CHAPTER NO. 698

## HOUSE BILL NO. 925

## INTRODUCED BY LEADERSHIP OF THE HOUSE AND SENATE

## IN THE HOUSE

April 18, 1979

April 19, 1979

On motion, rules suspended. Bill allowed to be introduced with Intent Statement.

On motion rules suspended and bill placed on second reading this day.

Second reading, do pass.

Third reading, passed. Engrossed before transmittal. Transmitted to second house.

### IN THE SENATE

April 19, 1979

Introduced and referred to Committee on Taxation.

Committee recommend bill be concurred in. Report adopted.

Second reading, concurred in.

On motion rules suspended. Bill placed on Calendar for third reading this day.

Third reading, concurred in.

## IN THE HOUSE

April 20, 1979

Returned from second house. Concurred in. Sent to enrolling.

Reported correctly enrolled.

# STATEMENT OF INTENT RE: HOUSE BILL NO. 925

A statement of intent is required for this bill because it grants rulemaking authority to the Department of Revenue.

Section 4 of the bill provides that the department shall establish a cut-off date for submission of applications for property tax relief.

This authority is granted because it is impossible at this time to determine the date that the various county treasurers will be able to mail assessment notices to property owners.

The department will be able to determine when the notices will be mailed, and is therefore in a position to establish a reasonable cut-off date for applications.

The legislature intends the department to pick a date that allows a reasonable period for application after the property assessment notices are mailed. LC 2017/01

House BILL NO. 925 INTRODUCED BY Leadership of the House and Senate 1 2 3

A BILL FOR AN ACT ENTITLED: MAN ACT TO ENACT THE MONTANA 4 PROPERTY AND INCOME TAX RELIEF ACT; PROVIDING FOR A DIRECT. 5 PROPERTY TAX RELIEF PAYMENT TO A PERSON SUBJECT TO PROPERTY - 6 7 TAX ON HIS PRINCIPAL RESIDENCE FOR THE CALENDAR YEARS 1979 AND 1980; INCREASING THE INDIVIDUAL INCOME TAX DEDUCTION FOR 8 9 EXEMPTIONS, THE STANDARD DEDUCTION, AND THE MINIMUM FILING 10 REDUIREMENT: PROVIDING A MECHANISM FOR INCREASING THE EXEMPTION DEDUCTION FOR TAXABLE YEARS BEGINNING AFTER 11 DECEMBER 31, 1978, AND BEFORE JANUARY 1, 1981; AMENDING 12 13 SECTIONS 15-30-112, 15-30-114, 15-30-122, AND 15-30-142, MCA." 14

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

NEW SECTION. Section 1. Short title. [This act] may 17 be cited as the "Montana Property and Income Tax Relief 18 Act". 19

NEW SECTION. Section 2. Definitions. As used in 20 21 [sections 2 through 6], the following definitions apply:

22 (1) "Applicant" means a person applying for property tax relief on his principal residence. 23

24 (2) "Department" means the department of revenue.

25 (3) "Principal residence" means a dwelling, including

a mubile home as defined in 15-24-201, and accurtenant land 1 2 occupied by an applicant for at least 10 months during the year immediately preceding the date of application. ٦ (4) "Property tax" means any tax levied against the 4 value of property except special assessments. 5 6 NEW\_SECTION. Section 3. Property tax relief on 7 principal residence. A person to whom property taxes are 8 assessed on his principal residence for the calendar years 9 1979 and 1980 is entitled to a direct payment from the 10 department in the amount provided for in [section 5] as 11 property tax relief. 12 NEW\_SECTION. Section 4. Application for property tax relief. (1) A person may apply for property tax relief on 13 14 his principal residence each year. 15 (2) Each application must be made on forms prescribed 16 by the department. Each form must require the applicant to 17 include: 18 (a) his name, address, and social security number; 19 (b) the address of his principal residence; 20 (c) the length of time he has resided at that address; 21 (d) the amount of property tax due on the residence 22 for the current year; and 23 (e) any other information required by the department. 24' (3) Each application must also contain the certification of the county assessor of the county in which 25

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the applicant's principal residence is located certifying
 that the applicant is the person to whom the property tax on
 the residence is assessed.

4 (4) The department shall establish by rule a final
5 date for submission of applications for property tax relief.
6 The rule must assure a reasonable opportunity for eligible
7 persons to apply.

8 <u>NEW SECTION</u> Section 5. Amount of property tax relief 9 allowed for a principal residence. (1) Except as provided in 10 subsection (2), each applicant eligible for relief under 11 [section 3] is entitled to receive the lesser of:

12 (a) the amount of property tax due on his principal13 residence for the current year; or

(b) \$65.

14

15 (2) If the amount appropriated for a fiscal year is 16 insufficient to provide relief for all eligible applicants 17 in the amounts specified in subsection (1), the department 18 shall determine the amount of relief each eligible applicant 19 is entitled to receive based upon the funds appropriated and 20 the number of eligible applicants.

21 <u>NEW SECTION</u> Section 6. Duties of the department. (1)
22 The department shall:

(a) determine the eligibility of each applicant; and
(b) compute the amount of relief to which the
applicant is entitled.

(2) After December 1 of each year, the department 1 2 shall cause a warrant to be issued to each eligible applicant for the amount of relief to which he is entitled. 3 NEW\_SECTION. Section 7. Appropriation. There is 4 appropriated \$10 million in fiscal year 1980 and \$10 million 5 in fiscal year 1981 to the department of revenue from the ٨ 7 general fund for property tax relief payments and administrative costs associated with the property tax relief 8 9 program.

Section 8. Section 15-30-112, MCA, is amended to read:
 "15-30-112. Exemptions. (1) In Except as provided in
 <u>subsection (7). in</u> the case of an individual, the exemptions
 provided by this-section subsections. (2) through (6) shall
 be allowed as deductions in computing taxable income.

(2) (a) An exemption of \$650 \$800 shall be allowed for
taxable years beginning after December 31, 1973 1978, for
the taxpayer.

(b) An additional exemption of 4650 \$800 shall be
allowed for taxable years beginning after December 31: 1973
1978, for the spouse of the taxpayer if a separate return is
made by the taxpayer and if the spouse, for the calendar
year in which the taxable year of the taxpayer begins; has
no gross income and is not the dependent of another
taxpayer.

25 (3) (a) An additional exemption of \$650 \$800 shall be

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allowed for taxable years beginning after December 31, ±973
 <u>1978</u>, for the taxpayer if he has attained the age of 65
 before the close of his taxable year.

(b) An additional exemption of \$650 \$800 shall be 4 5 allowed for taxable years beginning after December 31, 1973 1978, for the spouse of the taxpayer if a separate return is 6 7 made by the taxpayer and if the spouse has attained the age R of 65 before the close of such taxable year and, for the calendar year in which the taxable year of the taxpayer 9 begins, has no gross income and is not the dependent of 10 another taxpayer. 11

12 (4) (a) An additional exemption of **9650** <u>\$800</u> shall be 13 allowed for taxable years beginning after December 31, <del>1973</del> 14 <u>1978</u>, for the taxpayer if he is blind at the close of his 15 taxable year.

16 (b) An additional exemption of \$650 \$800 shall be 17 allowed for taxable years beginning after December 31, 1973 1978, for the spouse of the taxpayer if a separate return is 18 made by the taxpayer and if the spouse is blind and, for the 19 20 calendar year in which the taxable year of the taxpayer 21 begins, has no gross income and is not the dependent of 22 another taxpayer. For the purposes of this subsection 23 (4)(b), the determination of whether the spouse is blind 24 shall be made as of the close of the taxable year of the 25 taxpayer, except that if the spouse dies during such taxable

year, such determination shall be made as of the time of

2 such death.

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3 (c) For purposes of this subsection (4), an individual is blind only if his central visual acuity does not exceed 4 5 20/200 in the better eye with correcting lenses or if his 6 visual acuity is greater than 20/200 but is accompanied by a 7 limitation in the fields of vision such that the widest a diameter of the visual field subtends an angle no greater than 20 degrees. 9 (5) (a) An exemption of \$659 \$800 shall be allowed for 10 11 taxable years beginning after December 31, 1973 1978, for 12 each dependent: 13 (i) whose gross income for the calendar year in which

14 the taxable year of the taxpayer begins is less than \$650 15 \$800; or

16 (ii) who is a child of the taxpayer and who:

17 (A) has not attained the age of 19 years at the close
18 of the calendar year in which the taxable year of the
19 taxpayer begins; or
20 (B) is a student.

(b) No exemption shall be allowed under this subsection for any dependent who has made a joint return with his spouse for the taxable year beginning in the calendar year in which the taxable year of the taxpayer begins.

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(c) For purposes of subsection (5)(a)(ii), the term
 "child" means an individual who is a son, stepson, daughter,
 or stepdaughter of the taxpayer.

4 (d) For purposes of subsection (5)(a)(ii)(B), the term
5 "student" means an individual who, during each of 5 calendar
6 months during the calendar year in which the taxable year of
7 the taxpayer begins:

8 (i) is a full-time student at an educational9 institution; or

10 (ii) is pursuing a full-time course of institutional on-farm training under the supervision of an accredited 11 12 agent of an educational institution or of a state or 13 political subdivision of a state. For purposes of this subsection (5)(d)(ii), the term "educational institution" 14 15 means only an educational institution which normally 16 maintains a regular faculty and curriculum and normally has 17 a regularly organized body of students in attendance at the 18 place where its educational activities are carried on.

19 (6) In the case of a nonresident taxpayer, the
20 exemption deduction shall be prorated according to the ratio
21 the taxpayer's Montana adjusted gross income bears to his
22 federal adjusted gross income.

(7) For taxable years beginning after December 31.
 1978. and before January 1. 1981. the amount allowed as a
 deduction in subsections (2) through (6) shall be adjusted

1 as provided under [section 9]."

2 NEW SECTION. Section 9. Deductions for exemptions in 3 1979 and 1980. [1] The exemption amounts allowed in 4 15-30-112 are increased for taxable years beginning after December 31, 1978, and before January 1, 1980, by \$50 for 5 each \$2.5 million by which the general fund balance, as 6 7 certified by the director of the department of administration to the director of the department of revenue, 8 9 exceeds \$14 million as of June 30, 1979.

10 (2) The exemption amounts allowed in 15-30-112 are 11 increased for taxable years beginning after December 31, 12 1979, and before January 1, 1981, by \$50 for each \$2.8 13 million by which the general fund balance, as certified by 14 the director of the department of administration to the 15 director of the department of revenue, exceeds \$13 million 16 as of June 30, 1980.

Section 10. Section 15-30-114, MCA, is amended to
read:

19 "15-30-114. Additional exemption for dependent child
20 with handicap. (1) In lieu of the exemption in 15-30-112(5),
21 an exemption for twice the amount allowed for dependents
22 shall be allowed for taxable years beginning after December

23 31, 1976, for each dependent child with a handicap.

24 (2) In order to be eligible for the exemption, a25 dependent child with a handicap must, for the taxable year

of the taxpayer, have as his principal place of abode the 1 come of the taxpayer and have a permanent handicap of great 2 enough severity that it constitutes not less than 50% 3 disability to the body as a whole. An exemption may be 4 allowed for a dependent with a permanent handicap after he 5 reaches the age of majority if he continues to be a 6 dependent. 7

(3) For taxable years beginning after December 31: 8 q 1978. and before January 1. 1981. the additional exemption 10 for a dependent child with a handicap is twice the amount 11 allowed for dependents as adjusted under [section 9]."

12 Section 11. Section 15-30-122, MCA, is amended to 13 read:

"15-30-122. Standard deduction. In the case of a 14 15 resident individual, a standard deduction equal to 101 151 of adjusted gross income shall be allowed if elected by the 16 17 taxpayer on his return. The standard deduction shall be in lieu of all deductions allowed under 15-30-121. The maximum 19 19 standard deduction shall be \$500 \$1.000, except in the case of a single joint return of husband and wife the maximum 20 21 standard deduction shall be \$1+000 \$2:000. The standard 22 deduction shall not be allowed to either the husband or the 23 wife if the tax of one of the spouses is determined without 24 regard to the standard deduction. For purposes of this 25 section, the determination of whether an individual is

married shall be made as of the last day of the taxable 1 year; provided, however, if one of the spouses dies during 2 the taxable year, the determination shall be made as of the з date of death." 4

Section 12. Section 15-30-142, MCA, is amended to 5 6 read:

7 #15-30-142. Returns and payment of tax -- penalty and 8 interest -- refunds -- credits. (1) Every single individual and every married individual not filing a joint return with 9 10 his or her spouse and having a gross income for the taxable 11 year of more than \$720 \$940 and married individuals not filing separate returns and having a combined gross income 12 13 for the taxable year of more than \$1:445 \$1:880 shall be liable for a return to be filed on such fores and according 14 15 to such rules as the department may prescribe. The gross 16 income amounts referred to in the preceding sentence shall be increased by \$650 \$800 for each additional personal 17 18 exemption allowance the taxpaver is entitled to claim for himself and his spouse under 15-30-112(3) and (4). A 19 -20 nonresident shall be required to file a return if his gross 21 income for the taxable year derived from sources within 22 Montana exceeds the amount of the exemption deduction he is 23 entitled to claim for himself and his spouse under the 24' provisions of 15-30-112(2), (3), and (4), as prorated 25 according to 15-30-112(6).

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(2) In accordance with instructions set forth by the 1 department, every taxpayer who is married and living with 2 husband or wife and is required to file a return may, at his 3 or her option, file a joint return with husband or wife even 4 though one of the spouses has neither gross income nor 5 6 deductions. If a joint return is made, the tax shall be computed on the aggregate taxable income and the liability 7 8 with respect to the tax shall be joint and several. If a igint return has been filed for a taxable year, the spouses 9 may not file separate returns after the time for filing the 10 11 return of either has expired unless the department so 12 consents.

13 (3) If any such taxpayer is unable to make his own 14 return, the return shall be made by a duly authorized agent 15 or by a guardian or other person charged with the care of 16 the person or property of such taxpayer.

17 (4) All taxpayers, including but not limited to those subject to the provisions of 15-30-202 and 15-30-241, shall 18 19 compute the amount of income tax payable and shall, at the 20 time of filing the return required by this chapter, pay to the department any balance of income tax remaining unpaid 21 after crediting the amount withheld as provided by 15-30-202 22 23 and/or any payment made by reason of an estimated tax return provided for in 15-30-241; provided, however, the tax so 24 computed is greater by \$I than the amount withheld and/or 25

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paid by estimated return as provided in this chapter. If the
 amount of tax withheld and/or payment of estimated tax
 exceeds by more than \$1 the amount of income tax as
 computed, the taxpayer shall be entitled to a refund of the
 excess.

6 (5) As soon as practicable after the return is filed,
7 the department shall examine and verify the tax.

(6) If the amount of tax as verified is greater than 8 9 the amount theretofore paid, the excess shall be paid by the 10 taxpayer to the department within 30 days after notice of the amount of the tax as computed, with interest added at 11 12 the rate of 9% per annum or fraction thereof on the additional tax. In such case there shall be no penalty 13 because of such understatement, provided the deficiency is 14 paid within 30 days after the first notice of the amount is 15 mailed to the taxpayer." 16

Section 13. Effective date. This act is effective on
 passage and approval.

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This authority is granted because it is impossible at this time to determine the date that the various county treasurers will be able to mail assessment notices to property owners.

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16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HONTANA: 17 <u>NEW\_SECIIONs</u> Section 1. Short title. [This act] may 18 be cited as the "Montana Property and Income Tax Relief 19 Act".

20 <u>NEW SECTION</u> Section 2. Definitions. As used in 21 [sections 2 through 6], the following definitions apply:

(1) "Applicant" means a person applying for property
 tax relief on his principal residence.

24 (2) "Department" means the department of revenue.

25 (3) "Principal residence" means a dwelling, including

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1 a mobile home as defined in 15-24-201, and appurtement land 2 occupied by an applicant for at least 10 months during the 3 year immediately preceding the date of application.

4 (4) "Property tax" means any tax levied against the
5 value of property except special assessments.

6 <u>HEW\_SECTIONs</u> Section 3. Property tax relief on 7 principal residence. A person to whom property taxes are 8 assessed on his principal residence for the calender years 9 1979 and 1980 is entitled to a direct payment from the 10 department in the amount provided for in [section 5] as 11 property tax relief.

12 <u>NEW\_SECTIONs</u> Section 4. Application for property tax 13 relief. (1) A person may apply for property tax relief on 14 his principal residence each year.

15 (2) Each application must be made on forms prescribed
16 by the department. Each form must require the applicant to
17 include:

18 (a) his name, address, and social security number;

19 (b) the address of his principal residence;

20 (c) the length of time he has resided at that address;

21 (d) the amount of property tax due on the residence

22 for the current year; and

23 (e) any other information required by the department.

24' {3} Each application must also contain the

25 certification of the county assessor of the county in which

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 that the applicant is the person to whom the property tax on
 the residence is assessed.

4 (4) The department shall establish by rule a final
5 date for submission of applications for property tax relief.
6 The rule must assure a reasonable opportunity for eligible
7 persons to apply.

8 <u>NEW\_SECTION</u>. Section 5. Amount of property tax relief 9 allowed for a principal residence. (1) Except as provided in 10 subsection (2), each applicant eligible for relief under 11 [section 3] is entitled to receive the lesser of:

12 (a) the amount of property tax due on his principal13 residence for the current year; or

14 (b) \$65.

15 (2) If the amount appropriated for a fiscal year is 16 insufficient to provide relief for all eligible applicants 17 in the amounts specified in subsection (1), the department 18 shall determine the amount of relief each eligible applicant 19 is entitled to receive based upon the funds appropriated and 20 the number of eligible applicants.

21 <u>NEW SECTION</u> Section 6. Duties of the department. (1)
22 The department shall:

(a) determine the eligibility of each applicant; and
(b) compute the amount of relief to which the
applicant is entitled.

1 (2) After December 1 of each year, the department 2 shall cause a warrant to be issued to each eligible 1 applicant for the amount of relief to which he is entitled. NEW SECTION. Section 7. Appropriation. . There is 5 appropriated \$10 million in fiscal year 1980 and \$10 million in fiscal year 1981 to the department of revenue from the . ceneral fund for property tax relief payments and 7 administrative costs associated with the property tax relief . 9 program.

Section 8. Section 15-30-112, MCA, is amended to read: "15-30-112. Exemptions. (1) In Except as provided in subsection (7). in the case of an individual, the exemptions provided by this-section subsections (2) through (6) shall be allowed as deductions in computing taxable income. (2) (a) An exemption of \$650 \$600 shall be allowed for

16 taxable years beginning after December 31, 1973 1978, for.
17 the taxpayer.

(b) An additional exemption of 4650 <u>\$800</u> shall be
allowed for taxable years beginning after December 31, 1973
<u>1978</u>, for the spouse of the taxpayer if a separate return is
made by the taxpayer and if the spouse, for the calendar
year in which the taxable year of the taxpayer begins, has
no gross income and is not the dependent of another
taxpayer.

(3) (a) An additional exemption of \$650 \$800 shall be

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allowed for taxable years beginning after December 31, 1973
 <u>1973</u>, for the taxpayer if he has attained the age of 65
 before the close of his taxable year.

(b) An additional exemption of \$650 \$800 shall be 4 5 allowed for tax le years beginning after December 31, 1973 1978, for the spouse of the taxpaver if a separate return is 6 7 made by the taxpayer and if the spouse has attained the age of 65 before the close of such taxable year and, for the 8 calendar year in which the taxable year of the taxpayer 9 10 begins, has no gross income and is not the dependent of another taxpaver. 11

12 (4) (a) An additional exemption of **1650 1800** shall be 13 allowed for taxable years beginning after December **31**, **1973** 14 <u>1978</u>, for the taxpayer if he is blind at the close of his 15 taxable year.

(b) An additional exemption of \$659 \$800 shall be 16 allowed for taxable years beginning after December 31, 1973 17 18 1978, for the spouse of the taxpayer if a separate return is made by the taxpayer and if the spouse is blind and, for the 19 calendar year in which the taxable year of the taxpayer 20 21 begins, has no gross income and is not the dependent of another taxpayer. For the purposes of this subsection 22 23 (4)(b), the determination of whether the spouse is blind shall be made as of the close of the taxable year of the 24 25 taxpayer, except that if the spouse dies during such taxable

year, such determination shall be made as of the time of such death.

3 (c) For purposes of this subsection (4), an individual 4 is blind only if his central visual acuity does not exceed 5 20/200 in the better eye with correcting lenses or if his 6 visual acuity is greater than 20/200 but is accompanied by a 7 limitation in the fields of vision such that the widest 8 diameter of the visual field subtends an angle no greater 9 than 20 degrees.

10 (5) (a) An exemption of \$650 \$800 shall be allowed for
11 taxable years beginning after December 31, 1973 1978, for
12 each dependent:

13 (i) whose gross income for the calendar year in which
14 the taxable year of the taxpayer begins is less than +650
15 \$800; or

16 (ii) who is a child of the taxpayer and who:

17 (A) has not attained the age of 19 years at the close
18 of the calendar year in which the taxable year of the
19 taxpayer begins; or

20 (B) is a student.

21 (b) No exemption shall be allowed under this 22 subsection for any dependent who has made a joint return 23 with his spouse for the taxable year beginning in the 24' calendar year in which the taxable year of the taxpayer 25 begins.

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(c) For purposes of subsection (5)(a)(ii), the term
 "child" means an individual who is a son, stepson, daughter,
 or stepdaughter of the taxpayer.

4 (d) For purposes of subsection (5)(a)(ii)(B), the term
5 "student" means an individual who, during each of 5 calendar
6 months during the calendar year in which the taxable year of
7 the taxpayer begins:

8 (i) is a full-time student at an educational 9 institution; or

10 (ii) is pursuing a full-time course of institutional on-fare training under the supervision of an accredited 11 12 agent of an educational institution or of a state or 13 political subdivision of a state. For purposes of this 14 subsection (5)(d)(ii), the term "educational institution" 15 means only an educational institution which normally 16 maintains a regular faculty and curriculum and normally has 17 a regularly organized body of students in attendance at the place where its educational activities are carried on-18

19 (6) In the case of a nonresident taxpayer, the
20 exemption deduction shall be prorated according to the ratio
21 the taxpayer's Montana adjusted gross income bears to his
22 federal adjusted gross income.

171\_for\_taxable\_years\_begioning\_after\_December\_31\*
 1978\* and before\_danuary\_1\*\_1981\* the amount\_allowed\_as\_a
 deduction\_in\_subsections\_(2) through\_(6)\_shall be\_adjusted

1 as provided under [section 9]\*"

NEW SECTION. Section 9. Deductions for exemptions in 2 3 1979 and 1980. (1) The exemption amounts allowed in . 15-30-112 are increased for taxable years beginning after December 31: 1978, and before January 1: 1980, by \$50 for 5 ~ each \$2.5 million by which the general fund balance, as certified by the director of the department of 7 administration to the director of the department of revenue. А exceeds \$14 million as of June 30, 1979. •

10 (2) The exemption amounts allowed in 15-30-112 are 11 increased for taxable years beginning after December 31, 12 1979, and before January 1, 1981, by \$50 for each \$2.8 13 million by which the general fund balance, as certified by 14 the director of the department of administration to the 15 director of the department of revenue, exceeds \$13 million 16 as of June 30, 1980.

17 Section 10. Section 15-30-114, MCA, is amended to 18 read:

19 #15-30-114. Additional exemption for dependent child
20 with handicap. (1) In lieu of the exemption in 15-30-112(5).
21 an exemption for twice the amount allowed for dependents
22 shall be allowed for taxable years beginning after December
23 31, 1976, for each dependent child with a handicap.

24 {2} In order to be eligible for the exemption, a
25 dependent child with a handicap must, for the taxable year

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of the taxpayer, have as his principal place of abode the home of the taxpayer and have a permanent handicap of great enough severity that it constitutes not less than 50% disability to the body as a whole. An exemption may be allowed for a dependent with a permanent handicap after he reaches the age of majority if he continues to be a dependent.

8 (3) For taxable years beginning after December 31a
9 1978. and before January 1. 1981. the additional exemption
10 for a dependent child with a handicap is twice the amount
11 allowed for dependents as adjusted under [section 9]."

12 Section 11. Section 15-30-122, MCA, is amended to 13 read:

"15-30-122. Standard deduction. In the case of a 14 resident individual, a standard deduction equal to 101 15% 15 of adjusted gross income shall be allowed if elected by the 16 17 taxpayer on his return. The standard deduction shall be in lieu of all deductions allowed under 15-30-121. The maximum 19 19 standard deduction shall be 9500 \$1.000, except in the case of a single joint return of husband and wife the maximum 20 21 standard deduction shall be \$1+000 \$2.000. The standard 22 deduction shall not be allowed to either the husband or the 23 wife if the tax of one of the spouses is determined without regard to the standard deduction. For purposes of this 24 25 section, the determination of whether an individual is married shall be made as of the last day of the taxable
 year; provided, however, if one of the spouses dies during
 the taxable year, the determination shall be made as of the
 date of death.\*

5 Section 12. Section 15-30-142, MEA, is amended to 6 read:

7 #15-30-142. Returns and payment of tax -- penalty and 8 interest -- refunds -- credits. (1) Every single individual 9 and every married individual not filing a joint return with his or her spouse and having a gross income for the taxable 10 11 year of more than \$720 \$940 and married individuals not 12 filing separate returns and having a combined gross income 13 for the taxable year of more than \$1,445 \$1,480 shall be 14 liable for a return to be filed on such forms and according 15 to such rules as the department may prescribe. The gross 16 income amounts referred to in the preceding sentence shall 17 be increased by \$650 \$800 for each additional personal exemption allowance the taxpayer is entitled to claim for 18 himself and his spouse under 15-30-112(3) and (4). A 19 nonresident shall be required to file a return if his gross 20 income for the taxable year derived from sources within 21 22 Montana exceeds the amount of the exemption deduction he is entitled to claim for himself and his spouse under the 23 24' provisions of 15-30-112(2), (3), and (4), as prorated 25 according to 15-30-112(6).

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1 (2) In accordance with instructions set forth by the department, every taxpayer who is married and living with 2 husband or wife and is required to file a return may, at his 3 4 or her option, file a joint return with husband or wife even though one of the spouses has neither gross income nor 5 6 deductions. If a joint return is made, the tax shall be computed on the aggregate taxable income and the liability 7 with respect to the tax shall be joint and several. If a 8 joint return has been filed for a taxable year, the spouses 9 may not file separate returns after the time for filing the 10 11 return of either has expired unless the department so consents. 12

13 (3) If any such taxpayer is unable to make his own
14 return, the return shall be made by a duly authorized agent
15 or by a guardian or other person charged with the care of
16 the person or property of such taxpayer.

17 (4) All taxpayers, including but not limited to those 18 subject to the provisions of 15-30-202 and 15-30-241, shall 19 compute the amount of income tax payable and shall, at the 20 time of filing the return required by this chapter, pay to 21 the department any balance of income tax remaining unpaid 22 after crediting the amount withheld as provided by 15-30-202 and/or any payment made by reason of an estimated tax return 23 24 provided for in 15-30-241; provided, however, the tax so computed is greater by \$1 than the amount withheld and/or 25

paid by estimated return as provided in this chapter. If the
 amount of tax withheld and/or payment of estimated tax
 exceeds by more than \$1 the amount of income tax as
 computed, the taxpayer shall be entitled to a refund of the
 excess.

6 (5) As soon as practicable after the return is filed,
7 the department shall examine and verify the tax.

(6) If the amount of tax as verified is greater than 8 the amount theretofore paid, the excess shall be paid by the 9 taxpayer to the department within 30 days after notice of 10 the amount of the tax as computed, with interest added at 11 the rate of 9% per annum or fraction thereof on the 12 additional tax. In such case there shall be no penalty 13 because of such understatement, provided the deficiency is 14 paid within 30 days after the first notice of the amount is 15 mailed to the taxpaver." 16

Section 13. Effective date. This act is effective on
 passage and approval.

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A statement of intent is required for this bill because
it grants rulemaking authority to the Department of Revenue.
Section 4 of the bill provides that the department
shall establish a cut-off date for submission of
applications for property tax relief.

9 This authority is granted because it is impossible at 10 this time to determine the date that the various county 11 treasurers will be able to mail assessment notices to 12 property owners.

13 The department will be able to determine when the 14 notices will be mailed, and is therefore in a position to 15 establish a reasonable cut-off date for applications.

16 The legislature intends the department to pick a date 17 that allows a reasonable period for application after the 18 property assessment notices are mailed.

HB 925

46th Legislature

HB 0925/02

1 HOUSE BILL NO. 925 2 INTRODUCED BY LEADERSHIP OF THE HOUSE AND SENATE 3 4 A BILL FOR AN ACT ENTITLED: "AN ACT TO ENACT THE MONTANA 5 PROPERTY AND INCOME TAX RELIEF ACT; PROVIDING FOR A DIRECT 6 PROPERTY TAX RELIEF PAYMENT TO A PERSON SUBJECT TO PROPERTY 7 TAX ON HIS PRINCIPAL RESIDENCE FOR THE CALENDAR YEARS 1979 AND 1980; INCREASING THE INDIVIDUAL INCOME TAX DEDUCTION FOR 8 9 EXEMPTIONS, THE STANDARD DEDUCTION, AND THE MINIMUM FILING 10 REQUIREMENT: PROVIDING A MECHANISH FOR INCREASING THE 11 EXEMPTION DEDUCTION FOR TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1978, AND BEFORE JANUARY 1, 1981; AMENDING 12 SECTIONS 15-30-112, 15-30-114, 15-30-122, AND 15-30-142, 13 HCA. 14 15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 16 NEW SECTION. Section 1. Short title. [This act] may 17 be cited as the "Montana Property and Income Tax Relief 18 19 Act\*. NEW SECTION. Section 2. Definitions. As used in 20 [sections 2 through 6]; the following definitions apply: 21 22 (1) "Applicant" means a person applying for property 23 tax relief on his principal residence.

24 (2) "Department" means the department of revenue.
25 (3) "Principal residence" means a dwelling, including

a mobile home as defined in 15-24-201, and appurtenant land cocupied by an appricant for at least 10 months during the year immediately preceding the date of application.

4 (4) "Property tax" means any tax levied against the
 5 value of property except special assessments.

6 <u>NEW\_SECTIONs</u> Section 3. Property tax relief on 7 principal residence. A person to whom property taxes are 8 assessed on his principal residence for the calendar years 9 1979 and 1980 is entitled to a direct payment from the 10 department in the amount provided for in [section 5] as 11 property tax relief. 12 <u>NEW\_SECTIONs</u> Section 4. Application for property tax

13 relief. (1) A person may apply for property tax relief on 14 his principal residence each year.

15 (2) Each application must be made on forms prescribed
16 by the department. Each form must require the applicant to
17 include:

18 (a) his name, address, and social security number;

19 (b) the address of his principal residence;

20 (c) the length of time he has resided at that address;

21 (d) the amount of property tax due on the residence

22 for the current year; and

23 (e) any other information required by the department.

24 (3) Each application must also contain the

25 certification of the county assessor of the county in which

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the applicant's principal residence is located certifying
 that the applicant is the person to when the property tax on
 the residence is assessed.

4 (4) The department shall establish by rule a final
5 data for submission of applications for property tax reliaf.
6 The rule must assure a reasonable opportunity for eligible
7 persons to apply.

NEW\_SECTION: Section 5. Amount of property tax relief
 allowed for a principal residence. (1) Except as provided in
 subsection (2), each applicant eligible for relief under
 [section 3] is entitled to receive the lesser of:

12 (a) the account of property tax due on his principal
13 residence for the current years or

(D) \$65.

14

15 (2) If the amount appropriated for a fiscal year is 16 insufficient to provide relief for all eligible applicants 17 in the emounts specified in subsection (1), the department 18 shell determine the amount of relief each eligible applicant 19 is entitled to receive based upon the funds appropriated and 20 the number of eligible applicants.

21 <u>MCM SECTION</u> Section 4. Duties of the department. (1) 22 The department shalls

23 (c) depending the eligibility of each applicant; and 24 (b) compute the amount of relief to which the 25 applicant is entitled.

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1 (2) After December 1 of each year, the department 2 shall cause a warrant to be issued to each eligible 3 applicant for the amount of relief to which he is entitled. 4 NEW SECTION. Section 7. Appropriation. There İ۶ 5 appropriated \$10 million in fiscal year 1980 and \$10 million in fiscal year 1981 to the department of revenue from the 6 7 general fund for property tax relief payments and . administrative costs associated with the property tax relief 9 Drogram.

19 Section 3, Section 15-30-112, MCA, is amended to read: 11 "15-30-112, Examptions, (1) in <u>Except as provided in</u> 12 <u>subsection [7]; in the case of an individual, the examptions</u> 13 provided by <del>this subsections (2) through (6)</del> shall 14 be allowed as deductions in computing taxable income, 15 (2) (a) An exemption of 4650 4800 shall be allowed for

(2) (a) An examption of \$650 \$800 shall be allowed for
 taxable years beginning after December 31. \$973 1278, for
 the taxpayer.

18 (b) An additional exemption of 4659 <u>\$800</u> shall be allowed for texable years beginning after December 31, 2977 30 <u>3826</u>, for the spouse of the texpaper of a separate return is and by the texpaper and if the spouse, for the calendar year in which the texable year of the texpaper begins, has as gross income and is not the dependent of another the texpaper.

(3) (a) An additional exception of #650 #800 shall be

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allowed for taxable years taginning after December 31, ±373
 <u>1978</u>, for the taxpayer if he has attained the age of 65
 before the close of his taxable year.

4 (b) An additional exemption of \$650 \$800 shall be 5 allowed for taxable years beginning after December 31, 1973 1978, for the spouse of the taxpayer if a separate return is 6 7 made by the taxpayer and if the spouse has attained the age 8 of 65 before the close of such taxable year and, for the 9 calendar year in which the taxable year of the taxpayer 10 begins, has no gross income and is not the dependent of 11 another taxpayer.

12 (4) (a) An additional exemption of \$658 \$800 shall be
13 allowed for taxable years beginning after December 31, 1973
14 1978, for the taxpayer if he is blind at the close of his
15 taxable year.

(b) An additional exemption of \$650 \$800 shall be 16 17 allowed for taxable years beginning after December 31, 1973 18 1978, for the spouse of the taxpayer if a separate return is 19 made by the taxpayer and if the spouse is blind and, for the calendar year in which the taxable year of the taxpayer 20 21 begins, has no gross income and is not the dependent of 22 another taxpayer. For the purposes of this subsection 23 (4)(b), the determination of whether the spouse is blind 24 shall be made as of the close of the taxable year of the 25 taxpayer, except that if the spouse dies during such taxable year, such determination shall be made as of the time of such death.

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3 (c) For purposes of this subsection (4), an individual is blind only if his central visual acuity does not exceed 4 20/200 in the better eve with correcting lenses or if his 5 visual acuity is greater than 20/200 but is accompanied by a 6 limitation in the fields of vision such that the widest 7 diameter of the visual field subtends an angle no greater 帛 0 than 20 degrees. 10 (5) (a) An exemption of \$650 \$800 shall be allowed for taxable years beginning after December 31, 1973 1978, for 11 12 each dependent:

13 {i} whose gross income for the calendar year in which
14 the taxable year of the taxpayer begins is less than \$650
15 \$800; or

16 (ii) who is a child of the taxpayer and who:

17 (A) has not attained the age of 19 years at the close
18 of the calendar year in which the taxable year of the
19 taxpayer begins; or
20 (B) is a student.

21 (b) No exemption shall be allowed under this 22 subsection for any dependent who has made a joint return 23 with his spouse for the taxable year beginning in the 24 calendar year in which the taxable year of the taxpayer 25 begins.

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(c) For purposes of subsection (5)(a)(ii), the term
 "child" means an individual who is a son, stepson, daughter,
 or stepdaughter of the taxpayer.

(d) For purposes of subsection (5)(a)(ii)(B), the term
"student" means an individual who, during each of 5 calendar
months during the calendar year in which the taxable year of
the taxpayer begins:

8 (i) is a full-time student at an educational
9 institution; or

10 (ii) is pursuing a full-time course of institutional 11 on-farm training under the supervision of an accredited 12 agent of an educational institution or of a state or political subdivision of a state. For purposes of this 13 subsection (5)(d)(li). the term "educational institution" 14 15 means only an educational institution which normally 16 maintains a regular faculty and curriculum and normally has 17 a regularly organized body of students in attendance at the 18 place where its educational activities are carried on-

19 (6) In the case of a nonresident taxpayer, the
20 exemption deduction shall be prorated according to the ratio
21 the taxpayer's Hontana adjusted gross income bears to his
22 federal adjusted gross income.

(1) For taxable years beginning after December 31:
 1978: and before January 1: 1981: the amount allowed as a
 deduction is subsections (2) through (6) shall be adjusted

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1 as provided under [section\_9]a"

2 NEW SECTION. Section 9. Deductions for exemptions in 3 1979 and 1980. (1) The exemption amounts allowed in 4 15-30-112 are increased for taxable years beginning after December 31, 1978, and before January 1, 1980, by \$50 for 5 each \$2.5 million by which the general fund balance, as 6 7 cartified by the director of the department of R administration to the director of the department of revenue, Q exceeds \$14 million as of June 30, 1979.

10 (2) The exemption amounts allowed in 15-30-112 are 11 increased for taxable years beginning after December 31, 12 1979, and before January 1, 1981, by \$50 for each \$2.8 13 million by which the general fund balance, as certified by 14 the director of the department of administration to the 15 director of the department of revenue, exceeds \$13 million 16 as of June 30, 1980.

17 Section 10. Section 15-30-114, MCA, is askended to 18 read:

19 "15-30-114. Additional exemption for dependent child
20 with handicap. (1) In lieu of the exemption in 15-30-112(5).
21 an exemption for twice the amount allowed for dependents
22 shall be allowed for taxable years beginning after December
23 31, 1976, for each dependent child with a handicap.

24 (2) In order to be eligible for the exemption, a
 25 dependent child with a handicap must, for the taxable year

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of the taxpayer, have as his principal place of abc. the home of the taxpayer and have a permanent handicap of great enough severity that it constitutes not less than 50% disability to the body as a whole. An exemption may be allowed for a dependent with a permanent handicap after he reaches the age of majority if he continues to be a dependent.

8 (3) For taxable years beginning after December 31: 9 1978: and before January 1: 1981: the additional exemption 10 for a dependent child with a handicap is twice the apount 11 allowed for dependents as adjusted under [section 9]:"

12 Section 11. Section 15-30-122, MCA, is amended to 13 read:

"15-30-122. Standard deduction. In the case of a 14 resident individual, a standard deduction equal to 10% 15% 15 of adjusted gross income shall be allowed if elected by the 16 taxpayer on his return. The standard deduction shall be in 17 lieu of all deductions allowed under 15-30-121. The maximum 18 standard deduction shall be \$500 \$1:000; except in the case 19 of a single joint return of husband and wife the maximum 20 standard deduction shall be styles s2:000. The standard 21 deduction shall not be allowed to either the husband or the 22 wife if the tax of one of the spouses is determined without 23 regard to the standard deduction. For purposes of this 24 section, the determination of whether an individual is 25

married shall be made as of the last day of the taxable
 year; provided, however, if one of the spouses dies during
 the taxable year, the determination shall be made as of the
 date of death."

5 Section 12. Section 15-30-142. MCA, is amended to 6 read:

7 #15-30-142. Returns and payment of tax -- penalty and A interest -- refunds -- credits. (1) Every single individual and every married individual not filing a joint return with 9 his or her spouse and having a gross income for the taxable 10 11 year of more than \$720 \$940 and married individuals not 12 filing separate returns and having a combined gross income 13 for the taxable year of more than \$1,445 \$1.880 shall be liable for a return to be filed on such forms and according 14 15 to such rules as the department may prescribe. The gross 16 income amounts referred to in the preceding sentence shall 17 be increased by \$650 \$800 for each additional personal 18 exemption allowance the taxpayer is entitled to claim for 19 himself and his spouse under 15-30-112(3) and (4). A nonresident shall be required to file a return if his gross 20 income for the taxable year derived from sources within 21 22 Montana exceeds the amount of the exemption deduction he is 23 entitled to claim for himself and his spouse under the 24 provisions of 15-30-112(2), (3), and (4), as provated 25 according to 15-30-112(6)+

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(2) In accordance with instructions set forth by the 1 2 department. every taxpaver who is earried and living with З husband or wife and is required to file a return may. at his 4 of her option. file a joint return with husband or wife even 5 though one of the spouses has neither gross income nor deductions. If a joint return is made, the tax shall be 6 7 computed on the aggregate taxable income and the liability 8 with respect to the tax shall be joint and several. If a joint return has been filed for a taxable year, the spouses 9 10 may not file separate returns after the time for filing the 11 return of either has expired unless the department so 12 consents.

[3] If any such taxpayer is unable to make his own 13 14 return, the return shall be made by a duly authorized ecent. 45 or by a substian or other person charged with the care of 16 the person or presenty of auch taxoaver.

17 [4] All taxpayors, including but not limited to those 38 subject to the provisions of 15-30-202 and 15-30-241, shall compute the amount of income tax payable and shall, at the 19 the of filing the roburn required by this chapter, pay to /2B the department any believe of incare tax restinted unperid .23 after crediting the accent withheld as provided by 15-90-202 32 and/an any paramet made by messon of an estimated tak return 23 -24 wroekloud for in 25-39-2423 groekloud housens the tex so 25 commutation is present by all that the account withheld and or

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paid by estimated return as provided in this chapter, if the 2 acoust of tax withheld and/or payment of estimated tax 3 exceeds by more than \$1 the amount of income tax as 4 computed, the taxpaver shall be entitled to a refund of the 5 excess.

6 (5) As soon as practicable after the return is filed, 7 the department shall examine and verify the tax.

8 (6) If the amount of tax as verified is greater than 9 the amount theretofore paid, the excess shall be paid by the 10 texpayer to the department within 30 days after notice of 11 the amount of the tax as computed, with interest added at 12 the rate of 9% per annum or fraction thereof on the 13 additional tax. In such case there shall be no penalty 44 because of such understatement, provided the deficiency is 15 paid within 30 days after the first police of the amount is 16 mailed to the texpaper."

27 Section 13. Effective date. This act is effective on 48 passage and approval.

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