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_____ BILL NO. _____
INTRODUCED BY _____

BY REQUEST OF THE REVENUE INTERIM COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING PROPERTY TAX RELIEF PROVIDED BY THE GROWTH AND OPPORTUNITY TRUST TO BASE ELIGIBILITY ON HOMESTEAD REDUCED TAX RATE ELIGIBILITY; PROVIDING THAT APPLICATION, LIMITATION, AND APPEAL PROVISIONS FOR THE HOMESTEAD REDUCED TAX RATE APPLY; REVISING PENALTY PROVISIONS FOR FALSE OR FRAUDULENT CLAIMS; AMENDING SECTIONS 15-6-415, 15-6-701, 15-6-702, 15-6-703, 15-7-102, 15-10-420, 15-15-101, 15-15-102, 15-15-103, 15-16-101, 15-17-125, AND 17-1-402, MCA; REPEALING SECTIONS 15-6-704 AND 15-6-705, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

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

Section 1. Section 15-6-415, MCA, is amended to read:

"15-6-415. Homestead and rental property reduced tax rates -- improper approval -- penalty for false or fraudulent application. (1) Except as provided in subsection (2), if the department determines that an application for a homestead reduced tax rate or a rental property reduced tax rate was improperly approved or that the property no longer qualifies for the reduced rate, the department shall revise the assessment for each year the homestead reduced tax rate or the rental property reduced tax rate was improperly granted subject to the assessment revision procedure established in 15-8-601.

(2) A person who files a false or fraudulent application for a homestead reduced tax rate provided for in 15-6-405 or for a rental property reduced tax rate provided for in 15-6-411 is subject to criminal prosecution under the provisions of 45-7-202.

(3) (a) If a person is determined to have filed a false or fraudulent application, the department shall revise the assessment of the property subject to the assessment revision procedure established in 15-8-601

1 ~~and this section and 15-8-601~~ and assess a penalty as provided in this subsection (3). The penalty is equal to
 2 three times the base penalty amount calculated under subsection (3)(b) plus interest at the rate provided in 15-
 3 16-102 calculated from the original due date of the taxes, until paid.

4 (b) The base penalty amount is equal to the property tax due for each year the homestead
 5 reduced tax rate or the rental property reduced tax rate was improperly received, determined using the tax rate
 6 provided for in 15-6-134(3)(a), the appraised value, and the mill levies in effect for the year, less the actual
 7 property taxes paid in the year, plus any principal residence property tax relief received pursuant to 15-6-701.

8 (c) The revised assessment and penalty must be assessed against a person who filed a false or
 9 fraudulent application even if the person no longer owns the property.

10 (4) If the person who filed a false or fraudulent application no longer owns the property associated
 11 with the false or fraudulent application, the penalty plus interest provided for in subsection (3) may be recovered
 12 as any other tax owed the state. If the penalty plus interest becomes due and owing, the department may issue
 13 a warrant for distraint as provided in Title 15, chapter 1, part 7.

14 (5) Except as provided in subsection (4), if the department determines that a false or fraudulent
 15 application was made, the department shall send the revised assessment with the additional penalty amount as
 16 determined under subsection (3) to the county treasurer in the county where the property is located.

17 (6) ~~(a) The Except as provided in subsection (6)(b),~~ the county treasurer shall distribute property
 18 taxes, penalty, and interest collected under this section proportionally to the affected taxing jurisdictions.

19 (b) Principal residence property tax relief received pursuant to 15-6-701, and associated penalty
 20 and interest, must be distributed to the department for deposit in the principal residence property tax relief
 21 account provided for in 15-6-702.

22 (7) A revised assessment made under this section must be made within 10 years after the end of
 23 the calendar year in which the original application was made."
 24

25 **Section 2.** Section 15-6-701, MCA, is amended to read:

26 **"15-6-701. ~~Property tax assistance for primary residences~~Principal residence property tax**
 27 **relief.** (1) A county shall provide ~~property tax assistance to owners of primary~~ principal residence property tax
 28 relief to principal residences ~~certified~~ qualified by the department of revenue pursuant to 15-6-703. The

1 assistance is provided with funding from the ~~state property tax assistance~~ principal residence property tax relief
2 account distributed to the county as provided in 15-6-702.

3 (2) (a) Except as provided in subsection (2)(b), the county treasurer shall provide the ~~property tax~~
4 ~~assistance~~ principal residence property tax relief distributed pursuant to 15-6-702 to each ~~primary~~ principal
5 residence by listing the ~~property tax assistance~~ principal residence property tax relief amount as a credit on the
6 property tax bill as provided in 15-16-101(2)(a)(v).

7 (b) If the ~~property tax assistance~~ principal residence property tax relief calculated pursuant to 15-6-
8 702(2) exceeds the property tax billed for an individual property, the county may retain the revenue that
9 exceeds the property tax billed.

10 (3) The owner of a ~~primary~~ principal residence that receives ~~property tax assistance~~ principal
11 residence property tax relief under this section is not prohibited from receiving property tax assistance under
12 another ~~a~~ property tax assistance program.

13 (4) ~~State property tax assistance~~ Principal residence property tax relief funds provided to counties
14 pursuant to this section may not affect the maximum mill calculation in 15-10-420."

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16 **Section 3.** Section 15-6-702, MCA, is amended to read:

17 **"15-6-702. ~~State property tax assistance~~ Principal residence property tax relief account.** (1)

18 There is a ~~state property tax assistance~~ principal residence property tax relief account in the state special
19 revenue fund established in 17-2-102. The revenue allocated to the account as provided in 17-1-402 must be
20 deposited in the account and distributed as provided in this section.

21 (2) (a) At the end of each fiscal year, if the balance in the account exceeds \$50 million, the
22 department shall determine the amount of ~~property tax assistance~~ principal residence property tax relief per
23 ~~primary~~ principal residence by subtracting the amounts listed in subsection (2)(c) and dividing the remainder by
24 the total number of ~~primary~~ principal residences ~~certified~~ qualified pursuant to 15-6-703.

25 (b) By August 31 of each year, the department shall distribute to each county the ~~property tax~~
26 ~~assistance per primary~~ principal residence property tax relief per principal residence multiplied by the number of
27 ~~primary~~ principal residences within the county. The county shall deposit the money in the account in which
28 property tax revenue is held and use the distribution to provide ~~property tax assistance~~ principal residence

1 property tax relief pursuant to 15-6-701.

2 (c) The department may retain 2% of the revenue allocated to the account for administering the
3 ~~certification qualification~~ of ~~primary principal~~ residences under 15-6-703 and shall retain \$100,000 for appeals
4 granted under ~~15-6-705~~ 15-6-418.

5 (3) The department shall provide each county with a list of property in the county that the
6 department ~~certifies~~ qualifies pursuant to 15-6-703 ~~qualifies as a primary principal~~ residence to enable the
7 county treasurer to administer the ~~property tax assistance~~ principal residence property tax relief.

8 (4) A payment required pursuant to this section may be withheld if, for more than 90 days, a local
9 government fails to:

10 (a) file a financial report required by 15-1-504;

11 (b) remit any amounts collected on behalf of the state as required by 15-1-504; or

12 (c) remit any other amounts owed to the state or another taxing jurisdiction."
13

14 **Section 4.** Section 15-6-703, MCA, is amended to read:

15 **"15-6-703. ~~Certification of primary residence for state property tax assistance~~Eligibility for**

16 **principal residence property tax relief -- rulemaking -- definition.** ~~(1) To receive state property tax~~
17 ~~assistance pursuant to 15-6-701, the owner of a primary residence shall apply to the department for certification~~
18 ~~of the primary residence.~~

19 (2) ~~— (a) To receive state property tax assistance for the tax year in which the application is first~~
20 ~~made, the owner shall apply electronically or by mail on a form prescribed by the department and postmarked~~
21 ~~by March 1. Approved applications received electronically or postmarked after March 1 apply to the following~~
22 ~~tax year.~~

23 (b) ~~— Once approved, the certification remains effective until:~~

24 (i) ~~— there is a change in ownership of the property;~~

25 (ii) ~~— the owner no longer uses the dwelling as a primary residence; or~~

26 (iii) ~~— the owner applies for state property tax assistance for a different primary residence.~~

27 (c) ~~— If certification is terminated pursuant to subsection (2)(b), the owner shall submit a new~~
28 ~~application to the department to reestablish the certification.~~

(d) — An application for state property tax assistance must be submitted on a form prescribed by the department and must contain:

(i) — a written declaration made under penalty of perjury that the applicant owns and maintains the land and improvements as the primary residence. The application must state the penalty provided for in 15-6-704.

(ii) — the geocode or other property identifier for the primary residence for which the applicant is requesting the state property tax assistance;

(iii) — the social security number of the applicant; and

(iv) — any other information required by the department that is relevant to the applicant's eligibility.

(3) — (a) Except as provided in subsection (3)(b), class four residential property owned by an entity is not eligible to receive the state property tax assistance.

(b) — The trustee of a grantor revocable trust may apply for state property tax assistance for a primary residence on behalf of the trust if the dwelling meets the definition of a primary residence for the grantor.

(1) To qualify for principal residence property tax relief under 15-6-701:

(a) a property must be a principal residence taxed at the homestead reduced tax rate pursuant to Title 15, chapter 6, part 4; and

(b) have a market value of less than \$1 million.

(2) The application, limitation, appeal, and penalty provisions that apply to the homestead reduced tax rate also apply to principal residence property tax relief under this part.

(4) (3) The department may adopt rules, prepare forms, and maintain records that are necessary to implement this section.

(5) — (a) For the purposes of 15-6-704, 15-6-705, and this section, "primary residence" means a class four residential property:

(i) — that is a single-family dwelling unit, unit of a multiple-unit dwelling, trailer, manufactured home, or mobile home;

(ii) — in which an owner can demonstrate the owner owned and lived for at least 7 months of the year;

(iii) — that is the owner's only primary residence;

(iv) — for which the value of the residential dwelling is \$1 million or less; and

(v) — for which the owner made payment of the assessed Montana property taxes.

(b) — An owner who cannot meet the requirements of subsection (5)(a)(ii) because the owner's primary residence changed during the tax year to another primary residence may still qualify if the owner paid the Montana property taxes while residing in each primary residence for a total of at least 7 consecutive months of the tax year. The department shall establish rules for determining the property tax assistance when the primary residences are in different counties."

Section 5. Section 15-7-102, MCA, is amended to read:

"15-7-102. Notice of classification, market value, and taxable value to owners -- appeals. (1) (a)

Except as provided in 15-7-138, the department shall mail or provide electronically to each owner or purchaser under contract for deed a notice that includes the land classification, market value, and taxable value of the land and improvements owned or being purchased. A notice must be mailed or, with property owner consent, provided electronically to the owner only if one or more of the following changes pertaining to the land or improvements have been made since the last notice:

(i) change in ownership;

(ii) change in classification;

(iii) change in valuation; or

(iv) addition or subtraction of personal property affixed to the land.

(b) The notice must include the following for the taxpayer's informational and informal classification and appraisal review purposes:

(i) a notice of the availability of all the property tax assistance programs available to property taxpayers, including the intangible land value assistance program provided for in 15-6-240, the property tax assistance programs provided for in Title 15, chapter 6, part 3, the homestead reduced tax rate provided for in 15-6-405, the rental property reduced tax rate provided for in 15-6-411, the ~~state property tax assistance~~ principal residence property tax relief provided for in 15-6-701, and the residential property tax credit for the elderly provided for in 15-30-2337 through 15-30-2341;

- 1 (ii) the total amount of mills levied against the property in the prior year;
- 2 (iii) the market value for the prior reappraisal cycle;
- 3 (iv) if the market value has increased by more than 10%, an explanation for the increase in
- 4 valuation;
- 5 (v) a statement that the notice is not a tax bill; and
- 6 (vi) a taxpayer option to request an informal classification and appraisal review by checking a box
- 7 on the notice and returning it to the department.
- 8 (c) When the department uses an appraisal method that values land and improvements as a unit,
- 9 including the sales comparison approach for residential condominiums or the income approach for commercial
- 10 property, the notice must contain a combined appraised value of land and improvements.
- 11 (d) Any misinformation provided in the information required by subsection (1)(b) does not affect the
- 12 validity of the notice and may not be used as a basis for a challenge of the legality of the notice.
- 13 (2) (a) Except as provided in subsection (2)(c), the department shall assign each classification and
- 14 appraisal to the correct owner or purchaser under contract for deed and mail or provide electronically the notice
- 15 in written or electronic form, adopted by the department, containing sufficient information in a comprehensible
- 16 manner designed to fully inform the taxpayer as to the classification and appraisal of the property and of
- 17 changes over the prior tax year.
- 18 (b) The notice must advise the taxpayer that in order to be eligible for a refund of taxes from an
- 19 appeal of the classification or appraisal, the taxpayer is required to pay the taxes under protest as provided in
- 20 15-1-402.
- 21 (c) The department is not required to mail or provide electronically the notice to a new owner or
- 22 purchaser under contract for deed unless the department has received the realty transfer certificate from the
- 23 clerk and recorder as provided in 15-7-304 and has processed the certificate before the notices required by
- 24 subsection (2)(a) are mailed or provided electronically. The department shall notify the county tax appeal board
- 25 of the date of the mailing or the date when the taxpayer is informed the information is available electronically.
- 26 (3) (a) If the owner of any land and improvements is dissatisfied with the appraisal as it reflects the
- 27 market value of the property as determined by the department or with the classification of the land or
- 28 improvements, the owner may request an informal classification and appraisal review by submitting an

1 objection on written or electronic forms provided by the department for that purpose or by checking a box on the
2 notice and returning it to the department in a manner prescribed by the department.

3 (i) For property other than class three property described in 15-6-133, class four property
4 described in 15-6-134, class ten property described in 15-6-143, and centrally assessed property described in
5 15-23-101, the objection must be submitted within 30 days from the date on the notice.

6 (ii) For class three property described in 15-6-133, class four property described in 15-6-134, and
7 class ten property described in 15-6-143, the objection may be made only once each valuation cycle. An
8 objection must be made in writing or by checking a box on the notice within 30 days from the date on the
9 classification and appraisal notice for a reduction in the appraised value to be considered for both years of the
10 2-year valuation cycle. An objection made more than 30 days from the date of the classification and appraisal
11 notice will be applicable only for the second year of the 2-year valuation cycle. For an objection to apply to the
12 second year of the valuation cycle, the taxpayer shall make the objection in writing or by checking a box on the
13 notice no later than June 1 of the second year of the valuation cycle or, if a classification and appraisal notice is
14 received in the second year of the valuation cycle, within 30 days from the date on the notice.

15 (iii) For centrally assessed property described in 15-23-101(2)(a), the objection must be submitted
16 within 20 days from the date on the notice. A taxpayer may submit an objection up to 10 days after this deadline
17 on request to the department.

18 (iv) (A) For centrally assessed property described in 15-23-101(2)(b) and (2)(c), an objection to the
19 valuation or classification may be made only once each valuation cycle. An objection must be made in writing
20 within the time period specified in subsection (3)(a)(iii) for a reduction in the appraised value to be considered
21 for both years of the 2-year valuation cycle. An objection made after the deadline specified in subsection
22 (3)(a)(iii) will be applicable only for the second year of the 2-year valuation cycle. For an objection to apply to
23 the second year of the valuation cycle, the taxpayer shall make the objection in writing no later than June 1 of
24 the second year of the valuation cycle or, if a classification and appraisal notice is received in the second year
25 of the valuation cycle, within the time period specified in subsection (3)(a)(iii).

26 (B) If a property owner has exhausted the right to object to a valuation, as provided for in
27 subsection (3)(a)(iv)(A), the property owner may ask the department to consider extenuating circumstances to
28 adjust the value of property described in 15-23-101(2)(b) or (2)(c). Occurrences that may result in an

1 adjustment to the value include but are not limited to extraordinary, unusual, or infrequent events that are
2 material in nature and of a character different from the typical or customary business operations, that are not
3 expected to recur frequently, and that are not normally considered in the evaluation of the operating results of a
4 business, including bankruptcies, acquisitions, sales of assets, or mergers.

5 (b) If the objection relates to residential or commercial property and the objector agrees to the
6 confidentiality requirements, the department shall provide to the objector, by posted mail or electronically, within
7 8 weeks of submission of the objection, the following information:

8 (i) the methodology and sources of data used by the department in the valuation of the property;
9 and

10 (ii) if the department uses a blend of evaluations developed from various sources, the reasons that
11 the methodology was used.

12 (c) At the request of the objector or a representative of the objector, and only if the objector or
13 representative signs a written or electronic confidentiality agreement, the department shall provide in written or
14 electronic form:

15 (i) comparable sales data used by the department to value the property;

16 (ii) sales data used by the department to value residential property in the property taxpayer's
17 market model area; and

18 (iii) if the cost approach was used by the department to value residential property, the
19 documentation required in 15-8-111(3) regarding why the comparable sales approach was not reliable.

20 (d) For properties valued using the income approach as one approximation of market value, notice
21 must be provided that the taxpayer will be given a form to acknowledge confidentiality requirements for the
22 receipt of all aggregate model output that the department used in the valuation model for the property.

23 (e) The review must be conducted informally and is not subject to the contested case procedures
24 of the Montana Administrative Procedure Act. As a part of the review, the department may consider the actual
25 selling price of the property and other relevant information presented by the taxpayer in support of the
26 taxpayer's opinion as to the market value of the property. The department shall consider an independent
27 appraisal provided by the taxpayer if the appraisal meets standards set by the Montana board of real estate
28 appraisers and the appraisal was completed within 6 months of the valuation date pursuant to 15-8-201. If the

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1 department does not use the appraisal provided by the taxpayer in conducting the appeal, the department shall
2 provide to the taxpayer the reason for not using the appraisal. The department shall give reasonable notice to
3 the taxpayer of the time and place of the review.

4 (f) After the review, the department shall determine the correct appraisal and classification of the
5 land or improvements and notify the taxpayer of its determination by mail or electronically. The department may
6 not determine an appraised value that is higher than the value that was the subject of the objection unless the
7 reason for an increase was the result of a physical change in the property or caused by an error in the
8 description of the property or data available for the property that is kept by the department and used for
9 calculating the appraised value. In the notification, the department shall state its reasons for revising the
10 classification or appraisal. When the proper appraisal and classification have been determined, the land must
11 be classified and the improvements appraised in the manner ordered by the department.

12 (4) Whether a review as provided in subsection (3) is held or not, the department may not adjust
13 an appraisal or classification upon the taxpayer's objection unless:

14 (a) the taxpayer has submitted an objection on written or electronic forms provided by the
15 department or by checking a box on the notice; and

16 (b) the department has provided to the objector by mail or electronically its stated reason in writing
17 for making the adjustment.

18 (5) A taxpayer's written objection or objection made by checking a box on the notice and
19 supplemental information provided by a taxpayer that elects to check a box on the notice to a classification or
20 appraisal and the department's notification to the taxpayer of its determination and the reason for that
21 determination are public records. The department shall make the records available for inspection during regular
22 office hours.

23 (6) Except as provided in 15-2-302 and 15-23-102, if a property owner feels aggrieved by the
24 classification or appraisal made by the department after the review provided for in subsection (3), the property
25 owner has the right to first appeal to the county tax appeal board and then to the Montana tax appeal board,
26 whose findings are final subject to the right of review in the courts. The appeal to the county tax appeal board,
27 pursuant to 15-15-102, must be filed within 30 days from the date on the notice of the department's
28 determination. A county tax appeal board or the Montana tax appeal board may consider the actual selling price