

SENATE BILL NO. 456

INTRODUCED BY C. JUNEAU

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4 A BILL FOR AN ACT ENTITLED: "AN ACT EXEMPTING FROM PROPERTY TAXATION PROPERTY THAT IS
5 OWNED BY FEDERALLY RECOGNIZED INDIAN TRIBES LOCATED IN THE STATE AND THAT IS LOCATED
6 ENTIRELY WITHIN THE EXTERIOR BOUNDARIES OF THE TRIBE'S RESERVATION AND EXEMPTING
7 PROPERTY OWNED BY THE LITTLE SHELL BAND OF CHIPPEWA INDIANS THAT IS LOCATED ENTIRELY
8 WITHIN THE COUNTY IN WHICH A PLURALITY OF ITS MEMBERS RESIDE; PROVIDING THAT EXISTING
9 TAXES ARE NOT EXTINGUISHED; REQUIRING THAT EXEMPT PROPERTY BE IDENTIFIED FOR THE
10 DEPARTMENT OF REVENUE; AMENDING SECTIONS 15-6-201 AND 41-3-201, MCA; AND PROVIDING AN
11 APPLICABILITY DATE."

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

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

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

- 18 (a) except as provided in 15-24-1203, the property of:
 - 19 (i) the United States, except:
 - 20 (A) if congress passes legislation that allows the state to tax property owned by the federal government
 - 21 or an agency created by congress; or
 - 22 (B) as provided in 15-24-1103;
 - 23 (ii) the state, federally recognized Indian tribes located in the state, the Little Shell band of Chippewa
24 Indians, counties, cities, towns, 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; and
 - 28 (vi) rural fire districts and other entities providing fire protection under Title 7, chapter 33;
- 29 (b) buildings and furnishings in the buildings that are owned by a church and used for actual religious
30 worship or for residences of the clergy, not to exceed one residence for each member of the clergy, together with

1 the land that the buildings occupy and adjacent land reasonably necessary for convenient use of the buildings,
2 which must be identified in the application, and all land and improvements used for educational or youth
3 recreational activities if the facilities are generally available for use by the general public but may not exceed 15
4 acres for a church or 1 acre for a clergy residence after subtracting any area required by zoning, building codes,
5 or subdivision requirements;

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

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

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

13 (ii) has an attendance policy; and

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

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

19 (f) property that is:

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

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

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

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

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

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

30 (j) motor vehicles, land, fixtures, buildings, and improvements owned by a cooperative association or

1 nonprofit corporation organized to furnish potable water to its members or customers for uses other than the
2 irrigation of agricultural land;

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

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

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

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

17 (2) (a) For the purposes of subsection (1)(a)(ii), the property exemption applies to a tribe only when:

18 (i) for federally recognized Indian tribes in the state, the property is located entirely within the exterior
19 boundaries of the reservation of the tribe that owns the property; or

20 (ii) for the Little Shell band of Chippewa Indians, the property is located entirely within the county in which
21 a plurality of the members of the Little Shell band of Chippewa Indians reside.

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

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

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

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

28 (iv) a Christian Science practitioner.

29 ~~(b)~~(c) For the purposes of subsection (1)(g):

30 (i) the term "institutions of purely public charity" includes any organization that meets the following

1 requirements:

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

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

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

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

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

30 ~~(c)~~(d) For the purposes of subsection (1)(i), the term "public museums, art galleries, zoos, and

1 observatories" means governmental entities or nonprofit organizations whose principal purpose is to hold property
2 for public display or for use as a museum, art gallery, zoo, or observatory. The exempt property includes all real
3 and personal property owned by the public museum, art gallery, zoo, or observatory that is reasonably necessary
4 for use in connection with the public display or observatory use. Unless the property is leased for a profit to a
5 governmental entity or nonprofit organization by an individual or for-profit organization, real and personal property
6 owned by other persons is exempt if it is:

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

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11 **Section 2.** Section 41-3-201, MCA, is amended to read:

12 **"41-3-201. Reports.** (1) When the professionals and officials listed in subsection (2) know or have
13 reasonable cause to suspect, as a result of information they receive in their professional or official capacity, that
14 a child is abused or neglected, they shall report the matter promptly to the department of public health and human
15 services.

16 (2) Professionals and officials required to report are:

- 17 (a) a physician, resident, intern, or member of a hospital's staff engaged in the admission, examination,
18 care, or treatment of persons;
19 (b) a nurse, osteopath, chiropractor, podiatrist, medical examiner, coroner, dentist, optometrist, or any
20 other health or mental health professional;
21 (c) religious healers;
22 (d) school teachers, other school officials, and employees who work during regular school hours;
23 (e) a social worker, operator or employee of any registered or licensed day-care or substitute care
24 facility, staff of a resource and referral grant program organized under 52-2-711 or of a child and adult food care
25 program, or an operator or employee of a child-care facility;
26 (f) a foster care, residential, or institutional worker;
27 (g) a peace officer or other law enforcement official;
28 (h) a member of the clergy, as defined in 15-6-201(2)(a)(2)(b);
29 (i) a guardian ad litem or a court-appointed advocate who is authorized to investigate a report of alleged
30 abuse or neglect; or

- 1 (j) an employee of an entity that contracts with the department to provide direct services to children.
- 2 (3) A professional listed in subsection (2)(a) or (2)(b) involved in the delivery or care of an infant shall
- 3 report to the department any infant known to the professional to be affected by a dangerous drug, as defined in
- 4 50-32-101.
- 5 (4) Any person may make a report under this section if the person knows or has reasonable cause to
- 6 suspect that a child is abused or neglected.
- 7 (5) (a) Except as provided in subsection (5)(b) or (5)(c), a person listed in subsection (2) may not refuse
- 8 to make a report as required in this section on the grounds of a physician-patient or similar privilege.
- 9 (b) A member of the clergy or a priest is not required to make a report under this section if:
- 10 (i) the knowledge or suspicion of the abuse or neglect came from a statement or confession made to the
- 11 member of the clergy or the priest in that person's capacity as a member of the clergy or as a priest;
- 12 (ii) the statement was intended to be a part of a confidential communication between the member of the
- 13 clergy or the priest and a member of the church or congregation; and
- 14 (iii) the person who made the statement or confession does not consent to the disclosure by the member
- 15 of the clergy or the priest.
- 16 (c) A member of the clergy or a priest is not required to make a report under this section if the
- 17 communication is required to be confidential by canon law, church doctrine, or established church practice.
- 18 (6) The reports referred to under this section must contain:
- 19 (a) the names and addresses of the child and the child's parents or other persons responsible for the
- 20 child's care;
- 21 (b) to the extent known, the child's age and the nature and extent of the child's injuries, including any
- 22 evidence of previous injuries;
- 23 (c) any other information that the maker of the report believes might be helpful in establishing the cause
- 24 of the injuries or showing the willful neglect and the identity of person or persons responsible for the injury or
- 25 neglect; and
- 26 (d) the facts that led the person reporting to believe that the child has suffered injury or injuries or willful
- 27 neglect, within the meaning of this chapter."
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29 **NEW SECTION. Section 3. Notification to tribal governments.** The secretary of state shall send a

30 copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell band

1 of Chippewa.

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3 **NEW SECTION. Section 4. Existing property taxes not extinguished.** [This act] does not extinguish
4 existing property taxes, including but not limited to taxes due and owing, delinquent taxes, tax liens, or tax deeds,
5 on property that are in effect on December 31, 2009.

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7 **NEW SECTION. Section 5. Applicability -- identification of property.** (1) Except as provided in
8 subsection (2), [this act] applies to tax years beginning after December 31, 2009.

9 (2) In order for the property exemption enacted by 15-6-201 to apply to property owned as of January
10 1, 2010, by federally recognized Indian tribes located in the state and the Little Shell band of Chippewa Indians,
11 the tribes must provide to the department of revenue, prior to January 1, 2010, a copy of a title or some other
12 legally recorded document that indicates transfer of ownership to the tribe for each parcel of property that is to
13 be exempted. Subsequent to January 1, 2010, property owned by the tribes will be treated the same as other
14 property subject to 15-6-201(1)(a).

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