

1 HOUSE BILL NO. 672

2 INTRODUCED BY J. HAMILTON

3

4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE CAPITAL GAINS TAX CREDIT TO PROVIDE FOR

5 A PROPERTY TAX CIRCUIT BREAKER CREDIT; REDUCING THE CAPITAL GAINS TAX CREDIT FOR

6 THOSE WITH ADJUSTED GROSS INCOME ABOVE \$750,000; USING THE REVENUE FROM THE CHANGE

7 IN THE CAPITAL GAINS TAX CREDIT TO FUND A PROPERTY TAX AND RENT-EQUIVALENT PROPERTY

8 TAX CIRCUIT BREAKER CREDIT; PROVIDING THAT A TAXPAYER MAY CLAIM EITHER THE CIRCUIT

9 BREAKER TAX CREDIT OR THE RESIDENTIAL PROPERTY TAX CREDIT FOR THE ELDERLY AND

10 PARTICIPATE IN THE PROPERTY TAX ASSISTANCE PROGRAM OR THE DISABLED VETERAN

11 ASSISTANCE PROGRAM OR RECEIVE THE INTANGIBLE LAND VALUE PROPERTY EXEMPTION;

12 PROVIDING THAT THE CREDIT BE ADJUSTED IF THE REVENUE FROM THE CAPITAL GAINS CREDIT

13 REDUCTION IS INSUFFICIENT TO FUND THE CREDITS; REQUIRING THE DEPARTMENT OF REVENUE

14 TO REPORT THE STATUS OF THE CREDIT TO THE REVENUE INTERIM COMMITTEE; PROVIDING

15 RULEMAKING AUTHORITY; PROVIDING DEFINITIONS; AMENDING SECTIONS 15-6-240, 15-6-302, 15-7-

16 102, 15-16-101, 15-17-125, 15-30-2301, 15-30-2303, AND 15-30-2341, MCA; AND PROVIDING EFFECTIVE

17 DATES AND A TERMINATION DATE."

18

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

20

21 NEW SECTION. **Section 1. Property tax and rent-equivalent property tax circuit breaker credit -**

22 **- definitions.** As used in [sections 1 through 4], the following definitions apply:

23 (1) "Claim period" means the tax year for claimants required to file a Montana tax return or returns

24 under chapter 30 and the calendar year for claimants not required to file returns.

25 (2) "Claimant" means a person who is eligible to file a claim for a credit under [sections 1 through 4].

26 (3) "Gross rent" means the total rent in cash or its equivalent actually paid during the claim period by

27 the renter or lessee for the right of occupancy of the qualified rental residence pursuant to an arm's-length

28 transaction with the landlord.

1 (4) (a) "Household" means an association of persons who live in the same dwelling, sharing its
2 furnishings, facilities, accommodations, and expenses.

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

4 (5) "Household income" means all income received by all persons of a household in a tax year while
5 they are members of the household.

6 (6) (a) "Income" means, except as provided in subsection (6)(b), federal adjusted gross income,
7 without regard to loss, as that quantity is defined in the Internal Revenue Code, plus all nontaxable income,
8 including but not limited to:

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

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

12 (iii) alimony;

13 (iv) support money;

14 (v) nontaxable strike benefits;

15 (vi) cash public assistance and relief;

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

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

19 (b) For the purposes of this subsection (6), income is reduced by the taxpayer's basis.

20 (7) "Property tax billed" means taxes levied against the qualified residence, including special
21 assessments and fees but excluding penalties or interest during the claim period.

22 (8) (a) (i) "Qualified rental residence" means any class four residential dwelling that is a single-family
23 dwelling unit, unit of a multiple-unit dwelling, trailer, manufactured home, or mobile home that is rented from a
24 third party, located in the state, and subject to property taxes and as much of the surrounding land, not
25 exceeding 1 acre, as is reasonably necessary for its use as a dwelling.

26 (ii) The term includes a single-family dwelling or unit of a multiple-unit dwelling that is rented from a
27 county or municipal housing authority as provided in Title 7, chapter 15.

28 (b) Except for dwellings rented from a county or municipal housing authority, the term does not

1 include rented dwellings or rented lands that are not subject to Montana property taxes during the claim period.

2 (9) "Qualified residence" means any owner-occupied class four residential dwelling that is a single-
3 family dwelling unit, unit of a multiple-unit dwelling, trailer, manufactured home, or mobile home located in the
4 state that is subject to property taxes and as much of the surrounding land, not exceeding 1 acre, as is
5 reasonably necessary for its use as a dwelling.

6 (10) "Rent-equivalent property tax paid" means 15% of gross rent.

7 (11) "Tax year" means the property tax year preceding the current year in which a claim for a property
8 tax circuit breaker credit is made.

9 (12) "Threshold amount" means the amount determined based on household income as follows:

- 10 (a) on the first \$20,000 of household income, 2.6%;
- 11 (b) on the next \$20,000 of household income, 5.8%;
- 12 (c) on the next \$20,000 of household income, 9%;
- 13 (d) on the next \$20,000 of household income, 12.2%;
- 14 (e) on the next \$20,000 of household income, 15.4%; and
- 15 (f) on household income above \$100,000, 18.6%.

16

17 **NEW SECTION. Section 2. Property tax and rent-equivalent property tax circuit breaker credit -**

18 **- eligibility.** (1) In order to make a claim for a credit under [sections 1 through 4], the individual must have:

- 19 (a) resided in the state for at least 9 months of the tax year for which the claim is made; and
- 20 (b) occupied one or more qualified residences as an owner or one or more qualified rental residences
21 as a renter or lessee for at least 6 months of the tax year.

22 (2) A person is not disqualified from claiming the credit under [sections 1 through 4] because of a
23 change of residence during the claim period if the person occupies a qualified residence as an owner or a
24 qualified rental residence in the state as a renter or lessee for at least 7 months during the claim period.

25 (3) A taxpayer may not claim the credit provided for in [sections 1 through 4] and the residential
26 property tax credit for the elderly provided for in 15-30-2337 through 15-30-2341.

27 (4) Only one claim for a property tax circuit breaker credit or the residential tax credit for the elderly
28 provided for in 15-60-2337 through 15-30-2341 may be made with respect to any qualified residence.

1 (5) A claim for the credit may not be allowed for any portion of property tax billed or rent-equivalent
2 property tax paid that is derived from a public tax subsidy program or a public rent subsidy program.

3 (6) A claim is disallowed if the department finds that the claimant received title to the claimant's
4 qualified residence primarily for the purpose of receiving benefits under [sections 1 through 4].

5 (7) When the landlord and tenant have not dealt at arm's length and the department judges the gross
6 rent charged to be excessive, the department may adjust the amount considered gross rent to a reasonable
7 amount.

8
9 **NEW SECTION. Section 3. Property tax and rent-equivalent property tax circuit breaker credit -**

10 **- credit amount.** (1) There is a credit against the taxes imposed by this chapter for a portion of property tax
11 billed and rent-equivalent property tax paid by a claimant in the tax year as provided in this section.

12 (2) Subject to [section 5(3)], the amount of the credit allowed under this section is equal to the
13 property tax billed or rent-equivalent property tax paid in the tax year times 0.75 minus the threshold amount.

14 (3) If the amount determined is equal to or less than zero, there is no credit.

15 (4) If two or more individuals share a qualified rental residence, each individual may claim the credit
16 based on the proportional share that the individual pays of the gross rent.

17 (5) If the amount of the credit exceeds the claimant's liability under this chapter, the amount of the
18 excess must be refunded to the claimant. The credit may be claimed even though the claimant has no taxable
19 income under this chapter.

20
21 **NEW SECTION. Section 4. Property tax and rent-equivalent property tax circuit breaker credit -**

22 **- filing date -- denial of claim.** (1) Except as provided in subsection (3), a claim for the credit must be
23 submitted at the same time the claimant's tax return is due under chapter 30. For an individual not required to
24 file a tax return, the claim must be submitted on or before April 15 of the year following the year for which the
25 credit is sought.

26 (2) A receipt showing property taxes billed or gross rent paid must be filed with each claim. Each
27 claimant shall, at the request of the department, supply all additional information necessary to support a claim.

28 (3) The department may grant a reasonable extension for filing a claim whenever, in its judgment,

1 good cause exists.

2 (4) If an individual who would have a claim under [sections 1 through 4] dies before filing the claim,
3 the personal representative of the estate of the decedent may file the claim.

4 (5) The department or an individual may revise a return and make a claim under [sections 1 through
5 4] within 3 years from the last day prescribed for filing a claim for relief.

6 (6) A person filing a false or fraudulent claim under the provisions of [sections 1 through 4] must be
7 charged with the offense of unsworn falsification to authorities pursuant to 45-7-203. If a false or fraudulent
8 claim has been paid, the amount paid, penalties, and interest may be recovered as provided in 15-1-216.

9

10 **NEW SECTION. Section 5. Property tax circuit breaker credit account.** (1) There is a property tax
11 circuit breaker account in the state special revenue fund. Revenue in the account must be used to fund the
12 property tax and rent-equivalent property tax circuit breaker credit as provided in this section.

13 (2) The department shall transfer annually to the account on May 15 and November 15 increased
14 revenue from the reduction in the capital gains tax credit provided for in 15-30-2301(2)(b) as amended by [this
15 act].

16 (3) The department shall determine annually on December 31 whether the revenue in the account is
17 sufficient to fund the credit provided for in [section 3]. If the revenue is anticipated to be insufficient to fund the
18 credit in the first 4 years after revenue is transferred to the account, the department shall reduce the allowed
19 credit to 90% of the amount calculated under [section 3]. If the revenue in the account is greater than the
20 amount necessary to fund the credits, the excess revenue must remain in the account and may not be
21 transferred to the general fund.

22 (4) The department shall report annually, in accordance with 5-11-210, to the revenue interim
23 committee, provided for in 5-5-227, the balance of the account and whether the balance is expected to cover
24 the anticipated credits claimed.

25

26 **Section 6.** Section 15-6-240, MCA, is amended to read:

27 **"15-6-240. Intangible land value property exemption -- application procedure.** (1) There is an
28 intangible land value assistance program that provides graduated levels of property tax exemptions to assist

1 owners of primary residences with land values that are disproportionate to the value of a primary residence and
2 improvements. To be eligible for the exemption, applicants must meet the requirements of this section.

3 (2) If the total appraised value of the land is equal to or less than 150% of the appraised value of the
4 primary residence and improvements situated on the land, then the land exemption provided in this section
5 does not apply.

6 (3) Subject to subsection ~~(6)~~ (7), if the total appraised value of the land is greater than 150% of the
7 appraised value of the primary residence and improvements situated on the land, then the land is valued at
8 150% of the appraised value of the primary residence and improvements situated on the land, subject to the
9 minimum equalization of value requirement in subsection (4), and the remainder of the land value is exempt
10 from taxation.

11 (4) If the calculation in subsection (3) creates a land value that is less than the statewide average
12 value of land, then the value of the land may not be reduced in an amount that is less than the statewide
13 average value of land multiplied by the acreage of land for the subject property.

14 (5) This section does not provide an exemption for the primary residence and improvements situated
15 on the land.

16 (6) Property eligible for the exemption provided for in this section is not eligible for the property
17 assistance programs provided for in Title 15, chapter 6, part 3.

18 ~~(6)~~(7) (a) A claim for assistance must be filed by March 1 of the tax year for which the exemption is
19 sought, on an application form provided by the department. After an exemption is approved, the applicant
20 remains eligible for the exemption for the remainder of the 2-year valuation cycle provided for in 15-7-111 as
21 long as the property is continually used as a primary residence by the applicant. An applicant who does not
22 apply for assistance during the first year of the valuation cycle may apply during the second year of the cycle.

23 (b) The application form must contain:

24 (i) an affirmation that the applicant owns and maintains the land and improvements as the primary
25 residence;

26 (ii) an affirmation that the land has been owned by the applicant or a family member of the applicant
27 within the third degree of consanguinity for at least 30 consecutive years; and

28 (iii) any other information required by the department that is relevant to the applicant's eligibility.

1 (c) When providing information to the department for qualification under this section, applicants are
2 subject to the false swearing penalties established in 45-7-202.

3 (d) The department may investigate the information provided in an application and an applicant's
4 continued eligibility.

5 (e) The department may request applicant verification of the primary residence.

6 ~~(7)(8)~~ As used in this section the following definitions apply:

7 (a) "Land" means:

8 (i) parcels of land or lots of not more than 5 acres under single ownership that support the primary
9 residential improvements. The term does not include parcels of land or lots that do not support the primary
10 residential improvements, regardless of whether those parcels or lots are contiguous with or adjacent to the
11 primary residential property.

12 (ii) subject to the limitations in subsection ~~(7)(a)(i)~~ (8)(a)(i), separately assessed land on which a
13 mobile or manufactured home is located, but only if the mobile or manufactured home and the land are both
14 owned by the applicant.

15 (b) "Primary residence" means a single-family dwelling:

16 (i) in which an applicant can demonstrate the applicant lived for at least 7 months of the year for
17 which benefits are claimed;

18 (ii) that is the only residence for which the land exemption claimed in this section is claimed by the
19 applicant; and

20 (iii) that is owned or under contract for deed by the applicant.

21 (c) "Single-family dwelling" means a residential dwelling, manufactured home, trailer, or mobile home.
22 The term does not include a condominium unit or a unit of a multiple-unit dwelling.

23 (d) "Statewide average value of land" is a value calculated by the department that is equal to the
24 statewide average market value of 1 acre of class four real property described in 15-6-134(1)(a) through (1)(d)."
25

26 **Section 7.** Section 15-6-302, MCA, is amended to read:

27 **"15-6-302. Property tax assistance -- rulemaking.** (1) The requirements of this section must be met
28 for a taxpayer to qualify for property tax assistance under 15-6-305 or 15-6-311.

1 (2) For the property tax assistance programs provided for in 15-6-305 and 15-6-311, the residential
2 real property must be owned by the applicant or under contract for deed and be the primary residence as
3 defined in 15-6-301. The department shall make rules specifying the indicators used for determining whether a
4 residence is a primary residence for purposes of property tax assistance programs.

5 (3) An applicant's qualifying income, as defined in 15-6-301, may not exceed the threshold
6 established in 15-6-305 or 15-6-311 or in rules established pursuant to those sections.

7 (4) (a) A claim for assistance must be submitted on a form prescribed by the department.

8 (b) The form must contain:

9 (i) the qualifying income of the applicant and the applicant's spouse;

10 (ii) an affirmation that the applicant owns and maintains the land and improvements as the primary
11 residence as defined in 15-6-301;

12 (iii) the social security number of the applicant and of the applicant's spouse; and

13 (iv) any other information required by the department that is relevant to the applicant's eligibility.

14 (5) (a) An application must be filed by April 15 of the year for which assistance is first claimed.

15 (b) Once assistance is approved, the applicant remains eligible for property tax assistance in
16 subsequent years through the annual verification process defined in 15-6-301 without the need to reapply.

17 (c) A taxpayer shall inform the department of any change in eligibility occurring from one year to the
18 next.

19 (6) The department may verify an applicant's and an applicant's spouse's social security number and
20 benefits with the social security administration and the U.S. department of veterans affairs.

21 (7) The department ~~must~~ shall annually verify an applicant's eligibility, including the applicant's and
22 spouse's income, and approve, renew, or deny benefits for the current year based upon the findings.

23 (8) (a) When providing information for property tax assistance under 15-6-305 or 15-6-311,
24 applicants are subject to the false swearing penalties established in 45-7-202.

25 (b) The department may investigate the information provided in an application and an applicant's
26 continued eligibility.

27 (c) The department may request applicant verification of the primary residence.

28 (9) The department may address unusual circumstances of ownership and income that arise in

1 administering taxpayer assistance programs provided for in 15-6-305 and 15-6-311.

2 (10) A temporary stay in a nursing home or similar facility does not change a taxpayer's primary
3 residence for the purposes of taxpayer assistance programs provided for in 15-6-305 and 15-6-311.

4 (11) The department shall award property assistance under the property tax assistance program that
5 provides the greatest benefit to the taxpayer by reviewing applications and eligibility requirements, and notify
6 the applicant of the department's decision. Assistance may not be granted for property receiving the intangible
7 land value property exemption provided for in 15-6-240.

8

9 **Section 8.** Section 15-7-102, MCA, is amended to read:

10 **"15-7-102. Notice of classification, market value, and taxable value to owners -- appeals.** (1) (a)

11 Except as provided in 15-7-138, the department shall mail or provide electronically to each owner or purchaser
12 under contract for deed a notice that includes the land classification, market value, and taxable value of the
13 land and improvements owned or being purchased. A notice must be mailed or, with property owner consent,
14 provided electronically to the owner only if one or more of the following changes pertaining to the land or
15 improvements have been made since the last notice:

16 (i) change in ownership;

17 (ii) change in classification;

18 (iii) change in valuation; or

19 (iv) addition or subtraction of personal property affixed to the land.

20 (b) The notice must include the following for the taxpayer's informational and informal classification
21 and appraisal review purposes:

22 (i) a notice of the availability of all the property tax assistance programs available to property
23 taxpayers, including the intangible land value assistance program provided for in 15-6-240, the property tax
24 assistance programs provided for in Title 15, chapter 6, part 3, ~~and~~ the residential property tax credit for the
25 elderly provided for in 15-30-2337 through 15-30-2341, and the property tax and rent-equivalent property tax
26 circuit breaker credit provided for in [sections 1 through 4];

27 (ii) the total amount of mills levied against the property in the prior year;

28 (iii) a statement that the notice is not a tax bill; and

1 (iv) a taxpayer option to request an informal classification and appraisal review by checking a box on
2 the notice and returning it to the department.

3 (c) When the department uses an appraisal method that values land and improvements as a unit,
4 including the sales comparison approach for residential condominiums or the income approach for commercial
5 property, the notice must contain a combined appraised value of land and improvements.

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

8 (2) (a) Except as provided in subsection (2)(c), the department shall assign each classification and
9 appraisal to the correct owner or purchaser under contract for deed and mail or provide electronically the notice
10 in written or electronic form, adopted by the department, containing sufficient information in a comprehensible
11 manner designed to fully inform the taxpayer as to the classification and appraisal of the property and of
12 changes over the prior tax year.

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

16 (c) The department is not required to mail or provide electronically the notice to a new owner or
17 purchaser under contract for deed unless the department has received the realty transfer certificate from the
18 clerk and recorder as provided in 15-7-304 and has processed the certificate before the notices required by
19 subsection (2)(a) are mailed or provided electronically. The department shall notify the county tax appeal board
20 of the date of the mailing or the date when the taxpayer is informed the information is available electronically.

21 (3) (a) If the owner of any land and improvements is dissatisfied with the appraisal as it reflects the
22 market value of the property as determined by the department or with the classification of the land or
23 improvements, the owner may request an informal classification and appraisal review by submitting an
24 objection on written or electronic forms provided by the department for that purpose or by checking a box on the
25 notice and returning it to the department in a manner prescribed by the department.

26 (i) For property other than class three property described in 15-6-133, class four property described in
27 15-6-134, and class ten property described in 15-6-143, the objection must be submitted within 30 days from
28 the date on the notice.

1 (ii) For class three property described in 15-6-133 and class four property described in 15-6-134, the
2 objection may be made only once each valuation cycle. An objection must be made in writing or by checking a
3 box on the notice within 30 days from the date on the classification and appraisal notice for a reduction in the
4 appraised value to be considered for both years of the 2-year valuation cycle. An objection made more than 30
5 days from the date of the classification and appraisal notice will be applicable only for the second year of the 2-
6 year valuation cycle. For an objection to apply to the second year of the valuation cycle, the taxpayer ~~must~~shall
7 make the objection in writing or by checking a box on the notice no later than June 1 of the second year of the
8 valuation cycle or, if a classification and appraisal notice is received in the second year of the valuation cycle,
9 within 30 days from the date on the notice.

10 (iii) For class ten property described in 15-6-143, the objection may be made at any time but only once
11 each valuation cycle. An objection must be made in writing or by checking a box on the notice within 30 days
12 from the date on the classification and appraisal notice for a reduction in the appraised value to be considered
13 for all years of the 6-year appraisal cycle. An objection made more than 30 days after the date of the
14 classification and appraisal notice applies only for the subsequent remaining years of the 6-year reappraisal
15 cycle. For an objection to apply to any subsequent year of the valuation cycle, the taxpayer ~~must~~shall make the
16 objection in writing or by checking a box on the notice no later than June 1 of the year for which the value is
17 being appealed or, if a classification and appraisal notice is received after the first year of the valuation cycle,
18 within 30 days from the date on the notice.

19 (b) If the objection relates to residential or commercial property and the objector agrees to the
20 confidentiality requirements, the department shall provide to the objector, by posted mail or electronically, within
21 8 weeks of submission of the objection, the following information:

22 (i) the methodology and sources of data used by the department in the valuation of the property; and
23 (ii) if the department uses a blend of evaluations developed from various sources, the reasons that the
24 methodology was used.

25 (c) At the request of the objector, and only if the objector signs a written or electronic confidentiality
26 agreement, the department shall provide in written or electronic form:

27 (i) comparable sales data used by the department to value the property; and
28 (ii) sales data used by the department to value residential property in the property taxpayer's market

1 model area.

2 (d) For properties valued using the income approach as one approximation of market value, notice
3 must be provided that the taxpayer will be given a form to acknowledge confidentiality requirements for the
4 receipt of all aggregate model output that the department used in the valuation model for the property.

5 (e) The review must be conducted informally and is not subject to the contested case procedures of
6 the Montana Administrative Procedure Act. As a part of the review, the department may consider the actual
7 selling price of the property and other relevant information presented by the taxpayer in support of the
8 taxpayer's opinion as to the market value of the property. The department shall consider an independent
9 appraisal provided by the taxpayer if the appraisal meets standards set by the Montana board of real estate
10 appraisers and the appraisal was completed within 6 months of the valuation date pursuant to 15-8-201. If the
11 department does not use the appraisal provided by the taxpayer in conducting the appeal, the department ~~must~~
12 shall provide to the taxpayer the reason for not using the appraisal. The department shall give reasonable
13 notice to the taxpayer of the time and place of the review.

14 (f) After the review, the department shall determine the correct appraisal and classification of the land
15 or improvements and notify the taxpayer of its determination by mail or electronically. The department may not
16 determine an appraised value that is higher than the value that was the subject of the objection unless the
17 reason for an increase was the result of a physical change in the property or caused by an error in the
18 description of the property or data available for the property that is kept by the department and used for
19 calculating the appraised value. In the notification, the department shall state its reasons for revising the
20 classification or appraisal. When the proper appraisal and classification have been determined, the land must
21 be classified and the improvements appraised in the manner ordered by the department.

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

24 (a) the taxpayer has submitted an objection on written or electronic forms provided by the department
25 or by checking a box on the notice; and

26 (b) the department has provided to the objector by mail or electronically its stated reason in writing for
27 making the adjustment.

28 (5) A taxpayer's written objection or objection made by checking a box on the notice and

1 supplemental information provided by a taxpayer that elects to check a box on the notice to a classification or
2 appraisal and the department's notification to the taxpayer of its determination and the reason for that
3 determination are public records. The department shall make the records available for inspection during regular
4 office hours.

5 (6) If a property owner feels aggrieved by the classification or appraisal made by the department after
6 the review provided for in subsection (3), the property owner has the right to first appeal to the county tax
7 appeal board and then to the state tax appeal board, whose findings are final subject to the right of review in
8 the courts. The appeal to the county tax appeal board, pursuant to 15-15-102, must be filed within 30 days from
9 the date on the notice of the department's determination. A county tax appeal board or the state tax appeal
10 board may consider the actual selling price of the property, independent appraisals of the property, and other
11 relevant information presented by the taxpayer as evidence of the market value of the property. If the county tax
12 appeal board or the state tax appeal board determines that an adjustment should be made, the department
13 shall adjust the base value of the property in accordance with the board's order."
14

15 **Section 9.** Section 15-16-101, MCA, is amended to read:

16 **"15-16-101. Treasurer to publish notice -- manner of publication.** (1) Within 10 days after the
17 receipt of the property tax record, the county treasurer shall publish a notice specifying:

18 (a) that one-half of all taxes levied and assessed will be due and payable before 5 p.m. on the next
19 November 30 or within 30 days after the notice is postmarked and that unless paid prior to that time the amount
20 then due will be delinquent and will draw interest at the rate of 5/6 of 1% a month from the time of delinquency
21 until paid and 2% will be added to the delinquent taxes as a penalty;

22 (b) that one-half of all taxes levied and assessed will be due and payable on or before 5 p.m. on the
23 next May 31 and that unless paid prior to that time the taxes will be delinquent and will draw interest at the rate
24 of 5/6 of 1% a month from the time of delinquency until paid and 2% will be added to the delinquent taxes as a
25 penalty; and

26 (c) the time and place at which payment of taxes may be made.

27 (2) (a) The county treasurer shall send to the last-known address of each taxpayer a written notice,
28 postage prepaid, showing the amount of taxes and assessments due for the current year and the amount due

1 and delinquent for other years. The written notice must include:

2 (i) the taxable value of the property;

3 (ii) the total mill levy applied to that taxable value;

4 (iii) itemized city services and special improvement district assessments collected by the county;

5 (iv) the number of the school district in which the property is located;

6 (v) the amount of the total tax due that is levied as city tax, county tax, state tax, school district tax,
7 and other tax; and

8 (vi) a notice of the availability of all the property tax assistance programs available to property
9 taxpayers, including the intangible land value assistance program provided for in 15-6-240, the property tax
10 assistance programs under Title 15, chapter 6, part 3, ~~and~~ the residential property tax credit for the elderly
11 under 15-30-2337 through 15-30-2341, and the property tax and rent-equivalent property tax circuit breaker
12 credit provided for in [sections 1 through 4].

13 (b) If a tax lien is attached to the property, the notice must also include, in a manner calculated to
14 draw attention, a statement that a tax lien is attached to the property, that failure to respond will result in loss of
15 property, and that the taxpayer may contact the county treasurer for complete information.

16 (3) The municipality shall, upon request of the county treasurer, provide the information to be included
17 under subsection (2)(a)(iii) ready for mailing.

18 (4) The notice in every case must be given as provided in 7-1-2121. Failure to publish or post notices
19 does not relieve the taxpayer from any tax liability. Any failure to give notice of the tax due for the current year
20 or of delinquent tax will not affect the legality of the tax.

21 (5) If the department revises an assessment that results in an additional tax of \$5 or less, an
22 additional tax is not owed and a new tax bill does not need to be prepared."
23

24 **Section 10.** Section 15-17-125, MCA, is amended to read:

25 **"15-17-125. Attachment of tax lien and preparation of tax lien certificate.** (1) (a) The county
26 treasurer shall attach a tax lien no later than the first working day in August to properties on which the taxes are
27 delinquent and for which proper notification was given as provided in 15-17-122 and subsection (4) of this
28 section. Upon attachment of a tax lien, the county is the possessor of the tax lien unless the tax lien is assigned

1 pursuant to 15-17-323.

2 (b) The county treasurer may not attach a tax lien to a property on which taxes are delinquent but for
3 which proper notice was not given.

4 (2) After attaching a tax lien, the county treasurer shall prepare a tax lien certificate that must contain:

5 (a) the date on which the property taxes became delinquent;

6 (b) the date on which a property tax lien was attached to the property;

7 (c) the name and address of record of the person to whom the taxes were assessed;

8 (d) a description of the property on which the taxes were assessed;

9 (e) a separate listing of the amount of the delinquent taxes, penalties, interest, and costs;

10 (f) a statement that the tax lien certificate represents a lien on the property that may lead to the
11 issuance of a tax deed for the property;

12 (g) a statement specifying the date on which the county or an assignee will be entitled to a tax deed;

13 and

14 (h) an identification number corresponding to the tax lien certificate.

15 (3) The tax lien certificate must be signed by the county treasurer. A copy of the tax lien certificate
16 must be filed by the treasurer in the office of the county clerk. A copy of the tax lien certificate must also be
17 mailed to the person to whom the taxes were assessed, at the address of record, together with a notice that the
18 person may contact the county treasurer for further information on property tax liens.

19 (4) Prior to attaching a tax lien to the property, the county treasurer shall send notice of the pending
20 attachment of a tax lien to the person to whom the property was assessed. The notice must include the
21 information listed in subsection (2), state that the tax lien may be assigned to a third party, and provide notice of
22 the availability of all the property tax assistance programs available to property taxpayers, including the
23 property tax assistance programs under Title 15, chapter 6, part 3, ~~and~~ the residential property tax credit for the
24 elderly under 15-30-2337 through 15-30-2341, and the property tax and rent-equivalent property tax circuit
25 breaker credit provided for in [sections 1 through 4]. The notice must have been mailed at least 2 weeks prior to
26 the date on which the county treasurer attaches the tax lien.

27 (5) The county treasurer shall file the tax lien certificate with the county clerk and recorder."
28

1 **Section 11.** Section 15-30-2301, MCA, is amended to read:

2 "**15-30-2301. Capital gains credit.** (1) An individual taxpayer is allowed a credit against the taxes
 3 imposed by 15-30-2103 in an amount equal to 1% of the taxpayer's net capital gains for tax years 2005 and
 4 2006 and 2% of the taxpayer's net capital gains for tax years beginning after 2006, as shown on the taxpayer's
 5 individual income tax return filed pursuant to 15-30-2602 or 15-30-2104 for the lesser of the taxpayer's Montana
 6 source net capital gains or taxable income. Net capital gains must be determined in accordance with 26 U.S.C.
 7 1222(11).

8 (2) The credit amount is equal to:

9 (a) if adjusted gross income is \$750,000 or less, 2% of the lesser of Montana source net capital gains
 10 or taxable income; and

11 (b) if adjusted gross income is more than \$750,000, 1% of the lesser of Montana source net capital
 12 gains or taxable income.

13 (3) The credit allowed under this section may not exceed the taxpayer's income tax liability.

14 (4) By November 1 of each year, the department shall multiply the adjusted gross income number
 15 contained in subsection (2) by the inflation factor for the following tax year and round the result to the nearest
 16 \$1,000. The resulting amount is in effect for the following tax year for determining the amount of the credit
 17 under subsection (2)."

18

19 **Section 12.** Section 15-30-2303, MCA, is amended to read:

20 "**15-30-2303. Tax credits subject to review by interim committee.** (1) The following tax credits
 21 must be reviewed during the biennium commencing July 1, 2019:

22 (a) the credit for income taxes imposed by foreign states or countries provided for in 15-30-2302;

23 (b) the credit for contractor's gross receipts provided for in 15-50-207;

24 (c) the credit for new or expanded manufacturing provided for in 15-31-124 through 15-31-127;

25 (d) the credit for installing an alternative energy system provided for in 15-32-201 through 15-32-203;

26 (e) the credit for energy-conserving expenditures provided for in 15-30-2319 and 15-32-109; ~~and~~

27 (f) the credit for elderly homeowners and renters provided for in 15-30-2337 through 15-30-2341; and

28 (g) the property tax and rent-equivalent property tax circuit breaker credit provided for in [sections 1

1 through 4].

2 (2) The following tax credits must be reviewed during the biennium commencing July 1, 2021:

3 (a) the credit for commercial or net metering system investment provided for in Title 15, chapter 32,
4 part 4;

5 (b) the credit for qualified elderly care expenses provided for in 15-30-2366;

6 (c) the credit for dependent care assistance and referral services provided for in 15-30-2373 and 15-
7 31-131;

8 (d) the credit for contributions to a university or college foundation or endowment provided for in 15-
9 30-2326, 15-31-135, and 15-31-136;

10 (e) the credit for donations to an educational improvement account provided for in 15-30-2334, 15-30-
11 3110, and 15-31-158; and

12 (f) the credit for donations to a student scholarship organization provided for in 15-30-2335, 15-30-
13 3111, and 15-31-159.

14 (3) The following tax credits must be reviewed during the biennium commencing July 1, 2023:

15 (a) the credit for providing disability insurance for employees provided for in 15-30-2367 and 15-31-
16 132;

17 (b) the credit for installation of a geothermal system provided for in 15-32-115;

18 (c) the credit for property to recycle or manufacture using recycled material provided for in Title 15,
19 chapter 32, part 6;

20 (d) the credit for converting a motor vehicle to alternative fuel provided for in 15-30-2320 and 15-31-
21 137;

22 (e) the credit for infrastructure use fees provided for in 17-6-316; and

23 (f) the credit for contributions to a qualified endowment provided for in 15-30-2327 through 15-30-
24 2329, 15-31-161, and 15-31-162.

25 (4) The following tax credits must be reviewed during the biennium commencing July 1, 2025:

26 (a) the credit for preservation of historic buildings provided for in 15-30-2342 and 15-31-151;

27 (b) the credit for mineral or coal exploration provided for in Title 15, chapter 32, part 5;

28 (c) the credit for capital gains provided for in 15-30-2301;

- 1 (d) the credit for a new employee in an empowerment zone provided for in 15-30-2356 and 15-31-
2 134;
- 3 (e) the credit for an oilseed crush facility provided for in 15-32-701; and
4 (f) the credit for unlocking state lands provided for in 15-30-2380.
- 5 (5) The following tax credits must be reviewed during the biennium commencing July 1, 2027:
6 (a) the biodiesel or biolubricant production facility credit provided for in 15-32-702;
7 (b) the biodiesel blending and storage credit provided for in 15-32-703;
8 (c) the adoption tax credit provided for in 15-30-2364;
9 (d) the credit for providing temporary emergency lodging provided for in 15-30-2381 and 15-31-171;
10 (e) the credit for hiring a registered apprentice or veteran apprentice provided for in 15-30-2357 and
11 15-31-173;
12 (f) the earned income tax credit provided for in 15-30-2318; and
13 (g) the media production and postproduction credits provided for in 15-31-1007 and 15-31-1009.
- 14 (6) The revenue interim committee shall review the tax credits scheduled for review in the biennium of
15 the next regular legislative session, including any individual or corporate income tax credits with an expiration or
16 termination date that are not listed in this section, and make recommendations to the legislature about whether
17 to eliminate or revise the credits. The legislature may extend the review dates by amending this section. The
18 revenue interim committee shall review the credits using the following criteria:
- 19 (a) whether the credit changes taxpayer decisions, including whether the credit rewards decisions that
20 may have been made regardless of the existence of the tax credit;
- 21 (b) to what extent the credit benefits some taxpayers at the expense of other taxpayers;
22 (c) whether the credit has out-of-state beneficiaries;
23 (d) the timing of costs and benefits of the credit and how long the credit is effective;
24 (e) any adverse impacts of the credit or its elimination and whether the benefits of continuance or
25 elimination outweigh adverse impacts; and
26 (f) the extent to which benefits of the credit affect the larger economy."
- 27
28

Section 13. Section 15-30-2341, MCA, is amended to read:

1 **"15-30-2341. Residential property tax credit for elderly -- limitations -- denial of claim.** (1) Only
 2 one claimant per household in a claim period under the provisions of 15-30-2337 through 15-30-2341 or
 3 [sections 1 through 4] is entitled to relief.

4 (2) A taxpayer may not claim the property tax and rent-equivalent property tax circuit breaker credit
 5 provided for in [sections 1 through 4] and the residential property tax credit for the elderly.

6 ~~(2)(3)~~ Except as provided in subsection ~~(3)~~ (4), a claim for relief may not be allowed for any portion of
 7 property taxes billed or rent-equivalent taxes paid that is derived from a public rent or tax subsidy program.

8 ~~(3)(4)~~ Except for dwellings rented from a county or municipal housing authority, a claim for relief may
 9 not be allowed on rented lands or rented dwellings that are not subject to Montana property taxes during the
 10 claim period.

11 ~~(4)(5)~~ A person filing a false or fraudulent claim under the provisions of 15-30-2337 through 15-30-
 12 2341 must be charged with the offense of unsworn falsification to authorities pursuant to 45-7-203. If a false or
 13 fraudulent claim has been paid, the amount paid, penalties, and interest may be recovered as provided in 15-1-
 14 216."

15
 16 NEW SECTION. Section 14. Transition. (1) The revisions to the capital gains tax credit provided for
 17 in 15-30-2301 apply to tax years beginning after December 31, 2021.

18 (2) The department shall make the first transfer provided for in [section 5] by May 15, 2023.

19 (3) The credit provided for in [sections 1 through 4] may be claimed in tax years beginning after
 20 December 31, 2023.

21 (4) On termination of [this act], the revenue in the account provided for in [section 5] must be
 22 transferred to the general fund.

23
 24 NEW SECTION. Section 15. Codification instruction. [Sections 1 through 5] are intended to be
 25 codified as an integral part of Title 15, chapter 30, part 23, and the provisions of Title 15, chapter 30, part 23,
 26 apply to [sections 1 through 5].

27
 28 NEW SECTION. Section 16. Effective dates. (1) Except as provided in subsections (2) and (3), [this

1 act] is effective July 1, 2023.

2 (2) [Section 11] is effective January 1, 2022.

3 (3) [Section 5] is effective January 1, 2023.

4

5 NEW SECTION. **Section 17. Termination.** [This act] terminates December 31, 2030.

6

- END -