

1 SENATE BILL NO. 538

2 INTRODUCED BY C. FRIEDEL, E. BUTTREY, D. ZOLNIKOV, D. BARTEL, J. SMALL, M. HOPKINS, J.  
3 ELLSWORTH, J. KASSMIER

4  
5 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING MARIJUANA LAWS; CREATING A  
6 MARIJUANA ADMINISTRATION STATE SPECIAL REVENUE ACCOUNT FOR THE DEPARTMENT OF  
7 REVENUE; CREATING A HABITAT LEGACY ACCOUNT FOR THE BENEFIT OF THE DEPARTMENT OF  
8 FISH, WILDLIFE, AND PARKS; CREATING A STATE SPECIAL REVENUE ACCOUNT FOR THE BENEFIT  
9 OF THE DEPARTMENT OF JUSTICE; AUTHORIZING THE DEPARTMENT OF REVENUE TO SPEND  
10 APPROPRIATED LOCAL OPTION MARIJUANA TAX REVENUE; REVISING THE ALLOCATION OF THE  
11 MARIJUANA STATE SPECIAL REVENUE ACCOUNT; REVISING THE MONTANA WILDLIFE HABITAT  
12 IMPROVEMENT ACT; CREATING STATUTORY APPROPRIATIONS; USING A PORTION OF MARIJUANA  
13 REVENUE DISTRIBUTED TO THE VETERANS AND SURVIVING SPOUSES STATE SPECIAL REVENUE  
14 ACCOUNT TO FUND AN EXPANDED DISABLED VETERANS PROPERTY TAX ASSISTANCE PROGRAM;  
15 PROVIDING PROPERTY TAX ASSISTANCE FOR DISABLED VETERANS WHO ARE RATED 80% OR 90%  
16 DISABLED; ADDING A FEE FOR DISPENSARIES FOR DRUG EDUCATION PROGRAMS; INCREASING  
17 THE PENALTY FOR FRAUDULENT REPRESENTATION; ALLOWING A LAW ENFORCEMENT OFFICIAL TO  
18 SEIZE MARIJUANA AND MARIJUANA PRODUCTS IN CERTAIN CASES; AMENDING SECTIONS 10-2-108,  
19 15-6-301, 15-6-302, 15-6-311, 16-12-111, 16-12-224, AND 16-12-302, 16-12-310, 17-1-508, 17-7-502, AND  
20 87-5-806, MCA; AND PROVIDING AN A DELAYED EFFECTIVE DATE EFFECTIVE DATES."

21  
22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

23  
24 NEW SECTION. SECTION 1. MARIJUANA ADMINISTRATION STATE SPECIAL REVENUE ACCOUNT -- USE --  
25 STATUTORY APPROPRIATION. (1) THERE IS A SPECIAL REVENUE ACCOUNT WITHIN THE STATE SPECIAL REVENUE FUND  
26 ESTABLISHED IN 17-2-102. MONEY IN THE ACCOUNT IS STATUTORILY APPROPRIATED, AS PROVIDED IN 17-7-502, TO THE  
27 DEPARTMENT OF REVENUE AND MAY ONLY BE USED TO ADMINISTER THE LOCAL-OPTION MARIJUANA EXCISE TAX

**Amendment - 2nd Reading/2nd House-tan - Requested by: Scot Kerns - (H) Committee of the Whole**

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Drafter: Megan Moore, 406-444-4496

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1 DEPOSITED INTO THE ACCOUNT.

2 (8) ANY UNSPENT OR UNENCUMBERED MONEY IN THE HABITAT LEGACY ACCOUNT AT THE END OF A FISCAL  
3 YEAR MUST REMAIN IN THE ACCOUNT.

4  
5 NEW SECTION. SECTION 3. MARIJUANA DISTRIBUTION ACCOUNT. (1) THERE IS A MARIJUANA DISTRIBUTION  
6 ACCOUNT IN THE STATE SPECIAL REVENUE FUND TO BE ADMINISTERED BY THE DEPARTMENT OF JUSTICE. THE ACCOUNT  
7 CONSISTS OF REVENUE DEPOSITED PURSUANT TO 16-12-111 AND FEES COLLECTED UNDER 16-12-224(7).

8 (2) THE ACCOUNT MAY BE USED FOR:

9 (A) PROGRAM ENHANCEMENTS IN COMBATTING CRIME, TO INCLUDE HUMAN TRAFFICKING, INVESTIGATIONS,  
10 NARCOTICS, AND THE ASSOCIATED LEGAL CASEWORK;

11 (B) ADDITIONAL RESOURCES TO SUPPORT THE MONTANA HIGHWAY PATROL; AND

12 (C) PUBLIC SAFETY GRANT PROGRAMS FUNDED FOR LAW ENFORCEMENT SUPPORT.

13 (3) THE DEPARTMENT OF JUSTICE MAY USE UP TO 10% OF THE ANNUAL APPROPRIATION INTO THE  
14 ACCOUNT FOR THE PURPOSES OF SUBSECTION (2)(C).

15  
16 **Section 4.** Section 10-2-108, MCA, is amended to read:

17 **"10-2-108. Veterans and surviving spouses state special revenue account.** (1) There is a  
18 veterans and surviving spouses account in the state special revenue fund to be administered by the veterans'  
19 affairs division of the department of military affairs. The account consists of revenue deposited pursuant to 16-  
20 12-111.

21 (2) The account must be used:

22 (a) to provide services and assistance for all Montana veterans and surviving spouses and  
23 dependents; and

24 (b) for the expanded disabled veteran property tax assistance program provided for in 15-6-311.

25 (3) (a) The department of revenue shall annually calculate and notify the department of military  
26 affairs of the additional relief provided for the expanded disabled veteran property tax assistance program from  
27 amendments to 15-6-311 provided for in [this act].

1 (b) The following amounts calculated by the department of revenue must be transferred annually  
2 by June 30 from the account:

3 (i) the amount calculated that represents the state equalization mills provided for in 20-9-331, 20-  
4 9-333, and 20-9-360 to the general fund;

5 (ii) the amount calculated that represents the vocational-technical education mills provided for in  
6 20-25-439 to the general fund; and

7 (iii) the amount that represents the university system mills provided for in 15-10-109 to the state  
8 special revenue account for the Montana university system."

9  
10 **Section 5.** Section 15-6-301, MCA, is amended to read:

11 **"15-6-301. Definitions.** As used in this part, the following definitions apply:

12 (1) "Annual verification" means the use of a process to:

13 (a) verify an applicant's income;

14 (b) approve, renew, or deny benefits for the current year based ~~upon~~ on the applicant's eligibility;

15 and

16 (c) terminate participation based ~~upon~~ on death or loss of status as a qualified veteran or veteran's  
17 spouse.

18 (2) "PCE" means the implicit price deflator (price index) for personal consumption expenditures as  
19 published in the national income and product accounts by the bureau of economic analysis of the U.S.

20 department of commerce.

21 (3) "PCE inflation factor" for a tax year means the PCE price index value for the first quarter of the  
22 prior tax year before the tax year divided by the PCE price index value for the first quarter of 2015.

23 (4) (a) "Primary residence" is, subject to the provisions of subsection (4)(b), a dwelling:

24 (i) in which a taxpayer can demonstrate the taxpayer lived for at least 7 months of the year for  
25 which benefits are claimed;

26 (ii) that is the only residence for which property tax assistance is claimed; and

27 (iii) determined using the indicators provided for in the rules authorized by 15-6-302(2).

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1 (b) A primary residence may include more than one dwelling when the taxpayer's combined  
2 residence in the dwellings is at least 7 months of the tax year.

3 (5) "Qualified veteran" means a veteran:

4 (a) who was killed while on active duty or died as a result of a service-connected disability; or

5 (b) if living:

6 (i) was honorably discharged from active service in any branch of the armed services; and

7 (ii) is currently rated ~~100%~~ 80% disabled or higher or is paid at the ~~100%~~ 80% disabled rate or  
8 higher by the U.S. department of veterans affairs for a service-connected disability, as verified by official  
9 documentation from the U.S. department of veterans affairs.

10 (6) "Qualifying income" means:

11 (a) the federal adjusted gross income excluding capital and income losses of an applicant and the  
12 applicant's spouse as calculated on the Montana income tax return for the prior year;

13 (b) for assistance under 15-6-311, the federal adjusted gross income excluding capital and income  
14 losses of an applicant as calculated on the Montana income tax return for the prior tax year; or

15 (c) for an applicant who is not required to file a Montana income tax return, the income determined  
16 using available income information.

17 (7) "Qualifying property" means a primary residence that a qualified applicant owned and occupied  
18 for at least 7 months during the tax year.

19 (8) "Residential real property" means the land and improvements of a taxpayer's primary  
20 residence."

21

22 **Section 6.** Section 15-6-302, MCA, is amended to read:

23 **"15-6-302. Property tax assistance -- rulemaking.** (1) The requirements of this section must be met  
24 for a taxpayer to qualify for property tax assistance under 15-6-305 or 15-6-311.

25 (2) For the property tax assistance programs provided for in 15-6-305 and 15-6-311, the residential  
26 real property must be owned by the applicant or under contract for deed and be the primary residence as  
27 defined in 15-6-301. The department shall make rules specifying the indicators used for determining whether a

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1 residence is a primary residence for purposes of property tax assistance programs.

2 (3) An applicant's qualifying income, as defined in 15-6-301, may not exceed the threshold  
3 established in 15-6-305 ~~or 15-6-311~~ or in rules established pursuant to ~~those sections~~ that section.

4 (4) (a) A claim for assistance must be submitted on a form prescribed by the department.

5 (b) The form must contain:

6 (i) the qualifying income of the applicant and the applicant's spouse;

7 (ii) an affirmation that the applicant owns and maintains the land and improvements as the primary  
8 residence as defined in 15-6-301;

9 (iii) the social security number of the applicant and of the applicant's spouse; and

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

11 (5) (a) An application must be filed by April 15 of the year for which assistance is first claimed.

12 (b) Once assistance is approved, the applicant remains eligible for property tax assistance in  
13 subsequent years through the annual verification process defined in 15-6-301 without the need to reapply.

14 (c) A taxpayer shall inform the department of any change in eligibility occurring from one year to  
15 the next.

16 (6) The department may verify an applicant's and an applicant's spouse's social security number  
17 and benefits with the social security administration and the U.S. department of veterans affairs.

18 (7) The department must annually verify an applicant's eligibility, including the applicant's and  
19 spouse's income, and approve, renew, or deny benefits for the current year based ~~upon~~ on the findings.

20 (8) (a) When providing information for property tax assistance under 15-6-305 or 15-6-311,  
21 applicants are subject to the false swearing penalties established in 45-7-202.

22 (b) The department may investigate the information provided in an application and an applicant's  
23 continued eligibility.

24 (c) The department may request applicant verification of the primary residence.

25 (9) The department may address unusual circumstances of ownership and income that arise in  
26 administering taxpayer assistance programs provided for in 15-6-305 and 15-6-311.

27 (10) A temporary stay in a nursing home or similar facility does not change a taxpayer's primary

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1 residence for the purposes of taxpayer assistance programs provided for in 15-6-305 and 15-6-311.

2 (11) The department shall award property assistance under the property tax assistance program  
 3 that provides the greatest benefit to the taxpayer by reviewing applications and eligibility requirements, and  
 4 notify the applicant of the department's decision."  
 5

6 **Section 7.** Section 15-6-311, MCA, is amended to read:

7 **"15-6-311. Disabled veteran program.** (1) The residential real property of a qualified veteran or a  
 8 qualified veteran's spouse is eligible to receive a tax rate reduction as provided in 15-6-302 and this section.

9 (2) Property qualifying under subsection (1) and owned by a qualified veteran is taxed at the rate  
 10 provided in 15-6-134 multiplied by a percentage figure based on the applicant's qualifying income and disability  
 11 rating determined from the following table:

<u>Income</u>	<u>Income</u>	<u>Percentage</u>	
<u>Single Person</u>	<u>Married Couple</u>	<u>Multiplier</u>	
	<u>Head of Household</u>		
<del>\$0 — \$37,404</del>	<del>\$0 — \$44,885</del>	<del>0%</del>	
<del>\$37,405 — \$41,145</del>	<del>\$44,886 — \$48,626</del>	<del>20%</del>	
<del>\$41,146 — \$44,885</del>	<del>\$48,627 — \$52,366</del>	<del>30%</del>	
<del>\$44,886 — \$48,626</del>	<del>\$52,367 — \$56,107</del>	<del>50%</del>	
<u>Income - Single Person</u>	<u>Income - Married Couple</u> <u>or Head of Household</u>	<u>Percentage Multiplier -</u> <u>100% Disabled</u>	<u>Percentage Multiplier -</u> <u>80% or 90% Disabled</u>
<u>\$0 - \$37,404</u>	<u>\$0 - \$44,885</u>	<u>0%</u>	<u>50%</u>
<u>\$37,405 - \$41,145</u>	<u>\$44,886 - \$48,626</u>	<u>20%</u>	<u>60%</u>
<u>\$41,146 - \$44,885</u>	<u>\$48,627 - \$52,366</u>	<u>30%</u>	<u>65%</u>
<u>\$44,886 - \$60,000</u>	<u>\$52,367 - \$75,000</u>	<u>50%</u>	<u>70%</u>

12  
 13 (3) For a surviving spouse who owns property qualifying under subsection (4), the property is  
 14 taxed at the rate established by 15-6-134 multiplied by a percentage figure based on the spouse's qualifying

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1 income and the veteran's disability rating determined from the following table:

<u>Income</u>	<u>Percentage</u>
<u>Surviving Spouse</u>	<u>Multiplier</u>
<del>\$0 — \$31,170</del>	<del>0%</del>
<del>\$31,171 — \$34,911</del>	<del>20%</del>
<del>\$34,912 — \$38,651</del>	<del>30%</del>
<del>\$38,652 — \$42,392</del>	<del>50%</del>

2

<u>Income - Surviving Spouse</u>	<u>Percentage Multiplier - 100% Disabled</u>	<u>Percentage Multiplier - 80% or 90% Disabled</u>
<u>\$0 - \$31,170</u>	<u>0%</u>	<u>50%</u>
<u>\$31,171 - \$34,911</u>	<u>20%</u>	<u>60%</u>
<u>\$34,912 - \$38,651</u>	<u>30%</u>	<u>65%</u>
<u>\$38,652 - \$60,000</u>	<u>50%</u>	<u>70%</u>

3

(4) The property tax exemption under this section remains in effect as long as the qualifying income requirements are met and the property is the primary residence owned and occupied by the veteran or, if the veteran is deceased, by the veteran's spouse and the spouse:

6

(a) is the owner and occupant of the house;

7

(b) is unmarried; and

8

(c) has obtained from the U.S. department of veterans affairs a letter indicating that the veteran

9

was rated ~~100%~~ 80% disabled or higher or was paid at the ~~100%~~ 80% disabled or higher rate by the U.S.

10

department of veterans affairs for a service-connected disability at the time of death or that the veteran died

11

while on active duty or as a result of a service-connected disability.

12

(5) The qualifying income levels contained in subsections (2) and (3) must be adjusted annually by

13

using the PCE inflation factor defined in 15-6-301, rounded to the nearest whole dollar amount. If the

14

adjustment results in a decrease in qualifying income levels from the previous year, the qualifying income levels

15

must remain the same for that year."

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- 1           ~~(a) biological or mechanical control of noxious weeds;~~
- 2           ~~(b) purchases and application of approved herbicides;~~
- 3           ~~(c) seed purchases and application of seed; and~~
- 4           ~~(d) grazing costs as a component of an overall integrated noxious weed management plan.~~
- 5           ~~(5)(3)~~ The department may expend the funds deposited pursuant to ~~87-5-805~~ [section 2] to pay costs
- 6 incurred by the department for administering this part and providing support to the council, including but not
- 7 limited to personal services costs, operating costs, and other administrative costs. ~~After fiscal year 2019,~~
- 8 administrative Administrative costs may not exceed 15% of the total amount expended pursuant to subsection
- 9 ~~(3)~~ (2). (Terminates June 30, 2023--sec. 11, Ch. 342, L. 2017.)"

10

11           COORDINATION SECTION. Section 17. Coordination instruction. If both House Bill No. 189 and

12 [this act] are passed and approved and if both contain a section that amends 15-6-311, then the sections

13 amending 15-6-311 are void and 15-6-311 must be amended as follows:

14           "**15-6-311. Disabled veteran program.** (1) The residential real property of a qualified veteran or a

15 qualified veteran's spouse is eligible to receive a tax rate reduction as provided in 15-6-302 and this section.

16           (2) Property qualifying under subsection (1) and owned by a qualified veteran is taxed at the rate

17 provided in 15-6-134 multiplied by a percentage figure based on the applicant's qualifying income and disability

18 rating determined from the following table:

<u>Income</u>	<u>Income</u>	<u>Percentage</u>	
<u>Single Person</u>	<u>Married Couple</u>	<u>Multiplier</u>	
	<u>Head of Household</u>		
<del>\$0 — \$37,404</del>	<del>\$0 — \$44,885</del>	<del>0%</del>	
<del>\$37,405 — \$41,145</del>	<del>\$44,886 — \$48,626</del>	<del>20%</del>	
<del>\$41,146 — \$44,885</del>	<del>\$48,627 — \$52,366</del>	<del>30%</del>	
<del>\$44,886 — \$48,626</del>	<del>\$52,367 — \$56,107</del>	<del>50%</del>	
<u>Income - Single Person</u>	<u>Income - Married Couple or</u>	<u>Percentage</u>	<u>Percentage</u>
	<u>Head of Household</u>	<u>Multiplier - 100%</u>	<u>Multiplier - 80% or</u>

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		<u>Disabled</u>	<u>90% Disabled</u>
<u>\$0 - \$45,803</u>	<u>\$0 - \$54,963</u>	<u>0%</u>	<u>50%</u>
<u>\$45,804 - \$50,384</u>	<u>\$54,964 - \$59,544</u>	<u>20%</u>	<u>60%</u>
<u>\$50,385 - \$54,963</u>	<u>\$59,545 - \$64,124</u>	<u>30%</u>	<u>65%</u>
<u>\$54,964 - \$73,470</u>	<u>\$64,125 - \$91,838</u>	<u>50%</u>	<u>70%</u>

1 (3) For a surviving spouse who owns property qualifying under subsection (4), the property is  
 2 taxed at the rate established by 15-6-134 multiplied by a percentage figure based on the spouse's qualifying  
 3 income and the veteran's disability rating determined from the following table:

<u>Income</u>	<u>Percentage</u>	
<u>Surviving Spouse</u>	<u>Multiplier</u>	
<del>\$0 — \$31,170</del>	<del>0%</del>	
<del>\$31,171 — \$34,911</del>	<del>20%</del>	
<del>\$34,912 — \$38,651</del>	<del>30%</del>	
<del>\$38,652 — \$42,392</del>	<del>50%</del>	
<u>Income - Surviving Spouse</u>	<u>Percentage Multiplier - 100%</u>	<u>Percentage Multiplier - 80%</u>
	<u>Disabled</u>	<u>or 90% Disabled</u>
<u>\$0 - \$38,169</u>	<u>0%</u>	<u>50%</u>
<u>\$38,170 - \$42,750</u>	<u>20%</u>	<u>60%</u>
<u>\$42,751 - \$47,330</u>	<u>30%</u>	<u>65%</u>
<u>\$47,331 - \$73,470</u>	<u>50%</u>	<u>70%</u>

4 (4) The property tax exemption under this section remains in effect as long as the qualifying  
 5 income requirements are met and the property is the primary residence owned and occupied by the veteran or,  
 6 if the veteran is deceased, by the veteran's spouse and the spouse:

- 7 (a) is the owner and occupant of the house;
- 8 (b) is unmarried; and
- 9 (c) has obtained from the U.S. department of veterans affairs a letter indicating that the veteran

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1 was rated ~~100%~~ 80% disabled or higher or was paid at the ~~100%~~ 80% disabled rate or higher by the U.S.  
2 department of veterans affairs for a service-connected disability at the time of death or that the veteran died  
3 while on active duty or as a result of a service-connected disability.

4 (5) The qualifying income levels contained in subsections (2) and (3) must be adjusted annually by  
5 using the PCE inflation factor defined in 15-6-301, rounded to the nearest whole dollar amount. If the  
6 adjustment results in a decrease in qualifying income levels from the previous year, the qualifying income levels  
7 must remain the same for that year."  
8

9 COORDINATION SECTION. Section 18. Coordination instruction. If House Bill No. 587 and [this  
10 act] are both passed and approved and if [this act] amends 10-2-108 to include a transfer for the expanded  
11 disabled veteran property tax assistance program, then "general fund" in 10-2-108(3)(b)(i) must be changed to  
12 "school equalization and property tax reduction account provided for in [section 1 of House Bill No. 587".  
13

14 NEW SECTION. Section 19. EFFECTIVE DATES. (1) EXCEPT AS PROVIDED IN SUBSECTION (2), [THIS ACT]  
15 IS EFFECTIVE JULY 1, 2023

16 (2) [SECTIONS 1, ~~7~~ 11, AND ~~8~~ 12] AND THIS SECTION ARE EFFECTIVE ON PASSAGE AND APPROVAL.  
17

18 NEW SECTION. Section 20. Applicability. [Sections 5 through 7] apply to property tax years  
19 beginning after December 31, 2023.  
20

- END -