

SENATE BILL NO. 337

INTRODUCED BY REGAN, BLAYLOCK, TOWE, HAPPEY, MAZUREK,  
HALLIGAN, CONOVER, ECK, BERG, NORMAN, JACOBSON,  
P. RYAN, HAPPERMAN, THOMAS, STIMATZ, HEALY

BY REQUEST OF THE OFFICE OF THE GOVERNOR

IN THE SENATE

January 30, 1981	Introduced and referred to Committee on Taxation.  Fiscal note requested.
February 6, 1981	Fiscal note returned.
March 23, 1981	Committee recommend bill do pass. Report adopted.
March 24, 1981	Bill printed and placed on members' desks.
March 25, 1981	Second reading, pass con- sideration.
March 26, 1981	Second reading, do pass as amended.
March 27, 1981	Correctly engrossed.
March 28, 1981	Third reading, passed. Ayes, 44; Noes, 3. Transmitted to House.

IN THE HOUSE

March 30, 1981	Introduced and referred to Committee on Taxation.
April 21, 1981	On motion to take from Taxation Committee and place on second reading this day. Motion adopted.

April 22, 1981

Second reading, concurred in as amended.

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

Third reading, concurred in as amended. Ayes, 89; Noes, 6.

#### IN THE SENATE

April 22, 1981

Returned from House with amendments.

April 23, 1981

Second reading, amendments not concurred in.

On motion Free Conference Committee requested and appointed.

Free Conference Committee reported.

Second reading, Free Conference Committee report adopted.

Third reading, Free Conference Committee report adopted. Ayes, 47; Noes, 1. Transmitted to House.

#### IN THE HOUSE

April 23, 1981

Free Conference Committee report adopted.

#### IN THE SENATE

April 23, 1981

Returned from House. Sent to enrolling.

Reported correctly enrolled.

1 *Senate* BILL NO. *337* *Holligan*  
 2 INTRODUCED BY *Blaylock* *Hoffay* *Mezures*  
 3 BY REQUEST OF THE OFFICE OF THE GOVERNOR *Ryan*  
 4 *Conover* *Eck* *Berg* *Norman* *Jackson* *Hoffman*  
 5 *Stewart* *Nealy* *Thomas*

6 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE PROPERTY TAX  
 7 RELIEF TO CERTAIN HOMEOWNERS AND RENTERS BY MEANS OF A  
 8 CREDIT AGAINST INDIVIDUAL INCOME TAX LIABILITY; PROVIDING  
 9 PENALTIES FOR FRAUDULENT CLAIMS; AND PROVIDING AN EFFECTIVE  
 10 DATE."

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

12 Section 1. Definitions. As used in [sections 1 through  
 13 10], the following definitions apply:

- 14 (1) "Income" means federal adjusted gross income,  
 15 without regard to loss, as that quantity is defined in the  
 16 Internal Revenue Code of the United States, plus all  
 17 nontaxable income, including but not limited to:  
 18 (a) the gross amount of any pension or annuity  
 19 (including Railroad Retirement Act benefits and veterans'  
 20 disability benefits);  
 21 (b) the amount of capital gains excluded from adjusted  
 22 gross income;  
 23 (c) alimony;  
 24 (d) support money;  
 25 (e) nontaxable strike benefits;

- 1 (f) cash public assistance and relief;
- 2 (g) all payments received under federal social  
 3 security; and
- 4 (h) payments and interest on federal, state, county,  
 5 and municipal bonds.

6 (2) "Claim period" means the tax year for individuals  
 7 required to file Montana individual income tax returns and  
 8 the calendar year for individuals not required to file  
 9 returns.

10 (3) "Claimant" means an individual natural person who  
 11 is eligible to file a claim under [section 2].

12 (4) "Household" means an association of persons who  
 13 live in the same dwelling, sharing its furnishings,  
 14 facilities, accommodations, and expenses. The term does not  
 15 include bona fide lessees, tenants, or roomers and boarders  
 16 on contract.

17 (5) "Household income" means all income received by  
 18 all individuals of a household while they are members of the  
 19 household.

20 (6) "Homestead" means a single-family dwelling or unit  
 21 of a multiple-unit dwelling that is subject to ad valorem  
 22 taxes in Montana, owned and occupied as a residence by the  
 23 owner for at least 6 months of the claim period or occupied  
 24 as a dwelling of a renter or lessee for at least 6 months of  
 25 the claim period, and as much of the surrounding lands, but

1 not in excess of 1 acre, as is reasonably necessary for its  
2 use as a dwelling.

3 (7) "Department" means the department of revenue.

4 (8) "Gross rent" means the total rent in cash or its  
5 equivalent actually paid during the claim period by the  
6 renter or lessee for the right of occupancy of the homestead  
7 pursuant to an arm's length transaction with the landlord.

8 (9) "Property tax paid" means general ad valorem taxes  
9 levied against the homestead, exclusive of special  
10 assessments, penalties, or interest and paid during the  
11 claim period.

12 (10) "Rent-equivalent tax paid" means 15% of the gross  
13 rent.

14 Section 2. Eligibility. In order to be eligible to  
15 make a claim under [sections 1 through 10], an individual  
16 must have reached age 62 or older during the claim period  
17 for which relief is sought and must have resided in Montana  
18 for at least 9 months of that period.

19 Section 3. Disallowance or adjustment of certain  
20 claims. (1) A claim is disallowed if the department finds  
21 that the claimant received title to his homestead primarily  
22 for the purpose of receiving benefits under [sections 1  
23 through 10].

24 (2) When the landlord and tenant have not dealt at  
25 arm's length and the department judges the gross rent

1 charged to be excessive, the department may adjust the gross  
2 rent to a reasonable amount.

3 Section 4. Filing date. (1) Except as provided in  
4 subsection (2), a claim for relief must be submitted at the  
5 same time the claimant's individual income tax return is  
6 due. For an individual not required to file a tax return,  
7 the claim must be submitted on or before April 15 of the  
8 year following the year for which relief is sought.

9 (2) The department may grant a reasonable extension  
10 for filing a claim whenever, in its judgment, good cause  
11 exists. The department shall keep a record of each extension  
12 and the reason for granting the extension.

13 (3) In the event that an individual who would have a  
14 claim under [sections 1 through 10] dies before filing the  
15 claim, the personal representative of the estate of the  
16 decedent may file the claim.

17 Section 5. Form of relief. Relief under [sections 1  
18 through 10] is a credit against the claimant's Montana  
19 individual income tax liability for the claim period. If the  
20 amount of the credit exceeds the claimant's liability under  
21 Title 15, chapter 30, the amount of the excess shall be  
22 refunded to the claimant. The credit may be claimed even  
23 though the claimant has no income taxable under Title 15,  
24 chapter 30.

25 Section 6. Computation of relief. The amount of the

1 tax credit granted under the provisions of [sections 1  
2 through 10] is computed as follows:

3 (1) In the case of a claimant who owns the homestead  
4 for which a claim is made, the credit is the amount of  
5 property tax paid less the deduction specified in subsection  
6 (3).

7 (2) In the case of a claimant who rents the homestead  
8 for which a claim is made, the credit is the amount of  
9 rent-equivalent tax paid less the deduction specified in  
10 subsection (3).

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

13 Household income	Amount of reduction
14 \$ 0-999	\$0
15 1000-1999	\$0
16 2000-2999	the product of .006 times the household income
17 3000-3999	the product of .016 times the household income
18 4000-4999	the product of .024 times the household income
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2 (4) In no case may the credit granted exceed \$400.

3 Section 7. Limitations. (1) Only one claimant per  
4 household in a claim period under the provisions of  
5 [sections 1 through 10] is entitled to relief.

6 (2) No claim for relief may be allowed for any portion  
7 of property taxes paid or rent-equivalent taxes paid that is  
8 derived from a public rent or tax subsidy program.

9 Section 8. Proof of claim. A receipt showing property  
10 tax paid or a receipt showing gross rent paid, whichever is  
11 appropriate, must be filed with each claim. In addition,  
12 each claimant must, at the request of the department, supply  
13 all additional information necessary to support his claim.

14 Section 9. Denial of claim. A person filing a false or  
15 fraudulent claim under the provisions of [sections 1 through  
16 10] shall be charged with the offense of unsworn  
17 falsification to authorities pursuant to section 45-7-203.  
18 If a false or fraudulent claim has been paid, the amount  
19 paid may be recovered as any other debt owed to the state.  
20 An additional 10% may be added to the amount due as a  
21 penalty. The unpaid debt shall bear interest from the date  
22 of the original payment of claim until paid, at the rate of  
23 1% per month.

24 Section 10. Administration. The department may adopt  
25 rules necessary for the administration of [sections 1

1 through 10] and shall make the appropriate forms and  
2 instructions available to the public.

3 Section 11. Codification instruction. Sections 1  
4 through 10 of this act are intended to be codified as an  
5 integral part of Title 15, chapter 30, and the provisions of  
6 Title 15, chapter 30, apply to sections 1 through 10.

7 Section 12. Effective date. This act is effective on  
8 passage and approval and is applicable to claim periods  
9 beginning during and after calendar year 1981.

-End-

STATE OF MONTANA

REQUEST NO. 258-81

FISCAL NOTE

Form BD-15

In compliance with a written request received February 3, 1981, there is hereby submitted a Fiscal Note for Senate Bill 337 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA).

Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

Description of Proposed Legislation

An act to provide property tax relief to certain homeowners and renters by means of a credit against individual income tax liability; providing penalties for fraudulent claims; and providing an effective date.

Assumptions

- 1. There are 110,936 individuals aged 62 and over in the state.
2. The income distribution of renters and homeowners over 62 years is as follows:

Table with 3 columns: Income Range, Number of Homeowners, Number of Renters. Rows range from \$0-\$2,000 to \$11,000-\$11,999.

- 3. All homeowners who meet the income requirements fall under the special property class (i.e., taxable value equals 4.275% of assessed).
4. The average assessed home value is \$28,550 (obtained from Census figures). The average gross rent paid is \$1,440 (obtained from Census figures).
5. The average mill levy is 220 mills.

Fiscal Impact

The estimated loss of individual income tax revenue under this proposal is \$8-10 million for each fiscal year. No attempt was made to alter the assumptions to reflect FY 1983 values.

The distribution of income, the average gross rent paid, the level of property tax paid on a dwelling, and, in fact, the relationship between property tax paid and income are estimated from data sources which are quite old (1975 and before). At the same time, the estimation procedure is fairly sensitive to changes in these parameters. This means that a modest change in an assumption can lead to a significant change in impact.

Signature of Daniel M. Lewis, BUDGET DIRECTOR, Office of Budget and Program Planning, Date: 2-6-81

Approved by Committee  
on Taxation

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5 BY REQUEST OF THE OFFICE OF THE GOVERNOR

6  
7 A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE PROPERTY TAX  
8 RELIEF TO CERTAIN HOMEOWNERS AND RENTERS BY MEANS OF A  
9 CREDIT AGAINST INDIVIDUAL INCOME TAX LIABILITY; PROVIDING  
10 PENALTIES FOR FRAUDULENT CLAIMS; AND PROVIDING AN EFFECTIVE  
11 DATE."

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13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:14 Section 1. Definitions. As used in [sections 1 through  
15 ~~10~~ 2], the following definitions apply:16 (1) "Income" means federal adjusted gross income,  
17 without regard to loss, as that quantity is defined in the  
18 Internal Revenue Code of the United States, plus all  
19 nontaxable income, including but not limited to:20 (a) the gross amount of any pension or annuity  
21 (including Railroad Retirement Act benefits and veterans'  
22 disability benefits);23 (b) the amount of capital gains excluded from adjusted  
24 gross income;

25 (c) alimony;

1 (d) support money;

2 (e) nontaxable strike benefits;

3 (f) cash public assistance and relief;

4 (g) all payments received under federal social  
5 security; and6 (h) payments and interest on federal, state, county,  
7 and municipal bonds.8 (2) "Claim period" means the tax year for individuals  
9 required to file Montana individual income tax returns and  
10 the calendar year for individuals not required to file  
11 returns.12 (3) "Claimant" means an individual natural person who  
13 is eligible to file a claim under [section 2].14 (4) "Household" means an association of persons who  
15 live in the same dwelling, sharing its furnishings,  
16 facilities, accommodations, and expenses. The term does not  
17 include bona fide lessees, tenants, or roomers and boarders  
18 on contract.19 (5) "Household income" means all ADJUSTED GROSS income  
20 AS REPORTED ON FEDERAL INCOME TAX RETURNS received by all  
21 individuals of a household while they are members of the  
22 household.23 (6) "Homestead" means a single-family dwelling or unit  
24 of a multiple-unit dwelling that is subject to ad valorem  
25 taxes in Montana, owned and occupied as a residence by the

1 owner for at least 6 months of the claim period or occupied  
 2 as a dwelling of a renter or lessee for at least 6 months of  
 3 the claim period, and as much of the surrounding land, but  
 4 not in excess of 1 acre, as is reasonably necessary for its  
 5 use as a dwelling.

6 (7) "Department" means the department of revenue.

7 (8) "Gross rent" means the total rent in cash or its  
 8 equivalent actually paid during the claim period by the  
 9 renter or lessee for the right of occupancy of the homestead  
 10 pursuant to an arm's length transaction with the landlord.

11 (9) "Property tax paid" means general ad valorem taxes  
 12 levied against the homestead, exclusive of special  
 13 assessments, penalties, or interest and paid during the  
 14 claim period.

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

17 Section 2. Eligibility. In order to be eligible to  
 18 make a claim under [sections 1 through ~~10~~ 9], an individual  
 19 must have reached age 62 or older during the claim period  
 20 for which relief is sought and must have resided in Montana  
 21 for at least 9 months of that period.

22 Section 3. Disallowance or adjustment of certain  
 23 claims. (1) A claim is disallowed if the department finds  
 24 that the claimant received title to his homestead primarily  
 25 for the purpose of receiving benefits under [sections 1

1 through ~~10~~ 9].

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

6 Section 4. Filing date. (1) Except as provided in  
 7 subsection (2), a claim for relief must be submitted at the  
 8 same time the claimant's individual income tax return is  
 9 due. For an individual not required to file a tax return,  
 10 the claim must be submitted on or before April 15 of the  
 11 year following the year for which relief is sought.

12 (2) The department may grant a reasonable extension  
 13 for filing a claim whenever, in its judgment, good cause  
 14 exists. The department shall keep a record of each extension  
 15 and the reason for granting the extension.

16 (3) In the event that an individual who would have a  
 17 claim under [sections 1 through ~~10~~ 9] dies before filing the  
 18 claim, the personal representative of the estate of the  
 19 decedent may file the claim.

20 Section 5. Form of relief. Relief under [sections 1  
 21 through ~~10~~ 9] is a credit against the claimant's Montana  
 22 individual income tax liability for the claim period. If the  
 23 amount of the credit exceeds the claimant's liability under  
 24 Title 15, chapter 30, the amount of the excess shall be  
 25 refunded to the claimant. The credit may be claimed even

1 though the claimant has no income taxable under Title 15,  
2 chapter 30.

3 Section 6. Computation of relief. The amount of the  
4 tax credit granted under the provisions of [sections 1  
5 through 10 9] is computed as follows:

6 (1) In the case of a claimant who owns the homestead  
7 for which a claim is made, the credit is the amount of  
8 property tax paid less the deduction specified in subsection  
9 (3).

10 (2) In the case of a claimant who rents the homestead  
11 for which a claim is made, the credit is the amount of  
12 rent-equivalent tax paid less the deduction specified in  
13 subsection (3).

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

Household income	Amount of reduction
17 \$-----0-999	
18 \$ <u>    0-749</u>	\$0
19 --1000-1999	
20 <u>    750-1499</u>	\$0
21 --2000-2999	
22 <u>   1500-2249</u>	the product of .006 times the household income
23 --3000-3999	
24 <u>   2250-2999</u>	the product of .016 times the household income
25 --4000-4999	

1 <u>   3000-3749</u>	the product of .024 times the household income
2 --5000-5999	
3 <u>   3750-4499</u>	the product of .028 times the household income
4 --6000-6999	
5 <u>   4500-5249</u>	the product of .032 times the household income
6 --7000-7999	
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8 --8000-8999	
9 <u>   6000-6749</u>	the product of .039 times the household income
10 --9000-9999	
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12 10000-10999	
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14 11000-11999	
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16 12000-1-over	
17 <u>  9000 &amp; OVER</u>	the product of .050 times the household income

18 (4) In no case may the credit granted exceed \$400  
19 \$150.

20 Section 7. Limitations. (1) Only one claimant per  
21 household in a claim period under the provisions of  
22 [sections 1 through 10 9] is entitled to relief.

23 (2) No claim for relief may be allowed for any portion  
24 of property taxes paid or rent-equivalent taxes paid that is  
25 derived from a public rent or tax subsidy program.

1 Section 8. Proof of claim. A receipt showing property  
 2 tax paid or a receipt showing gross rent paid, whichever is  
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 21 through ~~10~~ 9 of this act are intended to be codified as an  
 22 integral part of Title 15, chapter 30, and the provisions of  
 23 Title 15, chapter 30, apply to sections 1 through ~~10~~ 9.

24 Section 11. Effective date. This act is effective on  
 25 passage and approval and is applicable to claim periods

1 beginning during and after calendar year 1981.

-End-

## 1 SENATE BILL NO. 337

2 INTRODUCED BY REGAN, BLAYLOCK, TOME, HAFFEY, MAZUREK,

3 HALLIGAN, CONOVER, ECK, BERG, NORMAN, JACOBSON,

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-End-

House amendments to Senate Bill 337  
April 22, 1981

1. Page 2, line 19.

Following: "all"

Insert: "adjusted gross"

Following: "income"

Insert: "as reported on federal income tax returns"

2. Page 5, line 16.

Strike: "0-999"

Insert: "0-749"

3. Page 5, line 17.

Strike: "1000-1999"

Insert: "750-1499"

4. Page 5, line 18.

Strike: "2000-2999"

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Insert: "2250-2999"

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Strike: "500-5999"

Insert: "3750-4499"

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Insert: "6000-6749"

11. Page 5, line 25.

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12. Page 6, line 1.

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Insert: "7500-8249"

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Insert: "8250-8999"

14. Page 6, line 3.

Strike: "12000 & over"

Insert: "9000 & over"

15. Page 6, line 4.

Following: "exceed"

Strike: "\$400"

Insert: "\$150"