

Unofficial Draft Copy

As of: July 20, 2010 (5:02pm)

LC4006

***** Bill No. *****

Introduced By *****

By Request of the *****

A Bill for an Act entitled: "An Act revising the income threshold levels and the percentage multipliers under the property tax assistance program; revising the inflation adjustment applied to income levels under the program; revising the income threshold levels and the percentage multipliers under the disabled or deceased veterans' residence property tax exemption; revising the inflation adjustment applied to income levels under the exemption; amending sections 2-15-122, 5-2-301, 15-6-134, and 15-6-211, MCA; and providing an immediate effective date and a retroactive applicability date."

Be it enacted by the Legislature of the State of Montana:

Section 1. 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.

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

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

(3) The creating authority shall:

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

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

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

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

(5) (a) Unless an advisory council member is a full-time salaried officer or employee of this state or of any political subdivision of this state, the member is entitled to be paid in an amount to be determined by the department head, not to exceed \$50 for each day in which the member is actually and necessarily engaged in the performance of council duties and to be reimbursed for travel expenses, as provided for in 2-18-501 through

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2-18-503, incurred while in the performance of council duties.

The maximum daily pay rate must be adjusted for inflation annually using the formula provided in ~~15-6-134(2)(b)(ii)~~ and ~~(2)(b)(iii)~~, except that the base income level and appropriate dollar amount must be \$50 a day subsection (11).

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

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

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

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

(9) Except as provided in subsection (1)(c), an advisory council may not be created or appointed by a department head or any other official without the approval of the governor. In order for the creation or approval of the creation of an advisory

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council to be effective, the governor shall file in the governor's office and in the office of the secretary of state a record of the council created showing:

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

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

(11) (a) The 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

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(11) (a) (i) to the nearest whole dollar amount.

(b) "PCE" has the meaning provided in 15-6-134."

{ 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
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 2. 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

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

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

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

(a) three additional round trips to their place of residence during each regular session; and

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(b) additional round trips as authorized by the legislature during special session.

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

(8) (a) The 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 current year 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" has the meaning provided in 15-6-134."

{ 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 3. 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;

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(c) the first \$100,000 or less of the taxable market value of any improvement on real property, including trailers, manufactured homes, or mobile homes, and appurtenant land not exceeding 5 acres owned or under contract for deed and actually occupied for at least 7 months a year as the primary residential dwelling of 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) 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) 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) (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

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(iv) vacant residential lots; and

(g) (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) through (1) (g) 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 the decimal equivalent of 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	<u>\$8,000</u>	\$0 - \$8,000 <u>\$10,700</u> 20%

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~~\$6,001 \$8,001 - \$9,200 \$10,400~~ ~~\$8,001 \$10,701 - \$14,000~~

\$13,900 50% 30%

~~\$9,201 \$10,401 - \$15,000 \$12,800~~ ~~\$14,001 \$13,901 - \$20,000~~

\$17,100 70% 40%

\$12,801-\$15,200 \$17,101-\$20,300 50%

\$15,201-\$17,600 \$20,301-\$23,500 60%

\$17,601-\$20,000 \$23,501-\$26,600 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~~ 2011; and

(B) rounding the product ~~thus~~ obtained in subsection (2) (b) (ii) (A) 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) Property described in subsection (1) (d) 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

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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;
(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)."

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{ Internal References to 15-6-134: x to all except
2-15-122 a 5-2-301 a 15-2-301 15-6-133
15-6-156 15-6-211 15-6-211 15-6-222
15-6-222 15-7-102 15-7-103 15-7-111
15-8-111 15-8-111 15-8-205 15-10-420
15-16-101 15-16-102 15-24-2101 15-24-2102
15-24-3001 15-30-2336 }

Section 4. Section 15-6-211, MCA, is amended to read:

"15-6-211. Certain disabled or deceased veterans'

residences exempt. (1) Subject to subsection (7), a residence and appurtenant land, not to exceed 5 acres, on which it is built that is owned and occupied by a veteran or a veteran's spouse is exempt from property taxation as provided in this section if the veteran:

(a) was killed while on active duty or died as a result of a service-connected disability; or

(b) if living:

(i) was honorably discharged from active service in any branch of the armed services; and

(ii) is currently rated 100% disabled or is paid at the 100% disabled rate by the U.S. department of veterans affairs for a service-connected disability, as verified by official documentation from the U.S. department of veterans affairs.

(2) Property qualifying under subsection (1) is taxed at the rate provided in 15-6-134(2)(a) multiplied by the decimal equivalent of a percentage figure based on income and determined from the following table:

Income	Income	Percentage
Single Person	Married Couple	Multiplier

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Head of Household

\$0 - \$30,000 35,300 \$0 - \$36,000 \$42,400 0%
\$35,301 - \$37,400 \$42,401 - \$44,500 10%
\$30,001 \$37,401 - \$33,000 \$39,600 \$36,001 \$44,501 - \$39,000
\$46,600 20%
\$33,001 \$39,601 - \$36,000 \$42,400 \$39,001 \$46,601 - \$42,000
\$49,500 30%

\$42,401 - \$43,900 \$49,501 - \$50,900 40%
\$36,001 \$43,901 - \$39,000 \$46,000 \$42,001 \$50,901 - \$45,000
\$53,000 50%

(3) The property tax exemption under this section remains in effect as long as the property is the primary residence owned and occupied by the veteran or, if the veteran is deceased, by the veteran's spouse and the spouse:

(a) is the owner and occupant of the house;
(b) is unmarried; and
(c) has obtained from the U.S. department of veterans affairs a letter indicating that the veteran was rated 100% disabled or was paid at the 100% disabled rate by the U.S. department of veterans affairs for a service-connected disability at the time of death or that the veteran died while on active duty or as a result of a service-connected disability.

(4) Property qualifying under subsection (3) is taxed at the rate provided in 15-6-134(2)(a) multiplied by the decimal equivalent of a percentage figure based on income and determined from the following table:

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Income	Percentage
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Surviving Spouse	Multiplier
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\$0 - \$25,000	<u>\$29,500</u>	0%
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<u>\$29,501 - \$31,600</u>	10%
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\$25,001 <u>\$31,601</u> - \$28,000	<u>\$33,700</u>	20%
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\$28,001 <u>\$33,701</u> - \$31,000	<u>\$36,500</u>	30%
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<u>\$36,501 - \$37,900</u>	40%
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<u>\$31,001</u> <u>\$37,901</u> - \$34,000	<u>\$40,000</u>	50%
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(5) For the purposes of the exemption under this section, the income referred to in subsections (2) and (4) is the taxpayer's federal adjusted gross income for the preceding calendar year, as reported on the taxpayer's federal income tax return. A taxpayer who is not required to file a federal income tax return for the preceding calendar year shall determine the taxpayer's federal adjusted gross income as if the taxpayer had filed a return and shall provide other evidence of income as required by the department.

(6) (a) The income levels contained in the tables in subsections (2) and (4) must be adjusted for inflation annually by the department. The adjustment to the income levels is determined by:

(i) multiplying the appropriate dollar amount from the table 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 2002 2011; and

(ii) rounding the product obtained in subsection (6)(a)(i) to the nearest dollar amount.

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(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 has the meaning provided in 15-6-134.

(7) A claim for exemption on a form prescribed by the department must be filed with the department on or before April 15 of the year for which the exemption is claimed."

{Internal References to 15-6-211:

15-7-102 x 15-16-101x}

NEW SECTION. Section 5. {standard} Effective date. [This act] is effective on passage and approval.

NEW SECTION. Section 6. {standard} Retroactive applicability. [This act] applies retroactively, within the meaning of 1-2-109, to tax years beginning after December 31, 2010.

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