

HOUSE BILL NO. 223

INTRODUCED BY DICK BARRETT

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4 A BILL FOR AN ACT ENTITLED: "AN ACT CREATING A RESIDENTIAL PROPERTY TAX CIRCUIT BREAKER
5 CREDIT; REQUIRING THE DEPARTMENT OF REVENUE TO DETERMINE THE AMOUNT OF THE
6 PROPERTY TAX CIRCUIT BREAKER CREDIT; REQUIRING THE DEPARTMENT OF REVENUE TO REPORT
7 THE AMOUNT OF THE PROPERTY TAX CIRCUIT BREAKER CREDITS TO COUNTY TREASURERS;
8 PROVIDING THAT THE PROPERTY TAX CIRCUIT BREAKER CREDIT IS ALLOCATED IN EQUAL AMOUNTS
9 TO EACH OF THE TAXPAYER'S PROPERTY TAX INSTALLMENTS; PROVIDING FOR OTHER ALLOCATIONS
10 OF THE PROPERTY TAX CIRCUIT BREAKER CREDIT; PROVIDING THAT THE PROPERTY TAX CIRCUIT
11 BREAKER CREDIT IS CONSIDERED PROPERTY TAXES PAID IN THE PREVIOUS YEAR; PROVIDING FOR
12 RECAPTURE OF THE PROPERTY TAX CIRCUIT BREAKER CREDIT; ALLOWING A DISABLED VETERAN
13 OR A DISABLED VETERAN'S SPOUSE TO CLAIM EITHER THE PROPERTY TAX CIRCUIT BREAKER
14 CREDIT OR THE DISABLED OR DECEASED VETERANS' RESIDENCE EXEMPTION; ELIMINATING THE
15 LOW-INCOME PROPERTY TAX ASSISTANCE PROGRAM, THE EXTENDED PROPERTY TAX ASSISTANCE
16 PROGRAM, AND THE RESIDENTIAL PROPERTY TAX CREDIT FOR THE ELDERLY; CREATING A
17 PROPERTY TAX CIRCUIT BREAKER INCOME TAX CREDIT FOR RESIDENTIAL RENT-EQUIVALENT
18 PROPERTY TAXES PAID; AMENDING SECTIONS 2-15-122, 5-2-301, 15-6-134, 15-6-211, 15-7-102, 15-10-420,
19 15-16-101, 15-16-102, 47-1-111, 53-4-1103, AND 53-6-1001, MCA; REPEALING SECTIONS 15-6-193,
20 15-30-2337, 15-30-2338, 15-30-2339, 15-30-2340, AND 15-30-2341, MCA; AND PROVIDING A DELAYED
21 EFFECTIVE DATE AND RETROACTIVE APPLICABILITY DATES."

22
23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

24
25 NEW SECTION. **Section 1. Property tax circuit breaker -- definitions.** As used in [sections 1 through
26 7], the following definitions apply:

27 (1) "Claim period" means the tax year for claimants required to file a Montana tax return or returns under
28 chapter 30 or 31 and the calendar year for claimants not required to file returns.

29 (2) "Claimant" means a person who is eligible to file a claim for a property tax circuit breaker credit under
30 [section 3].

1 (3) (a) "Household" means an association of persons who live in the same dwelling, sharing its
2 furnishings, facilities, accommodations, and expenses.

3 (b) The term does not include bona fide lessees, tenants, or roomers and boarders on contract.

4 (4) "Household income" means all income received by all persons of a household in a tax year while they
5 are members of the household.

6 (5) "Income" means the income as reported on the tax return or returns required by chapter 30 or 31 for
7 the tax year in which the property tax circuit breaker credit allowed under [sections 1 through 7] is being claimed
8 excluding losses, depletion, and depreciation and before any federal or state adjustments to income. If the
9 claimant is not required to file a tax return under chapter 30 or 31, household income means the household's total
10 income as it would have been calculated under this subsection if the claimant had been required to file a return.

11 (6) "Property tax billed" means taxes levied against the qualified residence, including special
12 assessments and fees but excluding penalties or interest during the claim period.

13 (7) "Property tax threshold amount" means the amount determined by multiplying household income by
14 the property tax threshold rate.

15 (8) "Property tax threshold rate" means the amount determined by the formula: property tax threshold
16 rate = $(0.02 + (0.0000008 \times \text{household income}))$.

17 (9) "Qualified residence" means any owner-occupied class four residential dwelling that is a single-family
18 dwelling unit, unit of a multiple-unit dwelling, trailer, manufactured home, or mobile home that is subject to
19 property taxes and as much of the surrounding land, not exceeding 5 acres, as is reasonably necessary for its
20 use as a dwelling.

21 (10) "Tax year" means the property tax year preceding the current year in which a claim for a property
22 tax circuit breaker credit is made.

23
24 **NEW SECTION. Section 2. Property tax circuit breaker credit -- computation -- form of relief.** (1)
25 A claimant who owned a qualified residence on January 1 of the year in which a claim is filed is allowed a
26 property tax circuit breaker credit for a portion of property taxes billed to the claimant in the tax year as provided
27 in [sections 1 through 7].

28 (2) (a) The amount of the property tax circuit breaker credit allowed under this section is equal to property
29 taxes billed in the tax year times 0.85, minus the property tax threshold amount.

30 (b) If the amount determined in subsection (2)(a) is equal to or less than zero, then there is no credit.

1 (3) The amount determined under subsection (2) is a credit against the property tax billed in the current
2 tax year. The credit must be included on the claimant's property tax installments as provided in [section 5].

3
4 **NEW SECTION. Section 3. Property tax circuit breaker -- eligibility -- limitations -- disallowance.**

5 (1) In order to be eligible to make a claim for a property tax circuit breaker under [sections 1 through 7], the
6 claimant must have:

7 (a) resided in Montana for at least 9 months of the tax year for which the claim is made; and
8 (b) occupied one or more qualified residences in the state as an owner for at least 7 months of the tax
9 year.

10 (2) A person is not disqualified from claiming the credit under [sections 1 through 7] because of a change
11 of residence during the claim period if the person occupies a qualified residence in Montana as an owner for at
12 least 7 months during the claim period.

13 (3) Only one claim for a property tax circuit breaker credit may be made with respect to any qualified
14 residence.

15 (4) A claim for the credit may not be allowed for any portion of property taxes billed that is derived from
16 a public tax subsidy program.

17 (5) A disabled veteran or a disabled veteran's surviving spouse may elect to claim a credit allowed under
18 [sections 1 through 7] or the property tax exemption allowed under 15-6-211, but not both in the same year.

19 (6) A claim is disallowed if the department finds that the claimant received title to the claimant's qualified
20 residence primarily for the purpose of receiving benefits under [sections 1 through 7].

21
22 **NEW SECTION. Section 4. Residential property tax circuit breaker -- filing date.** (1) A claim for the

23 property tax circuit breaker credit on a form provided by the department must be submitted at the same time the
24 claimant's tax return is due under chapter 30 or 31, without extension. For an individual not required to file a tax
25 return, the claim must be submitted on or before April 15 of the year following the tax year for which the credit
26 is sought.

27 (2) A receipt showing property tax billed in the tax year must be filed with the claim. Each claimant shall,
28 at the request of the department, supply all additional information necessary to support a claim.

29 (3) If an individual who would have a claim under [sections 1 through 7] dies before filing the claim, the
30 personal representative of the estate of the decedent may file the claim.

1
2 **NEW SECTION. Section 5. Determination of property tax circuit breaker credit -- notices --**
3 **allocation.** (1) Each year, the department shall determine the property tax circuit breaker credit amount under
4 [section 2] for the qualified residence owned and occupied by the claimant. By July 15 of each year, the
5 department shall notify the county treasurer of the county in which the residence is located of the amount of the
6 property tax circuit breaker credit for each claimant.

7 (2) At the time of notice to the county treasurer, the department shall notify the taxpayer of the property
8 tax circuit breaker credit amount determined under [section 2].

9 (3) For the amount of the property tax circuit breaker credit stated in the notice to county treasurers under
10 subsection (1), the county treasurer shall include on the property tax bill notice to the taxpayer the total property
11 tax billed, the amount of the credit against the property tax billed, and the balance of property tax due after
12 subtracting the credit.

13 (4) (a) The county treasurer shall apply the credit in equal amounts to each of the claimant's property
14 tax installments.

15 (b) The property tax circuit breaker credit determined for the claimant must be allocated first to current
16 year property taxes on the qualified residence, next to current year penalties and interest on the qualified
17 residence, next to penalties and interest on the qualified residence for property taxes for a full tax year that have
18 been delinquent the longest, and last to property taxes for a full tax year on the qualified residence that have been
19 delinquent the longest.

20 (c) If the property tax circuit breaker credit exceeds the allocations under subsection (4)(b), the claimant
21 is not entitled to a refund.

22 (d) The county treasurer shall distribute the balance due paid by the taxpayer in the same relative
23 proportions required by levies for each governmental unit.

24
25 **NEW SECTION. Section 6. Report to governmental units.** The department shall determine for each
26 governmental unit within the county the total amount of property tax circuit breaker credits for all taxpayers within
27 the governmental unit and report that amount to the governmental unit. The governmental unit may use that
28 amount in the determination of property tax actually assessed in the governmental unit in the prior tax year as
29 provided in 15-10-420.

30

1 **NEW SECTION. Section 7. Fraudulent claims -- recapture of credit -- distribution.** (1) A person
2 filing a false or fraudulent claim under the provisions of [sections 1 through 7] must be charged with the offense
3 of unsworn falsification to authorities pursuant to 45-7-203.

4 (2) A property tax circuit breaker credit taken under the provisions of [sections 1 through 7] is subject
5 to recapture because of a false or fraudulent claim or because a claim was disallowed by the department. The
6 recapture is equal to the amount of taxes avoided in the year in which the fraudulent or disallowed claim was
7 made, plus interest and penalty for nonpayment of property taxes. The unpaid property taxes must bear interest
8 from the due date of the property taxes as provided in 15-16-102(1) until paid, at 1% a month. An additional 10%
9 must be added to the amount due as a penalty.

10 (3) The amount recaptured, including interest and penalty, must be distributed by the treasurer to funds
11 and accounts subject to the property tax circuit breaker credit in the same relative proportions that property taxes
12 were distributed under [section 5(4)(d)].

13

14 **NEW SECTION. Section 8. Rent-equivalent property tax circuit breaker credit -- definitions.** As
15 used in [sections 8 through 11], the following definitions apply:

16 (1) "Claim period" means the tax year for claimants required to file a Montana tax return or returns under
17 chapter 30 or 31 and the calendar year for claimants not required to file returns.

18 (2) "Claimant" means a person who is eligible to file a claim for a credit under [section 10].

19 (3) "Gross rent" means the total rent in cash or its equivalent actually paid during the claim period by the
20 renter or lessee for the right of occupancy of the qualified residence pursuant to an arm's-length transaction with
21 the landlord.

22 (4) "Household" means an association of persons who live in the same dwelling, sharing its furnishings,
23 facilities, accommodations, and expenses.

24 (5) "Household income" means all income received by all persons of a household in a tax year while
25 members of the household.

26 (6) "Income" means the income as reported on the tax return or returns required by chapter 30 or 31 for
27 the year in which the credit allowed under [sections 8 through 11] is being claimed excluding losses, depletion,
28 and depreciation and before any federal or state circuit breaker credits to income. If the claimant is not required
29 to file a tax return under chapter 30 or 31, household income means the household's total income as it would
30 have been calculated under this subsection if the claimant had been required to file a return.

1 (7) (a) (i) "Qualified residence" means any class four residential dwelling that is a single-family dwelling
 2 unit, unit of a multiple-unit dwelling, trailer, manufactured home, or mobile home that is subject to property taxes
 3 and as much of the surrounding land, not exceeding 5 acres, as is reasonably necessary for its use as a dwelling.

4 (ii) The term includes a single-family dwelling or unit of a multiple-unit dwelling that is rented from a
 5 county or municipal housing authority as provided in Title 7, chapter 15.

6 (b) Except for dwellings rented from a county or municipal housing authority, the term does not include
 7 rented dwellings or rented lands that are not subject to Montana property taxes during the claim period.

8 (8) "Rent-equivalent property tax paid" means 15% of the gross rent.

9 (9) "Rent-equivalent property tax threshold amount" means the amount determined by multiplying
 10 household income by the rent-equivalent property tax threshold rate.

11 (10) "Rent-equivalent property tax threshold rate" means the amount determined by the formula:
 12 rent-equivalent property tax threshold rate = $(0.02 + (0.0000008 \times \text{household income}))$.

13
 14 **NEW SECTION. Section 9. Rent-equivalent property tax circuit breaker -- income tax credit --**
 15 **limitations.** (1) There is a credit against the taxes imposed by this chapter for a portion of rent-equivalent
 16 property taxes paid by a person as provided in this section.

17 (2) The amount of the credit allowed under this section is equal to rent-equivalent property taxes paid
 18 times 0.85, minus the rent-equivalent property tax threshold amount.

19 (3) (a) Except as provided in subsection (3)(b), a credit is not allowed for any portion of rent-equivalent
 20 property taxes paid that is derived from a public rent or tax subsidy program.

21 (b) Except for qualified residences rented from a county or municipal housing authority, a credit is not
 22 allowed on rented lands or rented dwellings that are not subject to Montana property taxes during the claim
 23 period.

24 (4) If two or more individuals are sharing a rental dwelling, each individual may claim the credit based
 25 on the proportional share that the individual pays of the gross rent.

26 (5) If the amount of the credit exceeds the claimant's liability under this chapter, the amount of the excess
 27 must be refunded to the claimant. The credit may be claimed even though the claimant has no taxable income
 28 under this chapter.

29
 30 **NEW SECTION. Section 10. Rent-equivalent property tax circuit breaker -- eligibility -- adjustment.**

- 1 (1) In order to make a claim for a credit under [sections 8 through 11], an individual must have:
- 2 (a) resided in Montana for at least 9 months of the tax year for which the claim is made; and
- 3 (b) occupied one or more qualified residences in the state as a renter or lessee for at least 7 months of
- 4 the tax year.
- 5 (2) A person is not disqualified from claiming the credit under [sections 8 through 11] because of a
- 6 change of residence during the claim period if the person occupies a qualified residence in Montana as a renter
- 7 or lessee for at least 7 months during the claim period.
- 8 (3) When the landlord and tenant have not dealt at arm's length and the department judges the gross
- 9 rent charged to be excessive, the department may adjust the amount considered gross rent to a reasonable
- 10 amount.

11

12 **NEW SECTION. Section 11. Rent-equivalent property tax circuit breaker -- filing date -- denial of**

13 **claim.** (1) Except as provided in subsection (3), a claim for the credit must be submitted at the same time the

14 claimant's tax return is due under chapter 30 or 31. For an individual not required to file a tax return, the claim

15 must be submitted on or before April 15 of the year following the year for which the credit is sought.

16 (2) A receipt showing gross rent paid must be filed with each claim. Each claimant shall, at the request

17 of the department, supply all additional information necessary to support a claim.

18 (3) The department may grant a reasonable extension for filing a claim whenever, in its judgment, good

19 cause exists.

20 (4) If an individual who would have a claim under [sections 8 through 11] dies before filing the claim, the

21 personal representative of the estate of the decedent may file the claim.

22 (5) The department or an individual may revise a return and make a claim under [sections 8 through 11]

23 within 5 years from the last day prescribed for filing a claim for relief.

24 (6) A person filing a false or fraudulent claim under the provisions of [sections 8 through 11] must be

25 charged with the offense of unsworn falsification to authorities pursuant to 45-7-203. If a false or fraudulent claim

26 has been paid, the amount paid may be recovered as any other debt owed to the state. An additional 10% may

27 be added to the amount due as a penalty. The unpaid debt must bear interest from the date of the original

28 payment of the claim until paid, at the rate of 1% per month.

29

30 **Section 12.** Section 2-15-122, MCA, is amended to read:

1 **"2-15-122. Creation of advisory councils.** (1) (a) A department head or the governor may create
2 advisory councils.

3 (b) An agency or an official of the executive branch of state government other than a department head
4 or the governor, including the superintendents of the state's institutions and the presidents of the units of the
5 state's university system, may also create advisory councils but only if federal law or regulation requires that the
6 official or agency create the advisory council as a condition to the receipt of federal funds.

7 (c) The board of public education, the board of regents of higher education, the state board of education,
8 the attorney general, the state auditor, the secretary of state, and the superintendent of public instruction may
9 create advisory councils, which shall serve at their pleasure, without the approval of the governor. The creating
10 authority shall file a record of each council created by it in the office of the governor and the office of the secretary
11 of state in accordance with subsection (9).

12 (2) Each advisory council created under this section must be known as the "... advisory council".

13 (3) The creating authority shall:

14 (a) prescribe the composition and advisory functions of each advisory council created;

15 (b) appoint its members, who shall serve at the pleasure of the creating authority; and

16 (c) specify a date when the existence of each advisory council ends.

17 (4) Advisory councils may be created only for the purpose of acting in an advisory capacity, as defined
18 in 2-15-102.

19 (5) (a) Unless an advisory council member is a full-time salaried officer or employee of this state or of
20 any political subdivision of this state, the member is entitled to be paid in an amount to be determined by the
21 department head, not to exceed \$50 for each day in which the member is actually and necessarily engaged in
22 the performance of council duties and to be reimbursed for travel expenses, as provided for in 2-18-501 through
23 2-18-503, incurred while in the performance of council duties. The maximum daily pay rate must be adjusted for
24 inflation annually using the formula provided in ~~15-6-134(2)(b)(ii) and (2)(b)(iii)~~, ~~except that the base income level~~
25 ~~and appropriate dollar amount must be \$50 a day~~ subsection (11).

26 (b) Members who are full-time salaried officers or employees of this state or of any political subdivision
27 of this state are not entitled to be compensated for their service as members but are entitled to be reimbursed
28 for travel expenses, as provided for in 2-18-501 through 2-18-503.

29 (6) Unless otherwise specified by the creating authority, at its first meeting in each year, an advisory
30 council shall elect a presiding officer and other officers that it considers necessary.

1 (7) Unless otherwise specified by the creating authority, an advisory council shall meet at least annually
2 and shall also meet on the call of the creating authority or the governor and may meet at other times on the call
3 of the presiding officer or a majority of its members. An advisory council may not meet outside the city of Helena
4 without the express prior authorization of the creating authority.

5 (8) A majority of the membership of an advisory council constitutes a quorum to do business.

6 (9) Except as provided in subsection (1)(c), an advisory council may not be created or appointed by a
7 department head or any other official without the approval of the governor. In order for the creation or approval
8 of the creation of an advisory council to be effective, the governor shall file in the governor's office and in the
9 office of the secretary of state a record of the council created showing:

- 10 (a) the council's name, in accordance with subsection (2);
11 (b) the council's composition;
12 (c) the appointed members, including names and addresses;
13 (d) the council's purpose; and
14 (e) the council's term of existence, in accordance with subsection (10).

15 (10) An advisory council may not be created to remain in existence longer than 2 years after the date of
16 its creation or beyond the period required to receive federal or private funds, whichever occurs later, unless
17 extended by the appointing authority in the manner set forth in subsection (1). If the existence of an advisory
18 council is extended, the appointing authority shall specify a new date, not more than 2 years later, when the
19 existence of the advisory council ends and file a record of the order in the office of the governor and the office
20 of the secretary of state. The existence of any advisory council may be extended as many times as necessary.

21 (11) (a) The daily pay rate contained in subsection (5) must be adjusted for inflation annually. The
22 adjustment to the daily pay rate is determined by:

23 (i) multiplying \$50 by the ratio of the PCE for the second quarter of the year prior to the current year to
24 the PCE for the second quarter of 1995; and

25 (ii) rounding the product obtained in subsection (11)(a)(i) to the nearest whole dollar amount.

26 (b) "PCE" means the implicit price deflator for personal consumption expenditures as published quarterly
27 in the Survey of Current Business by the bureau of economic analysis of the U.S. department of commerce."

28

29 **Section 13.** Section 5-2-301, MCA, is amended to read:

30 **"5-2-301. Compensation and expenses for members while in session.** (1) Legislators are entitled

1 to a salary commensurate to that of the daily rate for an employee earning \$10.33 an hour when the regular
2 session of the legislature in which they serve is convened under 5-2-103 for those days during which the
3 legislature is in session. The hourly rate must be adjusted by any statutorily required pay increase. The president
4 of the senate and the speaker of the house must receive an additional \$5 a day in salary for those days during
5 which the legislature is in session.

6 (2) Legislators may serve for no salary.

7 (3) Subject to subsection (4), legislators are entitled to a daily allowance, 7 days a week, during a
8 legislative session, as reimbursement for expenses incurred in attending a session. Expense payments must stop
9 when the legislature recesses for more than 3 days and resume when the legislature reconvenes.

10 (4) After November 15, and prior to December 15 of each even-numbered year, the department of
11 administration shall conduct a survey of the allowance for daily expenses of legislators for the states of North
12 Dakota, South Dakota, Wyoming, and Idaho. The department shall include the average daily expense allowance
13 for Montana legislators in determining the average daily rate for legislators. The department shall include only
14 states with specific daily allowances in the calculation of the average. If the average daily rate is greater than the
15 daily rate for legislators in Montana, legislators are entitled to a new daily rate for those days during which the
16 legislature is in session. The new daily rate is the daily rate for the prior legislative session, increased by the
17 percentage rate increase as determined by the survey, a cost-of-living increase to reflect inflation that is
18 calculated pursuant to ~~15-6-134~~ subsection (8), or 5%, whichever is less. The expense allowance is effective
19 when the next regular session of the legislature in which the legislators serve is convened under 5-2-103.

20 (5) Legislators are entitled to a mileage allowance as provided in 2-18-503 for each mile of travel to the
21 place of the holding of the session and to return to their place of residence at the conclusion of the session.

22 (6) In addition to the mileage allowance provided for in subsection (5), legislators, upon submittal of an
23 appropriate claim for mileage reimbursement to the legislative services division, are entitled to:

24 (a) three additional round trips to their place of residence during each regular session; and

25 (b) additional round trips as authorized by the legislature during special session.

26 (7) Legislators are not entitled to any additional mileage allowance under subsection (5) for a special
27 session if it is convened within 7 days of a regular session.

28 (8) (a) The daily expense allowance contained in subsection (4) must be adjusted for inflation annually.
29 The adjustment to the daily expense allowance is determined by:

30 (i) multiplying the appropriate dollar amount by the ratio of the PCE for the second quarter of the year

1 prior to the year of application to the PCE for the second quarter of 1995; and

2 (ii) rounding the product obtained in subsection (8)(a)(i) to the nearest whole dollar amount.

3 (b) "PCE" means the implicit price deflator for personal consumption expenditures as published quarterly
 4 in the Survey of Current Business by the bureau of economic analysis of the U.S. department of commerce."

5

6 **Section 14.** Section 15-6-134, MCA, is amended to read:

7 **"15-6-134. Class four property -- description -- taxable percentage.** (1) Class four property includes:

8 (a) subject to 15-6-222 and subsections ~~(4)(f)~~ (1)(e) and ~~(4)(g)~~ (1)(f) of this section, all land, except that
 9 specifically included in another class;

10 (b) subject to 15-6-222 and subsections ~~(4)(f)~~ (1)(e) and ~~(4)(g)~~ (1)(f) of this section, all improvements,
 11 including trailers, manufactured homes, or mobile homes used as a residence, except those specifically included
 12 in another class;

13 ~~(c) the first \$100,000 or less of the taxable market value of any improvement on real property, including~~
 14 ~~trailers, manufactured homes, or mobile homes, and appurtenant land not exceeding 5 acres owned or under~~
 15 ~~contract for deed and actually occupied for at least 7 months a year as the primary residential dwelling of one or~~
 16 ~~more qualified claimants:~~

17 ~~—— (i) for tax year 2009, whose federal adjusted gross income did not exceed the thresholds established~~
 18 ~~in subsection (2)(b)(i); or~~

19 ~~—— (ii) for tax years after tax year 2009, whose total household income did not exceed the thresholds~~
 20 ~~established in subsection (2)(b)(i);~~

21 ~~(d)(c)~~ all golf courses, including land and improvements actually and necessarily used for that purpose,
 22 that consist of at least nine holes and not less than 700 lineal yards;

23 ~~(e)(d)~~ subject to 15-6-222(1), all improvements on land that is eligible for valuation, assessment, and
 24 taxation as agricultural land under 15-7-202, including 1 acre of real property beneath improvements on land
 25 described in 15-6-133(1)(c). The 1 acre must be valued at market value.

26 ~~(f)(e)~~ (i) single-family residences, including trailers, manufactured homes, or mobile homes;

27 (ii) rental multifamily dwelling units;

28 (iii) appurtenant improvements to the residences or dwelling units, including the parcels of land upon
 29 which the residences and dwelling units are located and any leasehold improvements; and

30 (iv) vacant residential lots; and

1 ~~(g)~~(f) (i) commercial buildings and the parcels of land upon which they are situated; and
 2 (ii) vacant commercial lots.

3 (2) Class four property is taxed as follows:

4 (a) Except as provided in 15-6-211, 15-24-1402, 15-24-1501, 15-24-1502, and ~~15-24-2101~~ 15-24-2102,
 5 property described in subsections (1)(a), (1)(b), and ~~(1)(e)~~ (1)(d) through ~~(1)(g)~~ (1)(f) of this section is taxed at:

- 6 (i) 2.93% of its taxable market value in tax year 2009;
- 7 (ii) 2.82% of its taxable market value in tax year 2010;
- 8 (iii) 2.72% of its taxable market value in tax year 2011;
- 9 (iv) 2.63% of its taxable market value in tax year 2012;
- 10 (v) 2.54% of its taxable market value in tax year 2013; and
- 11 (vi) 2.47% of its taxable market value in tax years after 2013.

12 (b) (i) ~~Property qualifying under the property tax assistance program in subsection (1)(c) is taxed at the~~
 13 ~~rate provided in subsection (2)(a) of its taxable market value multiplied by a percentage figure based on the~~
 14 ~~income for the preceding calendar year of the owner or owners who occupied the property as their primary~~
 15 ~~residence and determined from the following table:~~

Income		Percentage
Single Person	Married Couple	Multiplier
Head of Household		
\$0 - \$6,000	\$0 - \$8,000	20%
\$6,001 - \$9,200	\$8,001 - \$14,000	50%
\$9,201 - \$15,000	\$14,001 - \$20,000	70%

16 (ii) ~~The income levels contained in the table in subsection (2)(b)(i) must be adjusted for inflation annually~~
 17 ~~by the department. The adjustment to the income levels is determined by:~~

18 (A) ~~multiplying the appropriate dollar amount from the table in subsection (2)(b)(i) by the ratio of the PCE~~
 19 ~~for the second quarter of the year prior to the year of application to the PCE for the second quarter of 1995; and~~

20 (B) ~~rounding the product thus obtained to the nearest whole dollar amount.~~

21 (iii) ~~"PCE" means the implicit price deflator for personal consumption expenditures as published quarterly~~
 22 ~~in the Survey of Current Business by the bureau of economic analysis of the U.S. department of commerce.~~

23 (e)(b) ~~Property described in subsection (1)(d) (1)(c) is taxed at one-half the taxable percentage rate~~
 24 ~~established in subsection (2)(a).~~

1 (3) Within the meaning of comparable property, as defined in 15-1-101, property assessed as
 2 commercial property is comparable only to other property assessed as commercial property and property
 3 assessed as other than commercial property is comparable only to other property assessed as other than
 4 commercial property.

5 ~~(4) (a) As used in this section, "qualified claimants" means one or more owners who:~~

6 ~~—— (i) occupied the residence as their primary residence for more than 7 months during the preceding~~
 7 ~~calendar year;~~

8 ~~—— (ii) had combined income for the preceding calendar year that does not exceed the threshold provided~~
 9 ~~in subsection (2)(b); and~~

10 ~~—— (iii) file a claim for assistance on a form that the department prescribes on or before April 15 of the year~~
 11 ~~for which the assistance is claimed.~~

12 ~~—— (b) For the purposes of subsection (1)(c), total household income is the income as reported on the tax~~
 13 ~~return or returns required by chapter 30 or 31 for the year in which the assistance is being claimed excluding~~
 14 ~~losses, depletion, and depreciation and before any federal or state adjustments to income. In cases in which the~~
 15 ~~claimant is not required to file a tax return under chapter 30 or 31, household income means the household's total~~
 16 ~~income as it would have been calculated under this subsection (4)(b) if the claimant had been required to file a~~
 17 ~~return.~~

18 ~~—— (c) The combined income of two or more owners who are qualified claimants:~~

19 ~~—— (i) may not exceed the married couple and head of household thresholds provided in subsection (2)(b);~~
 20 ~~and~~

21 ~~—— (ii) determines the amount of tax reduction under subsection (2)(b)."~~

22

23 **Section 15.** Section 15-6-211, MCA, is amended to read:

24 **"15-6-211. Certain disabled or deceased veterans' residences exempt.** (1) Subject to subsection
 25 (7), a residence and appurtenant land, not to exceed 5 acres, on which it is built that is owned and occupied by
 26 a veteran or a veteran's spouse is exempt from property taxation as provided in this section if the veteran:

27 (a) was killed while on active duty or died as a result of a service-connected disability; or

28 (b) if living:

29 (i) was honorably discharged from active service in any branch of the armed services; and

30 (ii) is currently rated 100% disabled or is paid at the 100% disabled rate by the U.S. department of

1 veterans affairs for a service-connected disability, as verified by official documentation from the U.S. department
 2 of veterans affairs.

3 (2) Property qualifying under subsection (1) is taxed at the rate provided in 15-6-134(2)(a) multiplied by
 4 a percentage figure based on income and determined from the following table:

5	Income	Income	Percentage
6	Single Person	Married Couple	Multiplier
7		Head of Household	
8	\$0 - \$30,000	\$0 - \$36,000	0%
9	\$30,001 - \$33,000	\$36,001 - \$39,000	20%
10	\$33,001 - \$36,000	\$39,001 - \$42,000	30%
11	\$36,001 - \$39,000	\$42,001 - \$45,000	50%

12 (3) The property tax exemption under this section remains in effect as long as the property is the primary
 13 residence owned and occupied by the veteran or, if the veteran is deceased, by the veteran's spouse and the
 14 spouse:

- 15 (a) is the owner and occupant of the house;
- 16 (b) is unmarried; and
- 17 (c) has obtained from the U.S. department of veterans affairs a letter indicating that the veteran was
 18 rated 100% disabled or was paid at the 100% disabled rate by the U.S. department of veterans affairs for a
 19 service-connected disability at the time of death or that the veteran died while on active duty or as a result of a
 20 service-connected disability.

21 (4) Property qualifying under subsection (3) is taxed at the rate provided in 15-6-134(2)(a) multiplied by
 22 a percentage figure based on income and determined from the following table:

23	Income	Percentage
24	Surviving Spouse	Multiplier
25	\$0 - \$25,000	0%
26	\$25,001 - \$28,000	20%
27	\$28,001 - \$31,000	30%
28	\$31,001 - \$34,000	50%

29
 30 (5) For the purposes of the exemption under this section, the income referred to in subsections (2) and

1 (4) is the taxpayer's federal adjusted gross income for the preceding calendar year, as reported on the taxpayer's
 2 federal income tax return. A taxpayer who is not required to file a federal income tax return for the preceding
 3 calendar year shall determine the taxpayer's federal adjusted gross income as if the taxpayer had filed a return
 4 and shall provide other evidence of income as required by the department.

5 (6) (a) The income levels contained in the tables in subsections (2) and (4) must be adjusted for inflation
 6 annually by the department. The adjustment to the income levels is determined by:

7 (i) multiplying the appropriate dollar amount from the table by the ratio of the PCE for the second quarter
 8 of the year prior to the year of application to the PCE for the second quarter of 2002; and

9 (ii) rounding the product obtained in subsection (6)(a)(i) to the nearest dollar amount.

10 (b) "PCE" means the implicit price deflator for personal consumption expenditures as published quarterly
 11 in the Survey of Current Business by the bureau of economic analysis of the U.S. department of commerce.

12 (7) (a) ~~Except as provided in subsection (7)(b), a~~ claim for exemption on a form prescribed by the
 13 department must be filed with the department on or before April 15 of the year for which the exemption is claimed.

14 ~~(b) A taxpayer may not claim an exemption under this section and the property tax circuit breaker credit~~
 15 ~~allowed under [sections 1 through 7] in the same year."~~

16

17 **Section 16.** Section 15-6-222, MCA, is amended to read:

18 **"15-6-222. Residential and commercial improvements -- percentage of value exempt.** (1) (a) Except
 19 as provided in subsection (1)(b), the following percentage of the market value of residential property described
 20 in 15-6-134~~(1)(e)~~(1)(d) and ~~(1)(f)~~ (1)(e) is exempt from property taxation:

21 (i) 36.8% for tax year 2009;

22 (ii) 39.5% for tax year 2010;

23 (iii) 41.8% for tax year 2011;

24 (iv) 44% for tax year 2012;

25 (v) 45.5% for tax year 2013;

26 (vi) 47% for tax year 2014 and succeeding tax years.

27 (b) For single-family residential dwellings, the exemption provided under subsection (1)(a) is applied to
 28 the first \$1.5 million or less in market value.

29 (2) The following percentage of the market value of commercial property described in 15-6-134~~(1)(g)~~(1)(f)
 30 is exempt from property taxation:

- 1 (a) 14.2% for tax year 2009;
 2 (b) 15.9% for tax year 2010;
 3 (c) 17.5% for tax year 2011;
 4 (d) 19% for tax year 2012;
 5 (e) 20.3% for tax year 2013;
 6 (f) 21.5% for tax year 2014 and succeeding tax years."

7

8 **Section 17.** Section 15-7-102, MCA, is amended to read:

9 **"15-7-102. Notice of classification and appraisal to owners -- appeals.** (1) (a) Except as provided
 10 in 15-7-138, the department shall mail to each owner or purchaser under contract for deed a notice of the
 11 classification of the land owned or being purchased and the appraisal of the improvements on the land only if one
 12 or more of the following changes pertaining to the land or improvements have been made since the last notice:

- 13 (i) change in ownership;
 14 (ii) change in classification;
 15 (iii) except as provided in subsection (1)(b), change in valuation; or
 16 (iv) addition or subtraction of personal property affixed to the land.

17 (b) After the first year, the department is not required to mail the notice provided for in subsection
 18 (1)(a)(iii) if the change in valuation is the result of an annual incremental change in valuation caused by the
 19 phasing in of a reappraisal under 15-7-111 or the application of the exemptions under 15-6-222 or caused by an
 20 incremental change in the tax rate.

21 (c) The notice must include the following for the taxpayer's informational purposes:

22 (i) a notice of the availability of ~~all the property tax assistance programs available to property taxpayers,~~
 23 ~~including the property tax assistance program under 15-6-134, the extended property tax assistance program~~
 24 ~~under 15-6-193, the disabled or deceased veterans' residence exemption under 15-6-211; and the residential~~
 25 ~~property tax circuit breaker credit for the elderly under 15-30-2337 through 15-30-2341~~ under [sections 1 through
 26 7];

27 (ii) the total amount of mills levied against the property in the prior year; and

28 (iii) a statement that the notice is not a tax bill.

29 (d) Any misinformation provided in the information required by subsection (1)(c) does not affect the
 30 validity of the notice and may not be used as a basis for a challenge of the legality of the notice.

1 (2) (a) Except as provided in subsection (2)(c), the department shall assign each assessment to the
2 correct owner or purchaser under contract for deed and mail the notice of classification and appraisal on a
3 standardized form, adopted by the department, containing sufficient information in a comprehensible manner
4 designed to fully inform the taxpayer as to the classification and appraisal of the property and of changes over
5 the prior tax year.

6 (b) The notice must advise the taxpayer that in order to be eligible for a refund of taxes from an appeal
7 of the classification or appraisal, the taxpayer is required to pay the taxes under protest as provided in 15-1-402.

8 (c) The department is not required to mail the notice of classification and appraisal to a new owner or
9 purchaser under contract for deed unless the department has received the transfer certificate from the clerk and
10 recorder as provided in 15-7-304 and has processed the certificate before the notices required by subsection
11 (2)(a) are mailed. The department shall notify the county tax appeal board of the date of the mailing.

12 (3) If the owner of any land and improvements is dissatisfied with the appraisal as it reflects the market
13 value of the property as determined by the department or with the classification of the land or improvements, the
14 owner may request an assessment review by submitting an objection in writing to the department, on forms
15 provided by the department for that purpose, within 30 days after receiving the notice of classification and
16 appraisal from the department. The review must be conducted informally and is not subject to the contested case
17 procedures of the Montana Administrative Procedure Act. As a part of the review, the department may consider
18 the actual selling price of the property, independent appraisals of the property, and other relevant information
19 presented by the taxpayer in support of the taxpayer's opinion as to the market value of the property. The
20 department shall give reasonable notice to the taxpayer of the time and place of the review. After the review, the
21 department shall determine the correct appraisal and classification of the land or improvements and notify the
22 taxpayer of its determination. In the notification, the department shall state its reasons for revising the
23 classification or appraisal. When the proper appraisal and classification have been determined, the land must be
24 classified and the improvements appraised in the manner ordered by the department.

25 (4) Whether a review as provided in subsection (3) is held or not, the department may not adjust an
26 appraisal or classification upon the taxpayer's objection unless:

27 (a) the taxpayer has submitted an objection in writing; and

28 (b) the department has stated its reason in writing for making the adjustment.

29 (5) A taxpayer's written objection to a classification or appraisal and the department's notification to the
30 taxpayer of its determination and the reason for that determination are public records. The department shall make

1 the records available for inspection during regular office hours.

2 (6) If any property owner feels aggrieved by the classification or appraisal made by the department after
3 the review provided for in subsection (3), the property owner has the right to first appeal to the county tax appeal
4 board and then to the state tax appeal board, whose findings are final subject to the right of review in the courts.
5 The appeal to the county tax appeal board must be filed within 30 days after notice of the department's
6 determination is mailed to the taxpayer. A county tax appeal board or the state tax appeal board may consider
7 the actual selling price of the property, independent appraisals of the property, and other relevant information
8 presented by the taxpayer as evidence of the market value of the property. If the county tax appeal board or the
9 state tax appeal board determines that an adjustment should be made, the department shall adjust the base value
10 of the property in accordance with the board's order."
11

12 **Section 18.** Section 15-10-420, MCA, is amended to read:

13 **"15-10-420. Procedure for calculating levy.** (1) (a) Subject to the provisions of this section, a
14 governmental entity that is authorized to impose mills may impose a mill levy sufficient to generate the amount
15 of property taxes actually assessed in the prior year, including the amount reported under [section 6], plus
16 one-half of the average rate of inflation for the prior 3 years. The maximum number of mills that a governmental
17 entity may impose is established by calculating the number of mills required to generate the amount of property
18 tax actually assessed in the governmental unit in the prior year based on the current year taxable value, less the
19 current year's value of newly taxable property, plus one-half of the average rate of inflation for the prior 3 years.

20 (b) A governmental entity that does not impose the maximum number of mills authorized under
21 subsection (1)(a) may carry forward the authority to impose the number of mills equal to the difference between
22 the actual number of mills imposed and the maximum number of mills authorized to be imposed. The mill authority
23 carried forward may be imposed in a subsequent tax year.

24 (c) For the purposes of subsection (1)(a), the department shall calculate one-half of the average rate of
25 inflation for the prior 3 years by using the consumer price index, U.S. city average, all urban consumers, using
26 the 1982-84 base of 100, as published by the bureau of labor statistics of the United States department of labor.

27 (2) A governmental entity may apply the levy calculated pursuant to subsection (1)(a) plus any additional
28 levies authorized by the voters, as provided in 15-10-425, to all property in the governmental unit, including newly
29 taxable property.

30 (3) (a) For purposes of this section, newly taxable property includes:

- 1 (i) annexation of real property and improvements into a taxing unit;
2 (ii) construction, expansion, or remodeling of improvements;
3 (iii) transfer of property into a taxing unit;
4 (iv) subdivision of real property; and
5 (v) transfer of property from tax-exempt to taxable status.
- 6 (b) Newly taxable property does not include an increase in value that arises because of an increase in
7 the incremental value within a tax increment financing district.
- 8 (4) (a) For the purposes of subsection (1), the taxable value of newly taxable property includes the
9 release of taxable value from the incremental taxable value of a tax increment financing district because of:
10 (i) a change in the boundary of a tax increment financing district;
11 (ii) an increase in the base value of the tax increment financing district pursuant to 7-15-4287; or
12 (iii) the termination of a tax increment financing district.
- 13 (b) If a tax increment financing district terminates prior to the certification of taxable values as required
14 in 15-10-202, the increment value is reported as newly taxable property in the year in which the tax increment
15 financing district terminates. If a tax increment financing district terminates after the certification of taxable values
16 as required in 15-10-202, the increment value is reported as newly taxable property in the following tax year.
- 17 (c) For the purpose of subsection (3)(a)(ii), the value of newly taxable class four property that was
18 constructed, expanded, or remodeled property since the completion of the last reappraisal cycle is the current
19 year market value of that property less the previous year market value of that property.
- 20 (d) For the purpose of subsection (3)(a)(iv), the subdivision of real property includes the first sale of real
21 property that results in the property being taxable as class four property under 15-6-134 or as nonqualified
22 agricultural land as described in 15-6-133(1)(c).
- 23 (5) Subject to subsection (8), subsection (1)(a) does not apply to:
24 (a) school district levies established in Title 20; or
25 (b) a mill levy imposed for a newly created regional resource authority.
- 26 (6) For purposes of subsection (1)(a), taxes imposed do not include net or gross proceeds taxes received
27 under 15-6-131 and 15-6-132.
- 28 (7) In determining the maximum number of mills in subsection (1)(a), the governmental entity may
29 increase the number of mills to account for a decrease in reimbursements.
- 30 (8) The department shall calculate, on a statewide basis, the number of mills to be imposed for purposes

1 of 15-10-108, 20-9-331, 20-9-333, 20-9-360, and 20-25-439. However, the number of mills calculated by the
 2 department may not exceed the mill levy limits established in those sections. The mill calculation must be
 3 established in tenths of mills. If the mill levy calculation does not result in an even tenth of a mill, then the
 4 calculation must be rounded up to the nearest tenth of a mill.

5 (9) (a) The provisions of subsection (1) do not prevent or restrict:

6 (i) a judgment levy under 2-9-316, 7-6-4015, or 7-7-2202;

7 (ii) a levy to repay taxes paid under protest as provided in 15-1-402;

8 (iii) an emergency levy authorized under 10-3-405, 20-9-168, or 20-15-326;

9 (iv) a levy for the support of a study commission under 7-3-184;

10 (v) a levy for the support of a newly established regional resource authority; or

11 (vi) the portion that is the amount in excess of the base contribution of a governmental entity's property
 12 tax levy for contributions for group benefits excluded under 2-9-212 or 2-18-703.

13 (b) A levy authorized under subsection (9)(a) may not be included in the amount of property taxes
 14 actually assessed in a subsequent year.

15 (10) A governmental entity may levy mills for the support of airports as authorized in 67-10-402,
 16 67-11-301, or 67-11-302 even though the governmental entity has not imposed a levy for the airport or the airport
 17 authority in either of the previous 2 years and the airport or airport authority has not been appropriated operating
 18 funds by a county or municipality during that time.

19 (11) The department may adopt rules to implement this section. The rules may include a method for
 20 calculating the percentage of change in valuation for purposes of determining the elimination of property, new
 21 improvements, or newly taxable property in a governmental unit."

22

23 **Section 19.** Section 15-16-101, MCA, is amended to read:

24 **"15-16-101. Treasurer to publish notice -- manner of publication.** (1) Within 10 days after the receipt
 25 of the property tax record, the county treasurer shall publish a notice specifying:

26 (a) that one-half of all taxes levied and assessed will be due and payable before 5 p.m. on the next
 27 November 30 or within 30 days after the notice is postmarked and that unless paid prior to that time the amount
 28 then due will be delinquent and will draw interest at the rate of 5/6 of 1% a month from the time of delinquency
 29 until paid and 2% will be added to the delinquent taxes as a penalty;

30 (b) that one-half of all taxes levied and assessed will be due and payable on or before 5 p.m. on the next

1 May 31 and that unless paid prior to that time the taxes will be delinquent and will draw interest at the rate of 5/6
 2 of 1% a month from the time of delinquency until paid and 2% will be added to the delinquent taxes as a penalty;
 3 and

4 (c) the time and place at which payment of taxes may be made.

5 (2) (a) The county treasurer shall send to the last-known address of each taxpayer a written notice,
 6 postage prepaid, showing the amount of taxes and assessments due for the current year and the amount due
 7 and delinquent for other years. The written notice must include:

8 (i) the taxable value of the property;

9 (ii) the total mill levy applied to that taxable value;

10 (iii) itemized city services and special improvement district assessments collected by the county;

11 (iv) the number of the school district in which the property is located;

12 (v) the amount of the residential property tax circuit breaker credit reported by the department under
 13 [section 5]:

14 ~~(v)(vi)~~ the amount of the total tax due, less the residential property tax circuit breaker credit, that is levied
 15 as city tax, county tax, state tax, school district tax, and other tax; and

16 ~~(iv)(vii)~~ a notice of the availability of ~~all the property tax assistance programs available to property~~
 17 ~~taxpayers, including the property tax assistance program under 15-6-134, the extended property tax assistance~~
 18 ~~program under 15-6-193, the disabled or deceased veterans' residence exemption under 15-6-211, and the~~
 19 ~~residential property tax circuit breaker credit for the elderly under 15-30-2337 through 15-30-2341~~ under [sections
 20 1 through 7].

21 (b) If the property is the subject of a tax lien sale for which a tax lien sale certificate has been issued
 22 under 15-17-212, the notice must also include, in a manner calculated to draw attention, a statement that the
 23 property is the subject of a tax lien sale and that the taxpayer may contact the county treasurer for complete
 24 information.

25 (3) The municipality shall, upon request of the county treasurer, provide the information to be included
 26 under subsection (2)(a)(iii) ready for mailing.

27 (4) The notice in every case must be published once a week for 2 weeks in a weekly or daily newspaper
 28 published in the county, if there is one, or if there is not, then by posting it in three public places. Failure to publish
 29 or post notices does not relieve the taxpayer from any tax liability. Any failure to give notice of the tax due for the
 30 current year or of delinquent tax will not affect the legality of the tax.

1 (5) If the department revises an assessment that results in an additional tax of \$5 or less, an additional
2 tax is not owed and a new tax bill does not need to be prepared."

3

4 **Section 20.** Section 15-16-102, MCA, is amended to read:

5 **"15-16-102. Time for payment -- penalty for delinquency.** Unless suspended or canceled under the
6 provisions of 10-1-606 or Title 15, chapter 24, part 17, all taxes levied and assessed in the state of Montana,
7 except assessments made for special improvements in cities and towns payable under 15-16-103, are payable
8 as follows:

9 (1) One-half of the taxes are payable on or before 5 p.m. on November 30 of each year or within 30 days
10 after the tax notice is postmarked, whichever is later, and one-half are payable on or before 5 p.m. on May 31
11 of each year.

12 (2) Unless one-half of the taxes are paid on or before 5 p.m. on November 30 of each year or within 30
13 days after the tax notice is postmarked, whichever is later, the amount payable is delinquent and, except as
14 provided in [section 7(2)], draws interest at the rate of 5/6 of 1% a month from and after the delinquency until paid
15 and 2% must be added to the delinquent taxes as a penalty.

16 (3) All taxes due and not paid on or before 5 p.m. on May 31 of each year are delinquent and, except
17 as provided in [section 7(2)], draw interest at the rate of 5/6 of 1% a month from and after the delinquency until
18 paid, and 2% must be added to the delinquent taxes as a penalty.

19 (4) ~~(a)~~ If the date on which taxes are due falls on a holiday or Saturday, taxes may be paid without
20 penalty or interest on or before 5 p.m. of the next business day in accordance with 1-1-307.

21 ~~(b) If taxes on property qualifying under the low-income property tax assistance provisions of~~
22 ~~15-6-134(1)(c) are paid within 20 calendar days of the date on which the taxes are due, the taxes may be paid~~
23 ~~without penalty or interest. If a tax payment is made later than 20 days after the taxes were due, the penalty must~~
24 ~~be paid and interest accrues from the date on which the taxes were due.~~

25 (5) (a) Except for the allocations made under [section 5 (4)(b)], a taxpayer may pay current year taxes
26 without paying delinquent taxes. The county treasurer shall accept a partial payment equal to the delinquent
27 taxes, including penalty and interest, for one or more full tax years if taxes for both halves of the current tax year
28 have been paid. Payment of taxes for delinquent taxes must be applied to the taxes that have been delinquent
29 the longest. The payment of taxes for the current tax year is not a redemption of the property tax lien for any
30 delinquent tax year.

1 (b) A payment by a co-owner of an undivided ownership interest that is subject to a separate assessment
2 otherwise meeting the requirements of subsection (5)(a) is not a partial payment.

3 (6) The penalty and interest on delinquent assessment payments for specific parcels of land may be
4 waived by resolution of the city council. A copy of the resolution must be certified to the county treasurer.

5 (7) If the department revises an assessment that results in an additional tax of \$5 or less, an additional
6 tax is not owed and a new tax bill does not need to be prepared.

7 (8) The county treasurer may accept a partial payment of centrally assessed property taxes as provided
8 in 76-3-207."

9

10 **Section 21.** Section 47-1-111, MCA, is amended to read:

11 **"47-1-111. Eligibility -- determination of indigence -- rules -- definitions.** (1) (a) When a court orders
12 the office to assign counsel, the office shall immediately assign counsel prior to a determination under this
13 section.

14 (b) If the person for whom counsel has been assigned is later determined pursuant to this section to be
15 ineligible for public defender services, the office shall immediately notify the court so that the court's order may
16 be rescinded.

17 (c) A person for whom counsel is assigned is entitled to the full benefit of public defender services until
18 the court's order requiring the assignment is rescinded.

19 (d) Any determination pursuant to this section is subject to the review and approval of the court. The
20 propriety of an assignment of counsel by the office is subject to inquiry by the court, and the court may deny an
21 assignment.

22 (2) (a) An applicant who is eligible for a public defender only because the applicant is indigent shall also
23 provide a detailed financial statement and sign an affidavit.

24 (b) The application, financial statement, and affidavit must be on a form prescribed by the commission.

25 (c) Information disclosed in the application, financial statement, or affidavit is not admissible in a civil or
26 criminal action except when offered for impeachment purposes or in a subsequent prosecution of the applicant
27 for perjury or false swearing.

28 (d) The office may not withhold the timely provision of public defender services for delay or failure to fill
29 out an application. However, a court may find a person in civil contempt of court for a person's unreasonable
30 delay or failure to comply with the provisions of this subsection (2).

1 (3) An applicant is indigent if:

2 (a) the applicant's gross household income, as defined in ~~15-30-2337~~ subsection (7), is at or less than
3 133% of the poverty level set according to the most current federal poverty guidelines updated periodically in the
4 Federal Register by the United States department of health and human services under the authority of 42 U.S.C.
5 9902(2); or

6 (b) the disposable income and assets of the applicant and the members of the applicant's household are
7 insufficient to retain competent private counsel without substantial hardship to the applicant or the members of
8 the applicant's household.

9 (4) A determination of indigence may not be denied based solely on an applicant's ability to post bail or
10 solely because the applicant is employed.

11 (5) A determination may be modified by the office or the court if additional information becomes available
12 or if the applicant's financial circumstances change.

13 (6) The commission shall establish procedures and adopt rules to implement this section. Commission
14 procedures and rules:

15 (a) must ensure that the eligibility determination process is fair and consistent statewide;

16 (b) must allow a qualified private attorney to represent an applicant if the attorney agrees to accept from
17 the applicant a compensation rate that will not constitute a substantial financial hardship to the applicant or the
18 members of the applicant's household;

19 (c) may provide for the use of other public or private agencies or contractors to conduct eligibility
20 screening under this section;

21 (d) must avoid unnecessary duplication of processes; and

22 (e) must prohibit individual public defenders from performing eligibility screening pursuant to this section.

23 (7) For the purposes of this section, the following definitions apply:

24 (a) "Gross household income" means all income received by all individuals of a household while they
25 are members of the household.

26 (b) "Household" means an association of persons who live in the same dwelling, sharing its furnishings,
27 facilities, accommodations, and expenses. The term does not include bona fide lessees, tenants, or roomers and
28 boarders on contract.

29 (c) "Household income" means the amount obtained by subtracting \$6,300 from gross household
30 income.

1 (d) (i) "Income" means, except as provided in subsection (7)(d)(ii), federal adjusted gross income, without
 2 regard to loss, as that quantity is defined in the Internal Revenue Code of the United States, plus all nontaxable
 3 income, including but not limited to:

4 (A) the amount of any pension or annuity, including Railroad Retirement Act benefits and veterans'
 5 disability benefits;

6 (B) the amount of capital gains excluded from adjusted gross income;

7 (C) alimony;

8 (D) support money;

9 (E) nontaxable strike benefits;

10 (F) cash public assistance and relief;

11 (G) interest on federal, state, county, and municipal bonds; and

12 (H) all payments received under federal social security except social security income paid directly to a
 13 nursing home.

14 (ii) For the purposes of this subsection (7)(d), income is reduced by the taxpayer's basis."

15

16 **Section 22.** Section 53-4-1103, MCA, is amended to read:

17 **"53-4-1103. Definitions.** For purposes of this part, the following definitions apply:

18 (1) "Comprehensive" means health insurance having benefits at least as extensive as those provided
 19 under the children's health insurance program.

20 (2) "Department" means the department of public health and human services provided for in 2-15-2201.

21 (3) "Enrollee" means a child who is enrolled or in the process of being enrolled in the plan, including
 22 children already enrolled in the programs described in 53-4-1104(2).

23 (4) (a) "Enrollment partner" means an organization or individual approved by the department to assist
 24 in enrolling eligible children in the plan.

25 (b) An enrollment partner may be but is not limited to:

26 (i) a licensed health care provider;

27 (ii) a school;

28 (iii) a community-based organization; or

29 (iv) a government agency.

30 (5) "Health coverage" means a program administered by the department or a disability insurance plan,

1 referred to in 33-1-207(1)(b), that provides public or private health insurance for children.

2 (6) ~~(a)~~ "Income" ~~has the meaning provided in 15-30-2337(9)(a)~~ means, except as provided in subsection
3 ~~(6)(b)~~, federal adjusted gross income, without regard to loss, as that quantity is defined in the Internal Revenue
4 Code of the United States, plus all nontaxable income, including but not limited to:

5 (i) the amount of any pension or annuity, including Railroad Retirement Act benefits and veterans'
6 disability benefits;

7 (ii) the amount of capital gains excluded from adjusted gross income;

8 (iii) alimony;

9 (iv) support money;

10 (v) nontaxable strike benefits;

11 (vi) cash public assistance and relief;

12 (vii) interest on federal, state, county, and municipal bonds; and

13 (viii) all payments received under federal social security except social security income paid directly to a
14 nursing home.

15 (b) For the purposes of this subsection (6), income is reduced by the taxpayer's basis.

16 (7) "Plan" means the healthy Montana kids plan established in 53-4-1104.

17 (8) "Premium" means the amount of money charged to provide coverage under a public or private health
18 coverage plan.

19 (9) "Presumptive eligibility" has the meaning provided in 42 CFR 457.355."
20

21 **Section 23.** Section 53-6-1001, MCA, is amended to read:

22 **"53-6-1001. Definitions.** As used in this part, unless the context requires otherwise, the following
23 definitions apply:

24 (1) "Average wholesale price" means the wholesale price charged on a specific drug that is assigned
25 by the drug manufacturer and is listed in a nationally recognized drug pricing file.

26 (2) "Department" means the department of public health and human services provided for in Title 2,
27 chapter 15, part 22.

28 (3) "Discounted price" means a price set by the department by rule pursuant to 53-6-1002.

29 ~~(4) "Gross household income" has the meaning provided in 15-30-2337.~~

30 ~~(5)~~(4) "Manufacturer" means a manufacturer of prescription drugs and includes a subsidiary or affiliate

1 of a manufacturer.

2 ~~(6)~~(5) "Participating retail pharmacy" means a retail pharmacy located in this state or another business
3 licensed to dispense prescription drugs in this state that is medicaid-approved.

4 ~~(7)~~(6) "Program" means the prescription drug plus discount program provided for in 53-6-1002.

5 ~~(8)~~(7) "Secondary discounted price" means the discounted price less any further discounts funded by
6 manufacturer rebates for medication purchased by participants in the program."

7

8 **NEW SECTION. Section 24. Repealer.** The following sections of the Montana Code Annotated are
9 repealed:

- 10 15-6-193. Extended property tax assistance -- phasein.
11 15-30-2337. Residential property tax credit for elderly -- definitions.
12 15-30-2338. Residential property tax credit for elderly -- eligibility -- disallowance or adjustment.
13 15-30-2339. Residential property tax credit for elderly -- filing date.
14 15-30-2340. Residential property tax credit for elderly -- computation of relief.
15 15-30-2341. Residential property tax credit for elderly -- limitations -- denial of claim.

16

17 **NEW SECTION. Section 25. Codification instruction.** (1) [Sections 1 through 7] are intended to be
18 codified as an integral part of Title 15, chapter 24, and the provisions of Title 15, chapter 24, apply to [sections
19 1 through 7].

20 (2) [Sections 8 through 11] are intended to be codified as an integral part of Title 15, chapter 30, part 23,
21 and the provisions of Title 15, chapter 30, part 23, apply to [sections 8 through 11].

22

23 **NEW SECTION. Section 26. Effective date.** [This act] is effective January 1, 2012.

24

25 **NEW SECTION. Section 27. Retroactive applicability.** (1) [Sections 1 through 7] apply retroactively,
26 within the meaning of 1-2-109, to property taxes billed after December 31, 2010.

27 (2) [Sections 8 through 11] apply retroactively, within the meaning of 1-2-109, to gross rent paid after
28 December 31, 2010.

29

- END -