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As of: July 20, 2010 (4:57pm)

LC4005

**** Bill No. ****

Introduced By *****

By Request of the *****

A Bill for an Act entitled: "An Act establishing a circuit breaker income tax credit for property taxes paid or rent-equivalent property taxes paid; eliminating the low-income property tax assistance program, the property tax exemption for disabled or deceased veterans, the extended property tax assistance program, and the residential property tax credit for the elderly; amending sections 2-15-122, 5-2-301, 15-6-134, 15-7-102, 15-16-101, 15-16-102, 47-1-111, 53-4-1103, and 53-6-1001, MCA; repealing sections 15-6-193, 15-6-211, 15-30-2337, 15-30-2338, 15-30-2339, 15-30-2340, 15-30-2341, 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. Property tax circuit breaker -- definitions.** As used in [section 1 through 4], the following definitions apply:

(1) "Claim period" means the tax year for claimants required to file a Montana tax return or returns under chapter 30 or 31 and the calendar year for claimants not required to file returns.

(2) "Claimant" means a person who is eligible to file a claim for a credit under [section 3].

Unofficial Draft Copy

As of: July 20, 2010 (4:57pm)

LC4005

(3) "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 the qualified residence pursuant to an arm's-length transaction with the landlord.

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

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

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

(6) "Income" means the income as reported on the tax return or returns required by chapter 30 or 31 for the year in which the credit allowed under [sections 1 through 4] is being claimed excluding losses, depletion, and depreciation and before any federal or state adjustments to income. If the claimant is not required to file a tax return under chapter 30 or 31, household income means the household's total income as it would have been calculated under this subsection (6) if the claimant had been required to file a return.

(7) "Income threshold level" means the amount determined by the formula: $\text{income threshold level} = 0.02 + (0.0000008 \times \text{household income})$

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

Unofficial Draft Copy

As of: July 20, 2010 (4:57pm)

LC4005

(9) (a) (i) "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 that is subject to property taxes and as much of the surrounding land, not exceeding 5 acres, as is reasonably necessary for its use as a dwelling.

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

(b) Except for dwellings rented from a county or municipal housing authority, the term does not include rented dwellings or rented lands that are not subject to Montana property taxes during the claim period.

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

(10) "Threshold property tax amount" means the amount determined by multiplying household income by the income threshold level.

NEW SECTION. **Section 2. Property tax circuit breaker -- income tax credit for property taxes -- limitations.** (1) There is a credit against the taxes imposed by this chapter for a portion of property taxes paid by a person as provided in this section.

(2) The amount of the credit allowed under this section is equal to property taxes paid times 0.85, minus the threshold property tax amount.

Unofficial Draft Copy

As of: July 20, 2010 (4:57pm)

LC4005

(3) (a) Except as provided in subsection (3) (b), a credit is not allowed for any portion of property taxes billed or rent-equivalent property taxes paid that is derived from a public rent or tax subsidy program.

(b) Except for qualified residences rented from a county or municipal housing authority, a credit is not allowed on rented lands or rented dwellings that are not subject to Montana property taxes during the claim period.

(4) (a) Except as provided in subsection (4) (b), only one claim for a credit may be made with respect to any qualified residence.

(b) If two or more individuals are sharing a rental dwelling, each individual may claim the credit based on the proportional share that the individual pays of the gross rent.

(5) 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. The credit may be claimed even though the claimant has no taxable income under this chapter.

NEW SECTION. **Section 3. Property tax circuit breaker -- eligibility -- disallowance or adjustment.** (1) In order to make a claim for a credit under [sections 1 through 4], an individual must have:

(a) resided in Montana for at least 9 months of the tax year for which the claim is made; and

(b) occupied one or more qualified residences in the state as an owner, renter, or lessee for at least 7 months of the tax

year.

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

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

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

NEW SECTION. **Section 4. Residential property tax circuit breaker -- filing date.** (1) Except as provided in subsection (3), a claim for the credit must be submitted at the same time the claimant's tax return is due under chapter 30 or 31. For an individual not required to file a tax return, the claim must be submitted on or before April 15 of the year following the year for which the credit is sought.

(2) A receipt showing property tax billed or a receipt showing gross rent paid, whichever is appropriate, must be filed with each claim. In addition, each claimant shall, at the request of the department, supply all additional information necessary to support a claim.

Unofficial Draft Copy

As of: July 20, 2010 (4:57pm)

LC4005

(3) The department may grant a reasonable extension for filing a claim whenever, in its judgment, good cause exists.

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

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

Section 5. 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

Unofficial Draft Copy

As of: July 20, 2010 (4:57pm)

LC4005

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

Unofficial Draft Copy

As of: July 20, 2010 (4:57pm)

LC4005

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

Unofficial Draft Copy

As of: July 20, 2010 (4:57pm)

LC4005

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 daily pay rate contained in subsection (5) must be adjusted for inflation annually. The adjustment to the daily pay rate is determined by:

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

(ii) rounding the product obtained in subsection (11) (a) (i) 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."

{*Internal References to 2-15-122: x to all*

2-15-123	2-15-225	2-15-1016	2-15-1311
2-15-1520	2-15-1524	2-15-1530	2-15-2005
2-15-2017	2-15-2106	2-15-2107	2-15-2110
2-15-2511	2-15-3405	10-4-102	19-3-2133

Unofficial Draft Copy

As of: July 20, 2010 (4:57pm)

LC4005

23-2-536	33-17-1204	33-17-1204	37-42-201
44-5-501	50-60-115	52-2-303	53-10-203
53-21-702	60-2-601	80-7-903	80-11-510
87-5-708	90-14-104}		

Section 6. 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

Unofficial Draft Copy

As of: July 20, 2010 (4:57pm)

LC4005

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

Unofficial Draft Copy

As of: July 20, 2010 (4:57pm)

LC4005

convened within 7 days of a regular session.

(8) (a) The daily expense allowance contained in subsection (4) must be adjusted for inflation annually. The adjustment to the daily expense allowance 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 in subsection (8) (a) (i) 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."

{Internal References to 5-2-301: x to all
2-15-212 2-17-803 2-18-501 2-18-503
5-2-302 5-3-101 50-4-810}

Section 7. 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) and (1) (g) of this section, all land, except that specifically included in another class;

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

~~(c) the first \$100,000 or less of the taxable market value~~

Unofficial Draft Copy

As of: July 20, 2010 (4:57pm)

LC4005

~~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 one or more qualified claimants:~~

~~—— (i) for tax year 2009, whose federal adjusted gross income did not exceed the thresholds established in subsection~~

~~(2)(b)(i); or~~

~~—— (ii) for tax years after tax year 2009, whose total household income did not exceed the thresholds established in subsection (2)(b)(i);~~

~~(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

Unofficial Draft Copy

As of: July 20, 2010 (4:57pm)

LC4005

~~(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, 15-24-1502, and 15-24-2101, property described in subsections (1) (a), (1) (b), and ~~(1) (e)~~ (1) (d) through ~~(1) (g)~~ (1) (f) of this section is taxed at:

(i) 2.93% of its taxable market value in tax year 2009;

(ii) 2.82% of its taxable market value in tax year 2010;

(iii) 2.72% of its taxable market value in tax year 2011;

(iv) 2.63% of its taxable market value in tax year 2012;

(v) 2.54% of its taxable market value in tax year 2013; and

(vi) 2.47% of its taxable market value in tax years after 2013.

~~(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 the income for the preceding calendar year of the owner or owners who occupied the property as their primary residence and determined from the following table:~~

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

Unofficial Draft Copy

As of: July 20, 2010 (4:57pm)

LC4005

~~\$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.~~

~~(c)(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.

~~(4)(a) As used in this section, "qualified claimants" means one or more owners who:~~

~~(i) occupied the residence as their primary residence for more than 7 months during the preceding calendar year;~~

Unofficial Draft Copy

As of: July 20, 2010 (4:57pm)

LC4005

~~—— (ii) had combined income for the preceding calendar year that does not exceed the threshold provided in subsection (2) (b); and~~

~~—— (iii) file a claim for assistance on a form that the department prescribes on or before April 15 of the year for which the assistance is claimed.~~

~~—— (b) For the purposes of subsection (1) (c), total household income is the income as reported on the tax return or returns required by chapter 30 or 31 for the year in which the assistance is being claimed excluding losses, depletion, and depreciation and before any federal or state adjustments to income. In cases in which the claimant is not required to file a tax return under chapter 30 or 31, household income means the household's total income as it would have been calculated under this subsection (4) (b) if the claimant had been required to file a return.~~

~~—— (c) The combined income of two or more owners who are qualified claimants:~~

~~—— (i) may not exceed the married couple and head of household thresholds provided in subsection (2) (b); and~~

~~—— (ii) determines the amount of tax reduction under subsection (2) (b)."~~

{ *Internal References to 15-6-134:x to all except*

<i>2-15-122 a</i>	<i>5-2-301a</i>	<i>15-2-301</i>	<i>15-6-133</i>
<i>15-6-156</i>	<i>15-6-211r</i>	<i>15-6-211</i>	<i>15-6-222</i>
<i>15-6-222</i>	<i>15-7-102a</i>	<i>15-7-103</i>	<i>15-7-111</i>
<i>15-8-111</i>	<i>15-8-111</i>	<i>15-8-205</i>	<i>15-10-420</i>
<i>15-16-101a</i>	<i>15-16-102a</i>	<i>15-24-2101</i>	<i>15-24-2102</i>
<i>15-24-3001</i>	<i>15-30-2336</i>		

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

Unofficial Draft Copy

As of: July 20, 2010 (4:57pm)

LC4005

"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 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) a notice of the availability of ~~all the property tax assistance programs available to property taxpayers, including the property tax assistance program under 15-6-134, the extended property tax assistance program under 15-6-193, the disabled or deceased veterans' residence exemption under 15-6-211, and the residential property tax circuit breaker credit for the elderly~~

Unofficial Draft Copy

As of: July 20, 2010 (4:57pm)

LC4005

under ~~15-30-2337 through 15-30-2341~~ [sections 1 through 4];

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

(iii) 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.

Unofficial Draft Copy

As of: July 20, 2010 (4:57pm)

LC4005

(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

Unofficial Draft Copy

As of: July 20, 2010 (4:57pm)

LC4005

(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."

{*Internal References to 15-7-102: x to all*
15-7-103* 15-7-138 15-7-138 15-7-208
15-15-102 15-15-103 }

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

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

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

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

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

(2) (a) The county treasurer shall send to the last-known address of each taxpayer a written notice, postage prepaid, showing the amount of taxes and assessments due for the current year and the amount due and delinquent for other years. The written notice must include:

- (i) the taxable value of the property;
- (ii) the total mill levy applied to that taxable value;
- (iii) itemized city services and special improvement

Unofficial Draft Copy

As of: July 20, 2010 (4:57pm)

LC4005

district assessments collected by the county;

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

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

(iv) a notice of the availability of ~~all the property tax assistance programs available to property taxpayers, including the property tax assistance program under 15-6-134, the extended property tax assistance program under 15-6-193, the disabled or deceased veterans' residence exemption under 15-6-211, and the residential property tax credit for the elderly under 15-30-2337 through 15-30-2341~~ the residential property tax circuit breaker under [sections 1 through 4].

(b) If the property is the subject of a tax lien sale for which a tax lien sale certificate has been issued under 15-17-212, the notice must also include, in a manner calculated to draw attention, a statement that the property is the subject of a tax lien sale and that the taxpayer may contact the county treasurer for complete information.

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

(4) The notice in every case must be published once a week for 2 weeks in a weekly or daily newspaper published in the county, if there is one, or if there is not, then by posting it in three public places. Failure to publish or post notices does

Unofficial Draft Copy

As of: July 20, 2010 (4:57pm)

LC4005

not relieve the taxpayer from any tax liability. Any failure to give notice of the tax due for the current year or of delinquent tax will not affect the legality of the tax.

(5) 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."

{Internal References to 15-16-101:x to all
2-9-212 15-7-140 15-16-118 15-16-118
15-16-119 15-16-203 20-15-403}

Section 10. 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

Unofficial Draft Copy

As of: July 20, 2010 (4:57pm)

LC4005

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) 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.

Unofficial Draft Copy

As of: July 20, 2010 (4:57pm)

LC4005

(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."

{Internal References to 15-16-102:x to all

7-8-2301	7-8-2303	7-12-4188	15-16-103
15-16-103	15-16-103	15-16-103	15-16-203
15-16-203	15-16-611	15-17-131	15-17-326
15-17-326	15-17-326	15-18-112	15-18-112
15-18-114	15-23-115	15-23-214	15-23-214
15-23-507	15-23-507	15-23-804	15-23-804
15-24-202	15-24-202	15-24-202	15-24-1402
15-24-1501	15-24-1502	15-24-1607	15-24-1802
15-24-1902	15-24-2002	15-24-2103	15-24-2404
85-7-2136	85-7-2136	85-8-601}	

Section 11. Section 47-1-111, MCA, is amended to read:

"47-1-111. Eligibility -- determination of indigence -- rules. (1) (a) 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. The propriety of an assignment of counsel by the office is subject to inquiry by the court, and the court may deny an assignment.

(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 ~~15-30-2337~~ subsection (7), 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

Unofficial Draft Copy

As of: July 20, 2010 (4:57pm)

LC4005

(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:

Unofficial Draft Copy

As of: July 20, 2010 (4:57pm)

LC4005

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

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

{Internal References to 47-1-111:x to all
41-3-425 46-8-101 47-1-103 47-1-104
53-20-112 61-5-218}

Section 12. 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

Unofficial Draft Copy

As of: July 20, 2010 (4:57pm)

LC4005

for children.

(6) (a) "Income" has the meaning provided in 15-30-2337(9)(a) means, except as provided in subsection (6)(b), federal adjusted gross income, without regard to loss, as that quantity is defined in the Internal Revenue Code of the United States, plus all nontaxable income, including but not limited to:

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

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

(iii) alimony;

(iv) support money;

(v) nontaxable strike benefits;

(vi) cash public assistance and relief;

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

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

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

(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."

{Internal References to 53-4-1103: None.}

Section 13. 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 15-30-2337.~~

~~(5)~~(4) "Manufacturer" means a manufacturer of prescription drugs and includes a subsidiary or affiliate of a manufacturer.

~~(6)~~(5) "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)~~(6) "Program" means the prescription drug plus discount program provided for in 53-6-1002.

~~(8)~~(7) "Secondary discounted price" means the discounted price less any further discounts funded by manufacturer rebates for medication purchased by participants in the program."

{Internal References to 53-6-1001: None.}

Unofficial Draft Copy

As of: July 20, 2010 (4:57pm)

LC4005

NEW SECTION. **Section 14. {standard} Repealer.** The

following sections of the Montana Code Annotated are repealed:

15-6-193. Extended property tax assistance -- phasein.

15-6-211. Certain disabled or deceased veterans' residences exempt.

15-30-2337. Residential property tax credit for elderly -- definitions.

15-30-2338. Residential property tax credit for elderly -- eligibility -- disallowance or adjustment.

15-30-2339. Residential property tax credit for elderly -- filing date.

15-30-2340. Residential property tax credit for elderly -- computation of relief.

15-30-2341. Residential property tax credit for elderly -- limitations -- denial of claim.

{*Internal References to 15-6-193: 15-7-102 a 15-16-101 a*
Internal References to 15-6-211: 15-7-102a 15-16-101
Internal References to 15-30-2337: 15-7-102 15-16-101* 15-30-2337**
*15-30-2338**
15-30-2338 15-30-2339* 15-30-2339* 15-30-2340**
15-30-2340 15-30-2341* 15-30-2341* 47-1-111*
53-4-1103 a 53-6-1001a
Internal References to 15-30-2338: 15-7-102 15-16-101* 15-30-2337**
15-30-2337
15-30-2338 15-30-2338* 15-30-2339* 15-30-2339**
15-30-2340 15-30-2340* 15-30-2341* 15-30-2341**
Internal References to 15-30-2339: 15-7-102 15-16-101* 15-30-2337**
*15-30-2338**
15-30-2338 15-30-2339* 15-30-2339* 15-30-2340**
15-30-2340 15-30-2341* 15-30-2341**
Internal References to 15-30-2340: 15-7-102 15-16-101* 15-30-2337**
*15-30-2338**
15-30-2338 15-30-2339* 15-30-2339* 15-30-2340**
15-30-2340 15-30-2341* 15-30-2341**
Internal References to 15-30-2341: 15-7-102a 15-16-101 a 15-30-2337
15-30-2338

Unofficial Draft Copy

As of: July 20, 2010 (4:57pm)

LC4005

15-30-2338 15-30-2339 15-30-2339 15-30-2340
15-30-2340 15-30-2341 15-30-2341 }

NEW SECTION. **Section 15. {standard} Effective date.** [This act] is effective on passage and approval.

NEW SECTION. **Section 16. {standard} Retroactive applicability.** [This act] applies retroactively, within the meaning of 1-2-109, to tax years beginning after December 31, 2010.

- END -

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