

HOUSE BILL NO. 285

INTRODUCED BY S. AUGARE

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A BILL FOR AN ACT ENTITLED: "AN ACT EXEMPTING FROM TAXATION PROPERTY OWNED AND USED EXCLUSIVELY BY A FEDERALLY RECOGNIZED INDIAN TRIBE OR THE LITTLE SHELL BAND OF CHIPPEWA; AMENDING SECTION 15-6-201, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

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

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

**"15-6-201. Governmental, tribal, charitable, and educational categories -- exempt property. (1)**

The following categories of property are exempt from taxation:

(a) except as provided in 15-24-1203, the property of:

(i) the United States, except:

(A) if congress passes legislation that allows the state to tax property owned by the federal government or an agency created by congress; or

(B) as provided in 15-24-1103;

(ii) a federally recognized Indian tribe or the Little Shell band of Chippewa that is owned and used exclusively by the tribe;

~~(ii)~~(iii) the state, counties, cities, towns, and school districts;

~~(iii)~~(iv) irrigation districts organized under the laws of Montana and not operated for gain or profit;

~~(iv)~~(v) municipal corporations;

~~(v)~~(vi) public libraries; and

~~(vi)~~(vii) rural fire districts and other entities providing fire protection under Title 7, chapter 33;

(b) buildings and furnishings in the buildings that are owned by a church and used for actual religious worship or for residences of the clergy, not to exceed one residence for each member of the clergy, together with the land that the buildings occupy and adjacent land reasonably necessary for convenient use of the buildings, which must be identified in the application, and all land and improvements used for educational or youth recreational activities if the facilities are generally available for use by the general public but may not exceed 15

1 acres for a church or 1 acre for a clergy residence after subtracting any area required by zoning, building codes,  
2 or subdivision requirements;

3 (c) property owned and used exclusively for agricultural and horticultural societies not operated for gain  
4 or profit;

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

9 (i) is not operated for gain or profit;

10 (ii) has an attendance policy; and

11 (iii) has a definable curriculum with systematic instruction;

12 (e) property used exclusively for nonprofit health care facilities, as defined in 50-5-101, licensed by the  
13 department of public health and human services and organized under Title 35, chapter 2 or 3. A health care  
14 facility that is not licensed by the department of public health and human services and organized under Title 35,  
15 chapter 2 or 3, is not exempt.

16 (f) property that is:

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

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

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

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

24 (h) evidence of debt secured by mortgages of record upon real or personal property in the state of  
25 Montana;

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

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

30 (k) the right of entry that is a property right reserved in land or received by mesne conveyance (exclusive

1 of leasehold interests), devise, or succession to enter land with a surface title that is held by another to explore,  
2 prospect, or dig for oil, gas, coal, or minerals;

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

7 (ii) property that is owned and used by an organization owning and operating facilities that are for the care  
8 of the retired, aged, or chronically ill and that are not operated for gain or profit; and

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

14 (2) (a) For the purposes of subsection (1)(b), the term "clergy" means, as recognized under the federal  
15 Internal Revenue Code:

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

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

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

20 (iv) a Christian Science practitioner.

21 (b) For the purposes of subsection (1)(g):

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

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

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

30 (ii) agricultural property owned by a purely public charity is not exempt if the agricultural property is used

1 by the charity to produce unrelated business taxable income as that term is defined in section 512 of the Internal  
2 Revenue Code, 26 U.S.C. 512. A public charity claiming an exemption for agricultural property shall file annually  
3 with the department a copy of its federal tax return reporting any unrelated business taxable income received by  
4 the charity during the tax year, together with a statement indicating whether the exempt property was used to  
5 generate any unrelated business taxable income.

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

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

22 (c) For the purposes of subsection (1)(i), the term "public museums, art galleries, zoos, and  
23 observatories" means governmental entities or nonprofit organizations whose principal purpose is to hold property  
24 for public display or for use as a museum, art gallery, zoo, or observatory. The exempt property includes all real  
25 and personal property owned by the public museum, art gallery, zoo, or observatory that is reasonably necessary  
26 for use in connection with the public display or observatory use. Unless the property is leased for a profit to a  
27 governmental entity or nonprofit organization by an individual or for-profit organization, real and personal property  
28 owned by other persons is exempt if it is:

- 29 (i) actually used by the governmental entity or nonprofit organization as a part of its public display;  
30 (ii) held for future display; or

1 (iii) used to house or store a public display."  
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3 NEW SECTION. **Section 2. Notification to tribal governments.** The secretary of state shall send a  
4 copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell band  
5 of Chippewa.  
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7 NEW SECTION. **Section 3. Effective date.** [This act] is effective on passage and approval.  
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9 NEW SECTION. **Section 4. Retroactive applicability.** [This act] applies retroactively, within the  
10 meaning of 1-2-109, to property tax years beginning after December 31, 2006.  
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