

HOUSE BILL NO. 618

INTRODUCED BY C. PEASE-LOPEZ

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A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING PROPERTY TAX EXEMPTIONS FOR CERTAIN PROPERTY OWNED BY FEDERALLY RECOGNIZED INDIAN TRIBES; AMENDING SECTIONS 15-6-201, 41-3-201, 61-3-321, AND 61-10-214, MCA; AND PROVIDING AN 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, 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) the state, counties, cities, towns, and school districts;

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

(iv) municipal corporations;

(v) public libraries;

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

(vii) special districts created pursuant to Title 7, chapter 11, part 10; and

(viii) subject to subsection (2), federally recognized Indian tribes in the state if the property is located entirely within the exterior boundaries of the reservation of the tribe that owns the property and the property is:

~~—— (A) used exclusively by the tribe for essential government services. Essential government services are tribal government administration, fire, police, public health, education, recreation, sewer, water, pollution control, public transit, and public parks and recreational facilities.~~

~~(B) land that is restricted from future developments; and~~

~~—— (C) lands that are subject to a resolution or application to the United States to be placed in trust;~~



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

8 (c) land and improvements upon the land, NOT TO EXCEED 15 ACRES, owned by a federally recognized
 9 Indian tribe when the land has been set aside by tribal resolution and designated as sacred land to be used
 10 exclusively for religious or cultural purposes;

11 ~~(e)~~(d) property owned and used exclusively for agricultural and horticultural societies not operated for
 12 gain or profit;

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

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

18 (ii) has an attendance policy; and

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

20 (f) property, of any acreage, owned by a tribal corporation created for the sole purpose of establishing
 21 schools, colleges, and universities if the property meets the requirements of subsection (1)(e);

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

26 ~~(f)~~(h) property that is:

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

28 or

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

30 (ii) devoted exclusively to use in connection with a cemetery or cemeteries for which a permanent care

- 1 and improvement fund has been established as provided for in Title 35, chapter 20, part 3; and
- 2 (iii) not maintained and not operated for gain or profit;
- 3 ~~(g)~~(i) subject to subsection (2), property that is owned or property that is leased from a federal, state, or
- 4 local governmental entity by institutions of purely public charity if the property is directly used for purely public
- 5 charitable purposes;
- 6 ~~(h)~~(j) evidence of debt secured by mortgages of record upon real or personal property in the state of
- 7 Montana;
- 8 ~~(i)~~(k) public museums, art galleries, zoos, and observatories that are not operated for gain or profit;
- 9 ~~(j)~~(l) motor vehicles, land, fixtures, buildings, and improvements owned by a cooperative association or
- 10 nonprofit corporation organized to furnish potable water to its members or customers for uses other than the
- 11 irrigation of agricultural land;
- 12 ~~(k)~~(m) the right of entry that is a property right reserved in land or received by mesne conveyance
- 13 (exclusive of leasehold interests), devise, or succession to enter land with a surface title that is held by another
- 14 to explore, prospect, or dig for oil, gas, coal, or minerals;
- 15 ~~(l)~~(n) (i) property that is owned and used by a corporation or association organized and operated
- 16 exclusively for the care of persons with developmental disabilities, persons with mental illness, or persons with
- 17 physical or mental impairments that constitute or result in substantial impediments to employment and that is not
- 18 operated for gain or profit; and
- 19 (ii) property that is owned and used by an organization owning and operating facilities that are for the care
- 20 of the retired, aged, or chronically ill and that are not operated for gain or profit; and
- 21 ~~(m)~~(o) property owned by a nonprofit corporation that is organized to provide facilities primarily for
- 22 training and practice for or competition in international sports and athletic events and that is not held or used for
- 23 private or corporate gain or profit. For purposes of this subsection ~~(+)(m)~~ (1)(o), "nonprofit corporation" means
- 24 an organization that is exempt from taxation under section 501(c) of the Internal Revenue Code and incorporated
- 25 and admitted under the Montana Nonprofit Corporation Act.
- 26 (2) (a) (i) For the purposes of tribal property under subsection (1)(a)(viii), the property subject to
- 27 exemption may not be:
- 28 (A) operated for gain or profit;
- 29 (B) held under contract to operate, lease, or sell by a taxable individual;
- 30 (C) used or possessed exclusively by a taxable individual or entity; or

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

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

4 (A) set aside by tribal resolution and designated as park land, not to exceed 15 acres, or be designated
5 as a recreational facility; and

6 (B) open to the GENERAL public.

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

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

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

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

13 (iv) a Christian Science practitioner.

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

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

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

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

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

29 (iii) up to 15 acres of property owned by a purely public charity is exempt at the time of its purchase even
30 if the property must be improved before it can directly be used for its intended charitable purpose. If the property

1 is not directly used for the charitable purpose within 8 years of receiving an exemption under this section or if the
2 property is sold or transferred before it entered direct charitable use, the exemption is revoked and the property
3 is taxable. In addition to taxes due for the first year that the property becomes taxable, the owner of the property
4 shall pay an amount equal to the amount of the tax due that year times the number of years that the property was
5 tax-exempt under this section. The amount due is a lien upon the property and when collected must be distributed
6 by the treasurer to funds and accounts in the same ratio as property tax collected on the property is distributed.
7 At the time the exemption is granted, the department shall file a notice with the clerk and recorder in the county
8 in which the property is located. The notice must indicate that an exemption pursuant to this section has been
9 granted. The notice must describe the penalty for default under this section and must specify that a default under
10 this section will create a lien on the property by operation of law. The notice must be on a form prescribed by the
11 department.

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

15 ~~(e)~~(d) For the purposes of subsection ~~(4)(f)~~ (1)(k), the term "public museums, art galleries, zoos, and
16 observatories" means governmental entities or nonprofit organizations whose principal purpose is to hold property
17 for public display or for use as a museum, art gallery, zoo, or observatory. The exempt property includes all real
18 and personal property owned by the public museum, art gallery, zoo, or observatory that is reasonably necessary
19 for use in connection with the public display or observatory use. Unless the property is leased for a profit to a
20 governmental entity or nonprofit organization by an individual or for-profit organization, real and personal property
21 owned by other persons is exempt if it is:

- 22 (i) actually used by the governmental entity or nonprofit organization as a part of its public display;
23 (ii) held for future display; or
24 (iii) used to house or store a public display."
25

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

27 **"41-3-201. Reports.** (1) When the professionals and officials listed in subsection (2) know or have
28 reasonable cause to suspect, as a result of information they receive in their professional or official capacity, that
29 a child is abused or neglected, they shall report the matter promptly to the department of public health and human
30 services.

- 1 (2) Professionals and officials required to report are:
- 2 (a) a physician, resident, intern, or member of a hospital's staff engaged in the admission, examination,
- 3 care, or treatment of persons;
- 4 (b) a nurse, osteopath, chiropractor, podiatrist, medical examiner, coroner, dentist, optometrist, or any
- 5 other health or mental health professional;
- 6 (c) religious healers;
- 7 (d) school teachers, other school officials, and employees who work during regular school hours;
- 8 (e) a social worker, operator or employee of any registered or licensed day-care or substitute care
- 9 facility, staff of a resource and referral grant program organized under 52-2-711 or of a child and adult food care
- 10 program, or an operator or employee of a child-care facility;
- 11 (f) a foster care, residential, or institutional worker;
- 12 (g) a peace officer or other law enforcement official;
- 13 (h) a member of the clergy, as defined in 15-6-201~~(2)(a)~~(2)(b);
- 14 (i) a guardian ad litem or a court-appointed advocate who is authorized to investigate a report of alleged
- 15 abuse or neglect; or
- 16 (j) an employee of an entity that contracts with the department to provide direct services to children.
- 17 (3) A professional listed in subsection (2)(a) or (2)(b) involved in the delivery or care of an infant shall
- 18 report to the department any infant known to the professional to be affected by a dangerous drug, as defined in
- 19 50-32-101.
- 20 (4) Any person may make a report under this section if the person knows or has reasonable cause to
- 21 suspect that a child is abused or neglected.
- 22 (5) (a) Except as provided in subsection (5)(b) or (5)(c), a person listed in subsection (2) may not refuse
- 23 to make a report as required in this section on the grounds of a physician-patient or similar privilege.
- 24 (b) A member of the clergy or a priest is not required to make a report under this section if:
- 25 (i) the knowledge or suspicion of the abuse or neglect came from a statement or confession made to the
- 26 member of the clergy or the priest in that person's capacity as a member of the clergy or as a priest;
- 27 (ii) the statement was intended to be a part of a confidential communication between the member of the
- 28 clergy or the priest and a member of the church or congregation; and
- 29 (iii) the person who made the statement or confession does not consent to the disclosure by the member
- 30 of the clergy or the priest.

1 (c) A member of the clergy or a priest is not required to make a report under this section if the
2 communication is required to be confidential by canon law, church doctrine, or established church practice.

3 (6) The reports referred to under this section must contain:

4 (a) the names and addresses of the child and the child's parents or other persons responsible for the
5 child's care;

6 (b) to the extent known, the child's age and the nature and extent of the child's injuries, including any
7 evidence of previous injuries;

8 (c) any other information that the maker of the report believes might be helpful in establishing the cause
9 of the injuries or showing the willful neglect and the identity of person or persons responsible for the injury or
10 neglect; and

11 (d) the facts that led the person reporting to believe that the child has suffered injury or injuries or willful
12 neglect, within the meaning of this chapter."
13

14 **Section 3.** Section 61-3-321, MCA, is amended to read:

15 **"61-3-321. Registration fees of vehicles and vessels -- certain vehicles exempt from registration**
16 **fees -- disposition of fees.** (1) Except as otherwise provided in this section, registration fees must be paid upon
17 registration or, if applicable, renewal of registration of motor vehicles, snowmobiles, watercraft, trailers,
18 semitrailers, and pole trailers as provided in subsections (2) through (19):

19 (2) Unless a light vehicle is permanently registered under 61-3-562, the annual registration fee for light
20 vehicles, trucks and buses under 1 ton, and logging trucks less than 1 ton is as follows:

21 (a) if the vehicle is 4 or less years old, \$217;

22 (b) if the vehicle is 5 through 10 years old, \$87; and

23 (c) if the vehicle is 11 or more years old, \$28.

24 (3) Except as provided in subsection (14), the one-time registration fee based on the declared weight
25 of a trailer, semitrailer, or pole trailer is as follows:

26 (a) if the declared weight is less than 6,000 pounds, \$61.25; or

27 (b) if the declared weight is 6,000 pounds or more, \$148.25.

28 (4) Except as provided in subsection (14), the one-time registration fee for motor vehicles owned and
29 operated solely as collector's items pursuant to 61-3-411, based on the weight of the vehicle, is as follows:

30 (a) 2,850 pounds and over, \$10; and

1 (b) under 2,850 pounds, \$5.

2 (5) Except as provided in subsection (14), the one-time registration fee for off-highway vehicles other
3 than a quadricycle or motorcycle is \$61.25.

4 (6) The annual registration fee for heavy trucks, buses, and logging trucks in excess of 1 ton is \$22.75.

5 (7) (a) The annual registration fee for a motor home, based on the age of the motor home, is as follows:

6 (i) less than 2 years old, \$282.50;

7 (ii) 2 years old and less than 5 years old, \$224.25;

8 (iii) 5 years old and less than 8 years old, \$132.50; and

9 (iv) 8 years old and older, \$97.50.

10 (b) The owner of a motor home that is 11 years old or older and that is subject to the registration fee
11 under this section may permanently register the motor home upon payment of:

12 (i) a one-time registration fee of \$237.50;

13 (ii) unless a new set of license plates is being issued, an insurance verification fee of \$5, which must be
14 deposited in the account established under 61-6-158; and

15 (iii) if applicable, five times the renewal fees for personalized license plates under 61-3-406.

16 (8) (a) Except as provided in subsection (14), the one-time registration fee for motorcycles and
17 quadricycles registered for use on public highways is \$53.25, and the one-time registration fee for motorcycles
18 and quadricycles registered for both off-road use and for use on the public highways is \$114.50.

19 (b) An additional fee of \$16 must be collected for the registration of each motorcycle or quadricycle as
20 a safety fee, which must be deposited in the state motorcycle safety account provided for in 20-25-1002.

21 (9) Except as provided in subsection (14), the one-time registration fee for travel trailers, based on the
22 length of the travel trailer, is as follows:

23 (a) under 16 feet in length, \$72; and

24 (b) 16 feet in length or longer, \$152.

25 (10) Except as provided in subsection (14), the one-time registration fee for a motorboat, sailboat,
26 personal watercraft, or motorized pontoon required to be numbered under 23-2-512 is as follows:

27 (a) for a personal watercraft or a motorboat, sailboat, or motorized pontoon less than 16 feet in length,
28 \$65.50;

29 (b) for a motorboat, sailboat, or motorized pontoon at least 16 feet in length but less than 19 feet in
30 length, \$125.50; and

1 (c) for a motorboat, sailboat, or motorized pontoon 19 feet in length or longer, \$295.50.

2 (11) (a) Except as provided in subsections (11)(b) and (14), the one-time registration fee for a
3 snowmobile is \$60.50.

4 (b) (i) A snowmobile that is licensed by a Montana business and is owned exclusively for the purpose
5 of daily rental to customers is assessed:

6 (A) a fee of \$40.50 in the first year of registration; and

7 (B) if the business reregisters the snowmobile for a second year, a fee of \$20.

8 (ii) If the business reregisters the snowmobile for a third year, the snowmobile must be permanently
9 registered and the business is assessed the registration fee imposed in subsection (11)(a).

10 (12) (a) Except as provided in subsection (12)(b), a fee of \$10 must be collected when a new set of
11 standard license plates, a new single standard license plate, or a replacement set of special license plates
12 required under 61-3-332 is issued. The \$10 fee imposed under this subsection does not apply when previously
13 issued license plates are transferred under 61-3-335. All registration fees imposed under this section must be
14 paid if the vehicle to which the plates are transferred is not currently registered.

15 (b) Until January 1, 2015, an additional fee of \$15 must be collected if a vehicle owner elects to keep
16 the same license plate number from license plates issued on or after January 1, 2006, but before January 1,
17 2010, when replacement of those plates is required under 61-3-332(3).

18 (c) The fees imposed in this subsection (12) must be deposited in the account established under
19 61-6-158, except that \$2 of the fee imposed in subsection (12)(a) must be deposited in the state general fund.

20 (13) The provisions of this part with respect to the payment of registration fees do not apply to and are
21 not binding upon motor vehicles, trailers, semitrailers, snowmobiles, watercraft, or tractors owned or controlled
22 by the United States of America or any state, county, city, or special district, as defined in 18-8-202, or to a vehicle
23 or vessel that meets the description of property exempt from taxation under 15-6-201(1)(a), ~~(1)(c)~~ (1)(d), ~~(1)(d)~~
24 (1)(e), ~~(1)(e)~~ (1)(g), ~~(1)(f)~~ (1)(h), ~~(1)(g)~~ (1)(i), ~~(1)(h)~~ (1)(k), ~~(1)(i)~~ (1)(l), ~~(1)(j)~~ (1)(n), or ~~(1)(m)~~ (1)(o), 15-6-203, or
25 15-6-215, except as provided in 61-3-520.

26 (14) Whenever ownership of a trailer, semitrailer, pole trailer, off-highway vehicle, motorcycle,
27 quadricycle, travel trailer, motor home, motorboat, sailboat, personal watercraft, motorized pontoon, snowmobile,
28 or motor vehicle owned and operated solely as a collector's item pursuant to 61-3-411 is transferred, the new
29 owner shall title and register the vehicle or vessel as required by this chapter and pay the fees imposed under
30 this section.

1 (15) A person eligible for a waiver under 61-3-460 is exempt from the fees required under this section.

2 (16) Except as otherwise provided in this section, revenue collected under this section must be deposited
3 in the state general fund.

4 (17) The fees imposed by subsections (2) through (11) are not required to be paid by a dealer for the
5 enumerated vehicles or vessels that constitute inventory of the dealership.

6 (18) (a) Unless a person exercises the option in subsection (18)(b), an additional fee of \$4 must be
7 collected for each light vehicle registered under this part. This fee must be accounted for and transmitted
8 separately from the registration fee. The fee must be deposited in an account in the state special revenue fund
9 to be used for state parks, for fishing access sites, and for the operation of state-owned facilities. Of the \$4 fee,
10 the department of fish, wildlife, and parks shall use \$3.50 for state parks, 25 cents for fishing access sites, and
11 25 cents for the operation of state-owned facilities at Virginia City and Nevada City.

12 (b) A person who registers a light vehicle may, at the time of annual registration, certify that the person
13 does not intend to use the vehicle to visit state parks and fishing access sites and may make a written election
14 not to pay the additional \$4 fee provided for in subsection (18)(a). If a written election is made, the fee may not
15 be collected.

16 (19) For each light vehicle, trailer, semitrailer, pole trailer, heavy truck, motor home, motorcycle,
17 quadricycle, and travel trailer subject to a registration fee under this section, an additional fee of \$5 must be
18 collected and forwarded to the state for deposit in the account established in 44-1-504.

19 (20) This section does not apply to a motor vehicle, trailer, semitrailer, or pole trailer that is governed by
20 61-3-721."

21

22 **Section 4.** Section 61-10-214, MCA, is amended to read:

23 **"61-10-214. Exemptions.** (1) Motor vehicles operating exclusively for transportation of persons for hire
24 within the limits of incorporated cities or towns and within 15 miles from the limits are exempt from this part.

25 (2) Motor vehicles brought or driven into Montana by a nonresident, migratory, bona fide agricultural
26 worker temporarily employed in agricultural work in this state when those motor vehicles are used exclusively for
27 transportation of agricultural workers are exempt from this part.

28 (3) Vehicles lawfully displaying a dealer's or wholesaler's plate as provided in 61-4-102 and 61-4-125
29 are exempt from this part for a period not to exceed 7 days when moving to or from a dealer's or wholesaler's
30 place of business when unloaded or loaded with dealer's or wholesaler's property only or while being

1 demonstrated in the course of the dealer's or wholesaler's business. Vehicles being demonstrated may not be
2 leased, rented, or operated for compensation by the licensed dealer or wholesaler.

3 (4) Vehicles exempt from property tax under 15-6-201(1)(a), ~~(1)(e)~~ (1)(d), ~~(1)(d)~~ (1)(e), ~~(1)(e)~~ (1)(g), ~~(1)(f)~~
4 (1)(h), ~~(1)(g)~~ (1)(i), ~~(1)(i)~~ (1)(k), ~~(1)(j)~~ (1)(l), ~~(1)(j)~~ (1)(n), or ~~(1)(m)~~ (1)(o) or 15-6-228(4) are exempt from this part.
5 The department of transportation may require documentation of tax-exempt status from the department of
6 revenue before granting this exemption."

7
8 **NEW SECTION. Section 5. Notification to tribal governments.** The secretary of state shall send a
9 copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell
10 Chippewa tribe.

11
12 **NEW SECTION. Section 6. Applicability.** [This act] applies to tax years beginning after December 31,
13 2011.

14 - END -