

## 1 HOUSE BILL NO. 305

2 INTRODUCED BY K. REGIER

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4 A BILL FOR AN ACT ENTITLED: "AN ACT ELIMINATING THE PROPERTY TAX EXEMPTION FOR MOST  
5 NONPROFIT HEALTH CARE FACILITIES, INCLUDING HOSPITALS; LIMITING THE PROPERTY TAX  
6 EXEMPTION TO CERTAIN CRITICAL ACCESS HOSPITALS; REQUIRING AN EXEMPT CRITICAL ACCESS  
7 HOSPITAL TO BE A CERTAIN DISTANCE FROM ANOTHER HOSPITAL OR CRITICAL ACCESS HOSPITAL  
8 AND BE AUTHORIZED AN EXEMPTION BY A COUNTYWIDE VOTE THAT IS LIMITED TO 8 YEARS;  
9 PROVIDING THAT THE INCREASED VALUE RESULTING FROM ELIMINATING THE PROPERTY TAX  
10 EXEMPTION IS NOT CONSIDERED NEWLY TAXABLE PROPERTY FOR THE PURPOSES OF THE  
11 PROPERTY TAX LIMITATION LAW SO THE ADDITIONAL TAXABLE VALUE WOULD SUPPLANT OTHER  
12 PROPERTY VALUE RATHER THAN ADDING VALUE PREVENTING INCREASED PROPERTY TAX  
13 COLLECTION; AMENDING SECTIONS 15-6-201 AND 15-10-420, MCA; AND PROVIDING AN APPLICABILITY  
14 DATE."

15

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

17

18 **Section 1.** Section 15-6-201, MCA, is amended to read:19 **"15-6-201. Governmental, charitable, and educational categories -- exempt property.** (1) The  
20 following categories of property are exempt from taxation:

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

22 (i) the United States, except:

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

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

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

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

28 (iv) municipal corporations;

29 (v) public libraries;

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

- 1 (vii) special districts created pursuant to Title 7, chapter 11, part 10;
- 2 (b) buildings and furnishings in the buildings that are owned by a church and used for actual religious  
3 worship or for residences of the clergy, not to exceed one residence for each member of the clergy, together with  
4 the land that the buildings occupy and adjacent land reasonably necessary for convenient use of the buildings,  
5 which must be identified in the application, and all land and improvements used for educational or youth  
6 recreational activities if the facilities are generally available for use by the general public but may not exceed 15  
7 acres for a church or 1 acre for a clergy residence after subtracting any area required by zoning, building codes,  
8 or subdivision requirements;
- 9 (c) property owned and used exclusively for agricultural and horticultural societies not operated for gain  
10 or profit;
- 11 (d) property, not to exceed 80 acres, which must be legally described in the application for the  
12 exemption, used exclusively for educational purposes, including dormitories and food service buildings for the  
13 use of students in attendance and other structures necessary for the operation and maintenance of an  
14 educational institution that:
- 15 (i) is not operated for gain or profit;
- 16 (ii) has an attendance policy; and
- 17 (iii) has a definable curriculum with systematic instruction;
- 18 (e) property used exclusively for nonprofit ~~health care facilities~~ critical access hospitals, as defined in  
19 50-5-101, licensed by the department of public health and human services and organized under Title 35, chapter  
20 2 or 3. ~~A health care facility that is not licensed by the department of public health and human services and~~  
21 ~~organized under Title 35, chapter 2 or 3, is not exempt, if:~~
- 22 (i) the critical access hospital is located more than 35 road miles from a hospital or another critical  
23 access hospital; and
- 24 (ii) the electors of the county where the critical access hospital is located have, within 8 years of the  
25 property tax year, authorized the property tax exemption at a countywide election held at a general election as  
26 defined in 13-1-101;
- 27 (f) property that is:
- 28 (i) owned and held by an association or corporation organized under Title 35, chapter 2, 3, 20, or 21;
- 29 (ii) devoted exclusively to use in connection with a cemetery or cemeteries for which a permanent care  
30 and improvement fund has been established as provided for in Title 35, chapter 20, part 3; and

- 1 (iii) not maintained and not operated for gain or profit;
- 2 (g) subject to subsection (2), property that is owned or property that is leased from a federal, state, or  
3 local governmental entity by institutions of purely public charity if the property is directly used for purely public  
4 charitable purposes;
- 5 (h) evidence of debt secured by mortgages of record upon real or personal property in the state of  
6 Montana;
- 7 (i) public museums, art galleries, zoos, and observatories that are not operated for gain or profit;
- 8 (j) motor vehicles, land, fixtures, buildings, and improvements owned by a cooperative association or  
9 nonprofit corporation organized to furnish potable water to its members or customers for uses other than the  
10 irrigation of agricultural land;
- 11 (k) the right of entry that is a property right reserved in land or received by mesne conveyance (exclusive  
12 of leasehold interests), devise, or succession to enter land with a surface title that is held by another to explore,  
13 prospect, or dig for oil, gas, coal, or minerals;
- 14 (l) (i) property that is owned and used by a corporation or association organized and operated exclusively  
15 for the care of persons with developmental disabilities, persons with mental illness, or persons with physical or  
16 mental impairments that constitute or result in substantial impediments to employment and that is not operated  
17 for gain or profit; and
- 18 (ii) property that is owned and used by an organization owning and operating facilities that are for the care  
19 of the retired, aged, or chronically ill and that are not operated for gain or profit; and
- 20 (m) property owned by a nonprofit corporation that is organized to provide facilities primarily for training  
21 and practice for or competition in international sports and athletic events and that is not held or used for private  
22 or corporate gain or profit. For purposes of this subsection (1)(m), "nonprofit corporation" means an organization  
23 that is exempt from taxation under section 501(c) of the Internal Revenue Code and incorporated and admitted  
24 under the Montana Nonprofit Corporation Act.
- 25 (2) (a) For the purposes of subsection (1)(b), the term "clergy" means, as recognized under the federal  
26 Internal Revenue Code:
- 27 (i) an ordained minister, priest, or rabbi;
- 28 (ii) a commissioned or licensed minister of a church or church denomination that ordains ministers if the  
29 person has the authority to perform substantially all the religious duties of the church or denomination;
- 30 (iii) a member of a religious order who has taken a vow of poverty; or

- 1 (iv) a Christian Science practitioner.
- 2 (b) For the purposes of subsection (1)(g):
- 3 (i) the term "institutions of purely public charity" includes any organization that meets the following
- 4 requirements:
- 5 (A) The organization offers its charitable goods or services to persons without regard to race, religion,
- 6 creed, or gender and qualifies as a tax-exempt organization under the provisions of section 501(c)(3), Internal
- 7 Revenue Code, as amended.
- 8 (B) The organization accomplishes its activities through absolute gratuity or grants. However, the
- 9 organization may solicit or raise funds by the sale of merchandise, memberships, or tickets to public
- 10 performances or entertainment or by other similar types of fundraising activities.
- 11 (ii) agricultural property owned by a purely public charity is not exempt if the agricultural property is used
- 12 by the charity to produce unrelated business taxable income as that term is defined in section 512 of the Internal
- 13 Revenue Code, 26 U.S.C. 512. A public charity claiming an exemption for agricultural property shall file annually
- 14 with the department a copy of its federal tax return reporting any unrelated business taxable income received by
- 15 the charity during the tax year, together with a statement indicating whether the exempt property was used to
- 16 generate any unrelated business taxable income.
- 17 (iii) up to 15 acres of property owned by a purely public charity is exempt at the time of its purchase even
- 18 if the property must be improved before it can directly be used for its intended charitable purpose. If the property
- 19 is not directly used for the charitable purpose within 8 years of receiving an exemption under this section or if the
- 20 property is sold or transferred before it entered direct charitable use, the exemption is revoked and the property
- 21 is taxable. In addition to taxes due for the first year that the property becomes taxable, the owner of the property
- 22 shall pay an amount equal to the amount of the tax due that year times the number of years that the property was
- 23 tax-exempt under this section. The amount due is a lien upon the property and when collected must be distributed
- 24 by the treasurer to funds and accounts in the same ratio as property tax collected on the property is distributed.
- 25 At the time the exemption is granted, the department shall file a notice with the clerk and recorder in the county
- 26 in which the property is located. The notice must indicate that an exemption pursuant to this section has been
- 27 granted. The notice must describe the penalty for default under this section and must specify that a default under
- 28 this section will create a lien on the property by operation of law. The notice must be on a form prescribed by the
- 29 department.
- 30 (iv) not more than 160 acres may be exempted by a purely public charity under any exemption originally

1 applied for after December 31, 2004. An application for exemption under this section must contain a legal  
2 description of the property for which the exemption is requested.

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

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

13

14 **Section 2.** Section 15-10-420, MCA, is amended to read:

15 **"15-10-420. Procedure for calculating levy.** (1) (a) Subject to the provisions of this section, a  
16 governmental entity that is authorized to impose mills may impose a mill levy sufficient to generate the amount  
17 of property taxes actually assessed in the prior year plus one-half of the average rate of inflation for the prior 3  
18 years. The maximum number of mills that a governmental entity may impose is established by calculating the  
19 number of mills required to generate the amount of property tax actually assessed in the governmental unit in the  
20 prior year based on the current year taxable value, less the current year's value of newly taxable property, plus  
21 one-half of the average rate of inflation for the prior 3 years.

22 (b) A governmental entity that does not impose the maximum number of mills authorized under  
23 subsection (1)(a) may carry forward the authority to impose the number of mills equal to the difference between  
24 the actual number of mills imposed and the maximum number of mills authorized to be imposed. The mill authority  
25 carried forward may be imposed in a subsequent tax year.

26 (c) For the purposes of subsection (1)(a), the department shall calculate one-half of the average rate of  
27 inflation for the prior 3 years by using the consumer price index, U.S. city average, all urban consumers, using  
28 the 1982-84 base of 100, as published by the bureau of labor statistics of the United States department of labor.

29 (2) A governmental entity may apply the levy calculated pursuant to subsection (1)(a) plus any additional  
30 levies authorized by the voters, as provided in 15-10-425, to all property in the governmental unit, including newly

1 taxable property.

2 (3) (a) For purposes of this section, newly taxable property includes:

3 (i) annexation of real property and improvements into a taxing unit;

4 (ii) construction, expansion, or remodeling of improvements;

5 (iii) transfer of property into a taxing unit;

6 (iv) subdivision of real property; and

7 (v) subject to the provisions of subsection (3)(b)(ii), the transfer of property from tax-exempt to taxable

8 status.

9 (b) Newly taxable property does not include an increase in value that arises because of:

10 (i) an increase in the incremental value within a tax increment financing district; or

11 (ii) the elimination of the property tax exemption of certain health care facilities under [section 1 of this

12 act].

13 (4) (a) For the purposes of subsection (1), the taxable value of newly taxable property includes the  
14 release of taxable value from the incremental taxable value of a tax increment financing district because of:

15 (i) a change in the boundary of a tax increment financing district;

16 (ii) an increase in the base value of the tax increment financing district pursuant to 7-15-4287; or

17 (iii) the termination of a tax increment financing district.

18 (b) If a tax increment financing district terminates prior to the certification of taxable values as required  
19 in 15-10-202, the increment value is reported as newly taxable property in the year in which the tax increment  
20 financing district terminates. If a tax increment financing district terminates after the certification of taxable values  
21 as required in 15-10-202, the increment value is reported as newly taxable property in the following tax year.

22 (c) For the purpose of subsection (3)(a)(ii), the value of newly taxable class four property that was  
23 constructed, expanded, or remodeled property since the completion of the last reappraisal cycle is the current  
24 year market value of that property less the previous year market value of that property.

25 (d) For the purpose of subsection (3)(a)(iv), the subdivision of real property includes the first sale of real  
26 property that results in the property being taxable as class four property under 15-6-134 or as nonqualified  
27 agricultural land as described in 15-6-133(1)(c).

28 (5) Subject to subsection (8), subsection (1)(a) does not apply to:

29 (a) school district levies established in Title 20; or

30 (b) a mill levy imposed for a newly created regional resource authority.

1 (6) For purposes of subsection (1)(a), taxes imposed do not include net or gross proceeds taxes received  
2 under 15-6-131 and 15-6-132.

3 (7) In determining the maximum number of mills in subsection (1)(a), the governmental entity may  
4 increase the number of mills to account for a decrease in reimbursements.

5 (8) The department shall calculate, on a statewide basis, the number of mills to be imposed for purposes  
6 of 15-10-108, 20-9-331, 20-9-333, 20-9-360, and 20-25-439. However, the number of mills calculated by the  
7 department may not exceed the mill levy limits established in those sections. The mill calculation must be  
8 established in tenths of mills. If the mill levy calculation does not result in an even tenth of a mill, then the  
9 calculation must be rounded up to the nearest tenth of a mill.

10 (9) (a) The provisions of subsection (1) do not prevent or restrict:

11 (i) a judgment levy under 2-9-316, 7-6-4015, or 7-7-2202;

12 (ii) a levy to repay taxes paid under protest as provided in 15-1-402;

13 (iii) an emergency levy authorized under 10-3-405, 20-9-168, or 20-15-326;

14 (iv) a levy for the support of a study commission under 7-3-184;

15 (v) a levy for the support of a newly established regional resource authority; or

16 (vi) the portion that is the amount in excess of the base contribution of a governmental entity's property  
17 tax levy for contributions for group benefits excluded under 2-9-212 or 2-18-703.

18 (b) A levy authorized under subsection (9)(a) may not be included in the amount of property taxes  
19 actually assessed in a subsequent year.

20 (10) A governmental entity may levy mills for the support of airports as authorized in 67-10-402,  
21 67-11-301, or 67-11-302 even though the governmental entity has not imposed a levy for the airport or the airport  
22 authority in either of the previous 2 years and the airport or airport authority has not been appropriated operating  
23 funds by a county or municipality during that time.

24 (11) The department may adopt rules to implement this section. The rules may include a method for  
25 calculating the percentage of change in valuation for purposes of determining the elimination of property, new  
26 improvements, or newly taxable property in a governmental unit."  
27

28 **NEW SECTION. Section 3. Applicability.** [This act] applies to property tax years beginning after  
29 December 31, 2011.

30 - END -