

MINUTES

MONTANA SENATE 54th LEGISLATURE - REGULAR SESSION

FREE CONFERENCE ON HOUSE BILL 497

Call to Order: By CHAIRMAN JOHN G. HARP, on April 12, 1995, at
11:40 A.M.

ROLL CALL

Members Present:

Sen. John G. Harp, Chairman (R)
Sen. Don Hargrove (R)
Sen. Barry "Spook" Stang (D)
Rep. Chase Hibbard, Chairman (R)
Rep. Scott Orr (R)
Rep. Beverly Barnhart (D)

Members Excused: None.

Members Absent: None.

Staff Present: Greg Petesch, Legislative Council
Fredella D. Haab, Secretary

Please Note: THIS WAS A FREE CONFERENCE ON HOUSE BILL 497.

Committee Business Summary:

{Tape: 1; Side: A; Approx. Counter: 2.3; Comments: .}

CHAIRMAN HARP stated these were the amendments Greg Petesch had prepared dealing with the appropriations for the payment of the residential property tax reimbursement due to reappraisal during 1992 and 1993 of 7 1/2 million dollars in 1996 and 7 1/2 million dollars in 1997. There was also an appropriation from the general fund to the Department of Revenue for \$200,000 in FY 96 and \$165,000 for FY 97. We have REP. BOLLINGER'S House Bill 497 which dealt with senior citizens and the low income aspects an additional \$11,000 for an outreach program for the property tax assistance program. This was not included in House Bill 2.

REP. BARNHART asked that in the second amendment, the word "rented" be explained to her.

Greg Petesch said the amendment was requested by the Department of Revenue. They were trying to clarify that if you rented or leased the qualifying property for more than five months during the qualifying period, then you do not qualify for the payment.

REP. BARNHART asked why they settled on five months?

Greg Petesch said that the other end of the qualifying period was that it had to be your primary residence for seven months.

SENATOR STANG said he would be interested if there was any chance to change the percentages. He would have liked to see more money go into the homeowner tax relief. He was concerned they were only reaching a small percentage of the people. Since this bill passed, he has heard from the larger percentage of people that aren't affected and they want to know if we are going to do anything for them.

CHAIRMAN HARP stated we had an opportunity with a couple of other bills. SB 425 which was defeated on the Senate floor and the other bill was **REP. ELLIOTT'S** bill which stayed in the Senate Taxation Committee. There never was a motion made by any member of the Taxation Committee to move the \$46 million out of the Senate. If we were to amend this from 15% to a 5 % increase the cost would be \$12,899,000 per year and that would be an addition of a little over \$5 million for each year.

SENATOR STANG stated that was his objection to passing **SENATOR KEATING'S** bill. He didn't object to the personal property tax. He thought that by implementing the bill right away we have done a disservice to the homeowners out there who really are crying for tax relief.

Another question that came up on this bill was what about the 2000 people that are in the tax appeal board right now. What would happen if those people are issued a refund and then the tax appeal board decides to lower the valuation of their property? Are they going to get a double benefit from this bill?

Judy Paynter, Department of Revenue, said the way the program was set up to run off of a snapshot of 92 and 93. Those people would probably end up with a refund under this program.

SENATOR HARGROVE moved the amendments.

REP. HIBBARD thought we have had a couple opportunities to give more broad based and more sufficient residential property tax reform. We worked in the House on HB 336 sponsored by **REP. ELLIOTT** which was a lot more extensive. He though the cost of that was \$46 million. It came through the House Taxation Committee to the floor of the House and came to the Senate. It did not survive nor did a companion bill. In the closing days of the session the financial picture becomes a delicate balancing act and he wasn't sure the money that might have been there was there anymore. He thought it was important that we leave this session with some residential tax relief.

REP. BARNHART thought the counties had been under appraised for so long and now they are being fairly appraised.

SENATOR HARGROVE thought this was probably somewhat true throughout the state and to a large extent in our area. This being a bill with a sunset on it for one biennium, he thought it was particularly appropriate because in our area that was when the big thing occurred for the homes that have been there for a long time.

SENATOR STANG said there was a lot of objection from the majority party concerning **REP. ELLIOTT'S** bill due to the fact that we were using the income tax. It appeared to those of us who listened to the debate that the bill wasn't going anywhere because of the objections of the big number from the people in the majority and not as much in the money end. It just appeared to him that with the passing of **SENATOR KEATING'S** bill putting more money into that bill and not looking at putting more money into this, the priorities of this session have become to give business big tax breaks and to forget the homeowners.

CHAIRMAN HARP stated the Senate had an opportunity on SB 425 which was \$26 million on residential tax relief for all homeowners. The bill died on third reading with all Democrats voting against it. **SENATOR CRIPPEN**, got up and opposed it for using tax credits, (income tax) to pay for property tax. He stated that the Senator had an opportunity a week ago in the Senate Taxation Committee to move HB 346. It was in executive session and no one made a motion to move it or to table it.

REP. BARNHART said she was at a little bit of a disadvantage because she wasn't on a tax committee but **REP. ELLIOTT** had an idea for making it more equitable and if it would be appropriate she would like him to explain this. She depended on this explanation so she could vote for the amendment and would like him to explain this.

CHAIRMAN HARP objected to **REP. BARNHART'S** request. There are various reasons why mills increase in different taxing units. That may be by decisions done locally by adding additional needs for schools, government needs, etc. They really don't affect everyone and those decisions are made locally and those taxes would have been increased. He thought that the property tax owner would have had some input in that decision. This was where people have actually lived in their homes and the only thing that had occurred was an increase in reappraisal. They are being forced from their homes because of the influx of people who are driving their values up. That has occurred in a lot of different areas in Montana. He thought **REP. HIBBARD** made a good point. We'd like to do more but with the resources we have and the time we have, we truly have targeted the proper people who have seen increases in property taxes with the **BOLLINGER** bill.

REP. BARNHART was concerned over the \$1000 cap at the other end. It was brought to my attention by **REP. SWANSON** that perhaps we should cap it at \$500 rather than a \$1000.

CHAIRMAN HARP said what he understood was that with the \$1000 cap, there are 310 residential property's affected.

REP. HIBBARD said if the cap was \$1000 there are 310 that would qualify for the maximum payment. If the cap were lowered to \$500 there would be 1911. It would add about 1600 people to the maximum of \$500, which if you consider all the homeowners in Montana that was a pretty small number. It would change the total amount of average reimbursement from \$145 to \$137 across the state.

SENATOR HARGROVE said some of the older homes in Bozeman, in Helena and in Missoula where the expensive neighborhoods have grown up around some low income people would be the ones who would have the largest increases and perhaps would be the recipients of the larger refunds.

SENATOR STANG asked if we lowered the cap to \$500 would we be able to pick up any percentage points.

CHAIRMAN HARP said it was about \$400,000. We had it from 30, to 25, to 15 to 10. He didn't know what 1% was worth. Do you have any idea, **Judy Paynter**?

Judy Paynter said she didn't have 1% point but she did have a schedule.

SENATOR STANG asked what 5% would do?

CHAIRMAN HARP said 5% would be an additional \$five million per year. You would move that to 85,000 households versus 51,658 households.

{Tape: 1; Side: 24.4; Approx. Counter: ; Comments: .}

Greg Petesch said if you wanted to address that double pay issue, he thought you could do that by adding a third criteria. A person doesn't pay the taxes for the claim period, if a false or fraudulent claim has been paid, or if a tax appeal renders a claimant ineligible.

SENATOR STANG said he would move that amendment.

Greg Petesch said essentially what you do is on page 4, line 11, strike the first "or" and then following paid you would insert "or if tax appeals render a claimant ineligible."

CHAIRMAN HARP asked if everyone felt comfortable without having that printed.

SENATOR STANG did move the amendment.

Vote: Motion carried unanimously.

SENATOR HARGROVE said it seemed to him that we are really not addressing someone who was forced out of his or her home. He would like a little bit of discussion on this.

SENATOR STANG thought that was what **SENATOR VAN VALKENBURG** was trying to make a point on. He thought **SENATOR HARGROVE** was correct. There should be some way we can limit this to their main residence. For example, they shouldn't be able to claim it on their more expensive house in Lake County or Flathead County, or the mountains in Gallatin, or their summer cabin, and that happens to be their more expensive home. We really are trying to help the little old lady or the family that had lived in the house on Whitefish Lake for 30 years and the taxes are more than the cost of the house.

CHAIRMAN HARP stated you would still use only one residency. He didn't see how the bottom line would be affected at all. The choice between the different residences, you probably would take the highest one of the two.

Judy Paynter said you would have to live in it for seven months. It would be hard to live in both residences for seven months a year.

Greg Petesch said you have to live in and own an occupied residence for seven months.

CHAIRMAN HARP stated it could be a combination of the two.

SENATOR STANG said he could see that somebody would live in one of the counties that only got a two or three percent benefit on this bill but owned a summer cabin in Whitefish, they would definitely be taking the benefit on this summer cabin in Whitefish. He was assuming that when they made the fiscal note they took the best case scenario of the houses that went up 15% and my guess was that most of them are in western Montana.

REP. ORR said another way to look at that was possibly that somebody was living in another town and had a summer cabin on a lake and their taxes didn't go up on their residence in town but the cabin on the lake really did skyrocket. This might be their retirement home and they could really be stretched maintaining both homes but they are trying to have this retirement home they can move when they retire.

REP. HIBBARD thought that the intent of this bill was to take the sting out of excessive reappraisals that occurred in parts of Montana. We are concerned about those who are being taxed out of their homes. He knew some people that lived in a cracker box house in Helena and have a cabin at the lake where their values have gone up many times. Their income hasn't gone up to cover those taxes because of influences that are over and above their control.

REP. BARNHART asked if this were only for one year. There still could be a little old lady that could lose her cabin on the lake in the next year.

CHAIRMAN HARP said it was a two year program and it sunsets December 31, 1996.

SENATOR STANG said he was probably going to vote for this because of the number of constituents that will benefit. He had a majority of constituents that won't benefit. He had been amazed by the number of people that have come up and thanked him for sticking up for their position since the article had been in the paper. Some of them felt they were not some of those people who would benefit and they were wondering what we were going to do for them. The main priority and the main thrust for the next session should be to give property tax relief to homeowners.

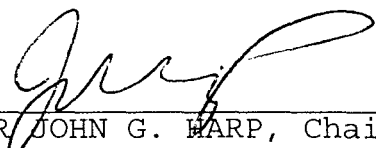
CHAIRMAN HARP had a closing comment. It was easy to forget what has already occurred. We passed HB 171 where we are going to return up to \$25 million in income tax. That was going throughout the state and it was not targeted. In this bill between the residential, the elderly, etc. it was about \$17 million. Also under **SENATOR KEATING'S** bill with the personal property tax, it was our view that we are going to help stimulate the economy, by putting more people back to work, so they have the ability to pay property taxes at the tune of another \$18 million. Lastly, the announcement the day before yesterday of some \$18 millions worth of reduction in workers comp. For the first time since 1979, the wage earner rather than continuing at the back of the line, can be at the front of the line where employers of Montana can give increases in wages rather than this constant increase due to workers comp. He thought the employers of Montana would share in the reduction of workers comp. He thought that was a statewide issue that has appeal for a lot of people. If you add that all up, you are looking at \$77 million worth of various programs that have occurred this session. He thought certainly half of that has to affect everybody's life at some point. He felt that we hadn't shut out the masses as far as what we were trying to do this session.

SENATOR STANG said he hoped that those of us who are in business in the state would see to pass these reductions in our costs either to the consumers or on to their employees or even reinvesting in the state so we could provide more jobs. He hoped there was a way, that as legislators, we could monitor that.

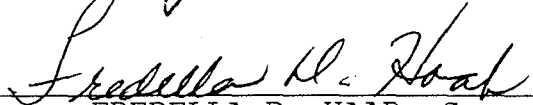
Motion/Vote: **SENATOR HARGROVE** moved the bill as amended. Motion carried unanimously.

ADJOURNMENT

Adjournment: 12:20 p.m.



SENATOR JOHN G. WARP, Chairman



FREDELLA D. HAAB, Secretary

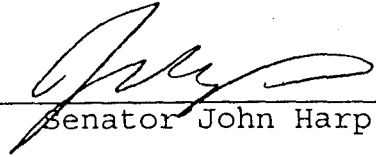
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SENATE STANDING COMMITTEE REPORT

Page 1 of 17
March 23, 1995

MR. PRESIDENT: *SELECT*

We, your joint committee on Ethics, having had under consideration SB 136 (first reading copy -- white), respectfully report that SB 136 be amended as follows and as so amended do pass.

Signed: 
Senator John Harp, Chair

That such amendments read:

1. Page 1, line 3.

Insert: "BY REQUEST OF THE JOINT COMMITTEE ON ETHICS"

2. Title, line 4.

Following: "ACT"

Insert: "GENERALLY"

3. Title, line 6.

Following: "TO"

Strike: "REFRAIN FROM VOTING ON CERTAIN"

Insert: "VOTE ON ALL"

Strike: "PROHIBITING"

Insert: "PROVIDING REQUIREMENTS FOR"

4. Title, lines 7 and 8.

Following: "EMPLOYEE" on line 7

Strike: remainder of line 7 through "LEGISLATURE" on line 8

Insert: ", PUBLIC OFFICER, OR LEGISLATOR TO RECEIVE MORE THAN ONE
PUBLIC SALARY FOR OVERLAPPING HOURS OF EMPLOYMENT"

5. Title, lines 9 and 10.

Following: "SUPPLIES," on line 9


Insert: "PERSONNEL,"


Following: "FUNDS" on line 9

Strike: remainder of line 9 through "ISSUE; AND" on line 10

Insert: "FOR ANY POLITICAL OR CAMPAIGN ACTIVITY PERSUADING OR
AFFECTING A POLITICAL DECISION UNLESS THE USE IS AUTHORIZED
BY LAW OR PROPERLY INCIDENTAL TO ANOTHER ACTIVITY REQUIRED
OR AUTHORIZED BY LAW; RESTRICTING EMPLOYMENT BY CURRENT AND
FORMER PUBLIC OFFICIALS AND EMPLOYEES; PROVIDING FOR
EDUCATION AND TRAINING ON ETHICAL MATTERS; PROVIDING
ENFORCEMENT PROVISIONS FOR ETHICS VIOLATIONS; PROVIDING THAT
FILING TAX RETURNS IS AN ETHICAL REQUIREMENT; CREATING AN
ETHICS COMMISSION TO PROVIDE REVIEW OF ETHICS DECISIONS IN
CASES INVOLVING STATE OFFICERS AND STATE EMPLOYEES;"

Following: "SECTIONS"

 Amd. Coord.

 Sec. of Senate

671409SC.SPv

Insert: "2-2-102, 2-2-103,"
Following: "2-2-105,"
Insert: "2-2-111,"
Strike: "AND"

6. Title, line 11.
Following: line 10
Insert: "2-2-131, 2-2-302, 2-18-102, 5-7-213, AND 13-35-226,"
Following: "MCA"
Insert: "; REPEALING SECTION 2-2-132, MCA; AND PROVIDING AN
EFFECTIVE DATE"

7. Page 1, lines 15 through 17.
Following: "employees" on line 15
Strike: remainder of line 15 through "mandate" on line 17

8. Page 1, line 21 through page 5, line 19.
Strike: everything after the enacting clause
Insert: "Section 1. Section 2-2-102, MCA, is amended to read:
"2-2-102. Definitions. As used in this part, the following
definitions apply:

(1) "Business" includes a corporation, partnership, sole proprietorship, trust or foundation, or any other individual or organization carrying on a business, whether or not operated for profit.

(2) "Compensation" means any money, thing of substantial value, or economic benefit conferred on or received by any person in return for services rendered or to be rendered by himself the person or another.

~~(3) "Employee" means any temporary or permanent employee of the state or any subdivision thereof or member of the judiciary, including a member of a board, commission, or committee except a legislator and an employee under contract to the state.~~

~~(4) "Financial interest" means an interest held by an individual, his spouse, or minor children which is:~~

~~(a) an ownership interest in a business;~~
~~(b) a creditor interest in an insolvent business;~~
~~(c) an employment or prospective employment for which negotiations have begun;~~

~~(d) an ownership interest in real or personal property;~~
~~(e) a loan or other debtor interest; or~~
~~(f) a directorship or officership in a business.~~

~~(5)~~ (3) "Official act" or "official action" means a vote, decision, recommendation, approval, disapproval, or other action, including inaction, which that involves the use of discretionary authority.

(4) "Private interest" means an interest held by an individual or the individual's spouse or minor children that is:

- (a) an ownership interest in a business;
- (b) a creditor interest in an insolvent business;
- (c) an employment or prospective employment for which negotiations have begun;
- (d) an ownership interest in real property;
- (e) a loan or other debtor interest; or
- (f) a directorship or officership in a business.
- (5) "Public employee" means:
 - (a) any temporary or permanent employee of the state or any subdivision of the state;
 - (b) a member of a quasi-judicial board or commission or of a board, commission, or committee with rulemaking authority; and
 - (c) a person under contract to the state.
- (6) "Public officer" includes any state officer except a legislator or member of the judiciary or any elected officer of any subdivision of the state.
- (7)(a) "State agency" includes:
 - (i) the state;
 - (ii) the legislature and its committees;
 - (iii) all executive departments, boards, commissions, committees, bureaus, and offices;
 - (iv) the university system; and
 - (v) all independent commissions and other establishments of the state government except the courts.
- (b) The term does not include the judicial branch.
- (8) "State officer" includes all elected officers and directors of the executive branch of state government as defined in 2-15-102."

Section 2. Section 2-2-103, MCA, is amended to read:

"2-2-103. Public trust -- public duty. (1) The holding of public office or employment is a public trust, created by the confidence ~~which~~ that the electorate reposes in the integrity of public officers, legislators, and public employees. A public officer, legislator, or public employee shall carry out ~~his~~ the ~~individual's~~ duties for the benefit of the people of the state.

(2) A public officer, legislator, or public employee whose conduct departs from ~~his fiduciary~~ the person's public duty is liable to the people of the state ~~as a trustee of property, is liable to a beneficiary under 72-34-105, and shall suffer such other liabilities as a private fiduciary would suffer~~ is subject to the penalties provided in this part for abuse of his the public's trust. ~~The county attorney of the county where the trust is violated may bring appropriate judicial proceedings on behalf of the people. Any moneys collected in such actions shall be paid to the general fund of the aggrieved agency.~~

(3) ~~The following sections set~~ This part sets forth various rules of conduct, the transgression of any of which is, ~~as such,~~

a violation of fiduciary public duty, and various ethical principles, the transgression of any of which ~~is not, as such, a violation of fiduciary duty~~ must be avoided.

(4) (a) The enforcement of this part for:

(i) state officers and employees is provided for in [sections 16 and 17];

(ii) legislators is provided for in [section 15];

(iii) local government officers and employees is provided for in [section 22].

(b) Any money collected in the civil actions that is not reimbursement for the cost of the action must be deposited in the general fund of the unit of government."

Section 3. Section 2-2-104, MCA, is amended to read:

"2-2-104. Rules of conduct for all public officers, legislators, and public employees. (1) Proof of commission of any act enumerated in this section is proof that the actor has breached ~~his fiduciary~~ the actor's public duty. A public officer, legislator, or public employee may not:

~~(a) disclose or use confidential information acquired in the course of his official duties in order to further substantially his personal economic interests; or~~

~~(b) accept a gift of substantial value or a substantial economic benefit tantamount to a gift:~~

~~(i)(a) which that would tend improperly to influence a reasonable person in his the person's position to depart from the faithful and impartial discharge of his the person's public duties; or~~

~~(ii)(b) which he that the person knows or which that a reasonable person in his that position should know under the circumstances is primarily for the purpose of rewarding him the person for official action he has taken.~~

(2) An economic benefit tantamount to a gift includes without limitation a loan at a rate of interest substantially lower than the commercial rate then currently prevalent for similar loans and compensation received for private services rendered at a rate substantially exceeding the fair market value of ~~such the~~ services. Campaign contributions reported as required by statute are not gifts or economic benefits tantamount to gifts.

(3) (a) Except as provided in subsection (3) (b), a public officer, legislator, or public employee may not receive salaries from two separate public employment positions that overlap for the hours being compensated, unless:

(i) the public officer, legislator, or public employee reimburses the public entity from which the employee is absent for its costs in performing the function from which the officer, legislator, or employee is absent; or

(ii) the public officer's, legislator's, or public employee's salary from one employer is reduced by the amount of salary received from the other public employer in order to avoid duplicate compensation for the overlapping hours.

(b) Subsection (3)(a) does not prohibit a public officer, legislator, or public employee from receiving income from the use of accrued leave or compensatory time during the period of overlapping employment."

Section 4. Section 2-2-105, MCA, is amended to read:

"2-2-105. Ethical principles requirements for public officers and public employees. (1) The principles requirements in this section are intended as guides to rules of conduct, and ~~do not constitute violations as such~~ constitute a breach of the public trust and public duty of office or employment in state or local government.

(2) A public officer or public employee ~~should~~ may not acquire an interest in any business or undertaking ~~which he that~~ the officer or employee has reason to believe may be directly and substantially affected to its economic benefit by official action to be taken by ~~his~~ the officer's or employee's agency.

(3) A public officer or public employee ~~should~~ may not, within the 12 months following the voluntary termination of ~~his~~ office or employment, obtain employment in which ~~he~~ the officer or employee will take direct advantage, unavailable to others, of matters with which ~~he~~ the officer or employee was directly involved during ~~his~~ a term of office or during employment. These matters are rules, other than rules of general application, ~~which he that~~ the officer or employee actively helped to formulate and applications, claims, or contested cases in the consideration of which ~~he~~ the officer or employee was an active participant.

(4) A public officer or public employee ~~should~~ may not:

(a) perform an official act directly and substantially affecting a business or other undertaking to its economic detriment when he the officer or employee has a substantial financial personal interest in a competing firm or undertaking;
or

(b) disclose or use confidential information acquired in the course of official duties in order to substantially further the officer's or employee's private interests."

Section 5. Section 2-2-111, MCA, is amended to read:

"2-2-111. Rules of conduct for legislators. Proof of commission of any act enumerated in this section is proof that the legislator committing the act has breached ~~his fiduciary~~ the legislator's public duty. A legislator may not:

(1) accept a fee, contingent fee, or any other compensation, except ~~his~~ the official compensation provided by

statute, for promoting or opposing the passage of legislation;

(2) seek other employment for himself the legislator or solicit a contract for his the legislator's services by the use of his the office."

Section 6. Section 2-2-112, MCA, is amended to read:

"2-2-112. Ethical principles requirements for legislators.

(1) The principles requirements in this section are intended only as guides to rules for legislator conduct, and do not constitute violations as such constitute a breach of the public trust of legislative office.

(2) A legislator has a responsibility to the legislator's constituents to participate in all matters affecting the constituents. A legislator concerned with the possibility of a conflict should briefly present the facts to the committee of that house that is assigned the determination of ethical issues. The committee shall advise the legislator as to whether the legislator should disclose the interest prior to voting on the issue pursuant to the provisions of subsection (5). The legislator shall vote on the issue after disclosing the interest.

~~(2)(3)~~ When a legislator must is required to take official action on a legislative matter as to which he the legislator has a conflict created by a personal or financial private interest which that would be directly and substantially affected by give rise to an appearance of impropriety as to the legislator's influence, benefit, or detriment in regard to the legislative matter, he should consider disclosing or eliminating the legislator shall disclose the interest creating the conflict or abstaining from prior to participating in the official action, as provided in subsections (2) and (5) and the joint rules of the legislature. In making his a decision, he should the legislator shall further consider:

(a) whether the conflict impedes his the legislator's independence of judgment;

(b) the effect of his the legislator's participation on public confidence in the integrity of the legislature; and

(c) whether his the legislator's participation is likely to have any significant effect on the disposition of the matter; and

(d) whether a pecuniary interest is involved or whether a potential occupational, personal, or family benefit could arise from the legislator's participation.

~~(3)(4)~~ A conflict situation does not arise from legislation or legislative duties affecting the entire membership of a profession, occupation, or class.

~~(4)(5)~~ If a A legislator elects to shall disclose the an interest creating the a conflict, he shall do so as provided in the joint rules of the legislature. A legislator who is a member of a profession, occupation, or class affected by legislation is

not required to disclose an interest unless the class contained in the legislation is so narrow that the vote will have a direct personal impact on the legislator. A legislator may seek a determination from the appropriate committee provided for in [section 15]."

Section 7. Section 2-2-121, MCA, is amended to read:

"2-2-121. Rules of conduct for state public officers and state public employees. (1) Proof of commission of any act enumerated in ~~this section~~ subsection (2) is proof that the actor has breached ~~his fiduciary~~ a public duty.

(2) A state public officer or a state public employee may not:

(a) use state public time, facilities, equipment, supplies, personnel, or funds ~~or equipment~~ for ~~his~~ the officer's or employee's private business purposes;

(b) engage in a substantial financial transaction for ~~his~~ the officer's or employee's private business purposes with a person whom ~~he~~ the officer or employee inspects or supervises in the course of ~~his~~ official duties;

(c) assist any person for a fee or other compensation in obtaining a contract, claim, license, or other economic benefit from ~~his~~ the officer's or employee's agency;

(d) assist any person for a contingent fee in obtaining a contract, claim, license, or other economic benefit from any state agency;

(e) perform an official act directly and substantially affecting to its economic benefit a business or other undertaking in which ~~he~~ the officer or employee either has a substantial financial interest or is engaged as counsel, consultant, representative, or agent; or

(f) solicit or accept employment, or engage in negotiations or meetings to consider employment, with a person whom ~~he~~ the officer or employee regulates in the course of ~~his~~ official duties without first giving written notification to ~~his~~ the officer's or employee's supervisor and department director.

(3)(a) A public officer or public employee may not use public time, facilities, equipment, supplies, personnel, or funds for any political or campaign activity persuading or affecting a political decision unless the use is:

(i) authorized by law; or

(ii) properly incidental to another activity required or authorized by law, such as the function of an elected public official, the official's staff, or the legislative staff in the normal course of duties.

(b) Subsection (3)(a) does not prohibit an elected public official from issuing public statements concerning matters within the scope of the official's office. However, a document that is

published pursuant to this subsection (3) and that is aimed at supporting or opposing a political committee, a candidate, or a ballot issue must include a written statement disclosing the public costs incurred to produce the document. The statement must meet the specifications described in 18-7-306, and the costs must be estimated based on the factors listed in 18-7-307. Documentation of the cost of publication must be filed with the commissioner of political practices.

(4)(a) A state employee shall notify the employee's immediate supervisor that a potential conflict of interest exists when:

(i) an organization of which the employee is a member is involved in a proceeding before the employing agency that is within the scope of the employee's job duties; or

(ii) the employee is a member of or affiliated with any organization attempting to influence a local, state, or federal proceeding in which the employee represents the state.

(b) The employee's supervisor shall make the disclosed information available to an interested person upon the person's request.

(5) A state officer or state employee may not engage in any activity, including lobbying, as defined in 5-7-102, on behalf of an organization of which the officer or employee is a member while performing the officer's or employee's job duties.

~~(3)~~(6) A department head or a member of a quasi-judicial or rulemaking board may perform an official act notwithstanding the provisions of subsection (2)(e) if his participation is necessary to the administration of a statute and if he the person complies with the voluntary disclosure procedures under 2-2-131.

~~(4)~~(7) Subsection (2)(d) does not apply to a member of a board, commission, council, or committee unless he the member is also a full-time state public employee.

(8) A person who purposely or knowingly violates this section is guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than \$50 or more than \$1,000, by imprisonment in the county jail for not more than 6 months, or by both. A civil proceeding under [section 16] or [section 22] does not preclude an action under this subsection."

Section 8. Section 2-2-125, MCA, is amended to read:

"2-2-125. Rules of conduct for local government officers and employees. (1) Proof of commission of any act enumerated in this section is proof that the actor has breached his fiduciary a public duty subjecting the actor to disciplinary action by the employing entity.

(2) An officer or employee of local government may not:

(a) engage in a substantial financial transaction for his the officer's or employee's private business purposes with a

person whom ~~he~~ the officer or employee inspects or supervises in the course of ~~his~~ official duties; or

(b) perform an official act directly and substantially affecting to its economic benefit a business or other undertaking in which ~~he~~ the officer or employee either has a substantial financial interest or is engaged as counsel, consultant, representative, or agent.

(3) A Notwithstanding the provisions of subsection (2), a member of the governing body of a local government may perform an official act notwithstanding this section when ~~his~~ the member's participation is necessary to obtain a quorum or otherwise enable the body to act, if he complies with the voluntary disclosure procedures under 2-2-131. The member shall disclose the interest creating the appearance of impropriety."

Section 9. Section 2-2-131, MCA, is amended to read:

"2-2-131. ~~Voluntary disclosure~~ Disclosure. A public officer or public employee ~~may shall~~, prior to acting in a manner ~~which~~ that may impinge on ~~his~~ fiduciary public duty, including the award of a permit, contract, or license, disclose the nature of ~~his~~ the private interest ~~which that~~ creates the conflict. ~~He~~ The public officer or public employee shall make the disclosure in writing to the secretary of state, listing the amount of ~~his~~ financial private interest, if any, the purpose and duration of ~~his~~ the person's services rendered, if any, and the compensation received for the services or ~~such~~ other information ~~as that~~ is necessary to describe ~~his~~ the interest. If ~~he~~ the public officer or public employee then performs the official act involved, ~~he~~ the officer or employee shall state for the record the fact and summary nature of the interest disclosed at the time of performing the act."

Section 10. Section 2-2-302, MCA, is amended to read:

"2-2-302. Appointment of relative to office of trust or emolument unlawful -- exceptions -- publication of notice. (1) Except as provided in subsection (2), it is unlawful for a person or member of any board, bureau, or commission or employee at the head of a department of this state or any political subdivision of this state to appoint to any position of trust or emolument any person related or connected by consanguinity within the fourth degree or by affinity within the second degree.

(2) The provisions of this section and 2-2-303 do not apply to:

(a) a sheriff in the appointment of a person as a cook or an attendant;

(b) school district trustees if all the trustees, with the exception of any trustee who is related to the person being

appointed and who must abstain from voting for the appointment, approve the appointment of a person related to a trustee;

(c) a school district in the employment of a person as a substitute teacher who is not employed as a substitute teacher for more than 30 consecutive school days; ~~or~~

(d) the renewal of an employment contract of a person who was initially hired before the member of the board, bureau, or commission or the department head to whom ~~he~~ the person is related assumed the duties of the office;

(e) the employment of election judges; or

(f) the employment of pages or temporary session staff by the legislature.

(3) Prior to the appointment of a person referred to in subsection (2), the school district trustees shall give written notice of the time and place of their intended action. The notice must be published at least 15 days prior to the trustees' intended action in a newspaper of general circulation in the county in which the school district is located."

Section 11. Section 2-18-102, MCA, is amended to read:

"2-18-102. Personnel administration -- general policy setting. (1) Except as otherwise provided by law or collective bargaining agreement, the department shall:

(a) encourage and exercise leadership in the development of effective personnel administration within the several agencies in the state and make available the facilities of the department to this end;

(b) foster and develop programs for recruitment and selection of capable persons for permanent, seasonal, temporary, and other types of positions and for the improvement of employee effectiveness, including training, ethical conduct, safety, health, counseling, welfare, discipline, grievances, and evaluation for productivity and retention in permanent status;

(c) foster, develop, and promote job sharing in agencies;

(d) investigate from time to time the operation and effect of parts 1 and 2 of this chapter and the policies made ~~thereunder~~ under parts 1 and 2 and report the findings and recommendations to the governor;

(e) establish policies, procedures, and forms for the maintenance of records of all employees in the state service;

(f) apply and carry out parts 1 and 2 and the policies ~~thereunder~~ under parts 1 and 2 and perform any other lawful acts which may be necessary or desirable to carry out the purposes and provisions of parts 1 and 2.

(2) The department may delegate authority granted to it under parts 1 and 2 to agencies in the state service that effectively demonstrate the ability to carry out the provisions of parts 1 and 2, provided that ~~such~~ the agencies remain in

compliance with policies, procedures, timetables, and standards established by the department.

(3) The department shall develop and issue personnel policies for the state. Adequate public notice ~~shall~~ must be given to all interested parties of proposed changes or additions to the personnel policies before the date they are to take effect. If requested by any of the affected parties, the department shall schedule a public hearing on proposed changes or additions to the personnel policies before the date they are to take effect.

(4) The department shall develop model rules of conduct for all state employees based upon the provisions of Title 2, chapter 2. The department shall provide employees with a pamphlet summarizing the provisions of Title 2, chapter 2. Each state agency shall adopt the model rules of conduct and additional rules appropriate to the specific circumstances of the agency."

Section 12. Section 5-7-213, MCA, is amended to read:

"5-7-213. Disclosure ~~by elected officials~~. (1)(a) Prior to December 15 of each even-numbered year, each elected official, ~~or official-elect member of a quasi-judicial board or commission, or department director~~ shall file with the commissioner a business disclosure statement on a form provided by the commissioner. An individual filing pursuant to subsection (1)(b) or (1)(c) is not required to file under this subsection (1)(a) during the same period.

(b) Each candidate for a statewide or a state office elected from a district shall, within 5 days of the time that the candidate files for office, file a business disclosure statement with the commissioner on a form provided by the commissioner.

(c) An individual appointed to office who would be required to file under subsection (1)(a) or (1)(b) is required to file the business disclosure statement at the earlier of the time of submission of the person's name for confirmation or the assumption of the office.

(2) The statement ~~shall~~ must provide the following information:

(a) the name, address, and type of business of ~~such~~ the individual and each member of ~~such~~ the individual's immediate family;

(b) each present or past employing entity from which benefits, including retirement benefits, are currently received by the individual and each member of the individual's immediate family;

(c) each business, firm, corporation, partnership, and other business or professional entity or trust in which the individual or a member of the individual's immediate family holds an interest;

(d) each entity not listed under subsections (2)(a) through (2)(c) in which the individual or a member of the individual's immediate family is an officer or director, regardless of whether or not the entity is organized for profit;

(e) a brief description of the purpose of an entity described in subsections (2)(c) and (2)(d); and

(f) all real property, other than a personal residence, in which the individual or a member of the individual's immediate family holds an interest. Real property may be described by general description. For this purpose "immediate family" includes the individual's spouse and minor children only.

~~(2)(3)~~ No such An individual may not assume or continue to exercise the powers and duties of the office to which that individual has been elected or appointed until such the statement has been filed as provided in subsection (1).

~~(3)(4)~~ The commissioner shall make such the business disclosure statements available to any individual upon request.

(5) For purposes of this section, "immediate family" means the individual's spouse and minor children."

Section 13. Section 13-35-226, MCA, is amended to read:

"13-35-226. Unlawful acts of employers and employees. (1) It is unlawful for any employer, in paying ~~his~~ employees the salary or wages due them, to include with their pay the name of any candidate or any political mottoes, devices, or arguments containing threats or promises ~~(express or implied)~~, calculated or intended to influence the political opinions or actions of the employees. It is unlawful for an employer to exhibit in a place where ~~his the employer's~~ workers or employees may be working any handbill or placard containing any threat, promise, notice, or information that, in case any particular ticket or political party, organization, or candidate is elected, work in ~~his the employer's~~ place or establishment will cease, in whole or in part, or will be continued or increased; ~~his the employer's~~ place or establishment will be closed; the salaries or wages of ~~his the~~ workers or employees will be reduced or increased; or other threats or promises ~~(express or implied)~~ intended or calculated to influence the political opinions or actions of ~~his the employer's~~ workers or employees. This section ~~shall apply~~ applies to corporations, individuals, and public officers and employees.

(2) ~~No A~~ A person may not attempt to coerce, command, or require a public employee to support or oppose any political committee, the nomination or election of any person to public office, or the passage of a ballot issue.

(3) ~~No A~~ A public employee may not solicit support for or opposition to any political committee, the nomination or election of any person to public office, or the passage of a ballot issue

while on the job or at ~~his~~ the place of employment. However, ~~nothing in subject to 2-2-121,~~ this section is not intended to restrict the right of a public employee to express ~~his~~ personal political views'.

(4) Any person who violates the provisions of this section shall be fined an amount not to exceed \$1,000, be imprisoned in the county jail for a term not to exceed 6 months, or both, for each separate offense."

NEW SECTION. Section 14. Filing tax returns. (1) It is the responsibility of legislators, public officers, and public employees to determine on an annual basis whether they are required to file tax returns with the state of Montana and to file a complete return in a timely manner, if required.

(2) The department of revenue shall provide to the commissioner of political practices information necessary to determine compliance with this section, whether or not the information is confidential. The commissioner of political practices shall keep the information confidential unless it is necessary to prove that a violation of this section has occurred.

NEW SECTION. Section 15. Ethics committees. (1) Each house of the legislature shall establish an ethics committee. The committee must consist of two members of each political party. The committees may meet jointly. Each committee shall educate members concerning the provisions of this part concerning legislators and may consider conflicts between public duty and private interest as provided in 2-2-112. The joint committee may consider matters affecting the entire legislature.

(2) Pursuant to Article V, section 10, of the Montana constitution, the legislature is responsible for enforcement of the provisions of this part concerning legislators.

NEW SECTION. Section 16. Enforcement for state officers and state employees. (1)(a) A person alleging a violation of this part by a state officer or state employee may file a complaint with the commissioner of political practices. The commissioner shall request any information necessary to make a determination from the complainant or the person who is the subject of the complaint and may issue subpoenas.

(b) Unless the complaint is referred to the county attorney under subsection (1)(c), the commissioner shall hold an informal contested case hearing on the complaint as provided in Title 2, chapter 4, part 6. The commissioner shall issue a decision based upon the record established before the commissioner.

(c) If it appears to the commissioner that a complaint alleges criminal conduct, the commissioner shall stay the proceedings under this section and refer the matter to the

appropriate county attorney.

(2) If the commissioner determines that a violation of this part has occurred, the commissioner may impose an administrative penalty of not less than \$50 or more than \$1,000, and if the violation was committed by a state employee, the commissioner may also recommend that the employing agency discipline the employee. The commissioner may assess the costs of the proceeding against the person bringing the charges if the commissioner determines that a violation did not occur or against the officer or employee if the commissioner determines that a violation did occur.

(3) The decision of the commissioner may be appealed to the ethics commission as provided in [section 17].

NEW SECTION. **Section 17. Administrative appeal.** (1) The ethics commission shall provide a hearing on the record, when requested in writing by a party to an issue that has been decided by the commissioner of political practices. The appeal must be requested within 60 days of a decision by the commissioner.

(2) The hearing is limited to matters contained in the record established before the commissioner. The commission may affirm, modify, or reverse a decision of the commissioner.

(3) A decision is rendered when signed by three or more commission members subscribing to the decision and must be issued within 30 calendar days after submission of the request for an opinion.

(4) If the decision is appealed, as provided in Title 2, chapter 4, part 7, the district court may award costs and fees to the prevailing party.

NEW SECTION. **Section 18. Ethics commission.** (1) There is an ethics commission attached to the office of the commissioner of political practices for administrative purposes only.

(2) The commission consists of five members. The members are appointed in the same manner as prescribed in 5-1-102, except that the presiding officer and vice presiding officer must be chosen as provided in subsection (6) of this section. A member of the commission must be a citizen of the United States and a resident of Montana. A member of the commission may not be a:

- (a) public official;
- (b) public employee, except as the fifth member, who must be chosen by consensus of the other members;
- (c) candidate;
- (d) lobbyist or lobbyist's principal;

or

(e) member of the immediate family of an individual listed in subsections (2)(a) through (2)(d).

(3) A member of the commission serves a term of 4 years. However, the initial members of the commission shall serve the

following terms:

- (a) One member shall serve a term of 1 year.
 - (b) One member shall serve a term of 2 years.
 - (c) One member shall serve a term of 3 years.
 - (d) Two members shall serve terms of 4 years.
- (4) An individual may not serve more than two consecutive terms as a member of the commission. A member of the commission continues in office until a successor is appointed and has qualified.
- (5) (a) If a vacancy occurs on the commission, the appointing authority of the vacant position shall appoint a successor.
- (b) If at the time that a vacancy occurs the appointing authority is of a different political party than that of the original appointing authority, the majority or minority leader in the same house who is of the same political party as the appointing authority that made the original appointment of the commissioner whose position is vacated shall appoint the successor.
- (6) The presiding officer and vice presiding officer of the commission must be elected by a majority of the members of the commission. The presiding officer and vice presiding officer shall serve in those positions for 1 year and may be reelected. The presiding officer presides at meetings of the commission. The vice presiding officer presides in the absence or disability of the presiding officer.
- (7) A member of the commission may not receive a salary but is entitled to expenses as provided in Title 2, chapter 18, part 5.

NEW SECTION. **Section 19. Meetings -- quorum.** The ethics commission shall meet at the call of the presiding officer or a majority of its members when an appeal from a decision of the commissioner of political practices is requested. A quorum consists of three or more members. An affirmative vote of three or more members is necessary for the issuance of a decision.

NEW SECTION. **Section 20. Prohibition on political activity by commission members.** A member of the ethics commission may not participate in political activity or in a political campaign during the term of office. A member of the commission may not:

- (1) make a financial contribution to a candidate;
 - (2) make a financial contribution to a political committee;
- or
- (3) knowingly attend a fundraiser held for the benefit of a candidate or political committee.

NEW SECTION. **Section 21. Prohibition on lobbying activity.** A member of the ethics commission may not be a registered

lobbyist or participate in lobbying activities that would require the individual to register as a lobbyist unless the lobbyist activities are conducted on behalf of the commission and are permitted under state law.

NEW SECTION. Section 22. Enforcement for local government.

(1) Except as provided in subsection (5), a person alleging a violation of this part by a local government officer or local government employee shall notify the county attorney of the county where the local government is located. The county attorney shall request from the complainant or the person who is the subject of the complaint any information necessary to make a determination concerning the validity of the complaint.

(2) If the county attorney determines that the complaint is justified, the county attorney may bring an action in district court seeking a civil fine of not less than \$50 or more than \$1,000. If the county attorney determines that the complaint alleges a criminal violation, the county attorney shall bring criminal charges against the officer or employee.

(3) If the county attorney declines to bring an action under this section, the person alleging a violation of this part may file a civil action in district court seeking a civil fine of not less than \$50 or more than \$1,000. In an action filed under this subsection, the court may assess the costs and attorney fees against the person bringing the charges if the court determines that a violation did not occur or against the officer or employee if the court determines that a violation did occur. The court may impose sanctions if the court determines that the action was frivolous or intended for harassment.

(4) The employing entity of a local government employee may take disciplinary action against an employee for a violation of this part.

(5)(a) A local government may establish a three-member panel to review complaints alleging violations of this part by officers or employees of the local government. The local government shall establish procedures and rules for the panel. The members of the panel may not be officers or employees of the local government. The panel shall review complaints and may refer to the county attorney complaints that appear to be substantiated.

(b) In a local government that establishes a panel under this subsection, a complaint must be referred to the panel prior to making a complaint to the county attorney.

(6) For purposes of this section, "local government" means a county, an incorporated city or town, a consolidated government, or a school district.

NEW SECTION. Section 23. Repealer. Section 2-2-132, MCA, is

repealed.

NEW SECTION. Section 24. Codification instruction.
[Sections 14 through 22] are intended to be codified as an integral part of Title 2, chapter 2, part 1, and the provisions of Title 2, chapter 2, part 1, apply to [sections 14 through 22].

NEW SECTION. Section 25. Code commissioner instruction.
The code commissioner shall renumber section 5-7-213 as an integral part of Title 2, chapter 2, part 1.

NEW SECTION. Section 26. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

NEW SECTION. Section 27. Effective date. [This act] is effective July 1, 1995."

-END-

Amendments to House Bill No. 497
Reference Reading Copy

For the Free Conference Committee

Prepared by Greg Petesch
April 12, 1995

1. Title, line 16.

Following: " ; "

Insert: "APPROPRIATING FUNDS FOR REIMBURSEMENT PAYMENTS AND FOR
ADMINISTRATION OF REIMBURSEMENTS ;"

2. Page 3, line 1.

Following: "RENTED"

Insert: "for more than 5 months"

3. Page 4, line 10.

Following: "PERIOD"

Insert: " , "

4. Page 4, line 11.

Strike: "OR"

Following: "PAID ,"

Insert: "or if a tax appeal renders the claimant ineligible"

5. Page 12, line 28.

Insert: "NEW SECTION. **Section 12. Appropriations.** (1) There is appropriated from the general fund to the department of revenue \$7,500,000 for fiscal year 1996 and \$7,500,000 for fiscal year 1997 for the homeowner's tax payment provided for in [sections 1 through 7]. Any unexpended funds may be carried over to fiscal year 1998.

(2) There is appropriated from the general fund to the department of revenue \$200,000 for fiscal year 1996 and \$165,000 for fiscal year 1997 for administering [sections 1 through 7]. Any unexpended funds from fiscal year 1996 are reappropriated for fiscal year 1997.

(3) There is appropriated from the general fund to the department of revenue \$11,500 for fiscal year 1996 and \$3,000 for fiscal year 1997 for outreach costs associated with the property tax assistance program."

Renumber: subsequent sections

6. Page 12, line 30.

Page 13, line 1.

Strike: "30, PART"

U
SHORT TITLE: Modify Property Tax Assistance
Program Policy & Application Date
SPONSOR: Ry Bohlinger

ORDER OF BUSINESS NO. 6

CONFERENCE COMMITTEE APPOINTMENTS

SENATOR HARP: MR. PRESIDENT, I MOVE THAT PRESIDENT
BROWN APPOINT A Free
CONFERENCE COMMITTEE ON (H) (S) BILL
NO. 497.

PRES. BROWN:

THE PRESIDENT APPOINTS

4-11-85

SPEAKER APPOINTS:

SENATOR Harp, CHAIR;

REP. Hubbard, CHAIR

SENATOR Hargrove;

REP. Orr

SENATOR Stang;

REP. Barnhart

TO THE Free CONFERENCE

COMMITTEE ON (H) (S) BILL NO. 497.

4/12
11:00
4/13

**Impact of Reimbursing Property Taxes Paid on the Incremental Increase
in Assessed Value of Land and Improvements Due to Reappraisal
Increment Level at 15% - Minimum \$25 - Maximum \$1,000**

	# - Total Reimbursement	Average Assessed Value (\$3)	Average Reimbur- sement	Percent of Statewide Total Reimbur- sement	Residential Property	# in County Receiving Reimbursement	% in County Receiving Reimbursement
Beaverhead	114,118	48,436	121	1.5%	0.9%	944	36%
Big Horn	11,308	46,555	67	0.2%	0.5%	170	8%
Blaine	40,773	29,695	106	0.5%	0.4%	385	24%
Broadwater	1,054	36,683	47	0.0%	0.4%	23	2%
Carbon	6,534	57,665	157	0.1%	1.3%	42	3%
Carter	2,621	27,871	77	0.0%	0.1%	34	5%
Cascade	747,574	57,373	180	10.0%	8.4%	4,143	24%
Chouteau	15,048	33,816	97	0.2%	0.6%	155	7%
Custer	127,576	49,346	114	1.7%	0.9%	1,118	34%
Daniels	4,767	31,930	140	0.1%	0.2%	34	3%
Dawson	14,032	40,039	113	0.2%	0.7%	125	4%
Deer Lodge	80,495	35,451	108	1.1%	0.8%	748	24%
Fallon	10,406	41,116	86	0.1%	0.2%	121	12%
Fergus	44,127	34,510	81	0.6%	1.0%	548	13%
Flathead	1,324,624	73,420	179	17.7%	12.3%	7,392	39%
Gallatin	700,796	76,255	182	9.4%	8.4%	3,841	32%
Garfield	2,651	66,625	351	0.0%	0.1%	8	1%
Glacier	35,122	32,400	109	0.5%	0.6%	321	16%
Golden Valley	5,050	84,476	267	0.1%	0.1%	19	5%
Granite	55,586	39,365	140	0.7%	0.4%	397	28%
Hill	117,374	40,973	123	1.6%	1.6%	952	21%
Jefferson	72,141	53,604	116	1.0%	1.0%	623	26%
Judith Basin	3,067	25,948	51	0.0%	0.2%	60	5%
Lake	701,514	87,652	228	9.4%	4.6%	3,082	46%
Lewis And Clark	494,492	58,158	149	6.6%	6.1%	3,312	25%
Liberty	2,916	32,890	64	0.0%	0.3%	45	6%
Lincoln	123,674	45,426	83	1.7%	2.0%	1,496	26%
Madison	103,883	76,327	208	1.4%	1.4%	499	20%
McCone	2,236	25,058	85	0.0%	0.2%	26	3%
Moagher	15,512	23,899	73	0.2%	0.2%	212	25%
Mineral	65,225	39,440	122	0.9%	0.3%	536	43%
Missoula	438,937	74,826	160	5.9%	10.4%	2,746	14%
Musselshell	1,515	19,726	45	0.0%	0.3%	34	2%
Park	89,239	56,387	126	1.2%	1.8%	706	17%
Petroleum	718	27,637	48	0.0%	0.0%	15	6%
Phillips	20,607	37,342	84	0.3%	0.4%	246	13%
Pondera	19,025	39,219	105	0.3%	0.6%	181	10%
Powder River	7,633	55,200	126	0.1%	0.2%	60	8%
Powell	41,464	40,054	86	0.6%	0.6%	483	26%
Prairie	1,296	24,625	57	0.0%	0.1%	23	4%
Ravalli	273,647	55,513	120	3.7%	4.3%	2,281	28%
Richland	85,130	42,495	92	1.1%	0.9%	929	31%
Roosevelt	10,077	27,463	70	0.1%	0.5%	144	6%
Rosebud	3,671	42,593	49	0.0%	0.5%	76	3%
Sanders	66,037	51,201	87	0.9%	1.0%	763	25%
Sheridan	3,958	35,322	52	0.1%	0.4%	76	4%
Silver Bow	558,550	41,159	134	7.5%	3.3%	4,177	44%
Stillwater	36,172	51,805	87	0.5%	1.0%	415	18%
Sweet Grass	4,430	43,644	147	0.1%	0.4%	30	3%
Teton	10,466	38,288	87	0.1%	0.6%	121	5%
Toole	33,740	36,246	109	0.5%	0.5%	310	19%
Treasure	876	12,870	77	0.0%	0.1%	11	4%
Valley	21,506	36,093	89	0.3%	0.8%	242	7%
Wheatland	1,156	18,199	34	0.0%	0.2%	34	4%
Wibaux	385	48,430	34	0.0%	0.1%	11	2%
Yellowstone	709,770	67,769	116	9.5%	14.8%	6,134	22%
	7,486,301	59,932	145	100.0%	100.0%	51,658	23%

STATE OF MONTANA - FISCAL NOTE
Fiscal Note for HB497, 3rd Reading, as Amended

DESCRIPTION OF PROPOSED LEGISLATION:

An act relating to property taxes; providing for a payment to certain taxpayers for property taxes paid; requiring a claim form for a property tax payment to be sent to the taxpayer; increasing the exempt value of residential property and the income eligibility schedule under the property tax assistance program; changing the application date for the program from March 1 to March 15; providing more information in the Department's notice of classification, including information for comparison of mills and taxes for the prior year; increasing the maximum property tax credit for the elderly to \$1,000 from \$400; and providing an immediate effective date, applicability dates, a termination date, and a coordination provision.

ASSUMPTIONS:

Low-Income Abatement Program


1. Under current law, 42,396 households are eligible for this program; of these, 9,695 households participate in the program (23% participation rate) and receive an average benefit of approximately \$222, for a total program cost of \$2,152,290.
2. Under the proposal, 62,621 households would be eligible for this program; of these, 15,655 households would participate in the program (25% participation rate) and receive an average benefit of approximately \$288, for a total program cost of \$4,508,640.
3. Program benefit costs increase \$2,356,350 with this additional cost distributed 1.5% to universities; 23.6% to the school equalization aid account; 20.1% to counties; 41.6% to local schools; and 13.2% to cities and towns.
4. The changes to the low-income abatement program are effective for tax year 1996, and will impact fiscal year 1997 revenues.
5. Printing, mailing and advertising costs associated with the increased number of applicants under this proposal would increase by \$11,500 in FY1996; and by \$2,975 in FY97 and each fiscal year thereafter.


Elderly Homeowner/Renter (2EC) Program

1. Under current law the maximum credit allowed under the 2EC program is \$400; this increases to \$1,000 under this proposal.
2. Increasing the maximum credit does not increase the number of households participating in this program (19,070 claimants in 1993).
3. Current program costs are projected to be \$6,000,000 in FY96 and \$6,500,000 in FY97 (DOR *Tax Expenditure Report*). Increasing the maximum credit from \$400 to \$1,000 increases the average benefit by 11 percent, which increases total program costs to \$6,660,000 in FY96 and \$7,215,000 in FY97. This results in additional costs of \$660,000 in FY96 and \$715,000 in FY97, which reduces individual income tax collections and state general fund revenue by a like amount.

Residential Property Tax Relief

1. The residential property tax relief provisions of this bill apply beginning with tax year 1995, and terminate after tax year 1996 (tax relief is provided for two years).


DAVID LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

 4-8-95
JOHN BOLINGER, PRIMARY SPONSOR DATE
Fiscal Note for HB497, 3rd, As Amended

(continued)

2. In order to be eligible for the relief, homeowners must (a) have occupied an owner-occupied residence(s) in Montana for 7 months of the claim period; (b) be the owner of an owner-occupied residence on January 1 of the claim period that the owner also owned on January 1, 1993; and (c) have experienced an increase in taxable valuation in the owner-occupied residence of more than 15 percent between 1992 and 1993.
3. Homeowners owning more than one home are entitled to claim the payment for any of the properties owned, provided that these properties meet the requirements in assumption 2, but no claimant is entitled to a claim for more than one property.
4. The property tax payment that may be claimed is equal to the amount of market value in 1993 that is in excess of 115% of the market value for the same property in 1992, times the tax rate in effect for the property in 1993, times the mill levy in effect in tax year 1993 on the property. No payment will be made for claims of less than \$25; and no payment will be made in excess of \$1,000.
5. Approximately 51,658 owner-occupied residences will claim the payment; the average payment will be approximately \$145. Payments to all eligible taxpayers will total \$7,500,000 for tax years 1995 and 1996 (FY1996 and FY1997).
6. Payments to eligible homeowners will be reimbursed out of the state general fund.
7. Total cost to administer this program is \$200,000 in FY1996, and \$165,000 in fiscal year 1997.

FISCAL IMPACT:**Expenditures (All Programs):**

	<u>FY96</u>	<u>FY97</u>
	<u>Difference</u>	<u>Difference</u>
Operating Expenses	\$ 211,500	\$167,975

Revenues:***Property Tax Assistance Program:***

	<u>FY96</u>	<u>FY97</u>
	<u>Difference</u>	<u>Difference</u>
Universities	\$ 0	\$ (35,345)
School Equalization Aid	\$ 0	\$ (556,100)

Elderly Homeowner/Renter Credit:

	<u>FY96</u>	<u>FY97</u>
	<u>Difference</u>	<u>Difference</u>
Individual Income Tax (General Fund)	\$ (660,000)	\$ (715,000)

Residential Property Tax Relief

	<u>FY96</u>	<u>FY97</u>
	<u>Difference</u>	<u>Difference</u>
State General Fund	\$ (7,500,000)	\$ (7,500,000)

Combined Impact to State General Fund and School Equalization Aid Account
(Including expenditures)

	<u>FY96</u>	<u>FY97</u>
	<u>Difference</u>	<u>Difference</u>
State General Fund	\$ (8,371,500)	\$ (8,939,075)

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

The proposal reduces revenue in FY97 and each fiscal year thereafter by \$473,626 to county governments; by \$980,242 to local schools; and by \$311,038 to cities and towns.

STATE OF MONTANA - FISCAL NOTE
Fiscal Note for HB497, 3rd Reading, as Amended

DESCRIPTION OF PROPOSED LEGISLATION:

An act relating to property taxes; providing for a payment to certain taxpayers for property taxes paid; requiring a claim form for a property tax payment to be sent to the taxpayer; increasing the exempt value of residential property and the income eligibility schedule under the property tax assistance program; changing the application date for the program from March 1 to March 15; providing more information in the Department's notice of classification, including information for comparison of mills and taxes for the prior year; increasing the maximum property tax credit for the elderly to \$1,000 from \$400; and providing an immediate effective date, applicability dates, a termination date, and a coordination provision.

ASSUMPTIONS:

Low-Income Abatement Program

1. Under current law, 42,396 households are eligible for this program; of these, 9,695 households participate in the program (23% participation rate) and receive an average benefit of approximately \$222, for a total program cost of \$2,152,290.
2. Under the proposal, 62,621 households would be eligible for this program; of these, 15,655 households would participate in the program (25% participation rate) and receive an average benefit of approximately \$288, for a total program cost of \$4,508,640.
3. Program benefit costs increase \$2,356,350 with this additional cost distributed 1.5% to universities; 23.6% to the school equalization aid account; 20.1% to counties; 41.6% to local schools; and 13.2% to cities and towns.
4. The changes to the low-income abatement program are effective for tax year 1996, and will impact fiscal year 1997 revenues.
5. Printing, mailing and advertising costs associated with the increased number of applicants under this proposal would increase by \$11,500 in FY1996; and by \$2,975 in FY97 and each fiscal year thereafter.

Elderly Homeowner/Renter (2EC) Program

1. Under current law the maximum credit allowed under the 2EC program is \$400; this increases to \$1,000 under this proposal.
2. Increasing the maximum credit does not increase the number of households participating in this program (19,070 claimants in 1993).
3. Current program costs are projected to be \$6,000,000 in FY96 and \$6,500,000 in FY97 (DOR *Tax Expenditure Report*). Increasing the maximum credit from \$400 to \$1,000 increases the average benefit by 11 percent, which increases total program costs to \$6,660,000 in FY96 and \$7,215,000 in FY97. This results in additional costs of \$660,000 in FY96 and \$715,000 in FY97, which reduces individual income tax collections and state general fund revenue by a like amount.

Residential Property Tax Relief

1. The residential property tax relief provisions of this bill apply beginning with tax year 1995, and terminate after tax year 1996 (tax relief is provided for two years).

DAVID LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

JOHN BOLINGER, PRIMARY SPONSOR DATE
Fiscal Note for HB497, 3rd, As Amended

(continued)

2. In order to be eligible for the relief, homeowners must (a) have occupied an owner-occupied residence(s) in Montana for 7 months of the claim period; (b) be the owner of an owner-occupied residence on January 1 of the claim period that the owner also owned on January 1, 1993; and (c) have experienced an increase in taxable valuation in the owner-occupied residence of more than 15 percent between 1992 and 1993.
3. Homeowners owning more than one home are entitled to claim the payment for any of the properties owned, provided that these properties meet the requirements in assumption 2, but no claimant is entitled to a claim for more than one property.
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6. Payments to eligible homeowners will be reimbursed out of the state general fund.
7. Total cost to administer this program is \$200,000 in FY1996, and \$165,000 in fiscal year 1997.

FISCAL IMPACT:**Expenditures (All Programs):**

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Residential Property Tax Relief

	<u>FY96</u>	<u>FY97</u>
	<u>Difference</u>	<u>Difference</u>
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Combined Impact to State General Fund and School Equalization Aid Account
(Including expenditures)

	<u>FY96</u>	<u>FY97</u>
	<u>Difference</u>	<u>Difference</u>
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The proposal reduces revenue in FY97 and each fiscal year thereafter by \$473,626 to county governments; by \$980,242 to local schools; and by \$311,038 to cities and towns.

SENATE STANDING COMMITTEE REPORT

Page 1 of 4
April 7, 1995

MR. PRESIDENT:

We, your committee on Taxation having had under consideration HB 497 (third reading copy -- blue), respectfully report that HB 497 be amended as follows and as so amended be concurred in.

Signed: 
Senator Gerry Devlin, Chair

That such amendments read:

1. Title, line 7.

Following: "~~PAYMENT,~~"

Insert: "PROVIDING FOR A PAYMENT TO CERTAIN TAXPAYERS FOR
PROPERTY TAXES PAID; REQUIRING A CLAIM FORM FOR A
PROPERTY TAX PAYMENT TO BE SENT TO THE TAXPAYER;"

2. Title, lines 11 through 13.

Strike: "PROVIDING" on line 11 through "PHASEIN;" on line 13

3. Title, line 16.

Following: "DATES,"

Insert: "A TERMINATION DATE,"

4. Page 1.

Following: line 19

Insert: "NEW SECTION. Section 1. Homeowner's tax payment --
definitions. As used in [sections 1 through 7], the
following definitions apply:


(1) "Claimant" means an individual natural person who is
eligible under [sections 1 through 7] to file a claim.

(2) "Claim period" means the current property tax year that
corresponds to the calendar year in which the property is
assessed and the first property tax payment is due.

(3) "Household" means an association of individuals who
live in the same dwelling and who share its furnishings,
facilities, accommodations, and expenses. The term does not
include bona fide lessees, tenants, or roomers and boarders on
contract.

(4) "Owner-occupied residence" means a single-family
residence, including a trailer or mobile home described in
15-6-134(1)(b), or a condominium unit that is subject to property
taxes and that is owned by a claimant, individually or jointly.
The residence includes all improvements used for residential
purposes and associated outbuildings. A taxpayer with a life
estate is an owner for purposes of [sections 1 through 7].

NEW SECTION. Section 2. Homeowner's tax payment --

 Amd. Coord.
47 Sec. of Senate


Senator Carrying Bill

HB 497

SENATE

eligibility. (1) In order to be eligible to make a claim for payment under [sections 1 through 7], the claimant must:

(a) have occupied an owner-occupied residence in Montana as the owner or contractor for deed for at least 7 months of the claim period;

(b) be the owner on January 1 of the claim period of a owner-occupied residence that the claimant also owned on January 1, 1993;

(c) be the owner of the owner-occupied residence described in subsection (1)(b) that had a market value for the 1993 tax year that was more than 15% greater than the market value on January 1 of the 1992 tax year.

(2) A claimant may own and occupy more than one owner-occupied residence in this state during the year and still meet the occupancy requirement in subsection (1)(a) if the total occupancy is for 7 months or more.

(3) In determining the increase in values required by [section 5] and subsection (1)(c) of this section, new construction and any remodeling or additions to existing improvements may not be considered.

(4) If the claimant meets the requirements of subsection (1) on any one owner-occupied residence, all other owner-occupied residence owned by the claimant that meet the requirements of subsection (1) are eligible for the payment, whether or not the owner-occupied residence was occupied by the owner for the required time. However, a claimant may elect a payment only for a single owner-occupied residence and the payment may not be made for a residence that was leased or rented during the claim period.

NEW SECTION. Section 3. Homeowner's tax payment -- filing date. (1) Except as provided in subsection (2), in order to receive payment, a claim for payment must be completed and must be submitted to the department by December 31 of the claim period or within 30 days of receiving a claim form, whichever is later.

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

(3) If an individual who would have a claim under [sections 1 through 7] dies before filing the claim, the estate of the decedent may file the claim.

NEW SECTION. Section 4. Homeowner's tax payment -- claim form. The department shall mail a claim form to each person owning residential property on January 1 of the claim period if the residential property, exclusive of new construction and remodeling or additions to existing improvements, increased in value by more than 15% from the 1992 tax year to the 1993 tax year. The claim form must be mailed at approximately the same

time as property tax notices required by 15-16-101 are mailed. The claim form must include all information necessary for the owner of the residence to claim the homeowner's tax payment. The claim form may require information necessary for the department to verify the claim.

NEW SECTION. Section 5. Homeowner's tax payment -- amount.

(1) Each claimant meeting the requirements of [sections 1 through 7] shall receive a homeowner's tax payment from the department if the amount of the payment exceeds \$25.

(2) The amount of the payment is determined by multiplying:

(a) the amount of market value of the residence identified in [section 2(1)(b)], including land and improvements, for the 1993 tax year that exceeds 115% of the market value for the 1992 tax year; times

(b) the tax rate that applied to the residence in tax year 1993; times

(c) the mill levy that applied to the residence in tax year 1993.

(3) A payment may not exceed \$1,000.

NEW SECTION. Section 6. Homeowner's tax payment -- limitations. (1) Only one claimant per household is entitled to a payment in a claim period.

(2) A claim is not allowed for an owner-occupied residence that is not subject to property taxes in Montana during the claim period.

NEW SECTION. Section 7. Homeowner's tax payment -- fraudulent claim -- penalty -- interest. If the claimant does not timely pay the property taxes for the claim period or if a false or fraudulent claim has been paid, the claimant shall return any payment. The amount paid may be recovered as any other debt owed the state. An additional 10% may be added to the amount due as a penalty. The unpaid debt, excluding penalty, bears interest, at the rate of 3/4% a month or fraction of a month, from the date of the original payment of the claim until paid."

Renumber: subsequent sections

5. Page 4, line 3.

Strike: "10"

Insert: "7"

6. Page 8, lines 20 through 26.

Strike: section 4 in its entirety

Renumber: subsequent sections

7. Page 9, line 29.

Strike: "[THIS ACT] REDUCES"

Insert: "[sections 8 through 11] reduce"

Strike: "IT IS"

Insert: "[sections 8 through 11] are"

8. Page 9.

Following: line 30

Insert: "NEW SECTION. Section 13. Codification instruction.

[Sections 1 through 7] are intended to be codified as an
integral part of Title 15, chapter 30, part 1, and the
provisions of Title 15, chapter 30, part 1, apply to
[sections 1 through 7]."

Renumber: subsequent section

9. Page 10, line 5.

Strike: "[SECTION 5] APPLIES"

Insert: "[Sections 1 through 7 and 11] apply"

10. Page 10, line 7.

Insert: "NEW SECTION. Section 15. Termination. [Sections 1
through 7] terminate December 31, 1996."

-END-

SENATE COMMITTEE OF THE WHOLE AMENDMENT

April 8, 1995 11:29 am

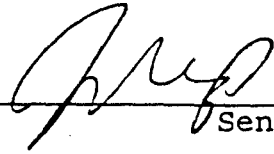
Mr. Chairman: I move to amend HB 497 (third reading copy -- blue).

ADOPT

37-11

REJECT

Signed: _____



Senator Harp

That such amendments read:

1. Title, line 16.

Following: "DATE"

Strike: "1"

Insert: "AND"

2. Title, lines 16 and 17

Strike: ", AND A COORDINATION PROVISION"

3. Page 9, lines 28 through 30.

Strike: section 6 in its entirety

Renumber: subsequent section

-END-



Amd. Coord.

HB 497

SENATE

811129CW.SPV

HOUSE BILL NO. 497

INTRODUCED BY BOHLINGER, SOMERVILLE, MURDOCK, RANEY, RYAN, WENNEMAR, T. NELSON,
ROSE, WELLS, ELLIOTT, FUCHS, SWANSON

A BILL FOR AN ACT ENTITLED: "AN ACT RELATING TO PROPERTY TAXES; ~~PROVIDING THAT THE~~
~~PAYMENT OF AN INCREASE IN PROPERTY TAXES ON RESIDENTIAL PROPERTY IS DEFERRED UNTIL THE~~
~~MAY PAYMENT; PROVIDING FOR A PAYMENT TO CERTAIN TAXPAYERS FOR PROPERTY TAXES PAID;~~
~~REQUIRING A CLAIM FORM FOR A PROPERTY TAX PAYMENT TO BE SENT TO THE TAXPAYER;~~
INCREASING THE EXEMPT VALUE OF RESIDENTIAL PROPERTY AND THE INCOME ELIGIBILITY SCHEDULE
UNDER THE ~~LOW INCOME~~ PROPERTY TAX ASSISTANCE PROGRAM; CHANGING THE APPLICATION
DATE FOR THE PROGRAM FROM MARCH 1 TO ~~APRIL~~ MARCH 15; PROVIDING MORE INFORMATION IN
THE DEPARTMENT'S NOTICE OF CLASSIFICATION, INCLUDING INFORMATION FOR COMPARISON OF
MILLS AND TAXES FOR THE PRIOR YEAR; PROVIDING FOR THE PHASE IN OF CHANGES IN THE VALUE
OF CLASS FOUR PROPERTY BECAUSE OF PERIODIC REVALUATION; ALLOWING A DECREASE IN
MARKET VALUE TO BE EFFECTIVE WITHOUT A PHASE IN; INCREASING THE MAXIMUM PROPERTY TAX
CREDIT FOR THE ELDERLY TO \$1,000 FROM \$400; ~~AND~~ AMENDING SECTIONS 15-6-134, 15-6-151,
~~15-16-101, 15-16-102~~ 15-7-102, AND 15-30-176, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE
DATE, APPLICABILITY DATES, AND A TERMINATION DATE, AND A COORDINATION PROVISION."

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

NEW SECTION. SECTION 1. HOMEOWNER'S TAX PAYMENT -- DEFINITIONS. AS USED IN
[SECTIONS 1 THROUGH 7], THE FOLLOWING DEFINITIONS APPLY:

(1) "CLAIMANT" MEANS AN INDIVIDUAL NATURAL PERSON WHO IS ELIGIBLE UNDER
[SECTIONS 1 THROUGH 7] TO FILE A CLAIM.

(2) "CLAIM PERIOD" MEANS THE CURRENT PROPERTY TAX YEAR THAT CORRESPONDS TO THE
CALENDAR YEAR IN WHICH THE PROPERTY IS ASSESSED AND THE FIRST PROPERTY TAX PAYMENT
IS DUE.

(3) "HOUSEHOLD" MEANS AN ASSOCIATION OF INDIVIDUALS WHO LIVE IN THE SAME
DWELLING AND WHO SHARE ITS FURNISHINGS, FACILITIES, ACCOMMODATIONS, AND EXPENSES.

1 THE TERM DOES NOT INCLUDE BONA FIDE LESSEES, TENANTS, OR ROOMERS AND BOARDERS ON
2 CONTRACT.

3 (4) "OWNER-OCCUPIED RESIDENCE" MEANS A SINGLE-FAMILY RESIDENCE, INCLUDING A
4 TRAILER OR MOBILE HOME DESCRIBED IN 15-6-134(1)(B), OR A CONDOMINIUM UNIT THAT IS SUBJECT
5 TO PROPERTY TAXES AND THAT IS OWNED BY A CLAIMANT, INDIVIDUALLY OR JOINTLY. THE
6 RESIDENCE INCLUDES ALL IMPROVEMENTS USED FOR RESIDENTIAL PURPOSES AND ASSOCIATED
7 OUTBUILDINGS. A TAXPAYER WITH A LIFE ESTATE IS AN OWNER FOR PURPOSES OF [SECTIONS 1
8 THROUGH 7].

9
10 NEW SECTION. SECTION 2. HOMEOWNER'S TAX PAYMENT -- ELIGIBILITY. (1) IN ORDER TO
11 BE ELIGIBLE TO MAKE A CLAIM FOR PAYMENT UNDER [SECTIONS 1 THROUGH 7], THE
12 CLAIMANT MUST:

13 (A) HAVE OCCUPIED AN OWNER-OCCUPIED RESIDENCE IN MONTANA AS THE OWNER OR
14 CONTRACTOR FOR DEED FOR AT LEAST 7 MONTHS OF THE CLAIM PERIOD;

15 (B) BE THE OWNER ON JANUARY 1 OF THE CLAIM PERIOD OF AN OWNER-OCCUPIED
16 RESIDENCE THAT THE CLAIMANT ALSO OWNED ON JANUARY 1, 1993;

17 (C) BE THE OWNER OF THE OWNER-OCCUPIED RESIDENCE DESCRIBED IN SUBSECTION (1)(B)
18 THAT HAD A MARKET VALUE FOR THE 1993 TAX YEAR THAT WAS MORE THAN 15% GREATER THAN
19 THE MARKET VALUE ON JANUARY 1 OF THE 1992 TAX YEAR.

20 (2) A CLAIMANT MAY OWN AND OCCUPY MORE THAN ONE OWNER-OCCUPIED RESIDENCE
21 IN THIS STATE DURING THE YEAR AND STILL MEET THE OCCUPANCY REQUIREMENT IN SUBSECTION
22 (1)(A) IF THE TOTAL OCCUPANCY IS FOR 7 MONTHS OR MORE.

23 (3) IN DETERMINING THE INCREASE IN VALUES REQUIRED BY [SECTION 5] AND SUBSECTION
24 (1)(C) OF THIS SECTION, NEW CONSTRUCTION AND ANY REMODELING OR ADDITIONS TO EXISTING
25 IMPROVEMENTS MAY NOT BE CONSIDERED.

26 (4) IF THE CLAIMANT MEETS THE REQUIREMENTS OF SUBSECTION (1) ON ANY ONE
27 OWNER-OCCUPIED RESIDENCE, ALL OTHER OWNER-OCCUPIED RESIDENCES OWNED BY THE CLAIMANT
28 THAT MEET THE REQUIREMENTS OF SUBSECTION (1) ARE ELIGIBLE FOR THE PAYMENT, WHETHER OR
29 NOT THE OWNER-OCCUPIED RESIDENCE WAS OCCUPIED BY THE OWNER FOR THE REQUIRED TIME.
30 HOWEVER, A CLAIMANT MAY ELECT A PAYMENT ONLY FOR A SINGLE OWNER-OCCUPIED RESIDENCE

1 AND THE PAYMENT MAY NOT BE MADE FOR A RESIDENCE THAT WAS LEASED OR RENTED DURING
2 THE CLAIM PERIOD.

3
4 NEW SECTION. SECTION 3. HOMEOWNER'S TAX PAYMENT -- FILING DATE. (1) EXCEPT AS
5 PROVIDED IN SUBSECTION (2), IN ORDER TO RECEIVE PAYMENT, A CLAIM FOR PAYMENT MUST BE
6 COMPLETED AND MUST BE SUBMITTED TO THE DEPARTMENT BY DECEMBER 31 OF THE CLAIM PERIOD
7 OR WITHIN 30 DAYS OF RECEIVING A CLAIM FORM, WHICHEVER IS LATER.

8 (2) THE DEPARTMENT MAY GRANT A REASONABLE EXTENSION OF TIME FOR FILING A CLAIM
9 WHENEVER, IN ITS JUDGMENT, GOOD CAUSE EXISTS.

10 (3) IF AN INDIVIDUAL WHO WOULD HAVE A CLAIM UNDER [SECTIONS 1 THROUGH 7] DIES
11 BEFORE FILING THE CLAIM, THE ESTATE OF THE DECEDENT MAY FILE THE CLAIM.

12
13 NEW SECTION. SECTION 4. HOMEOWNER'S TAX PAYMENT -- CLAIM FORM. THE
14 DEPARTMENT SHALL MAIL A CLAIM FORM TO EACH PERSON OWNING RESIDENTIAL PROPERTY ON
15 JANUARY 1 OF THE CLAIM PERIOD IF THE RESIDENTIAL PROPERTY, EXCLUSIVE OF NEW
16 CONSTRUCTION AND REMODELING OR ADDITIONS TO EXISTING IMPROVEMENTS, INCREASED IN
17 VALUE BY MORE THAN 15% FROM THE 1992 TAX YEAR TO THE 1993 TAX YEAR. THE CLAIM FORM
18 MUST BE MAILED AT APPROXIMATELY THE SAME TIME AS PROPERTY TAX NOTICES REQUIRED BY
19 15-16-101 ARE MAILED. THE CLAIM FORM MUST INCLUDE ALL INFORMATION NECESSARY FOR THE
20 OWNER OF THE RESIDENCE TO CLAIM THE HOMEOWNER'S TAX PAYMENT. THE CLAIM FORM MAY
21 REQUIRE INFORMATION NECESSARY FOR THE DEPARTMENT TO VERIFY THE CLAIM.

22
23 NEW SECTION. SECTION 5. HOMEOWNER'S TAX PAYMENT -- AMOUNT. (1) EACH CLAIMANT
24 MEETING THE REQUIREMENTS OF [SECTIONS 1 THROUGH 7] SHALL RECEIVE A HOMEOWNER'S TAX
25 PAYMENT FROM THE DEPARTMENT IF THE AMOUNT OF THE PAYMENT EXCEEDS \$25.

26 (2) THE AMOUNT OF THE PAYMENT IS DETERMINED BY MULTIPLYING:

27 (A) THE AMOUNT OF MARKET VALUE OF THE RESIDENCE IDENTIFIED IN [SECTION 2(1)(B)],
28 INCLUDING LAND AND IMPROVEMENTS, FOR THE 1993 TAX YEAR THAT EXCEEDS 115% OF THE
29 MARKET VALUE FOR THE 1992 TAX YEAR; TIMES

30 (B) THE TAX RATE THAT APPLIED TO THE RESIDENCE IN TAX YEAR 1993; TIMES

1 (C) THE MILL LEVY THAT APPLIED TO THE RESIDENCE IN TAX YEAR 1993.

2 (3) A PAYMENT MAY NOT EXCEED \$1,000.

3
4 NEW SECTION. SECTION 6. HOMEOWNER'S TAX PAYMENT -- LIMITATIONS. (1) ONLY ONE
5 CLAIMANT PER HOUSEHOLD IS ENTITLED TO A PAYMENT IN A CLAIM PERIOD.

6 (2) A CLAIM IS NOT ALLOWED FOR AN OWNER-OCCUPIED RESIDENCE THAT IS NOT SUBJECT
7 TO PROPERTY TAXES IN MONTANA DURING THE CLAIM PERIOD.

8
9 NEW SECTION. SECTION 7. HOMEOWNER'S TAX PAYMENT -- FRAUDULENT CLAIM -- PENALTY
10 -- INTEREST. IF THE CLAIMANT DOES NOT TIMELY PAY THE PROPERTY TAXES FOR THE CLAIM PERIOD
11 OR IF A FALSE OR FRAUDULENT CLAIM HAS BEEN PAID, THE CLAIMANT SHALL RETURN ANY
12 PAYMENT. THE AMOUNT PAID MAY BE RECOVERED AS ANY OTHER DEBT OWED THE STATE. AN
13 ADDITIONAL 10% MAY BE ADDED TO THE AMOUNT DUE AS A PENALTY. THE UNPAID DEBT,
14 EXCLUDING PENALTY, BEARS INTEREST, AT THE RATE OF 3/4% A MONTH OR FRACTION OF A MONTH,
15 FROM THE DATE OF THE ORIGINAL PAYMENT OF THE CLAIM UNTIL PAID.

16
17 ~~Section 1. Section 15-16-101, MCA, is amended to read:~~

18 ~~"15-16-101. Treasurer to publish notice manner of publication. (1) Within 10 days after the~~
19 ~~receipt of the property tax record, the county treasurer shall publish a notice specifying:~~

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

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

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

30 ~~(2) The county treasurer shall send to the last known address of each taxpayer a written notice,~~

1 ~~postage prepaid, showing the amount of taxes and assessments due for the current year and the amount~~
2 ~~due and delinquent for other years. The written notice must include:~~

3 ~~(a) the taxable value of the property;~~

4 ~~(b) the total mill levy applied to that taxable value;~~

5 ~~(c) the value of each mill in that county;~~

6 ~~(d) itemized city services and special improvement district assessments collected by the county,~~

7 ~~with appropriate subtotals;~~

8 ~~(e) the number of the school district in which the property is located; and~~

9 ~~(f) the amount of the total tax due that is levied as city tax, county tax, state tax, school district~~
10 ~~tax, and other tax.~~

11 ~~(3) The municipality shall, upon request of the county treasurer, provide the information to be~~
12 ~~included under subsection (2)(d) in a form ready for mailing.~~

13 ~~(4) The notice in every each case must be published once a week for 2 weeks in a weekly or daily~~
14 ~~newspaper published in the county, if there is one a newspaper, or, if there is not, then by posting it the~~
15 ~~notice in three public places. Failure to publish or post notices does not relieve the taxpayer from any tax~~
16 ~~liability. Any failure to give notice of the tax due for the current year or of delinquent tax will not affect~~
17 ~~the legality of the tax."~~

18
19 ~~Section 2. Section 15-16-102, MCA, is amended to read:~~

20 ~~"15-16-102. Time for payment — penalty for delinquency. Except as provided in 15-16-802 and~~
21 ~~15-16-803 and unless suspended or canceled under the provisions of Title 15, chapter 24, part 17, all taxes~~
22 ~~levied and assessed in the state of Montana, except assessments made for special improvements in cities~~
23 ~~and towns payable under 15-16-103 and assessments made on interim production and new production as~~
24 ~~provided in Title 15, chapter 23, part 6, and payable under 15-16-121, shall be are payable as follows:~~

25 ~~(1) (a) One half The first installment of the taxes are is payable on or before 5 p.m. on November~~
26 ~~30 of each year or within 30 days after the tax notice is postmarked, whichever is later, and one half the~~
27 ~~second installment is payable on or before 5 p.m. on May 31 of each year.~~

28 ~~(b) If the property is residential property, the first installment of taxes is an amount equal to~~
29 ~~one half of the taxes due on the property the prior tax year and the second installment is the balance of~~
30 ~~the taxes due. If the property is not residential property or if it is residential property but its description~~

1 ~~or character has changed because of subdivision, consolidation, construction, or similar factors, the first~~
2 ~~installment of taxes is one half of the taxes due.~~

3 ~~(2) Unless one half the first installment of the taxes are is paid on or before 5 p.m. on November~~
4 ~~30 of each year or within 30 days after the tax notice is postmarked, whichever is later, then the amount~~
5 ~~so payable shall become is delinquent and shall draw draws interest at the rate of 5/6 of 1% per month~~
6 ~~from and after the delinquency until paid and 2% shall must be added to the delinquent taxes as a penalty.~~

7 ~~(3) All taxes due and not paid on or before 5 p.m. on May 31 of each year shall be are delinquent~~
8 ~~and shall draw interest at the rate of 5/6 of 1% per month from and after the delinquency until paid, and~~
9 ~~2% shall must be added to the delinquent taxes as a penalty.~~

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

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

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

20
21 **Section 8. Section 15-6-134, MCA, is amended to read:**

22 **"15-6-134. Class four property -- description -- taxable percentage. (1) Class four property**
23 **includes:**

24 (a) all land, except that specifically included in another class;

25 (b) all improvements, including trailers or mobile homes used as a residence, except those
26 specifically included in another class;

27 (c) the first ~~\$80,000~~ \$100,000 or less of the market value of any improvement on real property,
28 including trailers or mobile homes, and appurtenant land not exceeding 5 acres owned or under contract
29 for deed and actually occupied for at least ~~10~~ 7 months a year as the primary residential dwelling of any
30 person whose total income from all sources, including net business income and otherwise tax-exempt

income of all types but not including social security income paid directly to a nursing home, is not more than ~~\$10,000~~ \$15,000 for a single person or ~~\$12,000~~ \$20,000 for a married couple or a head of household, as adjusted according to subsection (2)(b)(ii). For the purposes of this subsection (c), net business income is gross income less ordinary operating expenses but before deducting depreciation or depletion allowance, or both.

(d) all golf courses, including land and improvements actually and necessarily used for that purpose, that consist of at least 9 ~~nine~~ holes and not less than 3,000 lineal yards; and

(e) all improvements on land that is eligible for valuation, assessment, and taxation as agricultural land under 15-7-202(2), including 1 acre of real property beneath the agricultural improvements. The 1 acre must be valued at market value.

(2) Class four property is taxed as follows:

(a) Except as provided in 15-24-1402 or 15-24-1501, property described in subsections (1)(a), (1)(b), and (1)(e) is taxed at 3.86% of its market value.

(b) (i) Property described QUALIFYING UNDER THE PROPERTY TAX ASSISTANCE PROGRAM in subsection (1)(c) is taxed at 3.86% of its market value multiplied by a percentage figure based on income and determined from the following table:

Income	Income	Percentage
Single Person	Married Couple	Multiplier
	Head of Household	
\$ 0 - \$ 1,000	\$ 0 - \$ 1,200	0% <u>20%</u>
\$ 0 - \$ 1,500	\$ 0 - \$ 2,000	
\$ 6,000	\$ 8,000	
1,001 - 2,000	1,201 - 2,400	10% <u>50%</u>
1,501 - 3,000	2,001 - 4,000	
6,001 - 9,200	8,001 - 14,000	
2,001 - 3,000	2,401 - 3,600	20% <u>70%</u>
3,001 - 4,500	4,001 - 6,000	
9,201 - 15,000	14,001 - 20,000	
3,001 - 4,000	3,601 - 4,800	30%
4,501 - 6,000	6,001 - 8,000	

1	4,001 — 5,000	4,801 — 6,000	40%
2	6,001 — 7,500	8,001 — 10,000	
3	5,001 — 6,000	6,001 — 7,200	50%
4	7,501 — 9,000	10,001 — 12,000	
5	6,001 — 7,000	7,201 — 8,400	60%
6	9,001 — 10,500	12,001 — 14,000	
7	7,001 — 8,000	8,401 — 9,600	70%
8	10,501 — 12,000	14,001 — 16,000	
9	8,001 — 9,000	9,601 — 10,800	80%
10	12,001 — 13,500	16,001 — 18,000	
11	9,001 — 10,000	10,801 — 12,000	90%
12	13,501 — 15,000	18,001 — 20,000	

(ii) The income levels contained in the table in subsection (2)(b)(i) must be adjusted for inflation annually by the department of revenue. 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 ~~1986~~ 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) Property described in subsection (1)(d) is taxed at one-half the taxable percentage rate established in subsection (2)(a).

~~(3) After July 1, 1986, an adjustment may not be made by the department to the taxable percentage rate for class four property until a revaluation has been made as provided in 15-7-111.~~

~~(4)~~ 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."

1 **Section 9.** Section 15-6-151, MCA, is amended to read:

2 **"15-6-151. Application for certain class four classifications.** (1) A person applying for
3 classification of property UNDER THE PROPERTY TAX ASSISTANCE PROGRAM described in ~~subsection~~
4 ~~(1)(e) of 15-6-134 (1)(c)~~ shall make an affidavit to the department of revenue, on a form provided by the
5 department without cost, stating:

6 (a) ~~his~~ the person's income;

7 (b) the fact that ~~he~~ the person maintains the land and improvements as ~~his~~ the person's primary
8 residential dwelling, ~~where~~ when applicable; and

9 (c) ~~such~~ other information ~~as~~ that is relevant to the applicant's eligibility.

10 (2) This application must be made before ~~March 1 April~~ MARCH 15 of the year after the applicant
11 becomes eligible. The application remains in effect in subsequent years unless there is a change in the
12 applicant's eligibility. The taxpayer shall inform the department of any change in eligibility. The department
13 may inquire by mail whether any change in eligibility has taken place and may require a new statement of
14 eligibility at any time that it considers necessary.

15 (3) The affidavit is sufficient if the applicant signs a statement affirming the correctness of the
16 information supplied, whether or not the statement is signed before a person authorized to administer oaths,
17 and mails the application and statement to the department ~~of revenue~~. This signed statement ~~shall~~ must
18 be treated as a statement under oath or equivalent affirmation for the purposes of 45-7-202, relating to the
19 criminal offense of false swearing."
20

21 **SECTION 10. SECTION 15-7-102, MCA, IS AMENDED TO READ:**

22 **"15-7-102. Notice of classification and appraisal to owners -- appeals.** (1) (a) The department
23 shall mail to each owner or purchaser under contract for deed a notice of the classification of the land
24 owned or being purchased and the appraisal of the improvements on the land only if one or more of the
25 following changes pertaining to the land or improvements have been made since the last notice:

26 ~~(a)(i)~~ (i) change in ownership;

27 ~~(b)(ii)~~ (ii) change in classification;

28 ~~(c)(iii)~~ (iii) change in valuation; or

29 ~~(d)(iv)~~ (iv) addition or subtraction of personal property affixed to the land.

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

1 (i) the total amount of mills levied against the property in the prior year;

2 (ii) the amount of the prior year's taxes resulting from levied mills;

3 (iii) an estimate of the current year's taxes based on the prior year's mills; and

4 (iv) a statement that the notice is not a tax bill.

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

7 (2) (a) The department shall assign each assessment to the correct owner or purchaser under
8 contract for deed and mail the notice of classification and appraisal on a standardized form, adopted by the
9 department, containing sufficient information in a comprehensible manner designed to fully inform the
10 taxpayer as to the classification and appraisal of the property and of changes over the prior tax year.

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

14 (3) If the owner of any land and improvements is dissatisfied with the appraisal as it reflects the
15 market value of the property as determined by the department or with the classification of the land or
16 improvements, the owner may request an assessment review by submitting an objection in writing to the
17 department, on forms provided by the department for that purpose, within 15 days after receiving the
18 notice of classification and appraisal from the department. The review must be conducted informally and
19 is not subject to the contested case procedures of the Montana Administrative Procedure Act. As a part
20 of the review, the department may consider the actual selling price of the property, independent appraisals
21 of the property, and other relevant information presented by the taxpayer in support of the taxpayer's
22 opinion as to the market value of the property. The department shall give reasonable notice to the taxpayer
23 of the time and place of the review. After the review, the department shall determine the ~~true and~~ correct
24 appraisal and classification of the land or improvements and notify the taxpayer of its determination. In
25 the notification, the department shall state its reasons for revising the classification or appraisal. When the
26 proper appraisal and classification have been determined, the land must be classified and the improvements
27 appraised in the manner ordered by the department.

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

30 (a) the taxpayer has submitted an objection in writing; and

(b) the department has stated its reason in writing for making the adjustment.

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

(6) If any property owner feels aggrieved by the classification or appraisal made by the department after the review provided for in subsection (3), the property owner has the right to first appeal to the county tax appeal board and then to the state tax appeal board, whose findings are final subject to the right of review in the courts. The appeal to the county tax appeal board must be filed within 15 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."

~~NEW SECTION. SECTION 4. PHASE IN OF REVALUATION OF LAND. (1) AN INCREASE IN THE APPRAISED VALUE OF CLASS FOUR PROPERTY RESULTING FROM A REVALUATION CYCLE UNDER 15-7-111 MUST BE PHASED IN. EACH YEAR FOLLOWING A REVALUATION CYCLE, THE VALUE OF THE PROPERTY MUST BE INCREASED ANNUALLY BY ONE THIRD OF THE DIFFERENCE BETWEEN THE PHASED IN VALUE FROM THE PREVIOUS APPRAISED VALUE AND THE NEW APPRAISED VALUE.~~

~~(2) IF THE APPRAISED VALUE OF PROPERTY DECREASES BECAUSE OF A REVALUATION CYCLE, THE DECREASED VALUE IS THE ASSESSED VALUE AND IS NOT PHASED IN.~~

Section 11. Section 15-30-176, MCA, is amended to read:

"15-30-176. Residential property tax credit for elderly -- computation of relief. The amount of the tax credit granted under the provisions of 15-30-171 through 15-30-179 is computed as follows:

(1) In the case of a claimant who owns the homestead for which a claim is made, the credit is the amount of property tax paid less the deduction specified in subsection (4).

(2) In the case of a claimant who rents the homestead for which a claim is made, the credit is the amount of rent-equivalent tax paid less the deduction specified in subsection (4).

(3) In the case of a claimant who both owns and rents the homestead for which a claim is made, the credit is:

(a) the amount of property tax paid on the owned portion of the homestead less the deduction specified in subsection (4); plus

(b) the amount of rent-equivalent tax paid on the rented portion of the homestead less the deduction specified in subsection (4).

(4) Property tax paid and rent-equivalent tax paid are reduced according to the following schedule:

Household income	Amount of reduction
\$ 0-999	\$0
1,000-1,999	\$0
2,000-2,999	the product of .006 times the household income
3,000-3,999	the product of .016 times the household income
4,000-4,999	the product of .024 times the household income
5,000-5,999	the product of .028 times the household income
6,000-6,999	the product of .032 times the household income
7,000-7,999	the product of .035 times the household income
8,000-8,999	the product of .039 times the household income
9,000-9,999	the product of .042 times the household income
10,000-10,999	the product of .045 times the household income
11,000-11,999	the product of .048 times the household income
12,000 & over	the product of .050 times the household income

(5) In no case may the credit granted exceed ~~\$400~~ \$1,000."

~~NEW SECTION. SECTION 6. COORDINATION. IN ORDER TO MAINTAIN A BALANCED BUDGET, BECAUSE [THIS ACT] REDUCES [SECTIONS 8 THROUGH 11] REDUCE REVENUE, IT IS [SECTIONS 8 THROUGH 11] ARE VOID UNLESS HOUSE BILL NO. 293 IS PASSED AND APPROVED CONTAINING AN ESTIMATED REVENUE INCREASE OF AT LEAST \$2,200,000.~~

~~NEW SECTION. SECTION 12. CODIFICATION INSTRUCTION. [SECTIONS 1 THROUGH 7] ARE INTENDED TO BE CODIFIED AS AN INTEGRAL PART OF TITLE 15, CHAPTER 30, PART 1, AND THE~~

1 PROVISIONS OF TITLE 15, CHAPTER 30, PART 1, APPLY TO [SECTIONS 1 THROUGH 7].

2
3 NEW SECTION. SECTION 13. EFFECTIVE DATE -- APPLICABILITY. (1) [THIS ACT] IS EFFECTIVE
4 ON PASSAGE AND APPROVAL.

5 (2) (A) EXCEPT AS PROVIDED IN SUBSECTION (2)(B), [THIS ACT] APPLIES TO TAX YEARS
6 BEGINNING AFTER DECEMBER 31, 1995.

7 (B) ~~[SECTION 5] APPLIES~~ [SECTIONS 1 THROUGH 7 AND 11] APPLY RETROACTIVELY, WITHIN
8 THE MEANING OF 1-2-109, TO TAX YEARS BEGINNING AFTER DECEMBER 31, 1994.

9
10 NEW SECTION. SECTION 14. TERMINATION. [SECTIONS 1 THROUGH 7] TERMINATE
11 DECEMBER 31, 1996.

12 -END-