

SENATE BILL NO. 513  
INTRODUCED BY J. BRUEGGEMAN

A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING THE MONTANA PROPERTY TAX RELIEF ACT; PROVIDING DEFINITIONS; ESTABLISHING A REFUNDABLE INCOME TAX CREDIT FOR A PORTION OF PROPERTY TAXES PAID; ESTABLISHING A METHOD FOR CALCULATING THE CREDIT; GRANTING THE DEPARTMENT OF REVENUE AUTHORITY TO DENY CERTAIN CLAIMS; ESTABLISHING A PENALTY FOR FALSE OR FRAUDULENT CLAIMS; PROVIDING FOR AN ADVANCE PARTIAL PAYMENT OF THE INCOME TAX CREDIT; GRANTING THE DEPARTMENT OF REVENUE RULEMAKING AUTHORITY; LEVYING PROPERTY TAXES TO PROVIDE REVENUE FOR THE INCOME TAX CREDIT; AMENDING SECTIONS 2-15-122, 5-2-301, 15-6-133, 15-6-134, 15-6-143, 15-6-222, 15-7-102, 15-7-111, 15-16-102, 47-1-111, 53-4-1103, 53-6-1001, AND 77-1-208, MCA; REPEALING SECTIONS 15-6-191, 15-6-193, 15-6-211, 15-30-171, 15-30-172, 15-30-173, 15-30-174, 15-30-175, 15-30-176, 15-30-177, 15-30-178, AND 15-30-179, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

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

NEW SECTION. **Section 1. Short title.** [Sections 1 through 9] may be cited as the "Montana Property Tax Relief Act" and may be referred to as "the circuit breaker program".

NEW SECTION. **Section 2. Purpose.** The purpose of [sections 1 through 9] is to provide property tax relief in the form of a refundable income tax credit to certain persons who own or rent a qualified residence.

NEW SECTION. **Section 3. Definitions.** As used in [sections 1 through 9], the following definitions apply:

(1) "Claimant" means a person who files a claim for property tax relief authorized by [sections 1 through 9] and who was a resident of this state for at least 7 months during the calendar year for which the claim was filed. A claimant must have resided, as either an owner or renter, in a qualified residence for at least 7 months during the calendar year for which a claim is filed.

(2) "Deceased veteran" means a person who was killed while on active duty or dies as a result of a service-connected disability.

(3) "Disabled veteran" means a person who:

- (a) was honorably discharged from active service in any branch of the armed services; and
- (b) is currently rated 100% disabled or is paid at the 100% disabled rate by the U.S. department of veterans affairs for a service-related disability, as verified by official documentation from the U.S. department of veterans affairs.

(4) "Gross rent" means the total rent in cash or its equivalent actually paid during the claim period by the renter or lessee for the right of occupancy of a qualified residence pursuant to an arm's-length transaction with a property owner or the owner's agent.

(5) "Household" means all individuals residing in a qualified residence who cannot be claimed on another individual's income tax return as a dependant.

(6) "Household income" means total income of a household as reported on the tax return or returns required by this chapter for the year in which the credit is being claimed excluding losses and before any federal or state adjustments to income. In those cases in which the claimant is not required to file a tax return under this chapter, household income means the total household income as it would have been reported had the claimant been required to file a return.

(7) "Property taxes" means taxes billed against a qualified residence, including special assessments and fees but excluding penalties and interest during the claim period. Property taxes do not include special assessments or voted mill levies billed after December 31, 2011.

(8) "Qualified residence" means any class four residential dwelling that is a single-family dwelling unit, unit of a multiple-unit dwelling, trailer, manufactured home, or mobile home and as much of the surrounding land, not exceeding 1 acre, as is reasonably necessary for its use as a dwelling. A qualified residence must be occupied by a claimant for at least 7 months during the year for which a claim is made.

(9) "Rent constituting property taxes" means 15% of the gross rent actually paid by a claimant for the right of occupancy of a qualified residence for which the claimant has submitted a claim.

**NEW SECTION. Section 4. Income tax credit for property taxes paid.** (1) There is a credit against the taxes imposed by this chapter for a portion of the property taxes paid by a claimant as provided by [sections 1 through 9].

(2) If the amount of the credit exceeds the claimant's liability under this chapter, the amount of the excess must be refunded to the claimant.

(3) A claimant not required to file a tax return under this chapter shall submit a claim for the credit with

the claimant's tax return.

(4) A claimant not required to file a tax return under this chapter may submit a claim for the credit.

(5) Claims for the credit must be made on a form prescribed by the department and must be filed no later than April 15 of the year following the year for which credit is sought.

(6) Only one claim may be made with respect to any qualified residence.

**NEW SECTION. Section 5. Calculation of credit -- owners, renters, and certain veterans.** (1) A claimant who owned and occupied a qualified residence may claim a credit for that portion of the claimant's property taxes billed in excess of 2% of the claimant's household income if the claimant's household income did not exceed \$150,000 in the year for which the claim is made.

(2) A claimant who owned and occupied a qualified residence, and whose household income exceeded \$150,000, but was less than \$200,000 in the year for which the claim was made, may claim a credit for property taxes billed in excess of 2% of the claimant's household income, but the credit claimed must be reduced by \$1 for every \$10 by which the claimant's income exceeded \$150,000.

(3) A claimant who rented or leased a qualified residence may claim a credit for that portion of the claimant's rent constituting property taxes paid in excess of 2% of the claimant's household income if the claimant's household income did not exceed \$150,000 in the year for which the claim is made.

(4) A claimant who rented or leased a qualified residence, and whose household income exceeded \$150,000, but was less than \$200,000 in the year for which the claim was made, may claim a credit for rent constituting property taxes paid in excess of 2% of the claimant's household income, but the credit claimed must be reduced by \$1 for every \$10 by which the claimant's income exceeded \$150,000.

(5) A claimant who is a disabled veteran or the unmarried surviving spouse of a deceased veteran and whose household income was greater than \$44,000 but less than \$50,001 may claim the credit in subsection (1) or (3), as applicable, for property taxes paid or rent constituting property taxes billed in excess of 1% of the claimant's household income.

(6) A claimant who is a disabled veteran or the unmarried surviving spouse of a deceased veteran and whose household income was \$44,000 or less may claim the credit in subsection (1) or (3), as applicable, for property taxes billed or rent constituting property taxes paid.

(7) In no case may the credit authorized by this section exceed \$5,000.

**NEW SECTION. Section 6. Denial of claims.** The department may deny claims if the department

determines that the claims or the claimants do not qualify pursuant to [sections 1 through 9] or if the department determines that a false or fraudulent claim has been filed.

**NEW SECTION. Section 7. False or fraudulent claims.** A claimant who submits a false or fraudulent claim is guilty of false swearing under 45-7-202. In addition to the penalties available under 45-7-202, any claim granted as the result of a false or fraudulent claim may be recaptured by the department.

**NEW SECTION. Section 8. Availability of advance partial payment of credit -- department to establish program.** (1) A claimant who qualifies for the tax credit provided in [section 5] may apply to the department for an advanced partial payment equal to 40% of the claimant's estimated tax credit to be used for partial payment of the claimant's November property tax payment.

(2) (a) The department shall establish a program to implement, administer, and enforce the provisions of this section. The department shall specify the manner of applying, when an application must be submitted, the basis on which the claimant is to determine estimated property taxes, the method of payment to claimants, and other matters necessary for the proper implementation of the program.

(b) The rules must also specify the department's applicable penalty provisions, recourse for denial of an applicant's claim, and appeals processes and provide for notification of applicants with regard to those items.

**NEW SECTION. Section 9. Rulemaking authority.** The department may adopt rules necessary to implement, administer, and enforce [sections 1 through 9].

**NEW SECTION. Section 10. Tax levy to fund circuit breaker program.** There is levied upon the taxable value of all real estate and personal property subject to taxation in the state of Montana 100 mills or so much of 100 mills as is necessary to fund the circuit breaker program established by the Montana Property Tax Relief Act established in [sections 1 through 9]. The mill levy established by this section is not subject to the provisions of 15-10-420.

**Section 11.** Section 2-15-122, MCA, is amended to read:

**"2-15-122. Creation of advisory councils.** (1) (a) A department head or the governor may create advisory councils.

(b) An agency or an official of the executive branch of state government other than a department head

or the governor, including the superintendents of the state's institutions and the presidents of the units of the state's university system, may also create advisory councils but only if federal law or regulation requires that the official or agency create the advisory council as a condition to the receipt of federal funds.

(c) The board of public education, the board of regents of higher education, the state board of education, the attorney general, the state auditor, the secretary of state, and the superintendent of public instruction may create advisory councils, which shall serve at their pleasure, without the approval of the governor. The creating authority shall file a record of each council created by it in the office of the governor and the office of the secretary of state in accordance with subsection (9).

(2) Each advisory council created under this section must be known as the "... advisory council".

(3) The creating authority shall:

(a) prescribe the composition and advisory functions of each advisory council created;

(b) appoint its members, who shall serve at the pleasure of the creating authority; and

(c) specify a date when the existence of each advisory council ends.

(4) Advisory councils may be created only for the purpose of acting in an advisory capacity, as defined in 2-15-102.

(5) (a) Unless an advisory council member is a full-time salaried officer or employee of this state or of any political subdivision of this state, the member is entitled to be paid in an amount to be determined by the department head, not to exceed \$50 for each day in which the member is actually and necessarily engaged in the performance of council duties and to be reimbursed for travel expenses, as provided for in 2-18-501 through 2-18-503, incurred while in the performance of council duties. The maximum daily pay rate must be adjusted for inflation annually using the formula provided in ~~15-6-134(2)(b)(ii) and (2)(b)(iii), except that the base income level and appropriate dollar amount must be \$50 a day~~ subsection (11).

(b) Members who are full-time salaried officers or employees of this state or of any political subdivision of this state are not entitled to be compensated for their service as members but are entitled to be reimbursed for travel expenses, as provided for in 2-18-501 through 2-18-503.

(6) Unless otherwise specified by the creating authority, at its first meeting in each year, an advisory council shall elect a presiding officer and other officers that it considers necessary.

(7) Unless otherwise specified by the creating authority, an advisory council shall meet at least annually and shall also meet on the call of the creating authority or the governor and may meet at other times on the call of the presiding officer or a majority of its members. An advisory council may not meet outside the city of Helena without the express prior authorization of the creating authority.

(8) A majority of the membership of an advisory council constitutes a quorum to do business.

(9) Except as provided in subsection (1)(c), an advisory council may not be created or appointed by a department head or any other official without the approval of the governor. In order for the creation or approval of the creation of an advisory council to be effective, the governor shall file in the governor's office and in the office of the secretary of state a record of the council created showing:

- (a) the council's name, in accordance with subsection (2);
- (b) the council's composition;
- (c) the appointed members, including names and addresses;
- (d) the council's purpose; and
- (e) the council's term of existence, in accordance with subsection (10).

(10) An advisory council may not be created to remain in existence longer than 2 years after the date of its creation or beyond the period required to receive federal or private funds, whichever occurs later, unless extended by the appointing authority in the manner set forth in subsection (1). If the existence of an advisory council is extended, the appointing authority shall specify a new date, not more than 2 years later, when the existence of the advisory council ends and file a record of the order in the office of the governor and the office of the secretary of state. The existence of any advisory council may be extended as many times as necessary.

(11) (a) The income levels contained in subsection (5) must be adjusted for inflation annually. The adjustment to the income levels is determined by:

(i) multiplying \$50 by the ratio of the PCE for the second quarter of the year prior to the year of application to the PCE for the second quarter of 1995; and

(ii) rounding the product obtained to the nearest whole dollar amount.

(b) "PCE" means the implicit price deflator for personal consumption expenditures as published quarterly in the Survey of Current Business by the bureau of economic analysis of the U.S. department of commerce."

**Section 12.** Section 5-2-301, MCA, is amended to read:

**"5-2-301. Compensation and expenses for members while in session.** (1) Legislators are entitled to a salary commensurate to that of the daily rate for an employee earning \$10.33 an hour when the regular session of the legislature in which they serve is convened under 5-2-103 for those days during which the legislature is in session. The hourly rate must be adjusted by any statutorily required pay increase. The president of the senate and the speaker of the house must receive an additional \$5 a day in salary for those days during which the legislature is in session.

(2) Legislators may serve for no salary.

(3) Subject to subsection (4), legislators are entitled to a daily allowance, 7 days a week, during a legislative session, as reimbursement for expenses incurred in attending a session. Expense payments must stop when the legislature recesses for more than 3 days and resume when the legislature reconvenes.

(4) After November 15, and prior to December 15 of each even-numbered year, the department of administration shall conduct a survey of the allowance for daily expenses of legislators for the states of North Dakota, South Dakota, Wyoming, and Idaho. The department shall include the average daily expense allowance for Montana legislators in determining the average daily rate for legislators. The department shall include only states with specific daily allowances in the calculation of the average. If the average daily rate is greater than the daily rate for legislators in Montana, legislators are entitled to a new daily rate for those days during which the legislature is in session. The new daily rate is the daily rate for the prior legislative session, increased by the percentage rate increase as determined by the survey, a cost of living increase to reflect inflation that is calculated pursuant to ~~15-6-134~~ subsection (8), or 5%, whichever is less. The expense allowance is effective when the next regular session of the legislature in which the legislators serve is convened under 5-2-103.

(5) Legislators are entitled to a mileage allowance as provided in 2-18-503 for each mile of travel to the place of the holding of the session and to return to their place of residence at the conclusion of the session.

(6) In addition to the mileage allowance provided for in subsection (5), legislators, upon submittal of an appropriate claim for mileage reimbursement to the legislative services division, are entitled to:

- (a) three additional round trips to their place of residence during each regular session; and
- (b) additional round trips as authorized by the legislature during special session.

(7) Legislators are not entitled to any additional mileage allowance under subsection (5) for a special session if it is convened within 7 days of a regular session.

(8) (a) The income levels contained in subsection (4) must be adjusted for inflation annually. The adjustment to the income levels is determined by:

(i) multiplying the appropriate dollar amount by the ratio of the PCE for the second quarter of the year prior to the year of application to the PCE for the second quarter of 1995; and

(ii) rounding the product obtained to the nearest whole dollar amount.

(b) "PCE" means the implicit price deflator for personal consumption expenditures as published quarterly in the Survey of Current Business by the bureau of economic analysis of the U.S. department of commerce."

**Section 13.** Section 15-6-133, MCA, is amended to read:

**"15-6-133. Class three property -- description -- taxable percentage.** (1) Class three property includes:

(a) agricultural land as defined in 15-7-202;

(b) nonproductive patented mining claims outside the limits of an incorporated city or town held by an owner for the ultimate purpose of developing the mineral interests on the property. For the purposes of this subsection (1)(b), the following provisions apply:

(i) The claim may not include any property that is used for residential purposes, recreational purposes as described in 70-16-301, or commercial purposes as defined in 15-1-101 or any property the surface of which is being used for other than mining purposes or has a separate and independent value for other purposes.

(ii) Improvements to the property that would not disqualify the parcel are taxed as otherwise provided in this title, including that portion of the land upon which the improvements are located and that is reasonably required for the use of the improvements.

(iii) Nonproductive patented mining claim property must be valued as if the land were devoted to agricultural grazing use.

(c) parcels of land of 20 acres or more but less than 160 acres under one ownership that are not eligible for valuation, assessment, and taxation as agricultural land under 15-7-202(1), which are considered to be nonqualified agricultural land. Nonqualified agricultural land may not be devoted to a commercial or industrial purpose. Nonqualified agricultural land is valued at the productive capacity value of grazing land, at the average grade of grazing land.

(2) Subject to subsection (3), class three property is taxed at ~~the taxable percentage rate applicable to class four property, as provided in 15-6-134(2)(a)~~ 2.56% of its market value.

(3) The taxable value of land described in subsection (1)(c) is computed by multiplying the value of the land by seven times the taxable percentage rate for agricultural land."

**Section 14.** Section 15-6-134, MCA, is amended to read:

**"15-6-134. Class four property -- description -- taxable percentage.** (1) Class four property includes:

(a) subject to 15-6-222 and subsections ~~(1)(f)~~ (1)(e) and ~~(1)(g)~~ (1)(f) of this section, all land, except that specifically included in another class;

(b) subject to 15-6-222 and subsections ~~(1)(f)~~ (1)(e) and ~~(1)(g)~~ (1)(f) of this section, all improvements, including trailers, manufactured homes, or mobile homes used as a residence, except those specifically included in another class;



~~(e)~~ the first \$100,000 or less of the taxable market value of any improvement on real property, including trailers, manufactured homes, or mobile homes, and appurtenant land not exceeding 5 acres owned or under contract for deed and actually occupied for at least 7 months a year as the primary residential dwelling of any person whose total income from all sources, including net business income and otherwise tax-exempt income of all types but not including social security income paid directly to a nursing home, is not more than \$15,000 for a single person or \$20,000 for a married couple or a head of household, as adjusted according to subsection ~~(2)(b)(ii)~~. For the purposes of this subsection ~~(1)(c)~~, net business income is gross income less ordinary operating expenses but before deducting depreciation or depletion allowance, or both.

~~(d)(c)~~ all golf courses, including land and improvements actually and necessarily used for that purpose, that consist of at least nine holes and not less than 700 lineal yards;

~~(e)(d)~~ subject to ~~15-6-222(1)~~, all improvements on land that is eligible for valuation, assessment, and taxation as agricultural land under 15-7-202, including 1 acre of real property beneath improvements on land described in 15-6-133(1)(c). The 1 acre must be valued at market value.

~~(f)(e)~~ (i) single-family residences, including trailers, manufactured homes, or mobile homes;

(ii) rental multifamily dwelling units;

(iii) appurtenant improvements to the residences or dwelling units, including the parcels of land upon which the residences and dwelling units are located and any leasehold improvements; and

(iv) vacant residential lots; and

~~(g)(f)~~ (i) commercial buildings and the parcels of land upon which they are situated; and

(ii) vacant commercial lots.

(2) Class four property is taxed as follows:

(a) Except as provided in 15-24-1402, 15-24-1501, and 15-24-1502, property described in subsections (1)(a), (1)(b), and ~~(1)(e)~~ (1)(d) through ~~(1)(g)~~ (1)(f) of this section is taxed at: 3% of its market value.

~~—— (i) 3.22% of its taxable market value in tax year 2005;~~

~~—— (ii) 3.14% of its taxable market value in tax year 2006;~~

~~—— (iii) 3.07% of its taxable market value in tax year 2007; and~~

~~—— (iv) 3.01% of its taxable market value in tax years after 2007.~~

(b) (i) Property qualifying under the property tax assistance program in subsection (1)(c) is taxed at the rate provided in subsection (2)(a) of its taxable market value multiplied by a percentage figure based on income and determined from the following table:

Income	Income	Percentage
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Single Person	Married Couple	Multiplier
	Head of Household	
\$0 - \$ 6,000	\$0 - \$8,000	20%
\$6,001 - \$9,200	\$8,001 - \$14,000	50%
\$9,201 - \$15,000	\$14,001 - \$20,000	70%

(ii) The income levels contained in the table in subsection (2)(b)(i) must be adjusted for inflation annually by the department. The adjustment to the income levels is determined by:

(A) multiplying the appropriate dollar amount from the table in subsection (2)(b)(i) by the ratio of the PCE for the second quarter of the year prior to the year of application to the PCE for the second quarter of 1995; and

(B) rounding the product thus obtained to the nearest whole dollar amount.

(iii) "PCE" means the implicit price deflator for personal consumption expenditures as published quarterly in the Survey of Current Business by the bureau of economic analysis of the U.S. department of commerce.

(e)(b) Property described in subsection (1)(d) (1)(c) is taxed at one-half the taxable percentage rate established in subsection (2)(a).

(3) Within the meaning of comparable property, as defined in 15-1-101, property assessed as commercial property is comparable only to other property assessed as commercial property and property assessed as other than commercial property is comparable only to other property assessed as other than commercial property."

**Section 15.** Section 15-6-143, MCA, is amended to read:

**"15-6-143. Class ten property -- description -- taxable percentage.** (1) Class ten property includes all forest lands as defined in 15-44-102.

(2) Class ten property is taxed at ~~0.79%~~ 0.23% of its forest productivity value ~~in tax year 1999, and the rate is reduced by 0.11% each year until the property is taxed at 0.35% of its forest productivity value.~~"

**Section 16.** Section 15-6-222, MCA, is amended to read:

**"15-6-222. Residential and commercial Commercial improvements -- percentage of value exempt.** (1) The following percentage of the market value of residential property described in 15-6-134(1)(e) and (1)(f) is exempt from property taxation:

(a) 32% for tax year 2005;

(b) 32.6% for tax year 2006;

- ~~———— (c) 33.2% for tax year 2007;~~
- ~~———— (d) 34% for tax year 2008 and succeeding tax years.~~
- ~~———— (2) The following percentage~~ The amount of 37.62% of the market value of commercial property described in 15-6-134(1)(g)(1)(f) is exempt from property taxation:
- ~~———— (a) 13.8% for tax year 2005;~~
- ~~———— (b) 14.2% for tax year 2006;~~
- ~~———— (c) 14.6% for tax year 2007;~~
- ~~———— (d) 15% for tax year 2008 and succeeding tax years."~~

**Section 17.** Section 15-7-102, MCA, is amended to read:

**"15-7-102. Notice of classification and appraisal to owners -- appeals.** (1) (a) Except as provided in 15-7-138, the department shall mail to each owner or purchaser under contract for deed a notice of the classification of the land owned or being purchased and the appraisal of the improvements on the land only if one or more of the following changes pertaining to the land or improvements have been made since the last notice:

- (i) change in ownership;
- (ii) change in classification;
- (iii) except as provided in subsection (1)(b), change in valuation; or
- (iv) addition or subtraction of personal property affixed to the land.

(b) After the first year, the department is not required to mail the notice provided for in subsection (1)(a)(iii) if the change in valuation is the result of ~~an annual incremental change in valuation caused by the phasing in of a reappraisal under 15-7-111 or the application of the exemptions~~ exemption under 15-6-222 ~~or caused by an incremental change in the tax rate.~~

(c) The notice must include the following for the taxpayer's informational purposes:

- (i) the total amount of mills levied against the property in the prior year; and
- (ii) a statement that the notice is not a tax bill.

(d) Any misinformation provided in the information required by subsection (1)(c) does not affect the validity of the notice and may not be used as a basis for a challenge of the legality of the notice.

(2) (a) Except as provided in subsection (2)(c), the department shall assign each assessment to the correct owner or purchaser under contract for deed and mail the notice of classification and appraisal on a standardized form, adopted by the department, containing sufficient information in a comprehensible manner designed to fully inform the taxpayer as to the classification and appraisal of the property and of changes over

the prior tax year.

(b) The notice must advise the taxpayer that in order to be eligible for a refund of taxes from an appeal of the classification or appraisal, the taxpayer is required to pay the taxes under protest as provided in 15-1-402.

(c) The department is not required to mail the notice of classification and appraisal to a new owner or purchaser under contract for deed unless the department has received the transfer certificate from the clerk and recorder as provided in 15-7-304 and has processed the certificate before the notices required by subsection (2)(a) are mailed. The department shall notify the county tax appeal board of the date of the mailing.

(3) If the owner of any land and improvements is dissatisfied with the appraisal as it reflects the market value of the property as determined by the department or with the classification of the land or improvements, the owner may request an assessment review by submitting an objection in writing to the department, on forms provided by the department for that purpose, within 30 days after receiving the notice of classification and appraisal from the department. The review must be conducted informally and is not subject to the contested case procedures of the Montana Administrative Procedure Act. As a part of the review, the department may consider the actual selling price of the property, independent appraisals of the property, and other relevant information presented by the taxpayer in support of the taxpayer's opinion as to the market value of the property. The department shall give reasonable notice to the taxpayer of the time and place of the review. After the review, the department shall determine the correct appraisal and classification of the land or improvements and notify the taxpayer of its determination. In the notification, the department shall state its reasons for revising the classification or appraisal. When the proper appraisal and classification have been determined, the land must be classified and the improvements appraised in the manner ordered by the department.

(4) Whether a review as provided in subsection (3) is held or not, the department may not adjust an appraisal or classification upon the taxpayer's objection unless:

- (a) the taxpayer has submitted an objection in writing; and
- (b) the department has stated its reason in writing for making the adjustment.

(5) A taxpayer's written objection to a classification or appraisal and the department's notification to the taxpayer of its determination and the reason for that determination are public records. The department shall make the records available for inspection during regular office hours.

(6) If any property owner feels aggrieved by the classification or appraisal made by the department after the review provided for in subsection (3), the property owner has the right to first appeal to the county tax appeal board and then to the state tax appeal board, whose findings are final subject to the right of review in the courts. The appeal to the county tax appeal board must be filed within 30 days after notice of the department's

determination is mailed to the taxpayer. A county tax appeal board or the state tax appeal board may consider the actual selling price of the property, independent appraisals of the property, and other relevant information presented by the taxpayer as evidence of the market value of the property. If the county tax appeal board or the state tax appeal board determines that an adjustment should be made, the department shall adjust the base value of the property in accordance with the board's order."

**Section 18.** Section 15-7-111, MCA, is amended to read:

**"15-7-111. Periodic revaluation of certain taxable property.** (1) The department shall administer and supervise a program for the revaluation of all taxable property within classes three, four, and ten. All other property must be revalued annually.

(2) The department shall value ~~and phase in the value of~~ newly constructed, remodeled, or reclassified property in a manner consistent with the valuation within the same class and the values established pursuant to subsection (1). The department shall adopt rules for determining the assessed valuation ~~and phased-in value of~~ new, remodeled, or reclassified property within the same class.

(3) The department of revenue shall administer and supervise a program for the revaluation of all taxable property within classes three, four, and ten. A comprehensive written reappraisal plan must be promulgated by the department. The reappraisal plan adopted must provide that all class three, four, and ten property in each county is revalued by January 1, 2009, effective for January 1, 2009, and each succeeding 6 years. ~~The resulting valuation changes must be phased in for each year until the next reappraisal. If a percentage of change for each year is not established, then the percentage of phase in for each year is 16.66%."~~

**Section 19.** Section 15-16-102, MCA, is amended to read:

**"15-16-102. Time for payment -- penalty for delinquency.** Unless suspended or canceled under the provisions of 10-1-606 or Title 15, chapter 24, part 17, all taxes levied and assessed in the state of Montana, except assessments made for special improvements in cities and towns payable under 15-16-103, are payable as follows:

(1) One-half of the taxes are payable on or before 5 p.m. on November 30 of each year or within 30 days after the tax notice is postmarked, whichever is later, and one-half are payable on or before 5 p.m. on May 31 of each year.

(2) Unless one-half of the taxes are paid on or before 5 p.m. on November 30 of each year or within 30 days after the tax notice is postmarked, whichever is later, the amount payable is delinquent and draws interest

at the rate of 5/6 of 1% a month from and after the delinquency until paid and 2% must be added to the delinquent taxes as a penalty.

(3) All taxes due and not paid on or before 5 p.m. on May 31 of each year are delinquent and draw interest at the rate of 5/6 of 1% a month from and after the delinquency until paid, and 2% must be added to the delinquent taxes as a penalty.

(4) ~~(a)~~ If the date on which taxes are due falls on a holiday or Saturday, taxes may be paid without penalty or interest on or before 5 p.m. of the next business day in accordance with 1-1-307.

~~(b) If taxes on property qualifying under the low-income property tax assistance provisions of 15-6-134(1)(c) and 15-6-191 are paid within 20 calendar days of the date on which the taxes are due, the taxes may be paid without penalty or interest. If a tax payment is made later than 20 days after the taxes were due, the penalty must be paid and interest accrues from the date on which the taxes were due.~~

(5) (a) A taxpayer may pay current year taxes without paying delinquent taxes. The county treasurer shall accept a partial payment equal to the delinquent taxes, including penalty and interest, for one or more full tax years if taxes for both halves of the current tax year have been paid. Payment of taxes for delinquent taxes must be applied to the taxes that have been delinquent the longest. The payment of taxes for the current tax year is not a redemption of the property tax lien for any delinquent tax year.

(b) A payment by a co-owner of an undivided ownership interest that is subject to a separate assessment otherwise meeting the requirements of subsection (5)(a) is not a partial payment.

(6) The penalty and interest on delinquent assessment payments for specific parcels of land may be waived by resolution of the city council. A copy of the resolution must be certified to the county treasurer.

(7) If the department revises an assessment that results in an additional tax of \$5 or less, an additional tax is not owed and a new tax bill does not need to be prepared.

(8) The county treasurer may accept a partial payment of centrally assessed property taxes as provided in 76-3-207."

**Section 20.** Section 47-1-111, MCA, is amended to read:

**"47-1-111. Eligibility -- determination of indigence -- rules.** (1) (a) ~~Beginning July 1, 2006, when~~ When a court orders the office to assign counsel, the office shall immediately assign counsel prior to a determination under this section.

(b) If the person for whom counsel has been assigned is later determined pursuant to this section to be ineligible for public defender services, the office shall immediately notify the court so that the court's order may

be rescinded.

(c) A person for whom counsel is assigned is entitled to the full benefit of public defender services until the court's order requiring the assignment is rescinded.

(d) Any determination pursuant to this section is subject to the review and approval of the court.

(2) (a) An applicant who is eligible for a public defender only because the applicant is indigent shall also provide a detailed financial statement and sign an affidavit.

(b) The application, financial statement, and affidavit must be on a form prescribed by the commission.

(c) Information disclosed in the application, financial statement, or affidavit is not admissible in a civil or criminal action except when offered for impeachment purposes or in a subsequent prosecution of the applicant for perjury or false swearing.

(d) The office may not withhold the timely provision of public defender services for delay or failure to fill out an application. However, a court may find a person in civil contempt of court for a person's unreasonable delay or failure to comply with the provisions of this subsection (2).

(3) An applicant is indigent if:

(a) the applicant's gross household income, ~~as defined in 15-30-171~~, is at or less than 133% of the poverty level set according to the most current federal poverty guidelines updated periodically in the federal register by the United States department of health and human services under the authority of 42 U.S.C. 9902(2);  
or

(b) the disposable income and assets of the applicant and the members of the applicant's household are insufficient to retain competent private counsel without substantial hardship to the applicant or the members of the applicant's household.

(4) A determination of indigence may not be denied based solely on an applicant's ability to post bail or solely because the applicant is employed.

(5) A determination may be modified by the office or the court if additional information becomes available or if the applicant's financial circumstances change.

(6) The commission shall establish procedures and adopt rules to implement this section. Commission procedures and rules:

(a) must ensure that the eligibility determination process is fair and consistent statewide;

(b) must allow a qualified private attorney to represent an applicant if the attorney agrees to accept from the applicant a compensation rate that will not constitute a substantial financial hardship to the applicant or the members of the applicant's household;

(c) may provide for the use of other public or private agencies or contractors to conduct eligibility screening under this section;

(d) must avoid unnecessary duplication of processes; and

(e) must prohibit individual public defenders from performing eligibility screening pursuant to this section.

(7) For the purposes of this section, the following definitions apply:

(a) "Gross household income" means all income received by all individuals of a household while they are members of the household.

(b) (i) "Household" means an association of persons who live in the same dwelling, sharing its furnishing, facilities, accommodations, and expenses.

(ii) The term does not include bona fide lessees, tenants, or roomers and boarders on contract.

(c) "Household income" means the amount obtained by subtracting \$6,300 from gross household income.

(d) (i) "Income" means, except as provided in subsection (7)(d)(ii), federal adjusted gross income, without regard to loss, as that quantity is defined in the Internal Revenue Code, plus all nontaxable income, including but not limited to:

(A) the amount of any pension or annuity, including Railroad Retirement Act benefits and veterans' disability benefits;

(B) the amount of capital gains excluded from adjusted gross income;

(C) alimony;

(D) support money;

(E) nontaxable strike benefits;

(F) cash public assistance and relief;

(G) interest on federal, state, county, and municipal bonds; and

(H) all payments received under federal social security except social security income paid directly to a nursing home.

(ii) For the purposes of this subsection (7)(d), income is reduced by the taxpayer's basis."

**Section 21.** Section 53-4-1103, MCA, is amended to read:

**"53-4-1103. Definitions.** For purposes of this part, the following definitions apply:

(1) "Comprehensive" means health insurance having benefits at least as extensive as those provided under the children's health insurance program.



(2) "Department" means the department of public health and human services provided for in 2-15-2201.

(3) "Enrollee" means a child who is enrolled or in the process of being enrolled in the plan, including children already enrolled in the programs described in 53-4-1104(2).

(4) (a) "Enrollment partner" means an organization or individual approved by the department to assist in enrolling eligible children in the plan.

(b) An enrollment partner may be but is not limited to:

- (i) a licensed health care provider;
- (ii) a school;
- (iii) a community-based organization; or
- (iv) a government agency.

(5) "Health coverage" means a program administered by the department or a disability insurance plan, referred to in 33-1-207(1)(b), that provides public or private health insurance for children.

(6) "Income" has the meaning provided in ~~45-30-174(9)(a)~~ 47-1-111.

(7) "Plan" means the healthy Montana kids plan established in 53-4-1104.

(8) "Premium" means the amount of money charged to provide coverage under a public or private health coverage plan.

(9) "Presumptive eligibility" has the meaning provided in 42 CFR 457.355."

**Section 22.** Section 53-6-1001, MCA, is amended to read:

**"53-6-1001. Definitions.** As used in this part, unless the context requires otherwise, the following definitions apply:

(1) "Average wholesale price" means the wholesale price charged on a specific drug that is assigned by the drug manufacturer and is listed in a nationally recognized drug pricing file.

(2) "Department" means the department of public health and human services provided for in Title 2, chapter 15, part 22.

(3) "Discounted price" means a price set by the department by rule pursuant to 53-6-1002.

(4) "Gross household income" has the meaning provided in ~~45-30-174~~ 47-1-111.

(5) "Manufacturer" means a manufacturer of prescription drugs and includes a subsidiary or affiliate of a manufacturer.

(6) "Participating retail pharmacy" means a retail pharmacy located in this state or another business licensed to dispense prescription drugs in this state that is medicaid-approved.

(7) "Program" means the prescription drug plus discount program provided for in 53-6-1002.

(8) "Secondary discounted price" means the discounted price less any further discounts funded by manufacturer rebates for medication purchased by participants in the program."

**Section 23.** Section 77-1-208, MCA, is amended to read:

**"77-1-208. Cabin site licenses and leases -- method of establishing value.** (1) The board shall set the annual fee based on full market value for each cabin site and for each licensee or lessee who at any time wishes to continue or assign the license or lease. The fee must attain full market value based on appraisal of the cabin site value as determined by the department of revenue. The licensee or lessee has the option to pay the entire fee on March 1 or to divide the fee into two equal payments due March 1 and September 1. The value may be increased or decreased as a result of the statewide periodic revaluation of property pursuant to 15-7-111 ~~without any adjustments as a result of phasing in values~~. An appeal of a cabin site value determined by the department of revenue must be conducted pursuant to Title 15, chapter 15.

(2) The board shall set the fee of each initial cabin site license or lease or each current cabin site license or lease of a person who does not choose to retain the license or lease. The initial fee must be based upon a system of competitive bidding. The fee for a person who wishes to retain that license or lease must be determined under the method provided for in subsection (1).

(3) The board shall follow the procedures set forth in 77-6-302, 77-6-303, and 77-6-306 for the disposal or valuation of any fixtures or improvements placed upon the property by the then-current licensee or lessee and shall require the subsequent licensee or lessee whose bid is accepted by the board to purchase those fixtures or improvements in the manner required by the board."

**NEW SECTION. Section 24. Repealer.** Sections 15-6-191, 15-6-193, 15-6-211, 15-30-171, 15-30-172, 15-30-173, 15-30-174, 15-30-175, 15-30-176, 15-30-177, 15-30-178, and 15-30-179, MCA, are repealed.

**NEW SECTION. Section 25. Codification instruction.** (1) [Sections 1 through 9] are intended to be codified as an integral part of Title 15, chapter 30, and the provisions of Title 15, chapter 30, apply to [sections 1 through 9].

(2) [Section 10] is intended to be codified as an integral part of Title 15, chapter 10, part 1, and the provisions of Title 15, chapter 10, part 1, apply to [section 10].

NEW SECTION. **Section 26. Contingent voidness.** [Section 8] is void unless legislation is passed and approved during the 61st legislative session that specifically appropriates money to the department of revenue for the administration of advance partial payment of the income tax credit established in [section 8].

NEW SECTION. **Section 27. Effective date.** [This act] is effective on passage and approval.

NEW SECTION. **Section 28. Retroactive applicability.** [This act] applies retroactively, within the meaning of 1-2-109, to tax years beginning after December 31, 2008.

- END -

