SENATE BILL 42

Introduced by Bartlett, et al.

12/07 Introduced
12/07 Referred to Taxation
12/07 First Reading
12/07 Fiscal Note Requested
12/09 Fiscal Note Received
12/09 Fiscal Note Printed
12/10 Hearing
12/15 Committee Report--Bill Passed as Amended
12/16 Revised Fiscal Note Received
12/16 Revised Fiscal Note Printed
12/16 2nd Reading Passed
12/16 3rd Reading Passed

Transmitted to House
12/16 First Reading
12/16 Referred to Taxation
12/16 Hearing
12/16 Committee Report-Bill Concurred
12/16 2nd Reading Concurred as Amended
12/16 3rd Reading Concurred

Returned to Senate with Amendments
12/17 Motion Failed to Concur with Amendments on 2nd Reading
12/17 2nd Reading Amendments Not Concurred
Died in Process

Senate BILL NO. 42

INTRODUCED BY Bartlett Eck Swanson Kennedy Harp Beaudry Doherty Halligan Whalen Manahan Brown

A BILL FOR AN ACT ENTITLED: "AN ACT EXPANDING THE APPLICATION OF THE RESIDENTIAL PROPERTY TAX CREDIT FOR THE ELDERLY TO HOMEOWNERS AND RENTERS, SUBJECT TO INCOME RESTRICTIONS; ALLOWING AN INCOME TAX CREDIT BASED UPON THE AMOUNT OF PROPERTY TAXES PAID IN EXCESS OF A PERCENTAGE OF GROSS HOUSEHOLD INCOME; LIMITING THE CREDIT TO $800; AMENDING SECTIONS 15-30-171, 15-30-172, AND 15-30-176, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE, A RETROACTIVE APPLICABILITY DATE, AND A TERMINATION DATE."

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

Section 1. Section 15-30-171, MCA, is amended to read:

"**15-30-171. Residential property tax credit for ~~elderly~~ homeowners and renters -- definitions.** As used in 15-30-171 through 15-30-179, the following definitions apply:

(1) "Claim period" means the tax year for individuals required to file Montana individual income tax returns and the calendar year for individuals not required to file returns.

(2) "Claimant" means an individual natural person who is eligible to file a claim under 15-30-172.

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

(4) "Gross household income" means all income received by all individuals of a household while they are members of the household.

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

(6) "Homestead" means:

(a) a single-family dwelling or unit of a multiple-unit dwelling that is subject to ad valorem taxes in Montana and as much of the surrounding land, but not in excess of 1 acre, as is reasonably necessary for its use as a dwelling; or

(b) a single-family dwelling or unit of a multiple-unit dwelling that is rented from a county or municipal housing authority as provided in Title 7, chapter 15.

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

~~(8)--"Household--income"-means-$0-or-the-amount-obtained by-subtracting--the--greater--of--$4,000--or--50%--of--total retirement--benefits--from-gross-household-income,-whichever is-greater;~~

~~(9)~~ (8) "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) payments and interest on federal, state, county, and municipal bonds; and

(h) all payments received under federal social security except social security income paid directly to a nursing home.

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

~~(11)~~ (10) "Rent-equivalent tax paid" means 15% of the gross rent."

Section 2. Section 15-30-172, MCA, is amended to read:

LC 0102/01

"15-30-172. **Residential property tax credit for ~~elderly~~ homeowners and renters -- eligibility.** (1) In order to be eligible to make a claim under 15-30-171 through 15-30-179, an individual:

~~(a) must have reached age 62 or older during the claim period for which relief is sought;~~

~~(b)~~ (a) must have resided in Montana for at least 9 months of that period; and

~~(c)~~ (b) must have occupied one or more dwellings in Montana as an owner, renter, or lessee for at least 6 months of the claim period.

(2) A person is not disqualified as a claimant if the person changes residences during the claim period~~, provided that he~~ as long as the person occupies one or more dwellings in Montana as an owner, renter, or lessee for at least 6 months during the claim period."

Section 3. Section 15-30-176, MCA, is amended to read:

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

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

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

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

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

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

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

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

A taxpayer is eligible for a credit for the amount of property tax and rent-equivalent tax paid that is in excess of the amount determined under this subsection.

~~(5)--In-no-case-may--the~~ The credit granted may not exceed ~~$400.~~ $800. A household with income in excess of $75,000 may not receive a credit. The credit is computed as follows:

Gross household income	Percentage of income
$0 - 25,000	5%
25,001 - 50,000	6%
50,001 - 75,000	7%"

NEW SECTION. **Section 4. Effective date -- retroactive applicability.** [This act] is effective on passage and approval and applies retroactively, within the meaning of 1-2-109, to tax years beginning after December 31, 1992.

NEW SECTION. **Section 5. Termination.** [This act] terminates January 1, 1995.

-End-

STATE OF MONTANA - FISCAL NOTE
Form BD-15
In compliance with a written request, there is hereby submitted a Fiscal Note for SB0042, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:
An act to expand the application of the residential property tax credit for the elderly to homeowners and renters, subject to income restrictions; allowing an income tax credit based upon the amount of property taxes paid in excess of a percentage of gross household income; limiting the credit to $800; and providing an immediate effective date and a retroactive applicability date.

ASSUMPTIONS:
1. The provisions of this bill apply to tax year 1993, with income tax forms generally due on April 15, 1994. The full impact of the bill is first felt in fiscal year 1994.
2. Under current law, the homeowner/renter credit is limited to taxpayers age 62 or older. Approximately 17,800 taxpayers file claims for an average credit of $237; this results in total annual credits of $4,218,600.
3. Under the proposal, the credit is expanded to all households without regard to age limitations. Approximately 55,212 taxpayers (including 25,037 homeowners; 27,295 renters; and 2,880 mobile home owners) will apply for an average credit of $260.19; resulting in a total program cost of $14,365,480.
4. Individual income tax revenues are reduced a total of $10,146,880 in FY94 and subsequent years.

FISCAL IMPACT:

Expenditures: (Department of Revenue - General Fund)
Administrative costs increase a total of $49,377 in FY94 ($20,685 for personal services; $5,480 for equipment; and $23,212 for operating expenses); and $46,614 in FY95 ($31,866 for personal services and $14,748 for operating expenses).

Revenues:

Individual Income Tax	FY '94			FY '95		
	Current Law	Proposed Law	Difference	Current Law	Proposed Law	Difference
Income Tax	$327,093,000	$316,946,120	$(10,146,880)	$341,848,000	$331,701,120	$(10,146,880)
Penalties/Interest	1,275,000	1,275,000	0	2,973,000	2,973,000	0
Total	$328,368,000	$318,221,120	$(10,146,880)	$344,821,000	$334,674,120	$(10,146,880)

Fund Information:

General Fund	$195,895,335	$189,857,941	$(6,037,394)	$315,080,224	$305,816,123	$(9,264,101)
School Equalization	104,015,574	100,788,866	(3,226,708)	0	0	0
LRB - Debt Service	28,457,091	27,574,313	(882,778)	29,740,776	28,857,997	(882,779)
Total	$328,368,000	$318,221,120	$(10,146,880)	$344,821,000	$334,674,120	$(10,146,880)

Dave Lewis 12-8
DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

Sue Bartlett
SUE BARTLETT, PRIMARY SPONSOR DATE
Fiscal Note for SB0042, as introduced

SB 42

STATE OF MONTANA - FISCAL NOTE
Form BD-15
In compliance with a written request, there is hereby submitted a Fiscal Note for SB0042, second reading.

DESCRIPTION OF PROPOSED LEGISLATION:
An act to expand the application of the residential property tax credit for the elderly to homeowners and renters, subject to income restrictions; allowing an income tax credit based upon the amount of property taxes paid in excess of a percentage of gross household income; limiting the credit to $400; and providing an effective date and an applicability date.

ASSUMPTIONS:
1. The provisions of this bill apply to tax year 1994, with income tax forms generally due on April 15, 1995. The full impact of the bill is first felt in fiscal year 1995.
2. Under current law, the homeowner/renter credit is limited to taxpayers age 62 or older. Approximately 17,800 taxpayers file claims for an average credit of $237; this results in total annual credits of $4,218,600.
3. Under the proposal, the credit is expanded to all households without regard to age limitations. Approximately 55,212 taxpayers (including 25,037 homeowners; 27,295 renters; and 2,880 mobile home owners) will apply for an average credit of $215.13; resulting in a total program cost of $11,878,000.
4. Individual income tax revenues are reduced a total of $7,660,000 in FY95 and subsequent years.

FISCAL IMPACT:

Expenditures: (Department of Revenue - General Fund)
Administrative costs increase a total of $49,377 in FY94 ($20,685 for personal services; $5,480 for equipment; and $23,212 for operating expenses); and $46,614 in FY95 ($31,866 for personal services and $14,748 for operating expenses).

Revenues:

Individual Income Tax	FY '94			FY '95		
	Current Law	Proposed Law	Difference	Current Law	Proposed Law	Difference
Income Tax	$327,093,000	$327,093,000	$0	$341,848,000	$334,188,000	$ (7,660,000)
Penalties/Interest	1,275,000	1,275,000	0	2,973,000	2,973,000	0
Total	$328,368,000	$328,368,000	$0	$344,821,000	$337,161,000	$(7,660,000)

Fund Information:

General Fund	$195,895,335	$195,895,335	$(0)	$315,080,224	$308,086,224	$(6,994,000)
School Equalization	104,015,574	104,015,574	(0)	0	0	0
LRB - Debt Service	28,457,091	28,457,091	(0)	29,740,776	29,074,776	(666,000)
Total	$328,368,000	$328,368,000	$(0)	$344,821,000	$337,161,000	$(7,660,000)

Dave Lewis 12-15
DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

Sue Bartlett
SUE BARTLETT, PRIMARY SPONSOR DATE
Fiscal Note for SB0042, second reading

SB 42 #2

APPROVED BY COMMITTEE ON TAXATION

SENATE BILL NO. 42

INTRODUCED BY BARTLETT, ELLIOTT, FRANKLIN, KENNEDY, SWANSON, STANG, BIANCHI, WATERMAN, JACOBSON, CHRISTIAENS, DOHERTY, BROOKE, WEEDING, HOCKETT, JERGESON, BLAYLOCK, LYNCH, WHALEN, MENAHAN, S. RICE, BARNHART

A BILL FOR AN ACT ENTITLED: "AN ACT EXPANDING FOR 1 YEAR THE APPLICATION OF THE RESIDENTIAL PROPERTY TAX CREDIT FOR THE ELDERLY TO HOMEOWNERS AND RENTERS, SUBJECT TO INCOME RESTRICTIONS; ALLOWING AN INCOME TAX CREDIT BASED UPON THE AMOUNT OF PROPERTY TAXES PAID IN EXCESS OF A PERCENTAGE OF GROSS HOUSEHOLD INCOME; LIMITING THE CREDIT TO ~~$800~~ $400; AMENDING SECTIONS 15-30-171, 15-30-172, AND 15-30-176, MCA; AND PROVIDING AN ~~IMMEDIATE~~ EFFECTIVE DATE, ~~A RETROACTIVE~~ AN APPLICABILITY DATE, AND A TERMINATION DATE."

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

Section 1. Section 15-30-171, MCA, is amended to read:

"**15-30-171. Residential property tax credit for ~~elderly~~ homeowners and renters -- definitions.** As used in 15-30-171 through 15-30-179, the following definitions apply:

(1) "Claim period" means the tax year for individuals required to file Montana individual income tax returns and the calendar year for individuals not required to file returns.

(2) "Claimant" means an individual natural person who is eligible to file a claim under 15-30-172.

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

(4) "Gross household income" means all income received by all individuals of a household while they are members of the household.

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

(6) "Homestead" means:

(a) a single-family dwelling or unit of a multiple-unit dwelling that is subject to ad valorem taxes in Montana and as much of the surrounding land, but not in excess of 1 acre, as is reasonably necessary for its use as a dwelling; or

(b) a single-family dwelling or unit of a multiple-unit dwelling that is rented from a county or municipal housing authority as provided in Title 7, chapter 15.

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

~~(8)--"Household--income"-means-$0-or-the-amount-obtained~~

SECOND READING

~~by-subtracting--the--greater--of--$4,000--or--50%--of--total retirement--benefits--from-gross-household-income,-whichever is-greater.~~

~~(9)~~(8) "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) payments and interest on federal, state, county, and municipal bonds; and

(h) all payments received under federal social security except social security income paid directly to a nursing home.

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

~~(11)~~(10) "Rent-equivalent tax paid" means 15% of the gross rent."

Section 2. Section 15-30-172, MCA, is amended to read:

"**15-30-172. Residential property tax credit for ~~elderly~~ homeowners and renters -- eligibility.** (1) In order to be eligible to make a claim under 15-30-171 through 15-30-179, an individual:

~~(a)--must--have-reached-age-62-or-older-during-the-claim period-for-which-relief-is-sought;~~

~~(b)~~(a) must have resided in Montana for at least 9 months of ~~that~~ THE CLAIM period; and

~~(c)~~(b) must have occupied one or more dwellings in Montana as an owner, renter, or lessee for at least 6 months of the claim period.

(2) A person is not disqualified as a claimant if the person changes residences during the claim period~~,-provided that-he~~ as long as the person occupies one or more dwellings in Montana as an owner, renter, or lessee for at least 6 months during the claim period."

Section 3. Section 15-30-176, MCA, is amended to read:

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

(1) In the case of a claimant who owns the homestead

for which a claim is made, the credit is the amount of property tax paid ~~less the deduction~~ in excess of the amount ~~specified~~ calculated in subsection (4).

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

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

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

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

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

~~Household income~~	~~Amount of reduction~~
~~$ 0-999~~	~~$0~~
~~1,000-1,999~~	~~$0~~
~~2,000-2,999~~	~~the product of .006 times the household income~~
~~3,000-3,999~~	~~the product of .016 times the household income~~
~~4,000-4,999~~	~~the product of .024 times the household income~~
~~5,000-5,999~~	~~the product of .028 times the household income~~
~~6,000-6,999~~	~~the product of .032 times the household income~~

~~7,000-7,999~~	~~the product of .035 times the household income~~
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~~9,000-9,999~~	~~the product of .042 times the household income~~
~~10,000-10,999~~	~~the product of .045 times the household income~~
~~11,000-11,999~~	~~the product of .048 times the household income~~
~~12,000 & over~~	~~the product of .050 times the household income~~

A taxpayer is eligible for a credit for the amount of property tax and rent-equivalent tax paid that is in excess of the amount determined under this subsection.

~~(5) In no case may the~~ The credit granted may not exceed ~~$400,~~ ~~$800~~ $400. A household with income in excess of $75,000 may not receive a credit. The credit is ~~computed as follows~~ EQUAL TO THE AMOUNT OF PROPERTY TAX PAID OR RENT-EQUIVALENT TAX PAID IN EXCESS OF GROSS HOUSEHOLD INCOME MULTIPLIED BY A PERCENTAGE FIGURE ACCORDING TO THE FOLLOWING TABLE:

Gross household income	Percentage of income
$0 - 25,000	5%
25,001 - 50,000	6%
50,001 - 75,000	7%"

NEW SECTION. **Section 4.** Effective date -- ~~retroactive~~ applicability. [This act] is effective ~~on passage and approval~~ JANUARY 1, 1994, and applies ~~retroactively, within the meaning of 1-2-109,~~ to tax ~~years beginning after December 31, 1992~~ YEAR 1994, AND THE CREDIT MAY BE CLAIMED

ONLY FOR TAX YEAR 1994.

NEW SECTION. **Section 5. Termination.** [This act] terminates January 1, 1995.

-End-

SENATE BILL NO. 42

INTRODUCED BY BARTLETT, ELLIOTT, FRANKLIN, KENNEDY, SWANSON, STANG, BIANCHI, WATERMAN, JACOBSON, CHRISTIAENS, DOHERTY, BROOKE, WEEDING, HOCKETT, JERGESON, BLAYLOCK, LYNCH, WHALEN, MENAHAN, S. RICE, BARNHART

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(a) a single-family dwelling or unit of a multiple-unit dwelling that is subject to ad valorem taxes in Montana and as much of the surrounding land, but not in excess of 1 acre, as is reasonably necessary for its use as a dwelling; or

(b) a single-family dwelling or unit of a multiple-unit dwelling that is rented from a county or municipal housing authority as provided in Title 7, chapter 15.

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

~~(8) "Household income" means $0 or the amount obtained~~

THIRD READING

~~by-subtracting--the--greater--of--$4,000--or--50%--of--total retirement--benefits--from-gross-household-income,-whichever is-greater.~~

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

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for which a claim is made, the credit is the amount of property tax paid ~~less-the-deduction~~ in excess of the amount ~~specified~~ calculated in subsection (4).

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

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

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~~Household-income~~	~~Amount-of-reduction~~
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~~9,000-9,999~~	~~the-product-of-.042-times-the-household-income~~
~~10,000-10,999~~	~~the-product-of-.045-times-the-household-income~~
~~11,000-11,999~~	~~the-product-of-.048-times-the-household-income~~
~~12,000-&-over~~	~~the-product-of-.050-times-the-household-income~~

A taxpayer is eligible for a credit for the amount of property tax and rent-equivalent tax paid that is in excess of the amount determined under this subsection.

~~(5)--In-no-case-may--the~~ The credit granted may not exceed ~~$400, $800~~ $400. A household with income in excess of $75,000 may not receive a credit. The credit is ~~computed-as follows~~ EQUAL TO THE AMOUNT OF PROPERTY TAX PAID OR RENT-EQUIVALENT TAX PAID IN EXCESS OF GROSS HOUSEHOLD INCOME MULTIPLIED BY A PERCENTAGE FIGURE ACCORDING TO THE FOLLOWING TABLE:

Gross household income	Percentage of income
$0 - 25,000	5%
25,001 - 50,000	6%
50,001 - 75,000	7%"

NEW SECTION. **Section 4.** **Effective date -- ~~retroactive~~ applicability.** [This act] is effective ~~on--passage--and approval~~ JANUARY 1, 1994, and applies ~~retroactively,-within the--meaning--of--1-2-109,~~ to tax ~~years--beginning--after December-31,-1992~~ YEAR 1994, AND THE CREDIT MAY BE CLAIMED

ONLY FOR TAX YEAR 1994.

NEW SECTION. **Section 5. Termination.** [This act] terminates January 1, 1995.

-End-

HOUSE COMMITTEE OF THE WHOLE AMENDMENT

Senate Bill 42
Representative Mercer

December 16, 1993 5:10 pm
Page 1 of 7

Mr. Chairman: I move to amend **Senate Bill 42** (third reading copy -- blue).

Signed: Mercer
Representative Mercer

And, that such amendments to Senate Bill 42 read as follows:

1. Title, lines 7 through 10.
Following: "ACT" on line 7
Strike: remainder of line 7 through ";" on line 10
Following: "CREDIT" on line 10
Insert: "OR A REBATE"

2. Title, lines 11 and 12.
Following: "PAID" on line 11
Strike: remainder of line 11 through "<u>$400</u>" on line 12
Insert: "INCREASING INCOME LEVELS UNDER THE LOW-INCOME PROPERTY TAX EXEMPTION PROGRAM; ALLOWING AN EXTENSION OF THE TIME FOR APPLICATION FOR THE 1993 PROPERTY TAX EXEMPTION PROGRAM; APPROPRIATING MONEY FOR REBATES TO THE DEPARTMENT OF REVENUE;"

3. Title, line 13.
Strike: "15-30-171, 15-30-172,"
Insert: "15-6-134"
Strike: "15-30-176"
Insert: "15-6-151"

4. Title, lines 14 and 15.
Following: "AN" on line 14
Insert: "IMMEDIATE"
Following: "DATE" on line 14
Strike: remainder of line 14 through the second "DATE" on line 15

ADOPT
59-39
REJECT

AC ___

161710CW.Hlh

5. Page 1 line 18 through page 7, line 3.
Strike: everything after the enacting clause
Insert: "<u>NEW SECTION.</u> Section 1. **Property tax rebate.** (1) It is the policy of the state to rebate the dollar amount of general property tax increase that exceeds 10% and that results from reappraisal or the imposition of additional millage not imposed by a vote of the electorate on certain property currently classified as class four property that was assessed in 1992. The rebate for property described in 15-6-134(1)(e) must be calculated as if the taxable percentage for the 1993 tax year were the same as the taxable percentage for this property in the 1994 tax year.

(2) In order to implement the policy, the department of revenue shall determine the amount of eligible property tax rebate on each property for which a separate geocode exists. In order for residential property to be eligible for a rebate, the property must be occupied by the taxpayer for at least 9 months of each year. The department shall:

(a) compare the actual dollar amount of tax assessed by mill levies for the property in tax year 1993 to the actual dollar amount of tax assessed by mill levies in tax year 1992; and

(b) if the amount of tax assessed by mill levies in tax year 1993 is greater than the amount assessed in tax year 1992, exclude:

(i) the amount of tax assessed by mill levies in the current year that is attributable to mill levies imposed for the first time pursuant to a vote of the electorate in the taxing jurisdiction in which the property is located; and

(ii) the amount of tax assessed because of new construction to the property.

(3)(a) If the amount determined under subsection (2)(b) exceeds the amount of tax assessed by mill levies in tax year 1992 by 10% and exceeds $33 for residential property and $50 for commercial property, the property taxpayer is eligible for a rebate.

(b) The amount of the rebate for eligible commercial property is 100% of the amount by which the amount determined under subsection (2)(b) exceeds the amount of tax assessed by mill levies in tax year 1992 but may not exceed $200 for any commercial taxpayer.

(c) The amount of the rebate for eligible residential property is 75% of the amount by which the amount determined under subsection (2)(b) exceeds the amount of tax assessed by mill levies in tax year 1992 by 10%.

(4) A transfer of class four property after [the effective date of this act] removes the property from eligibility. A

SB 42
HOUSE

property taxpayer is eligible for a rebate upon payment of the property taxes assessed against the property. The rebate must be by state warrant or refundable tax credit for the November 1993 property tax payment and by refundable tax credit, as provided in [section 3], for the May 1994 payment, the November 1994 payment, and the May 1995 payment.

(5) In order to rebate the November 1993 property tax payment in calendar year 1994, the department shall calculate the amount of the entire rebate, as provided in subsection (3), and provide for one rebate payment of one-half of the calculated amount. Payment, when due, of the first property tax installment is required for eligibility for one-half of the total rebate. Payment of delinquent taxes does not make a property taxpayer eligible for a rebate in the tax year in which the taxes were delinquent.

(6) If a taxpayer has paid property taxes under protest, a rebate may not be issued until there has been a final determination. The rebate must be calculated based on the finally determined property value. Interest may not be paid.

(7) If a revised assessment is issued by the department, the rebate must be redetermined based on the revised value. The department shall pay a rebate if owed and collect any rebate that was overpaid. Interest is not payable by the department or the taxpayer.

(8) The department shall:

(a) calculate the rebate as provided in subsection (3);

(b) provide for the payment of rebates by issuing state warrants to those eligible taxpayers who choose to receive warrants in 1994 for the first one-half of the 1993 property tax year payment and grant refundable credits for the second one-half of the 1993 tax year payment; and

(c) grant the 1994 tax year credits for eligible properties as provided in [section 3].

<u>NEW SECTION.</u> **Section 2. Forms for claiming rebate.** In order to be eligible for the payment of a rebate by state warrant, the taxpayer shall submit a claim to the department of revenue. The department shall prepare claim forms and mail the forms to eligible taxpayers. The taxpayer shall submit a completed notarized form to the department by April 15, 1994, in order to receive a warrant. A rebate that is not paid by warrant may be claimed as a credit pursuant to [section 3].

<u>NEW SECTION.</u> **Section 3. Credit for property tax rebates.** (1) Taxpayers who are entitled to a rebate of property taxes pursuant to [section 1] that are due in November 1993 are entitled to a rebate by state warrant or a credit against taxes imposed by this chapter. Taxpayers who are entitled to a rebate of property taxes pursuant to [section 1] that are due in May 1994, November 1994, and May 1995 are entitled to a credit

against taxes imposed by this chapter. Property taxes must be paid when due in the license or income tax year for which the credit is claimed. However, if a taxpayer paid all of the 1993 tax year property taxes in calendar year 1993, one-half of the 1993 tax year property taxes may be claimed in the succeeding tax year.

(2) If the amount of the credit is greater than the taxpayer's liability, the amount of unused credit must be refunded by state warrant or the taxpayer may elect to carry the unused credit forward to subsequent tax years.

(3) If the property eligible for the credit in subsection (1) is owned by a partnership, limited liability company as defined in 35-8-102, or a small business corporation as described in 15-31-201, the credit must be refunded by state warrant to or claimed as a credit by the entity paying the tax.

(4) Interest may not be paid on credits or refunds, including any credits that are carried forward.

(5) The rebates provided for in [section 1], whether paid by state warrant or by credit, are not taxable income of the recipient.

Section 4. Section 15-6-134, MCA, is amended to read:

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

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

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

(c) the first $80,000 or less of the market value of any improvement on real property, including trailers or mobile homes, and appurtenant land not exceeding 5 acres owned or under contract for deed and actually occupied for at least 10 months a year as the primary residential dwelling of any person whose total income from all sources, including net business income and otherwise tax-exempt income of all types but not including social security income paid directly to a nursing home, is not more than $10,000 for a single person or $12,000 for a married couple or a head of household, as adjusted according to subsection (2)(b)(ii). For the purposes of this subsection (c), net business income is gross income less ordinary operating expenses but before deducting depreciation or depletion allowance, or both.

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

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

(2) Class four property is taxed as follows:

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

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

Income Single Person	Income Married Couple Head of Household	Percentage 1 Multiplier 1
$0 - ~~1,000~~ - 3,750	$0 - ~~1,200~~ - 5,000	0%
~~1,001~~ - ~~2,000~~	~~1,201~~ - ~~2,400~~	~~10%~~
3,751 - 7,500	5,001 - 10,000	25%
~~2,001~~ - ~~3,000~~	~~2,401~~ - ~~3,600~~	~~20%~~
7,501 - 12,250	10,001 - 15,000	50%
~~3,001~~ - ~~4,000~~	~~3,601~~ - ~~4,800~~	~~30%~~
12,251 - 15,000	15,001 - 20,000	75%
~~4,001 - 5,000~~	~~4,801 - 6,000~~	~~40%~~
~~5,001 - 6,000~~	~~6,001 - 7,200~~	~~50%~~
~~6,001 - 7,000~~	~~7,201 - 8,400~~	~~60%~~
~~7,001 - 8,000~~	~~8,401 - 9,600~~	~~70%~~
~~8,001 - 9,000~~	~~9,601 - 10,800~~	~~80%~~
~~9,001 - 10,000~~	~~10,801 - 12,000~~	~~90%~~

(ii) The income levels contained in the table in subsection (2)(b)(i) must be adjusted for inflation annually by the department of revenue. The adjustment to the income levels is determined by:

(A) multiplying the appropriate dollar amount from the table in subsection (2)(b)(i) by the ratio of the PCE for the second quarter of the year prior to the year of application to the PCE for the second quarter of ~~1986~~ 1993; and

(B) rounding the product thus obtained to the nearest whole dollar amount.

(iii) "PCE" means the implicit price deflator for personal consumption expenditures as published quarterly in the Survey of Current Business by the bureau of economic analysis of the U.S. department of commerce.

(c) Property described in subsection (1)(d) is taxed at one-half the taxable percentage rate established in subsection (2)(a).

(3) After July 1, ~~1986~~ 1993, an adjustment may not be made by the department to the taxable percentage rate for class four property until a revaluation has been made as provided in 15-7-111.

(4) Within the meaning of comparable property as defined in 15-1-101, property assessed as commercial property is comparable only to other property assessed as commercial property~~,~~ and

property assessed as other than commercial property is comparable only to other property assessed as other than commercial property."

Section 5. Section 15-6-151, MCA, is amended to read:

"15-6-151. Application for certain class four classifications. (1) A person applying for classification of property described in subsection (1)(c) of 15-6-134 shall make an affidavit to the department of revenue, on a form provided by the department without cost, stating:

(a) ~~his~~ the applicant's income;

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

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

(2) (a) ~~This~~ Except as provided in subsection (2)(b), the application must be made before March 1 of the year after the applicant becomes eligible. The application remains in effect in subsequent years unless there is a change in the applicant's eligibility. The taxpayer shall inform the department of any change in eligibility. The department may inquire by mail whether any change in eligibility has taken place and may require a new statement of eligibility at any time it considers necessary.

(b) For tax year 1993, application may be made until [90 days after the effective date of this section].

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

NEW SECTION. **Section 6. Appropriation.** There is appropriated from the general fund $13 million to the department of revenue for the purpose of issuing state rebate warrants. On July 1, 1994, any portion of the appropriation that has not been used for issuing warrants reverts to the general fund.

NEW SECTION. **Section 7. Codification instruction.** (1) [Sections 1 and 2] are intended to be codified as an integral part of Title 15, chapter 1, part 2, and the provisions of Title 15, chapter 1, part 2, apply to [sections 1 and 2].

(2) [Section 3] is intended to be codified as an integral part of Title 15, chapters 30 and 31, and the provisions of Title 15, chapters 30 and 31, apply to [section 3].

NEW SECTION. **Section 8. Effective date.** [This act] is effective on passage and approval."

-END-

SENATE BILL NO. 42

INTRODUCED BY BARTLETT, ELLIOTT, FRANKLIN, KENNEDY, SWANSON, STANG, BIANCHI, WATERMAN, JACOBSON, CHRISTIAENS, DOHERTY, BROOKE, WEEDING, HOCKETT, JERGESON, BLAYLOCK, LYNCH, WHALEN, MENAHAN, S. RICE, BARNHART

A BILL FOR AN ACT ENTITLED: "AN ACT ~~EXPANDING~~ ~~FOR--1--YEAR THE--APPLICATION--OF-THE-RESIDENTIAL-PROPERTY-TAX-CREDIT-FOR THE-ELDERLY-TO-HOMEOWNERS-AND--RENTERS,--SUBJECT--TO--INCOME RESTRICTIONS,~~ ALLOWING AN INCOME TAX CREDIT OR A REBATE BASED UPON THE AMOUNT OF PROPERTY TAXES PAID ~~IN-EXCESS-OF--A PERCENTAGE-OF-GROSS-HOUSEHOLD-INCOME,-LIMITING-THE-CREDIT-TO $000 $400~~; INCREASING INCOME LEVELS UNDER THE LOW-INCOME PROPERTY TAX EXEMPTION PROGRAM; ALLOWING AN EXTENSION OF THE TIME FOR APPLICATION FOR THE 1993 PROPERTY TAX EXEMPTION PROGRAM; APPROPRIATING MONEY FOR REBATES TO THE DEPARTMENT OF REVENUE; AMENDING SECTIONS ~~15-30-171,-15-30-172,~~ 15-6-134 AND ~~15-30-176~~ 15-6-151, MCA; AND PROVIDING AN ~~IMMEDIATE~~ IMMEDIATE EFFECTIVE DATE~~,~~ ~~A--RETROACTIVE~~ AN ~~APPLICABILITY DATE,-AND-A-TERMINATION-DATE~~."

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

(Refer to Third Reading Bill)

Stirke everything after enacting clause and insert:

NEW SECTION. **Section 1.** **Property tax rebate.** (1) It is

the policy of the state to rebate the dollar amount of general property tax increase that exceeds 10% and that results from reappraisal or the imposition of additional millage not imposed by a vote of the electorate on certain property currently classified as class four property that was assessed in 1992. The rebate for property described in 15-6-134(1)(e) must be calculated as if the taxable percentage for the 1993 tax year were the same as the taxable percentage for this property in the 1994 tax year.

(2) In order to implement the policy, the department of revenue shall determine the amount of eligible property tax rebate on each property for which a separate geocode exists. In order for residential property to be eligible for a rebate, the property must be occupied by the taxpayer for at least 9 months of each year. The department shall:

(a) compare the actual dollar amount of tax assessed by mill levies for the property in tax year 1993 to the actual dollar amount of tax assessed by mill levies in tax year 1992; and

(b) if the amount of tax assessed by mill levies in tax year 1993 is greater than the amount assessed in tax year 1992, exclude:

(i) the amount of tax assessed by mill levies in the current year that is attributable to mill levies imposed for the first time pursuant to a vote of the electorate in the taxing jurisdiction in which the property is located; and

(ii) the amount of tax assessed because of new construction to the property.

(3) (a) If the amount determined under subsection (2)(b) exceeds the amount of tax assessed by mill levies in tax year 1992 by 10% and exceeds $33 for residential property and $50 for commercial property, the property taxpayer is eligible for a rebate.

(b) The amount of the rebate for eligible commercial property is 100% of the amount by which the amount determined under subsection (2)(b) exceeds the amount of tax assessed by mill levies in tax year 1992 but may not exceed $200 for any commercial taxpayer.

(c) The amount of the rebate for eligible residential property is 75% of the amount by which the amount determined under subsection (2)(b) exceeds the amount of tax assessed by mill levies in tax year 1992 by 10%.

(4) A transfer of class four property after [the effective date of this act] removes the property from eligibility. A property taxpayer is eligible for a rebate upon payment of the property taxes assessed against the property. The rebate must be by state warrant or refundable tax credit for the November 1993 property tax payment and by refundable tax credit, as provided in [section 3], for the May 1994 payment, the November 1994 payment, and the May

1995 payment.

(5) In order to rebate the November 1993 property tax payment in calendar year 1994, the department shall calculate the amount of the entire rebate, as provided in subsection (3), and provide for one rebate payment of one-half of the calculated amount. Payment, when due, of the first property tax installment is required for eligibility for one-half of the total rebate. Payment of delinquent taxes does not make a property taxpayer eligible for a rebate in the tax year in which the taxes were delinquent.

(6) If a taxpayer has paid property taxes under protest, a rebate may not be issued until there has been a final determination. The rebate must be calculated based on the finally determined property value. Interest may not be paid.

(7) If a revised assessment is issued by the department, the rebate must be redetermined based on the revised value. The department shall pay a rebate if owed and collect any rebate that was overpaid. Interest is not payable by the department or the taxpayer.

(8) The department shall:

(a) calculate the rebate as provided in subsection (3);

(b) provide for the payment of rebates by issuing state warrants to those eligible taxpayers who choose to receive warrants in 1994 for the first one-half of the 1993 property tax year payment and grant refundable credits for the second one-half of the 1993 tax year payment; and

(c) grant the 1994 tax year credits for eligible properties as provided in [section 3].

NEW SECTION. **Section 2.** **Forms for claiming rebate.** In order to be eligible for the payment of a rebate by state warrant, the taxpayer shall submit a claim to the department of revenue. The department shall prepare claim forms and mail the forms to eligible taxpayers. The taxpayer shall submit a completed notarized form to the department by April 15, 1994, in order to receive a warrant. A rebate that is not paid by warrant may be claimed as a credit pursuant to [section 3].

NEW SECTION. **Section 3.** **Credit for property tax rebates.** (1) Taxpayers who are entitled to a rebate of property taxes pursuant to [section 1] that are due in November 1993 are entitled to a rebate by state warrant or a credit against taxes imposed by this chapter. Taxpayers who are entitled to a rebate of property taxes pursuant to [section 1] that are due in May 1994, November 1994, and May 1995 are entitled to a credit against taxes imposed by this chapter. Property taxes must be paid when due in the license or income tax year for which the credit is claimed. However, if a taxpayer paid all of the 1993 tax year property taxes in calendar year 1993, one-half of the 1993 tax year

property taxes may be claimed in the succeeding tax year.

(2) If the amount of the credit is greater than the taxpayer's liability, the amount of unused credit must be refunded by state warrant or the taxpayer may elect to carry the unused credit forward to subsequent tax years.

(3) If the property eligible for the credit in subsection (1) is owned by a partnership, limited liability company as defined in 35-8-102, or a small business corporation as described in 15-31-201, the credit must be refunded by state warrant to or claimed as a credit by the entity paying the tax.

(4) Interest may not be paid on credits or refunds, including any credits that are carried forward.

(5) The rebates provided for in [section 1], whether paid by state warrant or by credit, are not taxable income of the recipient.

Section 4. Section 15-6-134, MCA, is amended to read:

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

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

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

(c) the first $80,000 or less of the market value of any improvement on real property, including trailers or mobile homes, and appurtenant land not exceeding 5 acres owned or under contract for deed and actually occupied for at least 10 months a year as the primary residential dwelling of any person whose total income from all sources, including net business income and otherwise tax-exempt income of all types but not including social security income paid directly to a nursing home, is not more than $10,000 for a single person or $12,000 for a married couple or a head of household, as adjusted according to subsection (2)(b)(ii). For the purposes of this subsection (c), net business income is gross income less ordinary operating expenses but before deducting depreciation or depletion allowance, or both.

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

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

(2) Class four property is taxed as follows:

(a) Except as provided in 15-24-1402 or 15-24-1501,

property described in subsections (1)(a), (1)(b), and (1)(e) is taxed at 3.86% of its market value.

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

Income Single Person	Income Married Couple Head of Household	Percentage Multiplier
$ 0 - ~~$1,000~~ - $ 3,750	$ 0 - ~~$1,200~~ - $ 5,000	0%
~~1,001 ----- 2,000~~	~~1,201 ----- 2,400~~	~~10%~~
3,751 - 7,500	5,001 - 10,000	25%
~~2,001 ----- 3,000~~	~~2,401 ----- 3,600~~	~~20%~~
7,501 - 12,250	10,001 - 15,000	50%
~~3,001 ----- 4,000~~	~~3,601 ----- 4,800~~	~~30%~~
12,251 - 15,000	15,001 - 20,000	75%
~~4,001 ----- 5,000~~	~~4,801 ----- 6,000~~	~~40%~~
~~5,001 ----- 6,000~~	~~6,001 ----- 7,200~~	~~50%~~
~~6,001 ----- 7,000~~	~~7,201 ----- 8,400~~	~~60%~~
~~7,001 ----- 8,000~~	~~8,401 ----- 9,600~~	~~70%~~
~~8,001 ----- 9,000~~	~~9,601 ---- 10,800~~	~~80%~~
~~9,001 ---- 10,000~~	~~10,801 ---- 12,000~~	~~90%~~

(ii) The income levels contained in the table in subsection (2)(b)(i) must be adjusted for inflation annually by the department of revenue. The adjustment to the income levels is determined by:

(A) multiplying the appropriate dollar amount from the table in subsection (2)(b)(i) by the ratio of the PCE for the second quarter of the year prior to the year of application to the PCE for the second quarter of ~~1986~~ 1993; and

(B) rounding the product thus obtained to the nearest whole dollar amount.

(iii) "PCE" means the implicit price deflator for personal consumption expenditures as published quarterly in the Survey of Current Business by the bureau of economic analysis of the U.S. department of commerce.

(c) Property described in subsection (1)(d) is taxed at one-half the taxable percentage rate established in subsection (2)(a).

(3) After July 1, ~~1986~~ 1993, an adjustment may not be made by the department to the taxable percentage rate for class four property until a revaluation has been made as provided in 15-7-111.

(4) Within the meaning of comparable property as defined in 15-1-101, property assessed as commercial property is comparable only to other property assessed as commercial property~~,~~ and property assessed as other than commercial property is comparable only to other property

assessed as other than commercial property."

Section 5. Section 15-6-151, MCA, is amended to read:

"**15-6-151. Application for certain class four classifications.** (1) A person applying for classification of property described in subsection (1)(c) of 15-6-134 shall make an affidavit to the department of revenue, on a form provided by the department without cost, stating:

(a) ~~his~~ the applicant's income;

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

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

(2) (a) ~~This~~ Except as provided in subsection (2)(b), the application must be made before March 1 of the year after the applicant becomes eligible. The application remains in effect in subsequent years unless there is a change in the applicant's eligibility. The taxpayer shall inform the department of any change in eligibility. The department may inquire by mail whether any change in eligibility has taken place and may require a new statement of eligibility at any time it considers necessary.

(b) For tax year 1993, application may be made until [90 days after the effective date of this section].

(3) The affidavit is sufficient if the applicant signs

a statement affirming the correctness of the information supplied, whether or not the statement is signed before a person authorized to administer oaths, and mails the application and statement to the department of revenue. This signed statement ~~shall--be~~ is treated as a statement under oath or equivalent affirmation for the purposes of 45-7-202, relating to the criminal offense of false swearing."

NEW SECTION. **Section 6.** **Appropriation.** There is appropriated from the general fund $13 million to the department of revenue for the purpose of issuing state rebate warrants. On July 1, 1994, any portion of the appropriation that has not been used for issuing warrants reverts to the general fund.

NEW SECTION. **Section 7.** **Codification instruction.** (1) [Sections 1 and 2] are intended to be codified as an integral part of Title 15, chapter 1, part 2, and the provisions of Title 15, chapter 1, part 2, apply to [sections 1 and 2].

(2) [Section 3] is intended to be codified as an integral part of Title 15, chapters 30 and 31, and the provisions of Title 15, chapters 30 and 31, apply to [section 3].

NEW SECTION. **Section 8.** **Effective date.** [This act] is effective on passage and approval.

-End-