p>Table 3 - KWH Tax Revenue Allocation by Fund, Prior Law vs. HB 153</p>
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Fiscal year	General Revenue Fund	School District Utility Property Tax Replacement Fund	Local Government Utility Property Tax Replacement Fund
Current Law			
2011	63.0%	25.4%	11.6%
2012 and thereafter	63.0%	25.4%	11.6%
Proposal			
2012 and thereafter	88.0%	9.0%	3.0%

The reason that the phase-out of dedicated revenues to reimbursement funds is so much longer for the KWH tax than for the CAT is that there are a small number of districts, those that contain or contained electric power plants, that have a very high degree of reliance on utility tax replacement payments, and so the phase-out restriction of 2% of resources per year means that replacement payments continue for a very long time.

The remaining sections of this analysis go into some detail about the calculation of the reliance measure, including the special calculations made for counties, the kinds of levies that are exempt from the general phase-out schedule for replacement payments, and the estimated impacts of the phase-out on school districts and on different types of local governments.

Construction of the TPP Reimbursement and Utility Deregulation Reimbursement Reliance Measures and Examples of HB 153

Since the phase-out of TPP tax replacement payments and utility tax replacement payments depends on the measured reliance of each school district, JVS, and local government unit on those payments, the calculation of the reliance measure is a crucial part of the administration proposal. The administration decision was to use revenue data rather than spending data to construct the reliance measures. First, there is a theoretical argument that reliance on property tax replacement payments should be measured as a share of the total resources available to the unit. Second, as a practical matter, revenue data proved to be much easier to attain than spending data for the school districts and various types of local governments. In all cases the administration proposal uses the latest comprehensive data available in the reliance calculations. Some of the data are, by necessity, from different years.

School Districts

The calculations are somewhat different between the school districts and the local governments. For the school districts, the “total resources” variable is the sum of local property taxes, state education aid for FY 2010, school district income tax collections for

FY 2010, TPP tax replacement payments for FY 2010 (for non-debt levies), and utility tax replacement payments for FY 2010 (for non-debt levies).² The TPP tax reimbursement for FY 2010 for fixed-rate current expenses (no debt or emergency levies) is then divided by the total resources variable to obtain the TPP reimbursement reliance measure for each school district. The same calculation is used for JVS districts (except that JVS districts do not have income tax revenue). Similarly, the utility tax reimbursement for FY 2010 is divided by the total resources available to obtain the utility reimbursement reliance measure for each school district and JVS district.

For school districts, the calculated total resources figure for FY 2010 is \$15.80 billion.

The numerator of the calculation is the TPP tax reimbursement or utility tax reimbursement **excluding** emergency levies, debt levies, and non-current expense fixed-rate levies. Reimbursement payments for debt levies and emergency levies are not subject to the new phase-out proposal, but are instead treated the same as under current law. As noted previously, under current law, full replacement payments for debt levies continue as long as the levy is in place, until the bonds are retired, and full replacement payments for emergency levies are made through fiscal year 2018 as long as the emergency levy remains in effect. Replacement payments for non-current expense fixed-rate levies are phased-out over four years beginning in FY 2012, with the exception of inside millage debt levies, which continue as under current law. A sample calculation of reliance is presented for a school district in Table 4, below.

² Local property taxes are the sum of half the tax year 2008 and half the tax year 2009 current expense property taxes, including state payments for the 10% rollback, 2.5% rollback, and homestead exemption.

Table 4- Reliance Calculations for Indian Lake Local SD in Logan County			
[A]	[B]	[C]	[D]
FY 2010 TPP FIXED RATE DIRECT REIMBURSEMENT	FY 2010 TPP FIXED SUM REIMBURSEMENT	FY 2010 UTILITY FIXED- RATE DIRECT REIMBURSEMENT	FY 2010 UTILITY FIXED-SUM DIRECT REIMBURSEMENT
\$927,293	\$78,417	\$86,936	\$5,403
[E]	[F]	[G]	[H=sum of A to G]
FY 2010 STATE AID	PROPERTY TAXES INCLUDING ROLLBACKS	FY 2010 School District IT	FY 2010 TOTAL RESOURCES
\$4,963,651	\$9,411,430	\$0	\$15,473,129
[I = A/H]	[J = C/H]	[K]	
2010 TPP FIXED RATE REIMBURSEMENT % OF TOTAL RESOURCES	UTILITY REIMBURSEMENT % OF TOTAL RESOURCES	FY 2011 TPP FIXED RATE DIRECT REIMBURSEMENT	2011 TPP FIXED RATE REIMBURSEMENT % OF TOTAL RESOURCES
5.99%	0.56%	\$942,429	6.09%

Indian Lake Local School District (LSD) has slightly higher reliance on TPP and Utility tax replacement payments than the statewide averages for school districts, which are 5.71% and 0.43% respectively.

Indian Lake LSD would lose its \$86,936 utility tax reimbursement for fixed-rate current expense levies (but not for debt and emergency levies) in fiscal year 2012. Its TPP tax replacement payments for fixed-rate current expense levies would be phased out in the following way: 2% of total resources in fiscal year 2012 (\$309,463), 2% of total resources in fiscal year 2013 (another \$309,463), 2% of total resources in fiscal year 2014 (another \$309,463) and the remaining .09% of resources in fiscal year 2015 (the remaining \$14,040). Even though the percentage of resources in the base FY 2010 calculation shows a reliance of just under six percent, the reduction based on FY 2011 direct replacement payments are still limited to two percent of total resources, essentially extending some reimbursement an additional year. Indian Lake LSD's TPP tax and utility tax replacement payments would thus be as shown in Table 5, below:

**Table 5 - Proposed TPP and Utility Fixed-Rate Levy Reimbursement
Example for Indian Local SD**

	FY 2010 Actual	FY 2011 Actual	FY 2012 Proposed	FY 2013 Proposed		
TPP Reimbursements	\$927,293	\$942,429	\$632,966	\$323,503		
Reduction			\$309,463	\$309,463		
Utility Reimbursements	\$86,936	\$86,936	\$0			
Reduction			\$86,936			

Local Governments

The reliance calculations for the local governments follow the same general concept as those for the school districts and JVS districts. The denominator of the measure is a calculated amount of total resources for current expenses. The variables that enter into the denominator of the reliance calculations differ depending on the type of local government.

The numerators of the reliance calculations are essentially the same as those for school districts. For the TPP reimbursement reliance measure, it is the TPP tax reimbursement for calendar year 2010 for fixed-rate current expenses. TPP reimbursements for debt, capital projects, and pensions have been excluded from the calculation. The utility tax numerators also have only the current expense levy reimbursements included.

Municipalities, townships, and special districts have very similar reliance calculations and phase-out formulae. The treatment of the counties is somewhat different. For the counties, there are four different types of levies that are all treated separately, almost as if the service provided by the levy was provided by its own unit of government. The four types of levies, corresponding to four categories of service provision, are:

- (1) Mental health and developmental disabilities
- (2) Senior services
- (3) Children’s services
- (4) Public health

County general fund levies are combined with all other types of county levies into a fifth category, which has its own reliance measures and phase-out formula.

The variables included in the total resource calculation, as well as the estimated amount of total resources for 2010, for each type of local government, are shown in Table 6, below.

Clearly, municipalities have the largest total resources for current expenses to draw from (\$5.49 billion) due mostly to their municipal income tax collections, which reached \$4.15 billion in 2008 (slightly more than three quarters of the computed total). Counties are second in total resources for current expenses at their disposal, with \$4.34 billion. For counties, local property taxes are by far the biggest source of current expense revenue, at \$2.76 billion. County permissive sales taxes contribute another \$1.10 billion.

Table 6 - TPP Tax and Utility Tax Reimbursement Reliance Measures for Local Governments (Preliminary)		
dollar amounts in millions		
Government Type	Variables Included in "Total Resource" Calculation	Total Resources
Municipality	local property taxes, median annual estate taxes, local admissions taxes, municipal income taxes, local government fund (LGF) distributions, TPP tax reimbursements, Utility tax reimbursements	\$5,494.8
Township	local property taxes, LGF distributions, TPP tax reimbursements, Utility tax reimbursements	\$1,006.9
Special District	local property taxes, LGF distributions, TPP tax reimbursements, Utility tax reimbursements	\$741.6
County General	local property taxes, LGF distributions, county sales taxes, TPP tax reimbursements, Utility tax reimbursements	\$2,376.6
County MH/DD	local property taxes, TPP tax reimbursements, Utility tax reimbursements	\$1,244.1
County Children's Services	local property taxes, TPP tax reimbursements, Utility tax reimbursements	\$350.5
County Public Health	local property taxes, TPP tax reimbursements, Utility tax reimbursements	\$264.2
County Senior Services	local property taxes, TPP tax reimbursements, Utility tax reimbursements	\$102.6

As mentioned above, for purposes of computing reliance measures, and calculating the phase-out of reimbursements, counties are not regarded as a whole, but instead the reimbursements are segregated by levy type (expense category). County mental health and disability resources alone are greater than township resources.

Once resources are calculated, reliance measures can be computed. The TPP tax and utility tax reimbursements that are included in the numerator are only those reimbursements for fixed-rate levies for current expenses. The TPP Tax and utility tax reimbursements are for fixed-rate, current expense levies. They are only for

"direct payments" i.e. additional school district formula aid is not counted.³ Reliance on TPP tax and utility tax reimbursements differs markedly by type of government. As Table 7, below, shows, school districts have the largest reimbursements in dollars, but they do not have the highest degree of dependency. The townships have the greatest average reliance on utility tax reimbursements, while county mental health and developmental disability services have the greatest dependency on TPP tax reimbursements.

Of course, the averages by type of government conceal wide variation within the category. Cuyahoga Heights Local SD has a computed 30.7% reliance on TPP tax reimbursements

Table 7 - TPP Tax and Utility Tax Reimbursement Reliance Measures for School Districts, JVS Districts, and Local Governments (Preliminary)					
dollar amounts in millions					
amounts shown are for FY 2010 (schools) or calendar year 2010 (non-schools)					
Government Type	Total Resources	Total TPP Tax Reimbursement	Total Utility Tax Reimbursement	TPP Reimbursement Reliance	Utility Reimbursement Reliance
School Districts	\$15,804.3	\$903.00	\$68.70	5.7%	0.4%
JVS Districts	\$619.3	\$32.79	\$6.34	5.3%	1.0%
Municipality	\$5,494.8	\$69.86	\$8.59	1.3%	0.2%
Township	\$1,006.9	\$58.81	\$12.09	5.8%	1.2%
Special District	\$741.6	\$54.78	\$7.61	7.4%	1.0%
County General	\$2,376.6	\$88.85	\$13.71	3.7%	0.6%
County MH/DD	\$1,244.1	\$115.65	\$13.02	9.3%	1.0%
County Children's Services	\$350.5	\$31.00	\$3.71	8.8%	1.1%
County Public Health	\$264.2	\$20.39	\$1.94	7.7%	0.7%
County Senior Services	\$102.6	\$7.56	\$1.10	7.4%	1.1%

With respect to utility tax reimbursements, there are four (4) school districts with reliance measures from 28.7% to 39.6% (after those four, the next highest utility tax reimbursement reliance for a school district is 5.0%). Many school districts and JVS districts have less than 2% reliance on utility tax reimbursements and so will see their reimbursement go to zero in tax year 2011 (state fiscal year 2012).

Among the local governments, there are somewhat more extreme divergences in reliance within and among types of government. For example, there are six townships whose TPP tax reimbursement reliance exceeds 50 percent of total resources (although the total TPP

³ For this reason, the reimbursement totals by type of government will differ from (specifically, be less than) the totals shown on the Department of Taxation's Web site.

reimbursement for these townships in 2010 was slightly less than \$2 million). There are also two municipalities and six special districts with TPP tax reliance of 50 percent or more.

For the utility tax reimbursements, the reliance figures, although skewed toward those governments with electric generating plants, are not quite so extreme. Only one government, the village of Moscow in Clermont County, has a reliance on utility tax reimbursement of greater than 50%, at 50.5% (in fact, there are only three (3) municipalities over 15% reliance). The township with the greatest reliance on utility tax reimbursement is also in Clermont County – Washington Township, at 44.2%. There are a dozen townships with reliance of 20 percent or more.

Budgetary Savings from the Administration Phase-Out Proposal

As one might expect, given that the reimbursement amounts for school districts and JVS districts are much larger than for local governments, the budgetary savings from the administration’s proposed phase-out of the school and JVS reimbursements is also much larger than the local government savings.

For school districts alone, the TPP tax current expense fixed-rate reimbursements eliminated in the FY 2010-2013 biennium are approximately \$295 million and \$525 million, respectively. These savings are 32% and 57%, respectively, of the FY 2011 amount of \$927 million.

School districts also are receiving TPP tax reimbursements for levies which are fixed-rate levies but are not for current operating expenses. These reimbursements amounted to \$26.5 million in FY 2011 (less than 3% of the current expense TPP tax school district reimbursements). These reimbursements are also phased out under the administration proposal, but under a much simpler method that does not involve the computation of reliance percentages. One quarter of the reimbursements are eliminated each year over the three year period from FY 2011 – 2013, reimbursement continues at the 2013 level through 2030.

For JVS districts the same principle applies as for school districts. The current expense levy replacement payments are phased out based on reliance, but the small amount of non-current expense levy replacement payments are phased down on a straight-line three year schedule.

Entity Type	Fixed-Rate Levy Type	FY 11 TPP Tax Reimbursement	FY 12 Reimbursement Reduction	FY 13 Reimbursement Reduction
School District	Current Expense	\$926.9	\$295.5	\$524.9
	pct reduction		31.9%	56.6%

	Non- Current Expense	\$26.5	\$6.6	\$13.3
	pct reduction		25.0%	50.0%
JVS District	Current Expense	\$33.4	\$12.3	\$22.5
	pct reduction		36.6%	67.4%
	Non- Current Expense	\$1.4	\$0.35	\$0.7
	pct reduction		25.0%	50.0%
Total School District and JVS District		\$988.3	\$314.7	\$561.4
			31.9%	57.0%

For the local governments, the administration does not yet have final data on FY 2011 TPP tax reimbursements, so the calculations in Table 9 are shown relative to tax year 2010 reimbursements. As with the school districts, the use of the reliance measures is used to phase-out current expense fixed-rate levy replacement payments, while non-current expense replacement payments are phased out 25 percent per year starting in tax year 2011, dropping to 25 percent in tax year 2013 and thereafter.

Table 9 - Proposed Phase-Out of Local Government TPP Payments			
Includes Current Expense Levies and Others			
in millions of dollars			
	TY 2010	FY 2012	FY 2013
County TPP Reimbursements	\$256.2	\$156.2	\$106.6
Municipality TPP Reimbursements	\$78.3	\$23.4	\$17.1
Township TPP Reimbursements	\$66.6	\$43.5	\$32.4
Special District TPP Reimbursements	\$57.5	\$35.8	\$23.9
Total Local Government TPP Reimbursements	\$485.7	\$258.9	\$179.9
Reimbursement Eliminated Relative to Tax Year 2010 - Proposed		\$199.7	\$278.3
Percentage of Reimbursement Eliminated		43.6%	60.8%
Reimbursement Eliminated Relative to Tax Year 2010 - Current Law		\$66.3	\$151.3
Savings Relative to Current Law		\$133.5	\$127.4

Thus, the combined budgetary savings from the change to the TPP tax reimbursements under the administration proposal is \$468 million in FY 2012 and \$717 million in FY 2013.

In the interest of simplifying the presentation and saving space, the budgetary savings for the administration proposal for the utility deregulation tax replacement payments for schools and local governments are combined in Table 10, below.

The total budgetary savings from HB 153's utility tax reimbursement phase-out is \$104 million in FY 2012 and \$110 million in FY 2013.

Comparing Table 10 with Tables 8 and 9, one can see that the phase-out of utility tax reimbursements works much faster than the TPP tax reimbursement phase-out, with almost three quarters of the replacement payments being removed in FY 2012. This is because, as shown in Table 7, the reliance measures for utility tax replacement payments are so much lower on average than for TPP tax replacement payments. This rapid phase-out allows the reallocation of the entire MCF tax (forecast at \$66 million per year) to the GRF, and a significant reallocation of the KWH tax from the replacement funds to the GRF, as shown in Table 3.⁴

⁴ In fact, because the GRF amount has actually been a residual after subtracting the dedicated revenues for the replacement funds and half the allocation to the Public Library Fund (PLF), the effective GRF percentage of KWH tax revenues increases by more than shown in Table 3.

Table 10 - Proposed Phase-Out of Local Government Utility Tax Payments			
Includes Current Expense Levies and Others			
in millions of dollars			
School and JVS	FY 2011	FY 2012	FY 2013
School District Reimbursements	\$67.9	\$28.0	\$24.4
JVS Reimbursements	\$6.4	\$1.3	\$0.9
School and JVS Utility Reimbursements	\$74.3	\$29.3	\$25.3
Amount of reimbursement eliminated		\$45.0	\$49.0
Percentage of reimbursement eliminated		60.6%	65.9%
Local Governments	Tax Year 2010	FY 2012	FY 2013
County Utility Reimbursements	\$33.5	\$3.5	\$2.6
Municipality Utility Reimbursements	\$8.6	\$1.2	\$1.0
Township Utility Reimbursements	\$12.1	\$3.9	\$3.4
Special District Utility Reimbursements	\$7.5	\$2.4	\$2.0
"Excess" Local Government Utility Reimbursements	\$7.8	\$0.0	\$0.0
Total Local Government Utility Reimbursements	\$69.6	\$11.0	\$9.0
Amount of reimbursement eliminated		\$58.6	\$60.6
Percentage of reimbursement eliminated		84.2%	87.1%
Total school, JVS, and local government reimbursement eliminated		\$103.6	\$109.6
Percentage of reimbursement eliminated		72.0%	76.2%
projected current-law gain in "excess" distributions that will not take place (<i>preliminary number subject to revision</i>)		\$16.0	\$18.5
net GRF gain relative to current law = TY 2010 reimbursement eliminated plus additional "excess" local government distributions avoided		\$119.6	\$128.1

Near the bottom of Table 10 there is a row that shows the projected current-law gain in "excess" local government distributions that will be prevented by the administration proposal.⁵ The excess distributions are a not-widely known feature of the utility

⁵ The estimates shown here of the savings in direct payments and the savings in avoided "excess" payments are inexact, but more precise estimates should yield the same sum of the two

deregulation replacement payments in current law. In a sense, the roles of the school replacement payments and the local government replacement payments are reversed in the TPP tax replacement and the utility property tax replacement. In the prior-law TPP tax replacement payment design, the local government payments phase out and the deposits into the fund decrease accordingly. The school payments also phase out, but the deposits into the fund continue forever (at 70 percent of CAT revenues) and the deposits were supposed to be allocated by formula (which the General Assembly has yet to adopt). In the current-law utility tax replacement design, the school payments phased out (according to an annual test) and the unneeded dedicated taxes going into the replacement fund are recaptured through transfers back to the GRF. On the other hand, the local government replacement payments phase out, but the dedicated KWH tax and MCF tax revenues kept getting deposited into the replacement fund forever, and the revenues that were left over after the replacement payments are phased out (the “excess” or “surplus” revenues) are distributed to local governments by formula.

Under prior law, the “excess” local government revenues increase as the revenues deposited into the local government replacement fund increase, and as the local government replacement payments phase out. The administration projects that KWH tax revenues will increase in fiscal years 2012 and 2013, and under prior law, replacement payments continue the phase out that began in tax year 2007 (and which accelerates in 2012 and 2013), so both factors contribute to creating larger excess payments in fiscal years 2012 and 2013 than existed in tax year 2010. The avoidance of this increase in the excess payments is the final element of the savings relative to prior law in HB 153, beyond the reductions in direct payments to local governments.

The total preliminary estimated budgetary savings from HB 153 to the phase out schedules for the TPP tax replacement payments and the utility tax replacement payments are thus \$587 million in fiscal year 2012 and \$845 million in fiscal year 2013. These are the estimated savings relative to prior law, which are not precisely the same as the savings relative to what was actually paid out in fiscal year 2011 or tax year 2010. The reason is that prior law already incorporated some phase out relative to fiscal year 2011 or tax year 2010. On the TPP tax replacement side, since House Bill 1, the fiscal year 2010-2011 budget bill, froze TPP tax replacements to schools at the fiscal year 2011 level, estimated changes for school payments from fiscal year 2011 to the administration-proposed levels **are** essentially the same as the estimated changes relative to current law. For TPP tax replacement payments to local governments, however, the budgetary savings relative to current law are lower than the estimated changes relative to fiscal year 2011 payments, because current law already includes some additional phase out for fiscal years 2012 and 2013 (the phase outs for local governments are actually calculated by tax year, but fiscal year estimates can be interpolated from the tax years). On the utility tax replacement side, school payment estimated budgetary savings relative to current law are not necessarily the same as savings relative to fiscal year 2011 payments, because under current law, the school offset may change and school districts may lose their direct

components shown here. That is, any changes to the estimated savings relative to current law in the replacement payments should be offset by an equivalent change to the estimated savings from the excess payments avoided.

reimbursement through the performance of the annual test.⁶ Utility tax local government budgetary savings relative to current law will differ from savings relative to tax year 2010 payments because under the administration proposal, increases in excess payments due to increases in tax revenues deposited into the local replacement fund are avoided. Budgetary savings relative to current law are thus greater for that particular element than the savings relative to history (tax year 2010 payments).

⁶ This test compares inflation-adjusted property tax losses to increases in state aid since the fiscal year 2002 base period.

APPENDIX

Table 11 presented here extends the analysis shown in Table 1 of how the GRF has had to subsidize the TPP tax replacement payments to schools and local governments under current law because CAT revenues have been insufficient to make those payments. Table 11 includes projections for fiscal years 2012 and 2013 under current law and under the administration proposal. Table 11 also reconciles the projected GRF revenue gain from the reallocation of CAT revenues to the GRF with the anticipated net GRF gain from changing the phase out of the replacement payments, by explicitly incorporating transfers out of the GRF (GRF subsidies) that would be avoided under the administration proposal.

Table 11 - Commercial Activity Tax Revenues vs. Required TPP Tax Reimbursements
(\$ in millions)

	FY 2009 Actual	FY 2010 Actual	FY 2011 Estimate	FY 2012 Forecast	FY 2013 Forecast
Executive Budget Proposal					
Total CAT Revenues - Baseline	\$1,179.2	\$1,341.6	\$1,436.9	\$1,470.0	\$1,495.0
Expended Job Retention Tax Credit				\$17.0	\$25.0
CAT After Law Changes				\$1,453.0	\$1,470.0
GRF Revenues - new allocation (25% and 50%)				\$363.3	\$735.0
Revenue gain to GRF relative to current law				\$286.2	\$579.2
Administrative cost reimbursement				\$12.4	\$12.5
CAT allocated to school and local reimbursements				\$1,077.4	\$722.5
Required Tangible Property Tax Reimbursements - current law through FY 2011, proposal for FY 2012-2013	\$1,275.0	\$1,624.0	\$1,649.3	\$1,113.9	\$780.2
Surplus to GRF / (Shortfall paid from GRF)	(\$95.8)	(\$282.4)	(\$212.4)	(\$36.5)	(\$57.7)
If Current Law Continued					
CAT After Law Changes				\$1,453.0	\$1,470.0
GRF Revenues - current law allocation (5.3% and 10.6%)	\$0.0	\$0.0	\$0.0	\$77.0	\$155.8
Administrative cost reimbursement				\$12.4	\$12.5
CAT allocated to school and local reimbursements				\$1,363.6	\$1,301.7
Required Tangible Property Tax Reimbursements - current law through FY 2011, current law for FY 2012-2013	\$1,275.0	\$1,624.0	\$1,649.3	\$1,581.7	\$1,496.7
Surplus to GRF / (Shortfall paid from GRF)	(\$95.8)	(\$282.4)	(\$212.4)	(\$218.1)	(\$195.0)
Gain in GRF Revenues				\$286.2	\$579.2
Gain in Reduced GRF Subsidy				\$181.6	\$137.3
Total GRF Gain				\$467.8	\$716.5