

1 HOUSE BILL NO. 87
 2 INTRODUCED BY S. ESSMANN
 3 BY REQUEST OF THE DEPARTMENT OF REVENUE
 4

5 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING PROPERTY TAXATION PROCEDURES AND COUNTY
 6 REIMBURSEMENT FOR CERTAIN LANDS PURCHASED BY THE DEPARTMENT OF FISH, WILDLIFE, AND
 7 PARKS; PROVIDING THAT THE LANDS ARE SUBJECT TO ASSESSMENT BY THE DEPARTMENT OF
 8 REVENUE IN THE SAME MANNER AS A PRIVATE CITIZEN; MAINTAINING EXISTING EXCEPTIONS;
 9 AMENDING SECTIONS 15-6-201 AND 87-1-603, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE
 10 AND A RETROACTIVE APPLICABILITY DATE."
 11

12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 13

14 **Section 1.** Section 15-6-201, MCA, is amended to read:

15 **"15-6-201. Governmental, charitable, and educational categories -- exempt property.** (1) The
 16 following categories of property are exempt from taxation:

- 17 (a) except as provided in 15-24-1203, the property of:
 - 18 (i) the United States, except:
 - 19 (A) if congress passes legislation that allows the state to tax property owned by the federal
 20 government or an agency created by congress; or
 - 21 (B) as provided in 15-24-1103;
 - 22 (ii) (A) except as provided in 87-1-603, the state;
 - 23 (B) counties, cities, and towns; ; and
 - 24 (C) and school districts;
 - 25 (iii) irrigation districts organized under the laws of Montana and not operated for gain or profit;
 - 26 (iv) municipal corporations;
 - 27 (v) public libraries;
 - 28 (vi) rural fire districts and other entities providing fire protection under Title 7, chapter 33;

1 (vii) special districts created pursuant to Title 7, chapter 11, part 10; and
 2 (viii) subject to subsection (2), federally recognized Indian tribes in the state if the property is located
 3 entirely within the exterior boundaries of the reservation of the tribe that owns the property and the property is
 4 used exclusively by the tribe for essential government services. Essential government services are tribal
 5 government administration, fire, police, public health, education, recreation, sewer, water, pollution control,
 6 public transit, and public parks and recreational facilities.

7 (b) buildings and furnishings in the buildings that are owned by a church and used for actual
 8 religious worship or for residences of the clergy, not to exceed one residence for each member of the clergy,
 9 together with the land that the buildings occupy and adjacent land reasonably necessary for convenient use of
 10 the buildings, which must be identified in the application, and all land and improvements used for educational or
 11 youth recreational activities if the facilities are generally available for use by the general public but may not
 12 exceed 15 acres for a church or 1 acre for a clergy residence after subtracting any area required by zoning,
 13 building codes, or subdivision requirements;

14 (c) land and improvements ~~upon~~on the land, not to exceed 15 acres, owned by a federally
 15 recognized Indian tribe when the land has been set aside by tribal resolution and designated as sacred land to
 16 be used exclusively for religious purposes;

17 (d) property owned and used exclusively for agricultural and horticultural societies not operated for
 18 gain or profit;

19 (e) property, not to exceed 80 acres, which must be legally described in the application for the
 20 exemption, used exclusively for educational purposes, including dormitories and food service buildings for the
 21 use of students in attendance and other structures necessary for the operation and maintenance of an
 22 educational institution that:

- 23 (i) is not operated for gain or profit;
- 24 (ii) has an attendance policy; and
- 25 (iii) has a definable curriculum with systematic instruction;
- 26 (f) property, of any acreage, owned by a tribal corporation created for the sole purpose of
 27 establishing schools, colleges, and universities if the property meets the requirements of subsection (1)(e);
- 28 (g) property used exclusively for nonprofit health care facilities, as defined in 50-5-101, licensed by

1 the department of public health and human services and organized under Title 35, chapter 2 or 3. A health care
2 facility that is not licensed by the department of public health and human services and organized under Title 35,
3 chapter 2 or 3, is not exempt.

4 (h) property that is:

5 (i) (A) owned and held by an association or corporation organized under Title 35, chapter 2, 3, 20,
6 or 21; or

7 (B) owned by a federally recognized Indian tribe within the state and set aside by tribal resolution;

8 and

9 (ii) devoted exclusively to use in connection with a cemetery or cemeteries for which a permanent
10 care and improvement fund has been established as provided for in Title 35, chapter 20, part 3; and

11 (iii) not maintained and not operated for gain or profit;

12 (i) subject to subsection (2), property that is owned or property that is leased from a federal, state,
13 or local governmental entity by institutions of purely public charity if the property is directly used for purely
14 public charitable purposes;

15 (j) evidence of debt secured by mortgages of record ~~upon~~on real or personal property in the state
16 of Montana;

17 (k) public museums, art galleries, zoos, and observatories that are not operated for gain or profit;

18 (l) motor vehicles, land, fixtures, buildings, and improvements owned by a cooperative association
19 or nonprofit corporation organized to furnish potable water to its members or customers for uses other than the
20 irrigation of agricultural land;

21 (m) the right of entry that is a property right reserved in land or received by mesne conveyance
22 (exclusive of leasehold interests), devise, or succession to enter land with a surface title that is held by another
23 to explore, prospect, or dig for oil, gas, coal, or minerals;

24 (n) (i) property that is owned and used by a corporation or association organized and operated
25 exclusively for the care of persons with developmental disabilities, persons with mental illness, or persons with
26 physical or mental impairments that constitute or result in substantial impediments to employment and that is
27 not operated for gain or profit; and

28 (ii) subject to subsection (2)(e), property that is owned and used by an organization owning and

1 operating facilities that are for the care of the retired, aged, or chronically ill and that are not operated for gain or
2 profit;

3 (o) property owned by a nonprofit corporation that is organized to provide facilities primarily for
4 training and practice for or competition in international sports and athletic events and that is not held or used for
5 private or corporate gain or profit. For purposes of this subsection (1)(o), "nonprofit corporation" means an
6 organization that is exempt from taxation under section 501(c) of the Internal Revenue Code and incorporated
7 and admitted under the Montana Nonprofit Corporation Act.

8 (p) property rented or leased to a municipality or taxing unit for less than \$100 a year and that is
9 used for public park, recreation, or landscape beautification purposes. For the purposes of this subsection
10 (1)(p), "property" includes land but does not include buildings. The exemption must be applied for by the
11 municipality or taxing unit, and not more than 10 acres within the municipality or taxing unit may be exempted.

12 (2) (a) (i) For the purposes of tribal property under subsection (1)(a)(viii), the property subject to
13 exemption may not be:

14 (A) operated for gain or profit;

15 (B) held under contract to operate, lease, or sell by a taxable individual;

16 (C) used or possessed exclusively by a taxable individual or entity; or

17 (D) held by a tribal corporation except for educational purposes as provided in subsection (1)(f).

18 (ii) For the purposes of parks and recreational facilities under subsection (1)(a)(viii), the property
19 must be:

20 (A) set aside by tribal resolution and designated as park land, not to exceed 640 acres, or be
21 designated as a recreational facility; and

22 (B) open to the general public.

23 (b) For the purposes of subsection (1)(b), the term "clergy" means, as recognized under the
24 federal Internal Revenue Code:

25 (i) an ordained minister, priest, or rabbi;

26 (ii) a commissioned or licensed minister of a church or church denomination that ordains ministers
27 if the person has the authority to perform substantially all the religious duties of the church or denomination;

28 (iii) a member of a religious order who has taken a vow of poverty; or

1 (iv) a Christian Science practitioner.

2 (c) For the purposes of subsection (1)(i):

3 (i) the term "institutions of purely public charity" includes any organization that meets the following
4 requirements:

5 (A) The organization offers its charitable goods or services to persons without regard to race,
6 religion, creed, or gender and qualifies as a tax-exempt organization under the provisions of section 501(c)(3),
7 Internal Revenue Code, as amended.

8 (B) The organization accomplishes its activities through absolute gratuity or grants. However, the
9 organization may solicit or raise funds by the sale of merchandise, memberships, or tickets to public
10 performances or entertainment or by other similar types of fundraising activities.

11 (ii) agricultural property owned by a purely public charity is not exempt if the agricultural property is
12 used by the charity to produce unrelated business taxable income as that term is defined in section 512 of the
13 Internal Revenue Code, 26 U.S.C. 512. A public charity claiming an exemption for agricultural property shall file
14 annually with the department a copy of its federal tax return reporting any unrelated business taxable income
15 received by the charity during the tax year, together with a statement indicating whether the exempt property
16 was used to generate any unrelated business taxable income.

17 (iii) up to 15 acres of property owned by a purely public charity is exempt at the time of its purchase
18 even if the property must be improved before it can directly be used for its intended charitable purpose. If the
19 property is not directly used for the charitable purpose within 8 years of receiving an exemption under this
20 section or if the property is sold or transferred before it entered direct charitable use, the exemption is revoked
21 and the property is taxable. In addition to taxes due for the first year that the property becomes taxable, the
22 owner of the property shall pay an amount equal to the amount of the tax due that year times the number of
23 years that the property was tax-exempt under this section. The amount due is a lien upon the property and
24 when collected must be distributed by the treasurer to funds and accounts in the same ratio as property tax
25 collected on the property is distributed. At the time the exemption is granted, the department shall file a notice
26 with the clerk and recorder in the county in which the property is located. The notice must indicate that an
27 exemption pursuant to this section has been granted. The notice must describe the penalty for default under
28 this section and must specify that a default under this section will create a lien on the property by operation of

1 law. The notice must be on a form prescribed by the department.

2 (iv) not more than 160 acres may be exempted by a purely public charity under any exemption
 3 originally applied for after December 31, 2004. An application for exemption under this section must contain a
 4 legal description of the property for which the exemption is requested.

5 (d) For the purposes of subsection (1)(k), the term "public museums, art galleries, zoos, and
 6 observatories" means governmental entities or nonprofit organizations whose principal purpose is to hold
 7 property for public display or for use as a museum, art gallery, zoo, or observatory. The exempt property
 8 includes all real and personal property owned by the public museum, art gallery, zoo, or observatory that is
 9 reasonably necessary for use in connection with the public display or observatory use. Unless the property is
 10 leased for a profit to a governmental entity or nonprofit organization by an individual or for-profit organization,
 11 real and personal property owned by other persons is exempt if it is:

- 12 (i) actually used by the governmental entity or nonprofit organization as a part of its public display;
- 13 (ii) held for future display; or
- 14 (iii) used to house or store a public display.

15 (e) For the purposes of facilities for the care of the retired, aged, or chronically ill under subsection
 16 (1)(n)(ii), the terms "retired" and "aged" mean an individual who satisfies the age and gross household income
 17 limitations of 15-30-2338. The property owner shall verify age and gross household income requirements on a
 18 form prescribed by the department. Applicants are subject to the false swearing penalties established in 45-7-
 19 202."

20

21 **Section 2.** Section 87-1-603, MCA, is amended to read:

22 **"87-1-603. ~~Payments to counties for department-owned~~Department-owned land subject to**
 23 **taxation -- exceptions.** (1) Except as provided in subsection (3), all land owned by the department of fish,
 24 wildlife, and parks must be assessed by the department of revenue as before November 30 of each year, the
 25 treasurer of each county in which the department owns any land shall describe the land, state the number of
 26 acres in each parcel, and request the drawing of a warrant to the county in a sum equal to the amount of taxes
 27 that would be payable on county assessment of the property if it was were taxable to a private citizen, except:-
 28 The director shall approve or disapprove the request. ~~The director may disapprove a request only if the director~~

1 finds it to be inconsistent with this section. If the director disapproves a request, the director shall return it with
 2 an explanation detailing the reasons for the disapproval to the appropriate county treasurer for correction. If the
 3 director approves a request, the director shall transmit it to the department of administration, which shall draw a
 4 warrant payable to the county in the amount shown on the request and shall send the warrant to the county
 5 treasurer. The warrant is payable out of any funds to the credit of the department of fish, wildlife, and parks. A
 6 payment may not be made to a county in which

7 (a) ~~the department owns land totaling less than 100 acres. A payment may not be made to owned~~
 8 ~~by the department in a county for ; and~~

9 (b) lands owned by the department for game or bird farms or for fish hatchery purposes or lands
 10 acquired and managed for the purposes of Title 23, chapter 1.

11 (2) ~~After May 10, 2009, for~~For every department purchase of land, the department shall notify the
 12 treasurer in the county where land was purchased.

13 (3) (a) ~~After May 10, 2009, and before November 30 of each subsequent year, the treasurer of~~
 14 ~~each county in which the department owns land purchased after May 10, 2009, shall describe the land, state~~
 15 ~~the number of acres in each parcel, and request the drawing of a warrant to the county in a sum equal to the~~
 16 ~~amount of taxes that would be payable on county assessment of the property if it was taxable to a private~~
 17 ~~citizen.~~

18 (b) ~~—The director shall approve or disapprove the request. The director may disapprove a request~~
 19 ~~only if the director finds it to be inconsistent with this subsection (3). If the director disapproves a request, the~~
 20 ~~director shall return it with an explanation detailing the reasons for the disapproval to the appropriate county~~
 21 ~~treasurer for correction. If the director approves a request, the director shall transmit it to the department of~~
 22 ~~administration, which shall draw a warrant payable to the county in the amount shown on the request and shall~~
 23 ~~send the warrant to the county treasurer. The warrant is payable out of any funds to the credit of the~~
 24 ~~department of fish, wildlife, and parks.~~

25 (c) ~~—All Subsection (1) does not apply to land purchased by the department after on or before May~~
 26 ~~10, 2009, is subject to this subsection (3).~~

27 (4) The amount to be paid to each county pursuant to this section is statutorily appropriated, as
 28 provided in 17-7-502."

1

2 NEW SECTION. Section 3. Effective date. [This act] is effective on passage and approval.

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4 NEW SECTION. Section 4. Retroactive applicability. [This act] applies retroactively, within the
5 meaning of 1-2-109, to property tax years beginning after December 31, 2024.

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- END -