

HOUSE BILL NO. 624

Introduced: 02/03/83

Referred to Committee on Taxation: 02/03/83

Hearing: 2/15/83

Report: 02/15/83, Do Pass, As Amended

Rereferred to Committee on Appropriations: 02/18/83

Hearing: 3/26/83

Report: 03/28/83, Do Not Pass

Bill Killed, 03/29/83

1 House BILL NO. 624  
2 INTRODUCED BY McBride Harper Nuttall  
3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING CERTAIN  
5 ELDERLY CITIZENS TO DEFER CERTAIN PROPERTY TAXES; PROVIDING  
6 AN INTEREST RATE FOR DEFERRED TAXES; PROVIDING FOR  
7 ADMINISTRATION AND ENFORCEMENT; PROVIDING PENALTIES;  
8 PROVIDING AN APPROPRIATION; AND PROVIDING AN IMMEDIATE  
9 EFFECTIVE DATE."

10  
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
12 Section 1. Purpose. It is the purpose of [sections 1  
13 through 15] to allow elderly citizens of this state to enjoy  
14 the benefits of continued home ownership even though their  
15 present income is greatly diminished because of retirement  
16 or disability. The legislature finds that the annual burden  
17 of the property tax on the dwellings of these citizens may  
18 discourage continued ownership. [Sections 1 through 15]  
19 give them an option, other than simply selling their home,  
20 by providing that they may defer all or part of the property  
21 tax due until such time as title of the home passes to  
22 another individual or they choose to pay the deferred tax  
23 plus interest.

24 Section 2. Definitions. As used in [sections 1 through  
25 15], unless the context clearly indicates otherwise, the

1 following definitions apply:

2 (1) "Department" means the department of revenue  
3 created in 2-15-1301.

4 (2) "Equity" means the market value of the remaining  
5 interest of the owner who has pledged or mortgaged his  
6 homestead.

7 (3) "Homestead" means a residential unit, either real  
8 or personal property, and so much of the land upon which it  
9 is situated as is necessary for its use as a dwelling.

10 (4) "Household" means all persons who share a common  
11 dwelling as a principal place of residence. The term does  
12 not include minors or individuals who are bona fide lessees  
13 or renters.

14 (5) "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, except medicare; and  
 4 (h) payments and interest on federal, state, county,  
 5 and municipal bonds.

6 (6) "Market value" means the appraised value set for  
 7 property tax purposes by the department of revenue, unless  
 8 an applicant chooses to provide evidence that the actual  
 9 market value is substantially different, in which case the  
 10 actual market value must be used.

11 (7) "Own" means possession of a fee simple estate in  
 12 real property or the possession of title to personal  
 13 property.

14 (8) "Personal property" means a mobile home which is  
 15 not treated as an improvement to real property for property  
 16 tax purposes.

17 (9) "Property taxes" means all ad valorem taxes,  
 18 special assessments, charges, or user fees that are billed  
 19 to property by the county treasurer.

20 (10) "Year of application" means the calendar year  
 21 during which an application for deferral of property taxes  
 22 is filed.

23 Section 3. Eligibility. In order to defer property  
 24 taxes on a homestead:

25 (1) all owners must be at least 62 years of age or

1 older by the end of the year of application, except that  
 2 when ownership is by a married couple only one spouse need  
 3 meet this criterion;

4 (2) during the 12 months immediately preceding the  
 5 date of application, combined income of members of the  
 6 household may not exceed \$20,000;

7 (3) the total owner equity in the homestead must be at  
 8 least 20% of the market value;

9 (4) the homestead must be the principal residence of  
 10 the owners during at least 9 months of the year of deferral;  
 11 and

12 (5) no property tax on the homestead may be delinquent  
 13 as of the date of application for deferral.

14 Section 4. Claim form -- content -- date due. (1) A  
 15 claim for deferral of property taxes on a homestead must be  
 16 made in writing on a form supplied by the department. The  
 17 claim form must:

18 (a) give the address and legal description of the  
 19 homestead;

20 (b) give facts that establish the validity of the  
 21 claim;

22 (c) have attached all documentary evidence that the  
 23 department may require; and

24 (d) contain a dated statement to the effect that all  
 25 information supplied by the applicant is true.

1 (2) The form must be available through the department  
2 and through the office of each county treasurer. A claim  
3 for deferral of property tax is due March 1 of the year the  
4 deferral is applicable.

5 Section 5. Certificate of eligibility -- form and  
6 content. Upon receipt of a valid claim, the department shall  
7 issue a certificate of eligibility. The certificate must  
8 consist of a two-part voucher, one part to be used for the  
9 first-half property tax payment and the other part to be  
10 used for the second-half payment. Each part of the  
11 certificate must have space for the individual's signature  
12 and the amount of tax to be deferred.

13 Section 6. Duties of department. The department shall:

14 (1) determine the validity of each claim for deferral  
15 of property taxes;

16 (2) issue a certificate of eligibility to any  
17 individual who files a claim that meets the criteria set  
18 forth in [section 3];

19 (3) upon receipt from a county treasurer of a  
20 completed voucher and accompanying copy of the individual  
21 property tax bill, issue payment to the county treasurer in  
22 the amount shown on the voucher;

23 (4) if the tax is being deferred on real property,  
24 have a lien recorded with the clerk of the county in which  
25 the property is located, in the name of the state of

1 Montana, as of the date of application, and in the amount of  
2 tax deferred;

3 (5) if the tax is being deferred on personal property,  
4 endorse a lien, in the name of the state of Montana, as of  
5 the date of application, in the amount of property tax  
6 deferred, on the certificate of title and return it to the  
7 registrar of motor vehicles along with the applicable fee;

8 (6) keep an account for each individual property upon  
9 which the property tax has been deferred and accrue interest  
10 and service charges as specified in [sections 1 through 15];

11 (7) collect the balance of deferred tax, accrued  
12 interest, and service charges remaining in each account when  
13 it becomes due under the provisions of [section 10]; and

14 (8) on or before December 31 each year, provide  
15 written notice to each taxpayer who deferred property tax  
16 for the preceding tax year as to the total amount of  
17 property tax, interest, and service charges that are accrued  
18 against the taxpayer's property. The notice must also state  
19 that if the taxpayer chooses to defer property tax for the  
20 new tax year, a new claim must be filed.

21 Section 7. Procedure for tax deferral. On or before  
22 the date on which the property tax to be deferred is due,  
23 the individual shall submit the property tax bill and  
24 certificate of eligibility to the county treasurer of the  
25 county in which the property is located. If the property

involved is personal property, the certificate of title must also be submitted. The taxpayer is entitled to defer all or part of the property tax due and must indicate his choice by entering the amount of property taxes to be deferred on the certificate of eligibility and signing it. The taxpayer's copy of the tax bill must be marked to indicate that payment of all or part of the amount due has been deferred.

Section 8. Duties of county treasurer. The county treasurer shall:

(1) supply claim forms to all individuals upon request;

(2) accept a completed certificate of eligibility in lieu of property taxes in the amount indicated by the taxpayer; and

(3) submit to the department a copy of the tax bill, completed certificate of eligibility, and, if applicable, certificate of title for each individual who chooses to defer property taxes.

Section 9. Interest and service charges. (1) The amount of property tax deferred is subject to a charge of 7% simple interest annually.

(2) A fee of \$5 must be charged by the department for processing each separate completed certificate of eligibility. The fee may be added to the individual taxpayer's account, but may not bear interest.

Section 10. Payment of deferred property tax. (1) A taxpayer may at any time pay all or part of the balance in the account kept by the department.

(2) The entire balance of the account kept by the department is due within 30 days of the occurrence of any one of the following conditions:

(a) the taxpayer dies;

(b) the property upon which taxes have been deferred is no longer used as the principal residence of the taxpayer;

(c) one or more of the criteria set forth in [section 3] is no longer met; or

(d) the property upon which the taxes have been deferred is sold or a contract for its sale is signed.

(3) Notwithstanding subsections (2)(a) and (2)(c), if a surviving spouse becomes sole owner of the property, he may continue to defer the payment of property tax even though the age limitation of [section 3(1)] is not met, provided all other criteria of [section 3] are met.

(4) Notwithstanding subsection (2), if the dwelling consists of a mobile home, the balance of the account must be paid before the mobile home may be moved.

(5) Any payment made under this section must first be applied to reduce the accrued interest and service charges. The amount remaining after all interest and service charges

1 have been paid may then be used to reduce the balance of  
 2 deferred property tax. Voluntary payment of deferred  
 3 property tax before it is due under the terms of this  
 4 section does not give the individual who makes the payment  
 5 any interest in the property upon which the tax has been  
 6 deferred or give such individual a claim on the estate of  
 7 the individual who deferred property tax.

8 (6) Deferred property tax, accrued interest, and  
 9 service charges are to be considered a tax debt of the  
 10 estate of a deceased claimant and, as such, must be paid  
 11 before any order or decree for the distribution of any  
 12 property of the decedent is entered.

13 (7) When the deferred property tax account has been  
 14 paid in full, the department shall record a satisfaction of  
 15 lien in the county in which the property is located or, if  
 16 the tax was deferred on personal property, with the  
 17 registrar of motor vehicles.

18 Section 11. Nature of lien. The lien filed by the  
 19 department for property tax deferred is equal in priority to  
 20 the lien that local government units possess with respect to  
 21 property tax.

22 Section 12. Foreclosure. If the balance of the  
 23 deferred property tax account becomes due because one of the  
 24 conditions of [section 10(2)] occurs and the balance is not  
 25 paid within the time prescribed, such balance constitutes a

1 delinquent property tax. In such a case, the department  
 2 stands in the position of the county treasurer and may  
 3 pursue the remedies provided in Title 15, chapters 16 and  
 4 17.

5 Section 13. Eligibility for other tax relief programs.  
 6 Application for or actual deferral of property tax has no  
 7 effect upon an individual's eligibility for reduction of  
 8 property tax liability under 15-6-134 or 15-6-211.

9 Section 14. Administrative rules. The department may  
 10 promulgate and adopt rules necessary for the efficient  
 11 administration of [sections 1 through 15].

12 Section 15. Penalties. An individual who intentionally  
 13 supplies false information in order to achieve eligibility  
 14 to defer property taxes commits the offense of false  
 15 swearing. In addition to the penalty provided in 45-7-202,  
 16 all deferred property tax, accrued interest, and service  
 17 charges become due immediately upon conviction of such false  
 18 swearing.

19 Section 16. Appropriation. There is appropriated from  
 20 the general fund to the department of revenue \$200,000 for  
 21 the biennium ending June 30, 1985, for the purpose of  
 22 providing payments to local governments under section 5 and  
 23 \$10,000 for the biennium ending June 30, 1985, for the  
 24 purpose of administering this act.

25 Section 17. Effective date. This act is effective on

1 passage and approval.

-End-

## FISCAL NOTE

Form BD-15

In compliance with a written request received February 7, 19 83, there is hereby submitted a Fiscal Note for House Bill 624 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:

House Bill 624 would permit an individual 62 years of age and older who meets certain income and ownership criteria to defer payment of property tax on his principal residence. The state would pay the tax and have a lien on the property. The deferred tax would become due upon the death of the owner or upon sale of the property.

FISCAL IMPACT:

There is no way of knowing how many taxpayers might choose to avail themselves to this program. Experience in other states which have similar provisions indicates that the initial response is small and that taxpayer acceptance builds over time. At present, there are about 11,000 individuals claiming class 4 status. These claimants would be the ones to defer the tax. The average property tax paid by these individuals was in the range of \$150 to \$175. Assuming that about 5% of the class 4 claimants would choose to defer tax, the annual cost to the state would be \$82,600 to \$96,260.

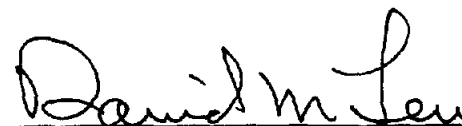
EFFECT OF COUNTY OR OTHER LOCAL REVENUE OR EXPENDITURES:

No impact on local revenues. The state will pay the tax bill and assume the responsibility for collecting the money when it becomes due.

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

Over the long term the number of properties upon which tax is deferred should stabilize with the number of properties entering the system balancing the number leaving. At that point the program would become self-sustaining.

FISCAL NOTE 12:B/1



BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 2-9-83



## 1 STATEMENT OF INTENT

## 2 HOUSE BILL 624

## 3 House Taxation Committee

4  
5 It is the purpose of this act to permit qualifying  
6 homeowners to defer payment of property taxes on their  
7 homes. The state pays the tax to the county involved and has  
8 a lien against the property for the amount paid. The  
9 ability to defer taxes is granted to both real property  
10 owners and mobile homeowners who meet the qualifications set  
11 forth in the act. The act will be effective for property  
12 taxes which become due after its passage and approval.

13 The Department of Revenue is designated as the  
14 administering agency. It is the intention of the Legislature  
15 that the Department use as much of the current mechanism for  
16 determining eligibility for class 4 property tax relief as  
17 is practicable in order to determine eligibility for tax  
18 deferral. However, the Department is to keep a register of  
19 those properties upon which tax has been deferred and  
20 develop a central accounting and notification system. Since  
21 deferral of tax places a cloud on the property owner's  
22 title, the Legislature specifically requires those who wish  
23 to avail themselves of tax relief under this act to take the  
24 affirmative action of reapplying each year.

25 The rules to be adopted by the Department under the

1 authority granted in this act should set forth the details  
2 of the procedure for determining eligibility and should also  
3 state a procedure for payment of deferred tax. The emphasis  
4 should be on making it simple for the eligible taxpayer to  
5 avail himself of this program.

6 The payments to local governments are designed to  
7 assure that they do not suffer any revenue loss under this  
8 tax relief program.

SECOND READING

-2-

H/B 624

Approved by committee on Taxation

HOUSE BILL NO. 624

INTRODUCED BY MCBRIDE, HARPER, METCALF

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING CERTAIN ELDERLY CITIZENS TO DEFER CERTAIN PROPERTY TAXES; PROVIDING AN INTEREST RATE FOR DEFERRED TAXES; PROVIDING FOR ADMINISTRATION AND ENFORCEMENT; PROVIDING PENALTIES; PROVIDING AN APPROPRIATION; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. Purpose. It is the purpose of [sections 1 through 15] to allow elderly citizens of this state to enjoy the benefits of continued home ownership even though their present income is greatly diminished because of retirement or disability. The legislature finds that the annual burden of the property tax on the dwellings of these citizens may discourage continued ownership. [Sections 1 through 15] give them an option, other than simply selling their home, by providing that they may defer all or part of the property tax due until such time as title of the home passes to another individual or they choose to pay the deferred tax plus interest.

Section 2. Definitions. As used in [sections 1 through 15], unless the context clearly indicates otherwise, the

following definitions apply:

(1) "Department" means the department of revenue created in 2-15-1301.

(2) "Equity" means the market value of the remaining interest of the owner who has pledged or mortgaged his homestead.

(3) "Homestead" means a residential unit, either real or personal property, and so much of the land upon which it is situated as is necessary for its use as a dwelling.

(4) "Household" means all persons who share a common dwelling as a principal place of residence. The term does not include minors or individuals who are bona fide lessees or renters.

(5) "Income" means federal adjusted gross income, without regard to loss, as that quantity is defined in the Internal Revenue Code of the United States, plus all nontaxable income, including but not limited to:

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

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

(c) alimony;

(d) support money;

(e) nontaxable strike benefits;

(f) cash public assistance and relief;

(g) all payments received under federal social security, except medicare; and

(h) payments and interest on federal, state, county, and municipal bonds.

(6) "Market value" means the appraised value set for property tax purposes by the department of revenue, unless an applicant chooses to provide evidence that the actual market value is substantially different, in which case the actual market value must be used.

(7) "Own" means possession of a fee simple estate in real property or the possession of title to personal property.

(8) "Personal property" means a mobile home which is not treated as an improvement to real property for property tax purposes.

(9) "Property taxes" means all ad valorem taxes, special assessments, charges, or user fees that are billed to property by the county treasurer.

(10) "Year of application" means the calendar year during which an application for deferral of property taxes is filed.

Section 3. Eligibility. In order to defer property taxes on a homestead:

(1) all owners must be at least 62 years of age or

older by the end of the year of application, except that when ownership is by a married couple only one spouse need meet this criterion;

(2) during the 12 months immediately preceding the date of application, combined income of members of the household may not exceed \$20,000;

(3) the total owner equity in the homestead must be at least 20% of the market value;

(4) the homestead must be the principal residence of the owners during at least 9 months of the year of deferral; and

(5) no property tax on the homestead may be delinquent as of the date of application for deferral.

Section 4. Claim form -- content -- date due. (1) A claim for deferral of property taxes on a homestead must be made in writing on a form supplied by the department. The claim form must:

(a) give the address and legal description of the homestead;

(b) give facts that establish the validity of the claim;

(c) have attached all documentary evidence that the department may require; and

(d) contain a dated statement to the effect that all information supplied by the applicant is true.

(2) The form must be available through the department and through the office of each county treasurer. A claim for deferral of property tax is due March 1 of the year the deferral is applicable.

Section 5. Certificate of eligibility -- form and content. Upon receipt of a valid claim, the department shall issue a certificate of eligibility. The certificate must consist of a two-part voucher, one part to be used for the first-half property tax payment and the other part to be used for the second-half payment. Each part of the certificate must have space for the individual's signature and the amount of tax to be deferred.

Section 6. Duties of department. The department shall:

(1) determine the validity of each claim for deferral of property taxes;

(2) issue a certificate of eligibility to any individual who files a claim that meets the criteria set forth in [section 3];

(3) upon receipt from a county treasurer of a completed voucher and accompanying copy of the individual property tax bill, issue payment to the county treasurer in the amount shown on the voucher;

(4) if the tax is being deferred on real property, have a lien recorded with the clerk of the county in which the property is located, in the name of the state of

Montana, as of the date of application, and in the amount of tax deferred;

(5) if the tax is being deferred on personal property, endorse a lien, in the name of the state of Montana, as of the date of application, in the amount of property tax deferred, on the certificate of title and return it to the registrar of motor vehicles along with the applicable fee;

(6) keep an account for each individual property upon which the property tax has been deferred and accrue interest and service charges as specified in [sections 1 through 15];

(7) collect the balance of deferred tax, accrued interest, and service charges remaining in each account when it becomes due under the provisions of [section 10]; and

(3) on or before December 31 each year, provide written notice to each taxpayer who deferred property tax for the preceding tax year as to the total amount of property tax, interest, and service charges that are accrued against the taxpayer's property. The notice must also state that if the taxpayer chooses to defer property tax for the new tax year, a new claim must be filed.

Section 7. Procedure for tax deferral. On or before the date on which the property tax to be deferred is due, the individual shall submit the property tax bill and certificate of eligibility to the county treasurer of the county in which the property is located. If the property

involved is personal property, the certificate of title must also be submitted. The taxpayer is entitled to defer all or part of the property tax due and must indicate his choice by entering the amount of property taxes to be deferred on the certificate of eligibility and signing it. The taxpayer's copy of the tax bill must be marked to indicate that payment of all or part of the amount due has been deferred.

Section 8. Duties of county treasurer. The county treasurer shall:

(1) supply claim forms to all individuals upon request;

(2) accept a completed certificate of eligibility in lieu of property taxes in the amount indicated by the taxpayer; and

(3) submit to the department a copy of the tax bill, completed certificate of eligibility, and, if applicable, certificate of title for each individual who chooses to defer property taxes.

Section 9. Interest and service charges. (1) The amount of property tax deferred is subject to a charge of 7% simple interest annually.

(2) A fee of \$5 must be charged by the department for processing each separate completed certificate of eligibility. The fee may be added to the individual taxpayer's account, but may not bear interest.

Section 10. Payment of deferred property tax. (1) A taxpayer may at any time pay all or part of the balance in the account kept by the department.

(2) The entire balance of the account kept by the department is due within ~~30-days~~ 6 MONTHS of the occurrence of any one of the following conditions:

(a) the taxpayer dies;

(b) the property upon which taxes have been deferred is no longer used as the principal residence of the taxpayer;

(c) one or more of the criteria set forth in [section 3] is no longer met; or

(d) the property upon which the taxes have been deferred is sold or a contract for its sale is signed.

(3) Notwithstanding subsections (2)(a) and (2)(c), if a surviving spouse becomes sole owner of the property, he may continue to defer the payment of property tax even though the age limitation of [section 3(1)] is not met, provided all other criteria of [section 3] are met.

(4) Notwithstanding subsection (2), if the dwelling consists of a mobile home, the balance of the account must be paid before the mobile home may be moved.

(5) Any payment made under this section must first be applied to reduce the accrued interest and service charges. The amount remaining after all interest and service charges

1 have been paid may then be used to reduce the balance of  
 2 deferred property tax. Voluntary payment of deferred  
 3 property tax before it is due under the terms of this  
 4 section does not give the individual who makes the payment  
 5 any interest in the property upon which the tax has been  
 6 deferred or give such individual a claim on the estate of  
 7 the individual who deferred property tax.

8 (6) Deferred property tax, accrued interest, and  
 9 service charges are to be considered a tax debt of the  
 10 estate of a deceased claimant and, as such, must be paid  
 11 before any order or decree for the distribution of any  
 12 property of the decedent is entered.

13 (7) When the deferred property tax account has been  
 14 paid in full, the department shall record a satisfaction of  
 15 lien in the county in which the property is located or, if  
 16 the tax was deferred on personal property, with the  
 17 registrar of motor vehicles.

18 Section 11. Nature of lien. The lien filed by the  
 19 department for property tax deferred is equal in priority to  
 20 the lien that local government units possess with respect to  
 21 property tax.

22 Section 12. Foreclosure. If the balance of the  
 23 deferred property tax account becomes due because one of the  
 24 conditions of [section 10(2)] occurs and the balance is not  
 25 paid within the time prescribed, such balance constitutes a

1 delinquent property tax. In such a case, the department  
 2 stands in the position of the county treasurer and may  
 3 pursue the remedies provided in Title 15, chapters 16 and  
 4 17.

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 6 Application for or actual deferral of property tax has no  
 7 effect upon an individual's eligibility for reduction of  
 8 property tax liability under 15-6-134 or 15-6-211.

9 Section 14. Administrative rules. The department may  
 10 promulgate and adopt rules necessary for the efficient  
 11 administration of [sections 1 through 15].

12 Section 15. Penalties. An individual who intentionally  
 13 supplies false information in order to achieve eligibility  
 14 to defer property taxes commits the offense of false  
 15 swearing. In addition to the penalty provided in 45-7-202,  
 16 all deferred property tax, accrued interest, and service  
 17 charges become due immediately upon conviction of such false  
 18 swearing.

19 Section 16. Appropriation. There is appropriated from  
 20 the general fund to the department of revenue \$200,000 for  
 21 the biennium ending June 30, 1985, for the purpose of  
 22 providing payments to local governments under section 5 and  
 23 \$10,000 for the biennium ending June 30, 1985, for the  
 24 purpose of administering this act.

25 Section 17. Effective date. This act is effective on

1 passage and approval.

-End-