

House BILL NO. 346

INTRODUCED BY

Raney

Acett
Lang
[Signature]

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING AN INDIVIDUAL INCOME TAX CREDIT AGAINST PROPERTY TAXES PAID ON THE TAXPAYER'S PRINCIPAL RESIDENCE; PROVIDING THAT THIS ACT BE SUBMITTED TO THE QUALIFIED ELECTORS OF MONTANA AT THE NOVEMBER 1996 GENERAL ELECTION; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE."

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

NEW SECTION. Section 1. Homeowner's property tax credit -- definitions. As used in [sections

1 through 8], the following definitions apply:

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

(2) "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.

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

(4) (a) "Owner-occupied residence" means a single-family residence, including a trailer or mobile home described in 15-6-134(1)(b), or a unit of a multiple-unit residence that is subject to property taxes and that is owned on the last day of the claim period by a Montana resident or is being purchased under a contract for deed by a Montana resident. The residence may not have been leased or rented by the owner or purchaser for more than 3 months.

(b) For the purposes of this subsection (4), an owner-occupied residence located in a multiple-unit building is the portion of the building actually used as the principal dwelling and its percentage of the value of the common elements. The percentage attributable to the unit is the value of the unit consisting of the owner-occupied residence compared to the total value of the building, exclusive of the common elements, if any. The value of the common elements must be divided equally among the units.

(5) "Property taxes" means general ad valorem taxes levied against the owner-occupied residence, exclusive of special assessments, penalties, or interest.

1 **NEW SECTION. Section 2. Homeowner's tax credit -- eligibility.** In order to be eligible to make
2 a claim under [sections 1 through 8], an individual:

- 3 (1) must have resided in Montana for at least 7 months of the period for which the claim is made;
4 and
5 (2) must have occupied the residence as the owner or contractor for deed for at least 7 months
6 of the claim period.

7

8 **NEW SECTION. Section 3. Homeowner's tax credit -- filing date.** (1) Except as provided in
9 subsection (2), a claim must be submitted at the same time that the claimant's individual income tax return
10 is due. For a claimant not required to file a tax return, the claim must be submitted on or before April 15
11 of the year following the year for which the credit is claimed.

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

15 (3) If an individual who would have a claim under [sections 1 through 8] dies before filing the
16 claim, the personal representative of the estate of the decedent may file the claim.

17

18 **NEW SECTION. Section 4. Homeowner's tax credit -- form of relief.** (1) The credit under
19 [sections 1 through 8] is a credit against the claimant's Montana individual income tax liability for the claim
20 period.

21 (2) (a) If the amount of credit exceeds the claimant's tax liability under this chapter by \$1 or more,
22 the amount of the excess must be refunded to the claimant. If the excess is less than \$1, the department
23 may not make a refund.

24 (b) The credit may be claimed even though the claimant does not have income taxable under this
25 chapter.

26

27 **NEW SECTION. Section 5. Homeowner's tax credit.** The amount of the tax credit granted under
28 the provisions of [sections 1 through 8] is the amount that results from multiplying 25% of the first
29 \$80,000 or less of the market value of the owner-occupied residence, exclusive of the market value of land,
30 by the tax rate applied to the taxpayer's property under 15-6-134(1)(b), (1)(c), or (1)(e) and then

1 multiplying the resulting product by the total mill levy applied to the owner-occupied residence, as shown
2 on the November tax statement for the claim period.

3

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

6 (2) A claim is not allowed for a homestead that is not subject to property taxes in Montana during
7 the claim period.

8

9 **NEW SECTION. Section 7. Homeowner's credit -- proof of claim.** A copy of the November tax
10 statement for the claim period must be filed with each claim. In addition, each claimant shall, at the request
11 of the department, supply all additional information necessary to support the claim.

12

13 **NEW SECTION. Section 8. Homeowner's tax credit -- denial of claim -- penalty -- interest.** If a
14 false or fraudulent claim has been paid, the amount paid may be recovered as any other debt owed the
15 state. An additional 10% may be added to the amount due as a penalty. The unpaid debt bears interest,
16 at the rate of 1% a month or fraction of a month, from the date of the original payment of the claim until
17 paid.

18

19 **NEW SECTION. Section 9. Codification instruction.** [Sections 1 through 8] are intended to be
20 codified as an integral part of Title 15, chapter 30, part 1, and the provisions of Title 15, chapter 30, part
21 1, apply to [sections 1 through 8].

22

23 **NEW SECTION. Section 10. Effective date.** [This act] is effective on approval by the electorate.

24

25 **NEW SECTION. Section 11. Applicability.** [This act] applies to tax years beginning after December
26 31, 1996.

27

28 **NEW SECTION. Section 12. Submission to electorate.** The question of whether this act becomes
29 effective shall be submitted to the qualified electors of Montana at the general election to be held in
30 November 1996 by printing on the ballot the full title of this act and the following:

- 1 [] FOR providing a homeowner's tax credit for residential property tax relief.
- 2 [] AGAINST providing a homeowner's tax credit for residential property tax relief.
- 3 -END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0346, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

An act providing an individual income tax credit against property taxes paid on the taxpayer's principal residence; providing that this act be submitted to the qualified electors of Montana at the November 1996 general election; and providing an effective date and an applicability date.

ASSUMPTIONS:

1. For the purposes of this note, it is assumed that the act is approved at the November 1996 general election.
2. The proposal applies beginning with tax year (calendar year) 1997.
3. The proposal has no impact on expenditures or revenues in the FY96/FY97 biennium.
4. The proposal would impact FY98 and subsequent fiscal years expenditures and revenues.
5. The credit provided is 25% of the amount determined by multiplying the lesser of the market value of the residential improvement (excluding land value) or \$80,000 by the taxable valuation rate for the property and by the total number of mills levied.
6. To receive the credit provided for in this proposal, the taxpayer must have owned and lived in the homestead (single family residence) for not less than seven months during the claim period.
7. All taxpayers eligible for the credit will apply for and receive the credit. There will be 225,000 applications in FY98. The average credit amount is estimated to be \$129.35 (DOR).
8. The total cost of the credit in FY98 is \$29,100,000. This cost is based on FY95 assessed values. Note that a new reappraisal cycle begins Jan. 1, 1997 resulting in new appraised values being placed on the tax rolls on that date.
9. This proposal results in additional administrative expenditures of \$153,129 in FY98, and \$218,804 in FY99.

FISCAL IMPACT:

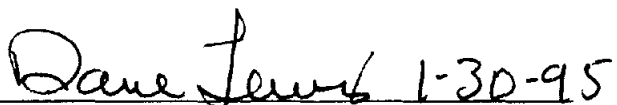
The proposal has no impact on FY96 or FY97 expenditures or revenues.

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

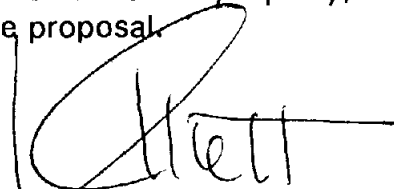
The proposal results in additional expenditures in FY98 and subsequent fiscal years (assumption 9). The proposal results in a decrease in revenues in FY98 and subsequent fiscal years (assumption 8).

TECHNICAL NOTES:

1. In section 5 of the proposal the computation of the credit is based on "market value". The use of this term could cause confusion when the market value and assessment value (for taxing purposes) of a residence differ in the years between reappraisal cycles due to appreciation (or depreciation).
2. A taxpayer could receive two property tax refunds for the same property, the first under the Elderly Homeowner credit and the second under the proposal.

 1-30-95

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



JIM ELLIOTT, PRIMARY SPONSOR DATE
Fiscal Note for HB0346, as introduced

HB 346

1 HOUSE BILL NO. 346

2 INTRODUCED BY ELLIOTT, STANG, RANEY, ELLINGSON, SOMERVILLE

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING AN INDIVIDUAL INCOME TAX CREDIT AGAINST
5 PROPERTY TAXES PAID ON THE TAXPAYER'S PRINCIPAL RESIDENCE; ~~PROVIDING THAT THIS ACT BE~~
6 ~~SUBMITTED TO THE QUALIFIED ELECTORS OF MONTANA AT THE NOVEMBER 1996 GENERAL~~
7 ~~ELECTION; REQUIRING NOTICE OF A PROPERTY TAX REFUND TO BE INCLUDED WITH RESIDENTIAL~~
8 ~~PROPERTY TAX NOTICES; AMENDING SECTION 15-30-171, MCA; AND PROVIDING AN IMMEDIATE~~
9 EFFECTIVE DATE AND AN A RETROACTIVE APPLICABILITY DATE."

10
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:12
13 NEW SECTION. **Section 1. Homeowner's property tax credit -- definitions.** As used in [sections
14 1 through 8], the following definitions apply:

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

16 (2) "Claim period" means the tax year for individuals required to file Montana individual income tax
17 returns and the calendar year for individuals not required to file returns.18 (3) "Household" means an association of individuals who live in the same dwelling and who share
19 its furnishings, facilities, accommodations, and expenses. The term does not include bona fide lessees,
20 tenants, or roomers and boarders on contract.21 (4) (a) "Owner-occupied residence" means a single-family residence, including a trailer or mobile
22 home described in 15-6-134(1)(b), or a unit of a multiple-unit residence that is subject to property taxes
23 and that is owned ~~on the last day of the claim period by a Montana resident or is being purchased under~~
24 ~~a contract for deed by a Montana resident. The residence may not have been leased or rented by the~~
25 ~~owner or purchaser for more than 3 months~~ BY AN INDIVIDUAL.26 (b) For the purposes of this subsection (4), an owner-occupied residence located in a multiple-unit
27 building is the portion of the building actually used as the principal dwelling and its percentage of the value
28 of the common elements. The percentage attributable to the unit is the value of the unit consisting of the
29 owner-occupied residence compared to the total value of the building, exclusive of the common elements,
30 if any. The value of the common elements must be divided equally among the units.

1 (5) "Property taxes" means general ad valorem taxes levied against the owner-occupied residence,
2 exclusive of special assessments, penalties, or interest.

3
4 **NEW SECTION. Section 2. Homeowner's tax credit -- eligibility.** In order to be eligible to make
5 a claim under [sections 1 through 8], an individual:

6 ~~(1) must have resided in Montana for at least 7 months of the period for which the claim is made;~~
7 ~~and~~

8 ~~(2) must have occupied the A residence as the owner or contractor for deed for at least 7 months~~
9 ~~of the claim period. THE INDIVIDUAL MAY OWN AND OCCUPY MORE THAN ONE RESIDENCE DURING~~
10 ~~THE YEAR AND QUALIFY FOR THE CREDIT UNDER [SECTIONS 1 THROUGH 8] IF THE TOTAL~~
11 ~~OCCUPANCY IS FOR 7 MONTHS OR MORE. THE CLAIM MAY BE FOR EITHER RESIDENCE.~~

12
13 **NEW SECTION. Section 3. Homeowner's tax credit -- filing date.** (1) Except as provided in
14 subsection (2), a claim must be submitted at the same time that the claimant's individual income tax return
15 is due. For a claimant not required to file a tax return, the claim must be submitted on or before April 15
16 of the year following the year for which the credit is claimed.

17 (2) The department may grant a reasonable extension for filing a claim whenever, in its judgment,
18 good cause exists. ~~The department shall keep a record of each extension and the reason for granting the~~
19 ~~extension.~~

20 (3) If an individual who would have a claim under [sections 1 through 8] dies before filing the
21 claim, the personal representative of the estate of the decedent may file the claim.

22
23 **NEW SECTION. Section 4. Homeowner's tax credit -- form of relief -- NOTICE.** (1) The credit
24 under [sections 1 through 8] is a credit against the claimant's Montana individual income tax liability for
25 the claim period.

26 (2) (a) If the amount of credit exceeds the claimant's tax liability under this chapter by \$1 or more,
27 the amount of the excess must be refunded to the claimant. If the excess is less than \$1, the department
28 may not make a refund.

29 (b) The credit may be claimed even though the claimant does not have income taxable under this
30 chapter. THE DEPARTMENT SHALL ISSUE A REFUND TO THE CLAIMANT.

1 (3) WITH EACH PROPERTY TAX NOTICE INVOLVING RESIDENTIAL PROPERTY, THERE MUST BE
2 A STATEMENT, APPROVED BY THE DEPARTMENT, THAT THE HOMEOWNER MAY BE ENTITLED TO A
3 PROPERTY TAX REFUND. THE STATEMENT MUST STAND OUT PROMINENTLY AND MAY BE PRINTED
4 ON THE PROPERTY TAX NOTICE OR MAY BE A SEPARATE DOCUMENT INCLUDED WITH THE TAX
5 NOTICE.

6
7 NEW SECTION. Section 5. Homeowner's tax credit. The amount of the tax credit granted under
8 the provisions of [sections 1 through 8] is the amount that results from multiplying 25% of the first
9 \$80,000 or less of the market value of the owner-occupied residence, exclusive of the market value of land,
10 by the tax rate applied to the taxpayer's property under 15-6-134(1)(b), (1)(c), or (1)(e) and then
11 multiplying the resulting product by the total mill levy applied to the owner-occupied residence, as shown
12 on the November tax statement for the claim period.

13
14 NEW SECTION. Section 6. Homeowner's tax credit -- limitations. (1) Only one claimant per
15 household is entitled to a credit in a claim period.

16 (2) A claim is not allowed for a homestead that is not subject to property taxes in Montana during
17 the claim period.

18
19 NEW SECTION. Section 7. Homeowner's credit -- proof of claim. A copy of the November tax
20 statement for the claim period must be filed with each claim. In addition, each claimant shall, at the request
21 of the department, supply all additional information necessary to support the claim. EACH COUNTY SHALL
22 SPECIFY THE VALUE OF THE RESIDENTIAL IMPROVEMENT, TAX RATE, AND MILL LEVY.

23
24 NEW SECTION. Section 8. Homeowner's tax credit -- denial of claim -- penalty -- interest. If a THE
25 CLAIMANT DOES NOT TIMELY PAY THE PROPERTY TAXES FOR WHICH A CLAIM IS FILED OR IF AN
26 OTHERWISE false or fraudulent claim has been paid, the amount paid may be recovered as any other debt
27 owed the state. An additional 10% may be added to the amount due as a penalty. The unpaid debt bears
28 interest, at the rate of 1% a month or fraction of a month, from the date of the original payment of the
29 claim until paid.

30

1 **SECTION 9. SECTION 15-30-171, MCA, IS AMENDED TO READ:**

2 **"15-30-171. Residential property tax credit for elderly -- definitions.** As used in 15-30-171 through
3 15-30-179, the following definitions apply:

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

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

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

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

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

13 (6) "Homestead" means:

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

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

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

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

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

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

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

30 (c) alimony;

- 1 (d) support money;
- 2 (e) nontaxable strike benefits;
- 3 (f) cash public assistance and relief;
- 4 (g) payments and interest on federal, state, county, and municipal bonds; and
- 5 (h) all payments received under federal social security except social security income paid directly
- 6 to a nursing home.

7 (10) "Property tax paid" means general ad valorem taxes levied against the homestead, exclusive
 8 of special assessments, penalties, or interest and paid during the claim period. Any tax credit claimed under
 9 [sections 1 through 8] must be deducted from the amount of property taxes upon which a credit is
 10 determined under 15-30-171 through 15-30-179.

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

13 NEW SECTION. Section 10. Codification instruction. [Sections 1 through 8] are intended to be
 14 codified as an integral part of Title 15, chapter 30, part 1, and the provisions of Title 15, chapter 30, part
 15 1, apply to [sections 1 through 8].
 16

17 NEW SECTION. Section 11. Effective date. [This act] is effective ~~on approval by the electorate~~
 18 ON PASSAGE AND APPROVAL.
 19

20 NEW SECTION. Section 12. ~~Applicability~~ RETROACTIVE APPLICABILITY. [This act] applies
 21 RETROACTIVELY, WITHIN THE MEANING OF 1-2-109, to tax years beginning after December 31, ~~1996~~
 22 1994.
 23

24 NEW SECTION. Section 12. ~~Submission to electorate.~~ ~~The question of whether this act becomes~~
 25 ~~effective shall be submitted to the qualified electors of Montana at the general election to be held in~~
 26 ~~November 1996 by printing on the ballot the full title of this act and the following:~~

- 27 ~~[] FOR providing a homeowner's tax credit for residential property tax relief.~~
- 28 ~~[] AGAINST providing a homeowner's tax credit for residential property tax relief.~~

29 -END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0346, 2nd reading

DESCRIPTION OF PROPOSED LEGISLATION:

An act providing an individual income tax credit against property taxes paid on the taxpayer's principal residence; requiring notice of a property tax refund to be included with residential property tax notices; and providing an immediate effective date and a retroactive applicability date.

ASSUMPTIONS:

1. The proposal applies beginning with tax year (calendar year) 1995.
2. The proposal would impact FY96 and subsequent fiscal years expenditures and revenues.
3. The credit provided is 25% of the amount determined by multiplying the lesser of the market value of the residential improvement (excluding land value) or \$80,000 by the taxable valuation rate for the property and by the total number of mills levied.
4. To receive the credit provided for in this proposal, the taxpayer must have owned and lived in the homestead (single family residence) for not less than seven months during the claim period.
5. All taxpayers eligible for the credit will apply for and receive the credit. There will be 225,000 applications in FY96. The average credit amount is estimated to be \$129.35 (DOR).
6. The total cost of the credit in FY96 is \$29,100,000. This cost is based on FY95 assessed values. Note that a new reappraisal cycle begins Jan. 1, 1997 resulting in new appraised values being placed on the tax rolls on that date.
7. This proposal results in additional administrative expenditures of \$153,129 in FY96, and \$218,804 in FY97.


FISCAL IMPACT:

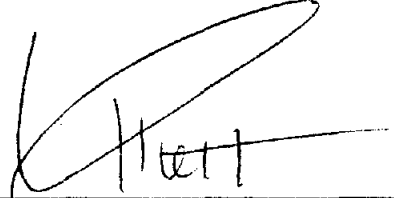
Expenditures: (Department of Revenue)

	<u>FY96</u>	<u>FY97</u>
	<u>Difference</u>	<u>Difference</u>
Administrative Expenses	\$153,129	\$218,804

Revenues:

Individual Income Tax	(\$29,100,000)	(\$29,100,000)
Net Impact	(\$29,253,129)	(\$29,318,804)

 3-15-95
DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning


JIM ELLIOT, PRIMARY SPONSOR DATE
Fiscal Note for HB0346, 2nd reading

HB 346 # 2

1 HOUSE BILL NO. 346

2 INTRODUCED BY ELLIOTT, STANG, RANEY, ELLINGSON, SOMERVILLE

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING AN INDIVIDUAL INCOME TAX CREDIT AGAINST
5 PROPERTY TAXES PAID ON THE TAXPAYER'S PRINCIPAL RESIDENCE; ~~PROVIDING THAT THIS ACT BE~~
6 ~~SUBMITTED TO THE QUALIFIED ELECTORS OF MONTANA AT THE NOVEMBER 1996 GENERAL~~
7 ~~ELECTION; REQUIRING NOTICE OF A PROPERTY TAX REFUND AND A TAX CREDIT CLAIM FORM TO BE~~
8 ~~INCLUDED WITH RESIDENTIAL PROPERTY TAX NOTICES; AMENDING SECTION SECTIONS 15-30-111~~
9 ~~AND 15-30-171, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN A RETROACTIVE~~
10 ~~APPLICABILITY DATE."~~

11
12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:13
14 NEW SECTION. Section 1. Homeowner's property tax credit -- definitions. As used in [sections
15 1 through 8], the following definitions apply:

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

17 (2) "Claim period" means the tax year for individuals required to file Montana individual income tax
18 returns and the calendar year for individuals not required to file returns.19 (3) "Household" means an association of individuals who live in the same dwelling and who share
20 its furnishings, facilities, accommodations, and expenses. The term does not include bona fide lessees,
21 tenants, or roomers and boarders on contract.22 (4) (a) "Owner-occupied residence" means a single-family residence, including a trailer or mobile
23 home described in 15-6-134(1)(b), or a unit of a multiple-unit residence that is subject to property taxes
24 and that is owned ~~on the last day of the claim period by a Montana resident or is being purchased under~~
25 ~~a contract for deed by a Montana resident. The residence may not have been leased or rented by the~~
26 ~~owner or purchaser for more than 3 months~~ BY AN INDIVIDUAL.27 (b) For the purposes of this subsection (4), an owner-occupied residence located in a multiple-unit
28 building is the portion of the building actually used as the principal dwelling and its percentage of the value
29 of the common elements. The percentage attributable to the unit is the value of the unit consisting of the
30 owner-occupied residence compared to the total value of the building, exclusive of the common elements,

1 if any. The value of the common elements must be divided equally among the units.

2 (5) "Property taxes" means general ad valorem taxes levied against the owner-occupied residence,
3 exclusive of special assessments, penalties, or interest.

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5 **NEW SECTION. Section 2. Homeowner's tax credit -- eligibility.** In order to be eligible to make
6 a claim under [sections 1 through 8], an individual:

7 ~~(1) must have resided in Montana for at least 7 months of the period for which the claim is made;~~
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10 ~~of the claim period. THE INDIVIDUAL MAY OWN AND OCCUPY MORE THAN ONE RESIDENCE DURING~~
11 ~~THE YEAR AND QUALIFY FOR THE CREDIT UNDER [SECTIONS 1 THROUGH 8] IF THE TOTAL~~
12 ~~OCCUPANCY IS FOR 7 MONTHS OR MORE. THE CLAIM MAY BE FOR EITHER RESIDENCE.~~

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14 **NEW SECTION. Section 3. Homeowner's tax credit -- filing date.** (1) Except as provided in
15 subsection (2), a claim must be submitted at the same time that the claimant's individual income tax return
16 is due. For a claimant not required to file a tax return, the claim must be submitted on or before April 15
17 of the year following the year for which the credit is claimed.

18 (2) The department may grant a reasonable extension for filing a claim whenever, in its judgment,
19 good cause exists. ~~The department shall keep a record of each extension and the reason for granting the~~
20 ~~extension.~~

21 (3) If an individual who would have a claim under [sections 1 through 8] dies before filing the
22 claim, the personal representative of the estate of the decedent may file the claim.

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24 **NEW SECTION. Section 4. Homeowner's tax credit -- form of relief -- NOTICE.** (1) The credit
25 under [sections 1 through 8] is a credit against the claimant's Montana individual income tax liability for
26 the claim period.

27 (2) (a) If the amount of credit exceeds the claimant's tax liability under this chapter by \$1 or more,
28 the amount of the excess must be refunded to the claimant. If the excess is less than \$1, the department
29 may not make a refund.

30 (b) The credit may be claimed even though the claimant does not have income taxable under this

1 chapter. THE DEPARTMENT SHALL ISSUE A REFUND TO THE CLAIMANT.

2 (3) WITH EACH PROPERTY TAX NOTICE INVOLVING RESIDENTIAL PROPERTY, THERE MUST BE
3 A STATEMENT, APPROVED BY THE DEPARTMENT, THAT THE HOMEOWNER MAY BE ENTITLED TO A
4 PROPERTY TAX REFUND. THE STATEMENT MUST STAND OUT PROMINENTLY AND MAY BE PRINTED
5 ON THE PROPERTY TAX NOTICE OR MAY BE A SEPARATE DOCUMENT INCLUDED WITH THE TAX
6 NOTICE. A TAX CREDIT CLAIM FORM MUST ALSO BE MAILED WITH THE PROPERTY TAX NOTICE. THE
7 TAX CREDIT CLAIM FORM IS FOR THE USE OF A CLAIMANT TO VERIFY ELIGIBILITY FOR THE TAX
8 CREDIT.

9
10 NEW SECTION. Section 5. Homeowner's tax credit. The amount of the tax credit granted under
11 the provisions of [sections 1 through 8] is the amount that results from multiplying ~~25%~~ 20% of the first
12 \$80,000 or less of the market value of the owner-occupied residence, exclusive of the market value of land,
13 by the tax rate applied to the taxpayer's property under 15-6-134(1)(b), (1)(c), or (1)(e) and then
14 multiplying the resulting product by the total mill levy applied to the owner-occupied residence, as shown
15 on the November tax statement for the claim period.

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

19 (2) A claim is not allowed for a homestead that is not subject to property taxes in Montana during
20 the claim period.

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22 NEW SECTION. Section 7. Homeowner's credit -- proof of claim. A copy of the ~~November tax~~
23 ~~statement~~ PROPERTY TAX NOTICE AND THE TAX CREDIT CLAIM FORM for the claim period must be filed
24 with each claim. In addition, each claimant shall, at the request of the department, supply all additional
25 information necessary to support the claim. EACH COUNTY SHALL SPECIFY THE VALUE OF THE
26 RESIDENTIAL IMPROVEMENT, TAX RATE, AND MILL LEVY.

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28 NEW SECTION. Section 8. Homeowner's tax credit -- denial of claim -- penalty -- interest. If a THE
29 CLAIMANT DOES NOT TIMELY PAY THE PROPERTY TAXES FOR WHICH A CLAIM IS FILED OR IF AN
30 OTHERWISE false or fraudulent claim has been paid, the amount paid may be recovered as any other debt

1 owed the state. An additional 10% may be added to the amount due as a penalty. The unpaid debt bears
2 interest, at the rate of ~~4%~~ 0.75% a month or fraction of a month, from the date of the original payment
3 of the claim until paid.

4
5 **SECTION 9. SECTION 15-30-111, MCA, IS AMENDED TO READ:**

6 **"15-30-111. Adjusted gross income.** (1) Adjusted gross income shall be the taxpayer's federal
7 income tax adjusted gross income as defined in section 62 of the Internal Revenue Code of 1954 or as that
8 section may be labeled or amended and in addition shall include the following:

9 (a) interest received on obligations of another state or territory or county, municipality, district, or
10 other political subdivision thereof;

11 (b) refunds received of federal income tax, to the extent the deduction of such tax resulted in a
12 reduction of Montana income tax liability;

13 (c) that portion of a shareholder's income under subchapter S. of Chapter 1 of the Internal Revenue
14 Code of 1954, that has been reduced by any federal taxes paid by the subchapter S. corporation on the
15 income; ~~and~~

16 (d) depreciation or amortization taken on a title plant as defined in 33-25-105(15); and

17 (e) a tax credit claimed under [sections 1 through 8] if the credit was based upon any portion of
18 a property tax that was used to reduce Montana income tax liability.

19 (2) Notwithstanding the provisions of the federal Internal Revenue Code of 1954, as labeled or
20 amended, adjusted gross income does not include the following which are exempt from taxation under this
21 chapter:

22 (a) all interest income from obligations of the United States government, the state of Montana,
23 county, municipality, district, or other political subdivision thereof;

24 (b) interest income earned by a taxpayer age 65 or older in a taxable year up to and including \$800
25 for a taxpayer filing a separate return and \$1,600 for each joint return;

26 (c) (i) except as provided in subsection (2)(c)(ii), the first \$3,600 of all pension and annuity income
27 received as defined in 15-30-101;

28 (ii) for pension and annuity income described under subsection (2)(c)(i), as follows:

29 (A) each taxpayer filing singly, head of household, or married filing separately shall reduce the total
30 amount of the exclusion provided in (2)(c)(i) by \$2 for every \$1 of federal adjusted gross income in excess

1 of \$30,000 as shown on the taxpayer's return;

2 (B) in the case of married taxpayers filing jointly, if both taxpayers are receiving pension or annuity
3 income or if only one taxpayer is receiving pension or annuity income, the exclusion claimed as provided
4 in subsection (2)(c)(i) must be reduced by \$2 for every \$1 of federal adjusted gross income in excess of
5 \$30,000 as shown on their joint return;

6 (d) all Montana income tax refunds or tax refund credits;

7 (e) gain required to be recognized by a liquidating corporation under 15-31-113(1)(a)(ii);

8 (f) all tips covered by section 3402(k) of the Internal Revenue Code of 1954, as amended and
9 applicable on January 1, 1983, received by persons for services rendered by them to patrons of premises
10 licensed to provide food, beverage, or lodging;

11 (g) all benefits received under the workers' compensation laws;

12 (h) all health insurance premiums paid by an employer for an employee if attributed as income to
13 the employee under federal law; and

14 (i) all money received because of a settlement agreement or judgment in a lawsuit brought against
15 a manufacturer or distributor of "agent orange" for damages resulting from exposure to "agent orange".

16 (3) A shareholder of a DISC that is exempt from the corporation license tax under 15-31-102(1)(l)
17 shall include in ~~his~~ the shareholder's adjusted gross income the earnings and profits of the DISC in the same
18 manner as provided by federal law (section 995, Internal Revenue Code) for all periods for which the DISC
19 election is effective.

20 (4) A taxpayer who, in determining federal adjusted gross income, has reduced his business
21 deductions by an amount for wages and salaries for which a federal tax credit was elected under section
22 44B of the Internal Revenue Code of 1954 or as that section may be labeled or amended is allowed to
23 deduct the amount of the wages and salaries paid regardless of the credit taken. The deduction must be
24 made in the year the wages and salaries were used to compute the credit. In the case of a partnership or
25 small business corporation, the deduction must be made to determine the amount of income or loss of the
26 partnership or small business corporation.

27 (5) Married taxpayers filing a joint federal return who must include part of their social security
28 benefits or part of their tier 1 railroad retirement benefits in federal adjusted gross income may split the
29 federal base used in calculation of federal taxable social security benefits or federal taxable tier 1 railroad
30 retirement benefits when they file separate Montana income tax returns. The federal base must be split

1 equally on the Montana return.

2 (6) A taxpayer receiving retirement disability benefits who has not attained age 65 by the end of
 3 the taxable year and who has retired as permanently and totally disabled may exclude from adjusted gross
 4 income up to \$100 per week received as wages or payments in lieu of wages for a period during which the
 5 employee is absent from work due to the disability. If the adjusted gross income before this exclusion and
 6 before application of the two-earner married couple deduction exceeds \$15,000, the excess reduces the
 7 exclusion by an equal amount. This limitation affects the amount of exclusion, but not the taxpayer's
 8 eligibility for the exclusion. If eligible, married individuals shall apply the exclusion separately, but the
 9 limitation for income exceeding \$15,000 is determined with respect to the spouses on their combined
 10 adjusted gross income. For the purpose of this subsection, permanently and totally disabled means unable
 11 to engage in any substantial gainful activity by reason of any medically determined physical or mental
 12 impairment lasting or expected to last at least 12 months. (Subsection (2)(f) terminates on occurrence of
 13 contingency--sec. 3, Ch. 634, L. 1983.)"

14

15 **SECTION 10. SECTION 15-30-171, MCA, IS AMENDED TO READ:**

16 "15-30-171. **Residential property tax credit for elderly -- definitions.** As used in 15-30-171 through
 17 15-30-179, the following definitions apply:

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

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

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

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

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

27 (6) "Homestead" means:

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

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

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

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

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

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

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

14 (c) alimony;

15 (d) support money;

16 (e) nontaxable strike benefits;

17 (f) cash public assistance and relief;

18 (g) payments and interest on federal, state, county, and municipal bonds; and

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

21 (10) "Property tax paid" means general ad valorem taxes levied against the homestead, exclusive
22 of special assessments, penalties, or interest and paid during the claim period. Any tax credit claimed under
23 [sections 1 through 8] must be deducted from the amount of property taxes upon which a credit is
24 determined under 15-30-171 through 15-30-179.

25 (11) "Rent-equivalent tax paid" means 15% of the gross rent."
26

27 **NEW SECTION. Section 11. Codification instruction.** [Sections 1 through 8] are intended to be
28 codified as an integral part of Title 15, chapter 30, part 1, and the provisions of Title 15, chapter 30, part
29 1, apply to [sections 1 through 8].
30

1 NEW SECTION. Section 12. Effective date. [This act] is effective ~~on approval by the electorate~~
2 ON PASSAGE AND APPROVAL.

3

4 NEW SECTION. Section 13. Applicability **RETROACTIVE APPLICABILITY.** [This act] applies
5 RETROACTIVELY, WITHIN THE MEANING OF 1-2-109, to tax years beginning after December 31, ~~1996~~
6 1994.

7

8 NEW SECTION. Section 12. Submission to electorate. ~~The question of whether this act becomes~~
9 ~~effective shall be submitted to the qualified electors of Montana at the general election to be held in~~
10 ~~November 1996 by printing on the ballot the full title of this act and the following:~~

11 ~~FOR providing a homeowner's tax credit for residential property tax relief.~~

12 ~~AGAINST providing a homeowner's tax credit for residential property tax relief.~~

13

-END-