

HOUSE BILL NO. 383

INTRODUCED BY

Ellinger

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING THE DEDUCTION OF THE FIRST \$20,000 OF MARKET VALUE FROM OWNER-OCCUPIED RESIDENCES FOR THE PURPOSE OF VALUING THE PROPERTY FOR TAXES; LIMITING THE DEDUCTIBILITY OF FEDERAL TAXES TO \$4,000 FOR SINGLE FILERS AND \$8,000 FOR JOINT FILERS AND HEADS OF HOUSEHOLD; PROVIDING A FORMULA AND STATUTORY APPROPRIATION FOR THE REIMBURSEMENT OF PROPERTY TAXES LOST BECAUSE OF THE CHANGE IN THE TAXATION OF OWNER-OCCUPIED RESIDENCES; AMENDING SECTIONS 15-8-111, 15-30-121, AND 17-7-502, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE AND AN APPLICABILITY DATE."

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

Section 1. Section 15-8-111, MCA, is amended to read:

"15-8-111. Assessment -- market value standard -- exceptions. (1) All taxable property must be assessed at 100% of its market value, except as otherwise provided.

(2) (a) Market value is the value at which property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or to sell and both having reasonable knowledge of relevant facts.

(b) If the department uses construction cost as one approximation of market value, the department shall fully consider reduction in value caused by depreciation, whether through physical depreciation, functional obsolescence, or economic obsolescence.

(c) Except as provided in subsection (3), the market value of all motor trucks; agricultural tools, implements, and machinery; and vehicles of all kinds is the average wholesale value shown in national appraisal guides and manuals or the value of the vehicle before reconditioning and profit margin. The department shall prepare valuation schedules showing the average wholesale value when a national appraisal guide does not exist.

(3) The department may not adopt a lower or different standard of value from market value in making the official assessment and appraisal of the value of property, except:

(a) the wholesale value for agricultural implements and machinery is the loan value as shown in

1 the Official Guide, Tractor and Farm Equipment, published by the national farm and power equipment
2 dealers association, St. Louis, Missouri;

3 (b) for agricultural implements and machinery not listed in the official guide, the department shall
4 prepare a supplemental manual in which the values reflect the same depreciation as those found in the
5 official guide; and

6 (c) as otherwise authorized in Title 15 and Title 61.

7 (4) For purposes of taxation, assessed value is the same as appraised value.

8 (5) The taxable value for all property is the percentage of market or assessed value established for
9 each class of property.

10 (6) The assessed value of properties in 15-6-131 through ~~15-6-133~~ 15-6-134 and 15-6-143 is as
11 follows:

12 (a) Properties in 15-6-131, under class one, are assessed at 100% of the annual net proceeds after
13 deducting the expenses specified and allowed by 15-23-503 or, if applicable, as provided in 15-23-515,
14 15-23-516, or 15-23-517.

15 (b) Properties in 15-6-132, under class two, are assessed at 100% of the annual gross proceeds.

16 (c) Properties in 15-6-133, under class three, are assessed at 100% of the productive capacity of
17 the lands when valued for agricultural purposes. All lands that meet the qualifications of 15-7-202 are
18 valued as agricultural lands for tax purposes.

19 (d) Properties in 15-6-134, under class four, which are improvements used as a residence, including
20 trailers or mobile homes used as a residence and appurtenant land not exceeding 5 acres owned or being
21 purchased under contract for deed by the occupant and actually occupied for at least 10 months a year as
22 the owner's or purchaser's primary residential dwelling, are to be assessed after deducting the first
23 \$20,000 of market value of the improvement.

24 ~~(d)~~(e) Properties in 15-6-143, under class ten, are assessed at 100% of the forest productivity
25 value of the land when valued as forest land.

26 (7) Land and the improvements on the land are separately assessed when any of the following
27 conditions occur:

28 (a) ownership of the improvements is different from ownership of the land;

29 (b) the taxpayer makes a written request; or

30 (c) the land is outside an incorporated city or town."

1 **Section 2.** Section 15-30-121, MCA, is amended to read:

2 **"15-30-121. Deductions allowed in computing net income.** In computing net income, there are
3 allowed as deductions:

4 (1) the items referred to in sections 161, including the contributions referred to in 33-15-201(5)(b),
5 and 211 of the Internal Revenue Code of 1954, or as sections 161 and 211 are labeled or amended, subject
6 to the following exceptions, which are not deductible:

7 (a) items provided for in 15-30-123;

8 (b) state income tax paid;

9 (2) federal income tax paid within the ~~taxable~~ tax year, not to exceed \$4,000 for a single return
10 or \$8,000 for a joint return of a husband and wife or of a single individual who qualifies to file as a head
11 of household;

12 (3) expenses of household and dependent care services as outlined in subsections (3)(a) through
13 (3)(c) and (9) and subject to the limitations and rules as set out in subsections (3)(d) through (3)(f), as
14 follows:

15 (a) expenses for household and dependent care services necessary for gainful employment incurred
16 for:

17 (i) a dependent under 15 years of age for whom an exemption can be claimed;

18 (ii) a dependent as allowable under 15-30-112(5), except that the limitations for age and gross
19 income do not apply, who is unable to provide self-care because of physical or mental illness; and

20 (iii) a spouse who is unable to provide self-care because of physical or mental illness;

21 (b) employment-related expenses incurred for the following services, but only if ~~such~~ the expenses
22 are incurred to enable the taxpayer to be gainfully employed:

23 (i) household services ~~which~~ that are attributable to the care of the qualifying individual; and

24 (ii) care of an individual who qualifies under subsection (3)(a);

25 (c) expenses incurred in maintaining a household if over half of the cost of maintaining the
26 household is furnished by an individual or, if the individual is married during the applicable period, is
27 furnished by the individual and the individual's spouse;

28 (d) the amounts deductible in ~~subsection~~ subsections (3)(a) through (3)(c), ~~are~~ subject to the
29 following limitations:

30 (i) a deduction is allowed under subsection (3)(a) for employment-related expenses incurred during

- 1 the year only to the extent that the expenses do not exceed \$4,800;
- 2 (ii) expenses for services in the household are deductible under subsection (3)(a) for
3 employment-related expenses only if they are incurred for services in the taxpayer's household, except that
4 employment-related expenses incurred for services outside the taxpayer's household are deductible, but
5 only if incurred for the care of a qualifying individual described in subsection (3)(a)(i) and only to the extent
6 that the expenses incurred during the year do not exceed:
- 7 (A) \$2,400 in the case of one qualifying individual;
- 8 (B) \$3,600 in the case of two qualifying individuals; and
- 9 (C) \$4,800 in the case of three or more qualifying individuals;
- 10 (e) if the combined adjusted gross income of the taxpayers exceeds \$18,000 for the ~~taxable tax~~ tax
11 year during which the expenses are incurred, the amount of the employment-related expenses incurred, to
12 ~~must~~ be reduced by one-half of the excess of the combined adjusted gross income over \$18,000;
- 13 (f) for purposes of this subsection (3):
- 14 (i) married couples shall file a joint return or file separately on the same form;
- 15 (ii) if the taxpayer is married during any period of the ~~taxable tax~~ tax year, employment-related expenses
16 incurred are deductible only if:
- 17 (A) both spouses are gainfully employed, in which case the expenses are deductible only to the
18 extent that they are a direct result of the employment; or
- 19 (B) the spouse is a qualifying individual described in subsection (3)(a)(iii);
- 20 (iii) an individual legally separated from the individual's spouse under a decree of divorce or of
21 separate maintenance may not be considered as married;
- 22 (iv) the deduction for employment-related expenses must be divided equally between the spouses
23 when filing separately on the same form;
- 24 (v) payment made to a child of the taxpayer who is under 19 years of age at the close of the
25 ~~taxable tax~~ tax year and payments made to an individual with respect to whom a deduction is allowable under
26 15-30-112(5) are not deductible as employment-related expenses;
- 27 (4) in the case of an individual, political contributions determined in accordance with the provisions
28 of section 218(a) and (b) of the Internal Revenue Code that were in effect for the ~~taxable tax~~ tax year ended
29 December 31, 1978;
- 30 (5) that portion of expenses for organic fertilizer allowed as a deduction under 15-32-303 ~~which~~

1 that was not otherwise deducted in computing taxable income;

2 (6) contributions to the child abuse and neglect prevention program provided for in 41-3-701,
3 subject to the conditions set forth in 15-30-156;

4 (7) premium payments for long-term care insurance with benefits that meet or exceed the minimum
5 standards as established by the state insurance commissioner; and

6 (8) contributions to the Montana drug abuse resistance education program provided for in
7 44-2-702, subject to the conditions set forth in 15-30-159.

8 (9) (a) Subject to the conditions of subsection (3), a taxpayer who operates a family day-care home
9 or a group day-care home, as these terms are defined in 52-2-703, and who cares for the taxpayer's own
10 child and at least one unrelated child in the ordinary course of business may deduct employment-related
11 expenses considered to have been paid for the care of the child.

12 (b) The amount of employment-related expenses considered to have been paid by the taxpayer is
13 equal to the amount that the taxpayer charges for the care of a child of the same age for the same number
14 of hours of care. The employment-related expenses apply regardless of whether any expenses actually
15 have been paid. Employment-related expenses may not exceed the amounts specified in subsection
16 (3)(d)(ii).

17 (c) Only a day-care operator who is licensed and registered as required in 52-2-721 is allowed the
18 deduction under this subsection (9). (Subsection (8) terminates on occurrence of contingency--sec. 12,
19 Ch. 808, L. 1991.)"

20

21 **NEW SECTION. Section 3. Reimbursement to local governments and schools for residential**
22 **property relief -- statutory appropriation.** (1) Prior to September 1, 1996, the department of revenue shall
23 determine the following information for each taxing jurisdiction within the state:

24 (a) the number of mills levied in the jurisdiction for tax year 1995;

25 (b) the number of mills levied in the jurisdiction for tax year 1996; and

26 (c) the total taxable valuation for tax years 1995 and 1996, reported separately for each year for
27 class four property.

28 (2) The department shall calculate the amount of revenue lost to each taxing jurisdiction, using
29 current year mill levies, because of the annual reduction in residential property values set forth in 15-8-111.
30 The amount must be adjusted in the case of dissolved or combined taxing jurisdictions, as provided for in

1 subsection (6). The department shall total the amounts for all taxing jurisdictions within each county.

2 (3) The department shall remit to the county treasurer 50% of the amount of revenue reimbursable,
3 determined pursuant to subsection (2), on or before November 30 and the remaining 50% on or before May
4 31.

5 (4) Upon receipt of the reimbursement from the department, the county treasurer shall distribute
6 the reimbursement to each taxing jurisdiction, as calculated by the department.

7 (5) For the purposes of this section and subject to subsection (6), "taxing jurisdiction" means a
8 jurisdiction levying mills against personal property and includes but is not limited to a county, city, school
9 district, tax increment financing district, and miscellaneous taxing district and the state of Montana.

10 (6) The following apply to taxing jurisdictions that were altered after tax year 1995:

11 (a) A taxing jurisdiction that existed in tax year 1995 and that no longer exists is not entitled to
12 reimbursement under this section.

13 (b) A taxing jurisdiction that existed in tax year 1995 and that is split into two or more taxing
14 jurisdictions is entitled to reimbursement based on the portion of 1995 taxable value within each new taxing
15 jurisdiction. The department shall determine the portion of 1995 taxable value located in each taxing
16 jurisdiction.

17 (c) A taxing jurisdiction that did not exist in tax year 1995 is not entitled to reimbursement under
18 this section unless the jurisdiction was created as described in subsection (6)(b).

19 (7) The amounts necessary for the reimbursement authorized by this section are statutorily
20 appropriated, as provided in 17-7-502, from the general fund to reimburse eligible taxing jurisdictions for
21 reductions in tax rates on personal property.

22

23 **Section 4.** Section 17-7-502, MCA, is amended to read:

24 **"17-7-502. Statutory appropriations -- definition -- requisites for validity.** (1) A statutory
25 appropriation is an appropriation made by permanent law that authorizes spending by a state agency
26 without the need for a biennial legislative appropriation or budget amendment.

27 (2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply
28 with both of the following provisions:

29 (a) The law containing the statutory authority must be listed in subsection (3).

30 (b) The law or portion of the law making a statutory appropriation must specifically state that a

1 statutory appropriation is made as provided in this section.

2 (3) The following laws are the only laws containing statutory appropriations: 2-9-202; 2-17-105;
 3 2-18-812; 3-5-901; 5-13-403; 10-3-203; 10-3-312; 10-3-314; 10-4-301; 15-1-111; [section 3];
 4 15-23-706; 15-25-123; 15-31-702; 15-36-112; 15-37-117; 15-38-202; 15-65-121; 15-70-101; 16-1-404;
 5 16-1-410; 16-1-411; 17-3-106; 17-3-212; 17-5-404; 17-5-424; 17-5-704; 17-5-804; 17-6-101; 17-6-201;
 6 17-6-409; 17-7-304; 18-11-112; 19-2-502; 19-6-709; 19-9-1007; 19-15-101; 19-17-301; 19-18-512;
 7 19-18-513; 19-18-606; 19-19-205; 19-19-305; 19-19-506; 20-4-109; 20-8-111; 20-9-361; 20-26-1403;
 8 20-26-1503; 23-2-823; 23-5-136; 23-5-306; 23-5-409; 23-5-610; 23-5-612; 23-5-631; 23-7-301;
 9 23-7-402; 27-12-206; 32-1-537; 37-43-204; 37-51-501; 39-71-503; 39-71-907; 39-71-2321;
 10 39-71-2504; 44-12-206; 44-13-102; 50-5-232; 50-40-206; 53-6-150; 53-24-206; 60-2-220; 61-2-107;
 11 67-3-205; 75-1-1101; 75-5-507; 75-5-1108; 75-11-313; 76-12-123; 77-1-808; 80-2-103; 80-2-222;
 12 80-4-416; 80-11-310; 81-5-1111; 82-11-136; 82-11-161; 85-1-220; 85-20-402; 90-3-301; 90-4-215;
 13 90-6-331; 90-7-220; 90-9-306; and 90-14-107.

14 (4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing,
 15 paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued
 16 pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of
 17 Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as
 18 determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the
 19 bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to
 20 sec. 7, Ch. 567, L. 1991, the inclusion of 19-6-709 terminates upon death of last recipient eligible for
 21 supplemental benefit; and pursuant to sec. 15, Ch. 534, L. 1993, the inclusion of 90-14-107 terminates
 22 July 1, 1995.)"

23
 24 **NEW SECTION. Section 5. Codification instruction.** [Section 3] is intended to be codified as an
 25 integral part of Title 15, and the provisions of Title 15 apply to [section 3].

26
 27 **NEW SECTION. Section 6. Effective date -- applicability.** (1) [This act] is effective January 1,
 28 1996.

29 (2) [Sections 1 and 2] apply to tax years beginning after December 31, 1995.

30 -END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0383, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

An act allowing the deduction of the first \$20,000 of market value from owner-occupied residences for the purpose of valuing the property for taxes; limiting the deductibility of federal taxes to \$4,000 for single filers and \$8,000 for joint filers and heads of households; providing a formula and statutory appropriation for the reimbursement of property taxes lost because of the change in the taxation of owner-occupied residences; and providing a delayed effective date and an applicability date

ASSUMPTIONS:

1. The proposed law is effective January 1, 1996.
2. Under current law, there is no cap on the amount of federal income taxes that may be deducted in arriving at Montana taxable income.
3. Under the proposed law, the maximum amount of federal income taxes that could be deducted would be \$8,000 for joint filers and qualifying heads of households, and \$4,000 for taxpayers filing a single or separate return.
4. Under the proposal, approximately 58,534 resident households would experience increased tax year 1996 (FY97) state income taxes, with total collections increasing by about \$64.7 million. (MDOR Income Tax Simulation Model).
5. Under the proposed law, total collections would increase by about \$68 million for all filers, both resident and non-resident (MDOR).
6. Under the proposed law, households in owner-occupied residences would be eligible for a \$20,000 homestead exemption (deduction) in connection with valuing the property for taxes.
7. Under the proposed law a total of approximately 223,947 households would qualify for and receive the homestead deduction, with total property tax revenues for all levels of government decreasing by \$57.3 million for tax year 1996 (FY97). State property taxes (education) would decrease by \$15.0 million, county taxes would decrease by about \$11.5 million, property tax revenue to local school districts would decline by \$23.4 million, and revenue to incorporated municipalities would decrease \$7.4 million (MDOR Property Tax Simulation Model).
8. Half of tax year (calendar year) 1996 property taxes will be collected in November 1996 (FY97) and half will be collected in May 1997 (FY97); no property tax delinquencies are assumed (MDOR).

(continued page 2)

Dave Lewis 2-3-95 Jon Ellingson 2/7/95
DAVE LEWIS, BUDGET DIRECTOR DATE JON ELLINGSON, PRIMARY SPONSOR DATE
Office of Budget and Program Planning Fiscal Note for HB0383, as introduced

HB 383

ASSUMPTIONS: (continued)

9. The Department of Revenue will experience minimal additional administrative costs to implement capping the federal income taxes portion of this legislation. The Department will require increased expenditures to administer the homestead deduction portion of the legislation. These expenditures are: (1) \$14,520 in programming costs related to changes in CAMAS (Computer Assisted Mass Appraisal System); (2) \$248,875 for upgrading the Department's AS/400 mid-range computer to handle the additional data storage required by the homestead exemption (the Department's computer is currently at capacity); and (3) \$123,000 in FY96 and \$78,000 in FY97 for mailing costs for the homestead application process.

FISCAL IMPACT:

	<u>FY96</u> <u>Difference</u>	<u>FY97</u> <u>Difference</u>
<u>Expenditures:</u> (Department of Revenue)		
Personal Services	\$14,520	\$ 0
Operating Costs	123,000	78,000
Equipment	<u>248,875</u>	<u>0</u>
Total	\$386,395	\$78,000
 <u>Revenues:</u>		
Individual Income Tax	0	\$68,000,000
Revenue Reimbursement to Local Gov't	0	(42,300,000)
State Property Taxes (101 mills)	<u>0</u>	<u>(15,000,000)</u>
Total	0	\$10,700,000
 <u>Net Impact:</u>		
	(\$386,395)	\$10,622,000

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

For FY97 projected local property tax losses as a result of this legislation are approximately \$42.3 million (see assumption #7).

(Technical notes see page 3)

TECHNICAL NOTES:

The bill provides for a reimbursement to local governments and schools for revenue lost as a result of providing a \$20,000 homestead exemption for residential property. The language used for the reimbursement mechanism is drawn directly from statutes providing for a local government reimbursement for a reduction in the taxable valuation rate for Class 8 personal property. ***This type of reimbursement mechanism is not workable in the case of a homestead exemption***, where individual pieces of property are provided with a separate and distinct exemption amount, but only works in situations in which the taxable valuation rate of an entire class of property is being reduced.

A more appropriate means of providing the homestead relief is via a refundable income tax credit, which also would have many problems which would have to be worked out. But at least the income tax credit approach is workable, whereas the reimbursement mechanism provided in the bill is simply not compatible with a homestead exemption.

Section 1, lines 19 - 23, define which properties qualify for the market value deduction. The definition includes up to 5 acres of appurtenant land, although the market value deduction only applies to the improvement as described at the end of the definition. It would be clearer, if the reference to land was removed completely.

The bill should be coordinated with language in 15-6-134 (Class 4 property). 15-6-134(1)(c) allows adjustments to the market value of residences (including up to 5 acres of land), if the applicant meets certain income limits. It is unclear how the low income application will work in conjunction with the \$20,000 market exclusion. The taxable value of the property will differ depending on whether the \$20,000 is removed before the low income adjustment, or after the adjustment.