

## HOUSE BILL NO. 152

INTRODUCED BY S. FITZPATRICK

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3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING DEADLINES FOR GOVERNING BODIES TO  
5 APPROVE OR DISAPPROVE VARIOUS PROPERTY TAX ABATEMENTS AND PROPERTY TAX  
6 EXEMPTIONS; PROVIDING DEADLINES FOR GOVERNING BODIES TO REVIEW APPLICATIONS, NOTICE  
7 PUBLIC MEETINGS, CONDUCT PUBLIC HEARINGS, AND ISSUE DECISIONS; PROVIDING THAT  
8 ~~APPLICATIONS FOR VARIOUS PROPERTY TAX ABATEMENTS OR PROPERTY TAX EXEMPTIONS ARE~~  
9 ~~CONSIDERED APPROVED WHEN GOVERNING BODIES DO NOT MAKE TIMELY DECISIONS~~ AN  
10 APPLICANT MAY APPEAL TO DISTRICT COURT FOR A WRIT OF MANDAMUS IF A GOVERNING BODY DOES  
11 NOT MAKE A TIMELY DECISION; AMENDING SECTIONS 15-24-1402, 15-24-1501, 15-24-1502, 15-24-1603,  
12 15-24-1605, 15-24-1802, 15-24-1902, AND 15-24-2002, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE  
13 DATE AND AN APPLICABILITY DATE."

14

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

16

17 **Section 1.** Section 15-24-1402, MCA, is amended to read:

18 **"15-24-1402. New or expanding industry -- assessment -- notification.** (1) In the first 5 years after  
19 a construction permit is issued, qualifying improvements or modernized processes that represent new industry  
20 or expansion of an existing industry, as designated in the approving resolution, must be taxed at 50% of their  
21 taxable value. Subject to 15-10-420, each year thereafter, the percentage must be increased by equal  
22 percentages until the full taxable value is attained in the 10th year. In subsequent years, the property must be  
23 taxed at 100% of its taxable value.

24 (2) (a) ~~In Except as provided in subsection (2)(c), in IN order for a taxpayer to receive the tax benefits~~  
25 ~~described in subsection (1), the TAXPAYER MUST HAVE APPLIED BY MARCH 1 OF THE YEAR DURING WHICH THE BENEFIT~~  
26 ~~IS FIRST APPLICABLE. THE~~ governing body of the affected county or the incorporated city or town must have  
27 approved by separate resolution for each project, following due notice as ~~defined in 7-15-103~~ PROVIDED IN  
28 7-1-2121 IF A COUNTY OR 7-1-4127 IF AN INCORPORATED CITY OR TOWN and a public hearing, the use of the schedule  
29 provided for in subsection (1) for its respective jurisdiction. The governing body may not grant approval for the  
30 project until all of the applicant's taxes have been paid in full. Taxes paid under protest do not preclude approval.

1 (b) The governing body shall:

2 (i) publish due notice for the first time within 30 60 days of receiving a taxpayer's complete application  
 3 for the tax treatment provided for in this section; AND

4 (ii) publish due notice for the second time within 30 days of submission of the first due notice publication;  
 5 and

6 (iii)(ii) conduct a public hearing regarding an application for the tax treatment provided for in this section  
 7 AND DENY OR APPROVE IT within 30 120 days of the second due notice publication RECEIVING THE APPLICATION AS  
 8 PROVIDED IN SUBSECTION (2)(B)(I).

9 (c) If the applicant's taxes have been paid in full and the governing body fails to make a decision within  
 10 30 days of the public hearing provided for in subsection (2)(b)(iii), the application is considered approved. For the  
 11 purpose of this subsection (2)(c), the failure of a governing body to conduct a public hearing within 90 days of  
 12 receiving a taxpayer's completed application results in the application being considered approved. If an  
 13 application is considered approved, the governing body is precluded from making a determination.

14 (C) IF THE GOVERNING BODY FAILS TO HOLD A HEARING OR DENY OR APPROVE THE APPLICATION WITHIN 120  
 15 DAYS OF RECEIVING THE APPLICATION, THE APPLICANT MAY SEEK FROM THE DISTRICT COURT IN THE JURISDICTION IN  
 16 WHICH THE COUNTY, CITY, OR TOWN IS LOCATED A WRIT OF MANDAMUS TO COMPEL THE GOVERNING BODY TO MAKE A  
 17 DETERMINATION.

18 (b)(d) Subject to 15-10-420, the governing body may end the tax benefits by majority vote at any time,  
 19 but the tax benefits may not be denied an industrial facility that previously qualified for the benefits.

20 (c)(e) The resolution provided for in subsection (2)(a) must include a definition of the improvements or  
 21 modernized processes that qualify for the tax treatment that is to be allowed in the taxing jurisdiction. The  
 22 resolution may provide that real property other than land, personal property, improvements, or any combination  
 23 thereof is eligible for the tax benefits described in subsection (1).

24 (d)(f) Property taxes abated from the reduction in taxable value allowed by this section are subject to  
 25 recapture by the local governing body if the ownership or use of the property does not meet the requirements of  
 26 15-24-1401, this section, or the resolution required by subsections (2)(a) and ~~(2)(e)~~ (2)(e) of this section. The  
 27 recapture is equal to the amount of taxes avoided, plus interest and penalties for nonpayment of property taxes  
 28 provided in 15-16-102, during any period in which an abatement under the provisions of this section was in effect.  
 29 The amount recaptured, including penalty and interest, must be distributed by the treasurer to funds and accounts  
 30 subject to the abatement in the same ratio as the property tax was abated. A recapture of taxes abated by this

1 section is not allowed with regard to property ceasing to qualify for the abatement by reason of an involuntary  
 2 conversion. The recapture of abated taxes may be canceled, in whole or in part, if the local governing body  
 3 determines that the taxpayer's failure to meet the requirements is a result of circumstances beyond the control  
 4 of the taxpayer.

5 (3) ~~(a)~~ The taxpayer shall apply to the department for the tax treatment allowed under subsection (1).  
 6 The application by the taxpayer must ~~first~~ FIRST be approved by the governing body of the appropriate local taxing  
 7 jurisdiction, ~~and the or be considered approved as provided under subsection (2)(c).~~, AND THE

8 ~~(b)~~ The governing body shall indicate in its approval that the property of the applicant qualifies for the tax  
 9 treatment provided for in this section. Upon receipt of the form with the approval of the governing body of the  
 10 affected taxing jurisdiction, the department shall make the assessment change pursuant to this section.

11 ~~(c) If an application is considered approved as provided under subsection (2)(c), the applicant shall~~  
 12 ~~provide the department with a copy of the application for the tax treatment provided for in this section,~~  
 13 ~~documentation regarding when the application was submitted to the governing body, the publication dates of any~~  
 14 ~~notices of public hearing, and the date of the first public hearing. Upon receipt of the documentation required by~~  
 15 ~~this subsection (3)(c), the department shall make a determination regarding whether the application satisfies the~~  
 16 ~~criteria under subsection (2)(c). If the department determines the applicant satisfies the criteria, it shall make the~~  
 17 ~~assessment change pursuant to this section.~~

18 (4) The tax benefit described in subsection (1) applies only to the number of mills levied and assessed  
 19 for local high school district and elementary school district purposes and to the number of mills levied and  
 20 assessed by the governing body approving the benefit over which the governing body has sole discretion. The  
 21 benefit described in subsection (1) may not apply to levies or assessments required under Title 15, chapter 10,  
 22 20-9-331, 20-9-333, or 20-9-360 or otherwise required under state law.

23 (5) Prior to approving the resolution under this section, the governing body shall notify by certified mail  
 24 all taxing jurisdictions affected by the tax benefit."

25  
 26 **Section 2.** Section 15-24-1501, MCA, is amended to read:  
 27 **"15-24-1501. Remodeling, reconstruction, or expansion of buildings or structures -- assessment**  
 28 **provisions -- levy limitations.** (1) Subject to 15-10-420 and the authority contained in subsection ~~(4)~~ (5) of this  
 29 section, remodeling, reconstruction, or expansion of existing buildings or structures, which increases their taxable  
 30 value by at least 2 1/2% as determined by the department, may receive tax benefits during the construction period

1 and for the following 5 years in accordance with subsections (2), ~~through (4), and (5)~~ and the following schedule.  
 2 The percentages must be applied as provided in subsections ~~(3) (4)~~ and ~~(4) (5)~~ and are limited to the increase  
 3 in taxable value caused by remodeling, reconstruction, or expansion:

4 Construction period	0%
5 First year following construction	20%
6 Second year following construction	40%
7 Third year following construction	60%
8 Fourth year following construction	80%
9 Fifth year following construction	100%
10 Following years	100%

11 ~~(2) In Except as provided in subsection (3)(b), in~~ IN order to confer FOR A TAXPAYER TO RECEIVE the tax  
 12 benefits described in subsection (1), the TAXPAYER MUST HAVE APPLIED BY MARCH 1 OF THE YEAR DURING WHICH THE  
 13 BENEFIT IS FIRST APPLICABLE. THE governing body of the affected county or, if the construction will occur within an  
 14 incorporated city or town, the governing body of the incorporated city or town shall, following due notice as  
 15 defined in 76-15-103 PROVIDED IN 7-1-2121 IF A COUNTY OR 7-1-4127 IF AN INCORPORATED CITY OR TOWN and a  
 16 public hearing, approve by resolution for each remodeling, reconstruction, or expansion project the use of the  
 17 schedule provided for in subsection (1) or a schedule adopted pursuant to subsection ~~(4) (5)~~.

18 (3) (a) The governing body shall:

19 (i) publish due notice for the first time within 30 60 days of receiving a taxpayer's complete application  
 20 for the tax treatment provided for in this section; AND

21 (ii) publish due notice for the second time within 30 days of submission of the first due notice publication;  
 22 and

23 (iii)(ii) conduct a public hearing regarding an application for the tax treatment provided for in this section  
 24 AND DENY OR APPROVE IT within 30 120 days of the second due notice publication RECEIVING THE APPLICATION AS  
 25 PROVIDED IN SUBSECTION (3)(A)(i).

26 (b) If the applicant's taxes have been paid in full and the governing body fails to make a decision within  
 27 30 days of the public hearing provided for in subsection (3)(a)(iii), the application is considered approved. For the  
 28 purpose of this subsection (3)(b), the failure of a governing body to conduct a public hearing within 90 days of  
 29 receiving a taxpayer's completed application results in the application being considered approved. If an  
 30 application is considered approved, the governing body is precluded from making a determination.

1           (B) IF THE GOVERNING BODY FAILS TO HOLD A HEARING OR DENY OR APPROVE THE APPLICATION WITHIN 120  
 2 DAYS OF RECEIVING THE APPLICATION, THE APPLICANT MAY SEEK FROM THE DISTRICT COURT IN THE JURISDICTION IN  
 3 WHICH THE COUNTY, CITY, OR TOWN IS LOCATED A WRIT OF MANDAMUS TO COMPEL THE GOVERNING BODY TO MAKE A  
 4 DETERMINATION.

5           ~~(3)~~(4) The tax benefit described in subsection (1) applies only to the number of mills levied and assessed  
 6 for high school district and elementary school district purposes and to the number of mills levied and assessed  
 7 by the local governing body approving the benefit. The benefit described in subsection (1) may not apply to  
 8 statewide levies.

9           ~~(4)~~(5) A local government may, in the resolution required by subsection (2), modify the percentages  
 10 contained in subsection (1) that apply to the first year following construction through the fourth year following  
 11 construction. A local government may not modify the percentages contained in subsection (1) that apply to the  
 12 fifth year following construction or years following the fifth year. A local government may not modify the time limits  
 13 contained in subsection (1). The modifications to the percentages in subsection (1) adopted by a local  
 14 government apply uniformly to each remodeling, reconstruction, or expansion project approved by the governing  
 15 body.

16           ~~(5)~~(6) Property taxes abated from the reduction in property taxes allowed by this section are subject to  
 17 recapture by the local governing body if the ownership or use of the property does not meet the requirements of  
 18 this section or the resolution required by subsection (2). The recapture is equal to the amount of taxes avoided,  
 19 plus interest and penalties for nonpayment of property taxes provided in 15-16-102, during any period in which  
 20 an abatement under the provisions of this section was in effect. The amount recaptured, including penalty and  
 21 interest, must be distributed by the treasurer to funds and accounts subject to the abatement in the same ratio  
 22 as the property tax was abated. A recapture of taxes abated by this section is not allowed with regard to property  
 23 ceasing to qualify for the abatement by reason of an involuntary conversion. The recapture of abated taxes may  
 24 be canceled, in whole or in part, if the local governing body determines that the taxpayer's failure to meet the  
 25 requirements is a result of circumstances beyond the control of the taxpayer."  
 26

27           **Section 3.** Section 15-24-1502, MCA, is amended to read:

28           **"15-24-1502. Tax exemption and abatement for remodeling, reconstruction, or expansion of**  
 29 **certain commercial property -- approval.** (1) (a) Subject to the conditions of this section, remodeling,  
 30 reconstruction, or expansion of an existing commercial building or structure that increases its taxable value by

1 at least 5%, as determined by the department, may receive a property tax exemption during the construction  
 2 period, not to exceed 12 months, and for up to 5 years following completion of construction. The property tax  
 3 exemption is limited to 100% of the increase in taxable value caused by remodeling, reconstruction, or expansion.

4 (b) (i) In addition to the property tax exemption described in subsection (1)(a), the buildings and  
 5 structures may receive a property tax reduction for 4 years following the exemption period as provided in this  
 6 subsection (1)(b). The percentages must be applied to the increase in taxable value caused by remodeling,  
 7 reconstruction, or expansion according to the following schedule:

8 First year following the exemption period	20%
9 Second year following the exemption period	40%
10 Third year following the exemption period	60%
11 Fourth year following the exemption period	80%
12 Fifth year following the exemption period	100%
13 Following years	100%

14 (ii) Mill levies are assessed against the reduced taxable value of the remodeling, reconstruction, or  
 15 expansion determined under subsection (1)(b)(i).

16 (c) To be eligible for the property tax exemption and the property tax reduction, the commercial building  
 17 or structure may not have been used in a business for at least 6 months immediately preceding the date of  
 18 application to the governing body for approval under subsection (2).

19 (2) (a) ~~In~~ Except as provided in subsection (3)(b), in ~~IN~~ order to confer ~~FOR A TAXPAYER TO RECEIVE~~ the  
 20 tax benefits described in subsection (1), the TAXPAYER MUST HAVE APPLIED BY MARCH 1 OF THE YEAR DURING WHICH  
 21 THE BENEFIT IS FIRST APPLICABLE. THE governing body of the affected county or consolidated government or, if the  
 22 construction will occur within an incorporated city or town, the governing body of the incorporated city or town  
 23 shall, following due notice as defined in 76-15-103 PROVIDED IN 7-1-2121 IF A COUNTY OR CONSOLIDATED LOCAL  
 24 GOVERNMENT OR 7-1-4127 IF AN INCORPORATED CITY OR TOWN and a public hearing, approve by resolution for each  
 25 remodeling, reconstruction, or expansion project the use of the property tax exemption and property tax reduction.

26 (b) The governing body may not grant the property tax benefits described in subsection (1) if property  
 27 taxes on the buildings or structures are delinquent.

28 (3) (a) The governing body shall:

29 (i) publish due notice for the first time within 30 60 days of receiving a taxpayer's complete application  
 30 for the tax treatment provided for in this section; AND

1 ~~(ii) publish due notice for the second time within 30 days of submission of the first due notice publication;~~  
 2 ~~and~~  
 3 ~~(iii)(ii) conduct a public hearing regarding an application for the tax treatment provided for in this section~~  
 4 ~~AND DENY OR APPROVE IT within 30 120 days of the second due notice publication RECEIVING THE APPLICATION AS~~  
 5 ~~PROVIDED IN SUBSECTION (3)(A)(I).~~

6 ~~(b) If the applicant's taxes have been paid in full and the governing body fails to make a decision within~~  
 7 ~~30 days of the public hearing provided for in subsection (3)(a)(iii), the application is considered approved. For the~~  
 8 ~~purpose of this subsection (3)(b), the failure of a governing body to conduct a public hearing within 90 days of~~  
 9 ~~receiving a taxpayer's completed application results in the application being considered approved. If an~~  
 10 ~~application is considered approved, the governing body is precluded from making a determination.~~

11 ~~(B) IF THE GOVERNING BODY FAILS TO HOLD A HEARING OR DENY OR APPROVE THE APPLICATION WITHIN 120~~  
 12 ~~DAYS OF RECEIVING THE APPLICATION, THE APPLICANT MAY SEEK FROM THE DISTRICT COURT IN THE JURISDICTION IN~~  
 13 ~~WHICH THE COUNTY, CONSOLIDATED LOCAL GOVERNMENT, CITY, OR TOWN IS LOCATED A WRIT OF MANDAMUS TO COMPEL~~  
 14 ~~THE GOVERNING BODY TO MAKE A DETERMINATION.~~

15 ~~(3)(4)~~ Property taxes abated from the reduction in property taxes allowed by this section are subject to  
 16 recapture by the local governing body if the ownership or use of the property does not meet the requirements of  
 17 this section or the resolution required by subsection (2). The recapture is equal to the amount of taxes avoided,  
 18 plus interest and penalties for nonpayment of property taxes provided in 15-16-102, during any period in which  
 19 an abatement under the provisions of this section was in effect. The amount recaptured, including penalty and  
 20 interest, must be distributed by the treasurer to funds and accounts subject to the abatement in the same ratio  
 21 as the property tax was abated. A recapture of taxes abated by this section is not allowed with regard to property  
 22 ceasing to qualify for the abatement by reason of an involuntary conversion. The recapture of abated taxes may  
 23 be canceled, in whole or in part, if the local governing body determines that the taxpayer's failure to meet the  
 24 requirements is a result of circumstances beyond the control of the taxpayer."

25  
 26 **Section 4.** Section 15-24-1603, MCA, is amended to read:  
 27 **"15-24-1603. Historic property tax abatement -- levy limitations.** (1) Subject to 15-10-420, a historic  
 28 property undergoing rehabilitation, restoration, expansion, or new construction that meets criteria established by  
 29 the review process described in 15-24-1605 or 15-24-1606 may receive a tax abatement during the construction  
 30 period, not to exceed 12 months, and for up to 5 years following completion of the construction in accordance

1 with subsections (2) and ~~(3)~~ (4). The tax abatement is limited to 100% of the increase in taxable value caused  
2 by the rehabilitation, restoration, expansion, or new construction.

3 (2) In order to confer the tax benefits described in subsection (1), the governing body of the county or  
4 incorporated city or town where the improvement occurs shall establish by resolution the process for the use of  
5 the tax abatement provisions described in subsection (1). ~~Except as provided in subsection (3)(b), in~~ IN order for  
6 a taxpayer to receive the tax benefits described in subsection (1), the TAXPAYER MUST HAVE APPLIED BY MARCH 1  
7 OF THE YEAR DURING WHICH THE BENEFIT IS FIRST APPLICABLE. THE governing body must have approved by separate  
8 resolution for each project, following due notice as defined in 7-15-103 PROVIDED IN 7-1-2121 IF A COUNTY OR  
9 7-1-4127 IF AN INCORPORATED CITY OR TOWN and a public hearing, the use of the property tax abatement.

10 (3) (a) The governing body shall:

11 (i) publish due notice for the first time within the lesser of:

12 (A) 60 days of receiving a taxpayer's complete application for the tax treatment provided for in this  
13 section; or

14 (B) 30 days of receiving the board's recommendation under 15-24-1605(3); AND

15 (ii) publish due notice for the second time within 30 days of submission of the first due notice publication;

16 and

17 (iii)(ii) conduct a public hearing regarding an application for the tax treatment provided for in this section  
18 AND DENY OR APPROVE IT within 30 120 days of the second due notice publication RECEIVING THE APPLICATION AS  
19 PROVIDED IN SUBSECTION (3)(A)(i).

20 (b) ~~If the governing body fails to make a decision within 30 days of the public hearing provided for in~~  
21 ~~subsection (3)(b)(iii), the application is considered approved. For the purpose of this subsection (3)(b), the failure~~  
22 ~~of a governing body to conduct a public hearing within 120 days of receiving a taxpayer's completed application~~  
23 ~~results in the application being considered approved. If an application is considered approved, the governing body~~  
24 ~~is precluded from making a determination.~~

25 (B) IF THE GOVERNING BODY FAILS TO HOLD A HEARING OR DENY OR APPROVE THE APPLICATION WITHIN 120  
26 DAYS OF RECEIVING THE APPLICATION, THE APPLICANT MAY SEEK FROM THE DISTRICT COURT IN THE JURISDICTION IN  
27 WHICH THE COUNTY, CITY, OR TOWN IS LOCATED A WRIT OF MANDAMUS TO COMPEL THE GOVERNING BODY TO MAKE A  
28 DETERMINATION.

29 ~~(3)~~(4) Property that receives a tax benefit under this part is not entitled to any other exemption or special  
30 valuation provided by Montana law during the period of the abatement.

1           ~~(4)~~(5) (a) The tax abatement applies only to the number of mills levied:

2           (i) for high school and elementary school district purposes; and

3           (ii) by the local governing body approving the abatement.

4           (b) The abatement may not apply to statewide levies."

5

6           **Section 5.** Section 15-24-1605, MCA, is amended to read:

7           **"15-24-1605. Responsibilities of local governing bodies -- local review board -- design review**

8 **process.** (1) A local governing body that approves the tax benefit may designate a local review board to establish  
9 an application and review process to certify eligible properties. The review process must include design review  
10 criteria based on the secretary of the interior's standards for preservation projects or other standards approved  
11 by the state historic preservation office.

12           (2) The board shall include:

13           (a) at least three members with professional expertise in history, planning, archaeology, architectural  
14 history, historic archaeology, or another historic preservation-related discipline;

15           (b) at least one architect; and

16           (c) up to two members of the general public.

17           (3) The board shall determine whether a property is eligible under 15-24-1604 and is qualified for the  
18 tax abatement. The board shall approve or deny an application for the tax abatement within 30 days of receiving  
19 a taxpayer's complete application and report its recommendation to the local governing body."

20

21           **Section 6.** Section 15-24-1802, MCA, is amended to read:

22           **"15-24-1802. Business incubator tax exemption -- procedure.** (1) A business incubator owned or  
23 leased and operated by a local economic development organization is eligible for an exemption from property  
24 taxes as provided in this section.

25           (2) ~~In Except as provided in subsection (3)(b), in IN order FOR A TAXPAYER to qualify for the tax exemption~~  
26 ~~described in this section, the TAXPAYER MUST HAVE APPLIED BY MARCH 1 OF THE YEAR DURING WHICH THE BENEFIT~~  
27 ~~IS FIRST APPLICABLE. THE~~ governing body of the county, consolidated government, incorporated city or town, or  
28 school district in which the property is located shall approve the tax exemption by resolution, after due notice, as  
29 ~~defined in 7-1-103~~ PROVIDED IN 7-1-2121 IF A COUNTY, CONSOLIDATED GOVERNMENT, OR SCHOOL DISTRICT OR  
30 7-1-4127 IF AN INCORPORATED CITY OR TOWN, and hearing. The governing body may approve or disapprove the

1 tax exemption provided for in subsection (1). If a tax exemption is approved, the governing body shall do so by  
 2 a separate resolution for each business incubator in its respective jurisdiction. The governing body may not grant  
 3 approval for the business incubator until all of the applicant's taxes have been paid in full or, if the property is  
 4 leased to a business incubator, until all of the owner's property taxes on that property have been paid in full.  
 5 Taxes paid under protest do not preclude approval. Prior to holding the hearing, the governing body shall  
 6 determine that the local economic development organization:

7 (a) is a private, nonprofit corporation as provided in Title 35, chapter 2, and is exempt from taxation under  
 8 section 501(c)(3) or 501(c)(6) of the Internal Revenue Code;

9 (b) is engaged in economic development and business assistance work in the area; and

10 (c) owns or leases and operates or will operate the business incubator.

11 (3) (a) The governing body shall:

12 (i) publish due notice for the first time within 30 60 days of receiving a taxpayer's complete application  
 13 for the tax treatment provided for in this section; AND

14 (ii) publish due notice for the second time within 30 days of submission of the first due notice publication;  
 15 and

16 (iii)(ii) conduct a public hearing regarding an application for the tax treatment provided for in this section  
 17 AND DENY OR APPROVE IT within 30 120 days of the second due notice publication RECEIVING THE APPLICATION AS  
 18 PROVIDED IN SUBSECTION (3)(A)(i).

19 (b) If the applicant's taxes have been paid in full and the governing body fails to make a decision within  
 20 30 days of the public hearing provided for in subsection (3)(a)(iii), the application is considered approved. For the  
 21 purpose of this subsection (3)(b), the failure of a governing body to conduct a public hearing within 90 days of  
 22 receiving a taxpayer's completed application results in the application being considered approved. If an  
 23 application is considered approved, the governing body is precluded from making a determination.

24 (B) IF THE GOVERNING BODY FAILS TO HOLD A HEARING OR DENY OR APPROVE THE APPLICATION WITHIN 120  
 25 DAYS OF RECEIVING THE APPLICATION, THE APPLICANT MAY SEEK FROM THE DISTRICT COURT IN THE JURISDICTION IN  
 26 WHICH THE COUNTY, CONSOLIDATED GOVERNMENT, CITY, TOWN, OR SCHOOL DISTRICT IS LOCATED A WRIT OF MANDAMUS  
 27 TO COMPEL THE GOVERNING BODY TO MAKE A DETERMINATION.

28 (3)(4) (a) Upon receipt of approval of the governing body of the affected taxing jurisdiction, the  
 29 department shall make the assessment change for the tax exemption provided for in this section.

30 (b) If an application is considered approved as provided under subsection (3)(b), the applicant shall

~~1 provide the department with a copy of the application for the tax treatment provided for in this section,  
2 documentation regarding when the application was submitted to the governing body, the publication dates of any  
3 notices of public hearing, and the date of the first public hearing. Upon receipt of the documentation required by  
4 this subsection (4)(b), the department shall make a determination regarding whether the application satisfies the  
5 criteria under subsection (3)(b). If the department determines the applicant satisfies the criteria, it shall make the  
6 assessment change pursuant to this section.~~

7 (4)(5) The tax exemption described in subsection (1) applies only to the number of mills levied and  
8 assessed by the governing body approving the exemption over which the governing body has sole discretion.  
9 If the governing body of a county, consolidated government, or incorporated city or town approves the exemption,  
10 the exemption applies to levies and assessments required under Title 15, chapter 10, 20-9-331, or 20-9-333 or  
11 otherwise required under state law.

12 (5)(6) Property taxes abated from the reduction in property taxes allowed by this section are subject to  
13 recapture by the local governing body if the ownership or use of the property does not meet the requirements of  
14 15-24-1801, this section, or the resolution required by subsection (2) of this section. The recapture is equal to  
15 the amount of taxes avoided, plus interest and penalties for nonpayment of property taxes provided in 15-16-102,  
16 during any period in which an abatement under the provisions of this section was in effect. The amount  
17 recaptured, including penalty and interest, must be distributed by the treasurer to funds and accounts subject to  
18 the abatement in the same ratio as the property tax was abated. A recapture of taxes abated by this section is  
19 not allowed with regard to property ceasing to qualify for the abatement by reason of an involuntary conversion.  
20 The recapture of abated taxes may be canceled, in whole or in part, if the local governing body determines that  
21 the taxpayer's failure to meet the requirements is a result of circumstances beyond the control of the taxpayer."

22

23 **Section 7.** Section 15-24-1902, MCA, is amended to read:

24 **"15-24-1902. Industrial park tax exemption -- procedure -- termination.** (1) An industrial park owned  
25 and operated by a local economic development organization or a port authority is eligible for an exemption from  
26 property taxes as provided in this section.

27 (2) ~~In Except as provided in subsection (3)(b), in IN~~ order FOR A TAXPAYER to qualify for the tax exemption  
28 described in this section, the TAXPAYER MUST HAVE APPLIED BY MARCH 1 OF THE YEAR DURING WHICH THE BENEFIT  
29 IS FIRST APPLICABLE. THE governing body of the county, consolidated government, incorporated city or town, or  
30 school district in which the property is located shall approve the tax exemption by resolution, after due notice, as

1 ~~defined in 76-15-103~~ PROVIDED IN 7-1-2121 IF A COUNTY, CONSOLIDATED GOVERNMENT, OR SCHOOL DISTRICT OR  
 2 7-1-4127 IF AN INCORPORATED CITY OR TOWN, and hearing. The governing body may approve or disapprove the  
 3 tax exemption provided for in subsection (1). If a tax exemption is approved, the governing body shall do so by  
 4 a separate resolution for each industrial park in its respective jurisdiction. The governing body may not grant  
 5 approval for the industrial park until all of the applicant's taxes have been paid in full. Taxes paid under protest  
 6 do not preclude approval. Prior to holding the hearing, the governing body shall determine that:

7 (a) the local economic development organization:

8 (i) is a private, nonprofit corporation as provided in Title 35, chapter 2, and is exempt from taxation under  
 9 section 501(c)(3) or 501(c)(6) of the Internal Revenue Code;

10 (ii) is engaged in economic development and business assistance work in the area; and

11 (iii) owns and operates or will own and operate the industrial development park; or

12 (b) the port authority legally exists under the provisions of 7-14-1101 or 7-14-1102.

13 (3) (a) The governing body shall:

14 (i) publish due notice for the first time within 30 60 days of receiving a taxpayer's complete application  
 15 for the tax treatment provided for in this section; AND

16 (ii) publish due notice for the second time within 30 days of submission of the first due notice publication;

17 and

18 (iii)(ii) conduct a public hearing regarding an application for the tax treatment provided for in this section

19 AND DENY OR APPROVE IT within 30 120 days of the second due notice publication RECEIVING THE APPLICATION AS  
 20 PROVIDED IN SUBSECTION (3)(A)(I).

21 (b) If the applicant's taxes have been paid in full and the governing body fails to make a decision within  
 22 30 days of the public hearing provided for in subsection (3)(a)(iii), the application is considered approved. For the  
 23 purpose of this subsection (3)(b), the failure of a governing body to conduct a public hearing within 90 days of  
 24 receiving a taxpayer's completed application results in the application being considered approved. If an  
 25 application is considered approved, the governing body is precluded from making a determination.

26 (B) IF THE GOVERNING BODY FAILS TO HOLD A HEARING OR DENY OR APPROVE THE APPLICATION WITHIN 120  
 27 DAYS OF RECEIVING THE APPLICATION, THE APPLICANT MAY SEEK FROM THE DISTRICT COURT IN THE JURISDICTION IN  
 28 WHICH THE COUNTY, CONSOLIDATED GOVERNMENT, CITY, TOWN, OR SCHOOL DISTRICT IS LOCATED A WRIT OF MANDAMUS  
 29 TO COMPEL THE GOVERNING BODY TO MAKE A DETERMINATION.

30 (3)(4) (a) Upon receipt of approval of the governing body of the affected taxing jurisdiction, the

1 department shall make the assessment change for the tax exemption provided for in this section.

2 ~~(b) If an application is considered approved as provided under subsection (3)(b), the applicant shall~~  
 3 ~~provide the department with a copy of the application for the tax treatment provided for in this section,~~  
 4 ~~documentation regarding when the application was submitted to the governing body, the publication dates of any~~  
 5 ~~notices of public hearing, and the date of the first public hearing. Upon receipt of the documentation required by~~  
 6 ~~this subsection (4)(b), the department shall make a determination regarding whether the application satisfies the~~  
 7 ~~criteria under subsection (3)(b). If the department determines the applicant satisfies the criteria, it shall make the~~  
 8 ~~assessment change pursuant to this section.~~

9 (4)(5) The tax exemption described in subsection (1) applies only to the number of mills levied and  
 10 assessed by the governing body approving the exemption over which the governing body has sole discretion.  
 11 If the governing body of a county, consolidated government, or incorporated city or town approves the exemption,  
 12 the exemption applies to levies or assessments required under Title 15, chapter 10, 20-9-331, or 20-9-333 or  
 13 otherwise required under state law.

14 (5)(6) If a local economic development organization sells, leases, or otherwise disposes of the exempt  
 15 property to a purchaser or lessee that is not a local economic development organization or a unit of federal, state,  
 16 or local government, the tax exemption provided in this section terminates. The termination of the exemption  
 17 applies January 1 of the taxable year immediately following the sale, lease, or other disposition of the property.  
 18 Upon termination of the exemption, the property must be assessed as provided in 15-16-203.

19 (6)(7) Property taxes abated from the reduction in property taxes allowed by this section are subject to  
 20 recapture by the local governing body if the ownership or use of the property does not meet the requirements of  
 21 15-24-1901, this section, or the resolution required by subsection (2) of this section. The recapture is equal to  
 22 the amount of taxes avoided, plus interest and penalties for nonpayment of property taxes provided in 15-16-102,  
 23 during any period in which an abatement under the provisions of this section was in effect. The amount  
 24 recaptured, including penalty and interest, must be distributed by the treasurer to funds and accounts subject to  
 25 the abatement in the same ratio as the property tax was abated. A recapture of taxes abated by this section is  
 26 not allowed with regard to property ceasing to qualify for the abatement by reason of an involuntary conversion.  
 27 The recapture of abated taxes may be canceled, in whole or in part, if the local governing body determines that  
 28 the taxpayer's failure to meet the requirements is a result of circumstances beyond the control of the taxpayer."  
 29

30 **Section 8.** Section 15-24-2002, MCA, is amended to read:

1           **"15-24-2002. Building and land tax exemption -- procedure -- termination.** (1) A building and land  
 2 owned by a local economic development organization that the local economic development organization intends  
 3 to sell or lease to a profit-oriented, employment-stimulating business are eligible for an exemption from property  
 4 taxes as provided in this section.

5           (2) ~~In Except as provided in subsection (3)(b), in IN order FOR A TAXPAYER to qualify for the tax exemption~~  
 6 described in this section, the ~~TAXPAYER MUST HAVE APPLIED BY MARCH 1 OF THE YEAR DURING WHICH THE BENEFIT~~  
 7 ~~IS FIRST APPLICABLE. THE~~ governing body of the affected county, consolidated government, incorporated city or  
 8 town, or school district in which the building and land are located shall approve the tax exemption by resolution,  
 9 after due notice, as ~~defined in 76-15-103~~ PROVIDED IN 7-1-2121 IF A COUNTY, CONSOLIDATED GOVERNMENT, OR  
 10 SCHOOL DISTRICT OR 7-1-4127 IF AN INCORPORATED CITY OR TOWN, and hearing. The governing body may approve  
 11 or disapprove the tax exemption provided for in subsection (1). The governing body shall approve a tax exemption  
 12 by a separate resolution. The governing body may not grant approval for the building and land until all of the  
 13 applicant's taxes have been paid in full. Taxes paid under protest do not preclude approval. Prior to holding the  
 14 hearing, the governing body shall determine that the local economic development organization:

15           (a) is a private, nonprofit corporation, as provided in Title 35, chapter 2, and is exempt from taxation  
 16 under section 501(c)(3) or 501(c)(6) of the Internal Revenue Code;

17           (b) is engaged in economic development and business assistance work in the area; and

18           (c) owns or will own the building and land.

19           (3) (a) The governing body shall:

20           (i) ~~publish due notice for the first time within 30 60 days of receiving a taxpayer's complete application~~  
 21 ~~for the tax treatment provided for in this section; AND~~

22           (ii) ~~publish due notice for the second time within 30 days of submission of the first due notice publication;~~

23 ~~and~~

24           (iii)(ii) ~~conduct a public hearing regarding an application for the tax treatment provided for in this section~~  
 25 ~~AND DENY OR APPROVE IT within 30 120 days of the second due notice publication RECEIVING THE APPLICATION AS~~  
 26 ~~PROVIDED IN SUBSECTION (3)(A)(I).~~

27           (b) ~~If the applicant's taxes have been paid in full and the governing body fails to make a decision within~~  
 28 ~~30 days of the public hearing provided for in subsection (3)(a)(iii), the application is considered approved. For the~~  
 29 ~~purpose of this subsection (3)(b), the failure of a governing body to conduct a public hearing within 90 days of~~  
 30 ~~receiving a taxpayer's completed application results in the application being considered approved. If an~~

1 ~~application is considered approved, the governing body is precluded from making a determination.~~

2 ~~(B) IF THE GOVERNING BODY FAILS TO HOLD A HEARING OR DENY OR APPROVE THE APPLICATION WITHIN 120~~  
 3 ~~DAYS OF RECEIVING THE APPLICATION, THE APPLICANT MAY SEEK FROM THE DISTRICT COURT IN THE JURISDICTION IN~~  
 4 ~~WHICH THE COUNTY, CONSOLIDATED GOVERNMENT, CITY, TOWN, OR SCHOOL DISTRICT IS LOCATED A WRIT OF MANDAMUS~~  
 5 ~~TO COMPEL THE GOVERNING BODY TO MAKE A DETERMINATION.~~

6 ~~(3)(4) (a)~~ Upon receipt of approval of the governing body of the affected taxing jurisdiction, the  
 7 department shall make the assessment change for the tax exemption provided for in this section.

8 ~~(b) If an application is considered approved as provided under subsection (3)(b), the applicant shall~~  
 9 ~~provide the department with a copy of the application for the tax treatment provided for in this section,~~  
 10 ~~documentation regarding when the application was submitted to the governing body, the publication dates of any~~  
 11 ~~notices of public hearing, and the date of the first public hearing. Upon receipt of the documentation required by~~  
 12 ~~this subsection (4)(b), the department shall make a determination regarding whether the application satisfies the~~  
 13 ~~criteria under subsection (3)(b). If the department determines the applicant satisfies the criteria, it shall make the~~  
 14 ~~assessment change pursuant to this section.~~

15 ~~(4)(5)~~ The tax exemption described in subsection (1) applies only to the number of mills levied and  
 16 assessed by the governing body approving the exemption over which the governing body has sole discretion.  
 17 If the governing body of a county, consolidated government, or incorporated city or town approves the exemption  
 18 ~~or it is considered approved under subsection (3)(b)~~, the exemption applies to levies or assessments required  
 19 under Title 15, chapter 10, 20-9-331, or 20-9-333 and other levies required under state law.

20 ~~(5)(6)~~ When a local economic development organization sells, leases, or otherwise disposes of the  
 21 exempt property to a purchaser or lessee that is not a local economic development organization or a unit of  
 22 federal, state, or local government, the tax exemption provided in this section terminates. The termination of the  
 23 exemption applies January 1 of the taxable year immediately following the sale, lease, or other disposition of the  
 24 property. Upon termination of the exemption, the property must be assessed as provided in 15-16-203.

25 ~~(6)(7)~~ Property taxes abated from the reduction in property taxes allowed by this section are subject to  
 26 recapture by the local governing body if the ownership or use of the property does not meet the requirements of  
 27 this section or the resolution required by subsection (2). The recapture is equal to the amount of taxes avoided,  
 28 plus interest and penalties for nonpayment of property taxes provided in 15-16-102, during any period in which  
 29 an abatement under the provisions of this section was in effect. The amount recaptured, including penalty and  
 30 interest, must be distributed by the treasurer to funds and accounts subject to the abatement in the same ratio

1 as the property tax was abated. A recapture of taxes abated by this section is not allowed with regard to property  
2 ceasing to qualify for the abatement by reason of an involuntary conversion. The recapture of abated taxes may  
3 be canceled, in whole or in part, if the local governing body determines that the taxpayer's failure to meet the  
4 requirements is a result of circumstances beyond the control of the taxpayer."

5  
6 **NEW SECTION. Section 9. Saving clause.** [This act] does not affect rights and duties that matured,  
7 penalties that were incurred, or proceedings that were begun before [the effective date of this act].

8  
9 **NEW SECTION. Section 10. Effective date.** [This act] is effective on passage and approval.

10  
11 **NEW SECTION. Section 11. Applicability.** [This act] applies to applications for tax benefits submitted  
12 to a governing body on or after [the effective date of this act].

13 - END -