



A REPORT  
TO THE  
MONTANA  
LEGISLATURE

LEGISLATIVE AUDIT  
DIVISION

21P-06

PERFORMANCE AUDIT

*Real Property Tax  
Exemptions: Improving  
Information Management  
and Informing Policy  
Decisions*

*Montana Department of Revenue*

MAY 2023

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**PERFORMANCE AUDITS**

Performance audits conducted by the Legislative Audit Division are designed to assess state government operations. From the audit work, a determination is made as to whether agencies and programs are accomplishing their purposes, and whether they can do so with greater efficiency and economy.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. Members of the performance audit staff hold degrees in disciplines appropriate to the audit process.

Performance audits are conducted at the request of the Legislative Audit Committee, which is a bicameral and bipartisan standing committee of the Montana Legislature. The committee consists of six members of the Senate and six members of the House of Representatives.

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# LEGISLATIVE AUDIT DIVISION

Angus Maciver, Legislative Auditor  
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May 2023

The Legislative Audit Committee  
of the Montana State Legislature:

This is our performance audit of the administration of real property tax exemptions by the Property Assessment Division within the Montana Department of Revenue.

This report provides the legislature information about how the department oversees and manages real property tax exemption processes and data. It also reviews Montana's existing real property tax exemptions and explores best practices in exemption policy. This report includes recommendations for improving controls that affect the accuracy of information in the department's data system as well as improving other department practices to ensure statutory compliance, appropriate taxation of property, and equal treatment of similar types of taxpayers. A written response from the Department of Revenue is included at the end of the report.

We wish to express our appreciation to Department of Revenue personnel for their cooperation and assistance during the audit.

Respectfully submitted,

*/s/ Angus Maciver*

Angus Maciver  
Legislative Auditor



## TABLE OF CONTENTS

Figures and Tables.....	iii
Appointed and Administrative Officials .....	iv
Report Summary .....	S-1
<b>CHAPTER I – INTRODUCTION.....</b>	<b>1</b>
Introduction .....	1
Real Property Tax Exemptions.....	1
Exemptions Have Impacts on Other Taxpayers and State Revenue .....	2
The Property Assessment Division.....	3
Review of Real Property Tax Exemptions Through House Bill 389 (2015).....	4
Audit Objectives.....	4
Audit Scope.....	5
Methodologies.....	5
<b>CHAPTER II – MANAGEMENT OF REAL PROPERTY TAX EXEMPTIONS .....</b>	<b>7</b>
Introduction.....	7
A History of Real Property Tax Exemptions.....	7
Quality Control Testing of Exempt Real Property .....	7
Properties Without Supporting Exemption Information and Inappropriately Exempt .....	8
Issues Related to HB 389 (2015) .....	8
Other Issues .....	9
Quality Control Testing Not Consistently Performed on Exempt Property Data .....	10
Lack of Review Leads to Inappropriate Tax Shifts and Less Revenue to State .....	10
Review of Exemption Data Helps Ensure Properties Appropriately Exempt .....	10
Department Can Improve Processes That Affect Reporting of Exempt Property Information.....	11
Exemption Status Description Not Consistently Used.....	11
Incorrect Assignment of Termination Dates .....	12
Automatically Exempt Government Property With Exemption Type Descriptions Reserved for Properties That Need to Apply to Receive Real Property Tax Exemption..	12
Exemption Categories as Specified in Statute.....	12
Incomplete Public Facing Listing of Exempt Real Property.....	12
Inconsistent Property Type Description Fields.....	12
Data System Issues and Lack of Processes Reduce Data Quality .....	12
Property Tax Exemption Application Review Process.....	13
Site Visits Not Consistently Conducted and Documented .....	14
Site Visits Required to Verify Property Used for Exempted Purpose .....	14
Limited Resources and Competing Priorities.....	14
Some State-Owned Property Inappropriately Recorded as Taxable in Database and Taxed... 14	
FWP Property Should Be Exempt and Make a Payment in Lieu of Taxes.....	15
Considerations in Changing Processes to Align With Statute.....	15
Tracking Exclusive and Beneficial Use of Exempt Property.....	16
Taxation of Exempt Real Property via Exclusive and Beneficial Use .....	16
Appropriately Taxing Property and Treating Similar Taxpayers Equally .....	16
Beneficial and Exclusive Use of Automatically Exempt Property Is Under-Reported .....	16
Other Instances of Nonreporting.....	17
Statute Does Not Require Governmental Entities to Report Beneficial Use.....	17

Other States Require Governmental Entities Report Agreements that Could Constitute Beneficial and Exclusive Use ..... 18  
 Lack of Awareness by Property Owners Contributes to Under-reporting ..... 18  
 Inconsistencies in Outreach Among Department Staff..... 18  
 Poor Documentation of Beneficial Use in Property Database..... 18

**CHAPTER III – HOUSE BILL 389 (2015): CONSIDERATIONS FOR FUTURE REVIEW OF EXEMPT REAL PROPERTY.....21**

Introduction ..... 21  
 Cost and Benefits of HB 389 ..... 21  
     Costs of Implementing HB 389 ..... 21  
     Total Benefits of HB 389 (2015) as of 2021 ..... 22  
     Comparing Benefits and Costs ..... 23  
     Additional Benefits of HB 389..... 23  
 How Often Should Exempt Properties Have to Apply? ..... 23  
     Analysis Supports a 13-year Reapplication and Review Interval ..... 24  
 Challenges and Reflections from HB 389 ..... 24  
     Improvements and Considerations for Future Reapplication ..... 25  
     More Focused Reapplication..... 25  
     Recertification..... 26  
     Future Reapplication Would Benefit Montana ..... 27

**CHAPTER IV – REVIEW OF MONTANA’S REAL PROPERTY TAX EXEMPTIONS, REPORTING, AND EVALUATION EFFORTS AND BEST PRACTICES.....29**

Introduction ..... 29  
 History of Real Property Tax Exemptions Offered Under Montana Statute ..... 29  
     Property Tax Exemptions Enacted Over Time and Purposes ..... 29  
 Frequency in Which Exemptions Are Applied for and Granted Over Time..... 30  
 Montana’s Evaluation Efforts and Reporting of Property Tax Exemption Information ..... 31  
     Opportunity for the Department to Improve Reporting of Property Tax Exemption Information in Biennial Report ..... 31  
     Department Does Not Report Required Information for All Exemptions ..... 31  
     Additional Detail and Defining Purposes Would Better Inform Policy Decisions ..... 32  
     HB 723 (2019) and Opportunity to Further Evaluate Property Tax Exemptions..... 33  
 Exemptions Offered by Other States..... 33  
 Other States’ Evaluation Efforts of Property Tax Exemptions ..... 33  
 Best Practices in Property Tax Exemption Policy and Evaluation of Tax Exemptions ..... 34  
 Do Montana’s Real Property Tax Exemptions Achieve Their Intended Purpose? ..... 35  
 Montana Can Improve Its Review of Real Property Tax Exemptions..... 35

**APPENDIX.....36**

**DEPARTMENT RESPONSE**

Department of Revenue ..... A-1

## FIGURES AND TABLES

### Figures

Figure 1	Number of Properties Receiving Real Property Tax Exemptions.....	1
Figure 2	Number of Properties Receiving Exemption for Which Application Necessary (2021) .....	2
Figure 3	Tax Shift and Reduction in State Revenue by Type of Exemption for Which Application Necessary (2021).....	3
Figure 4	DOR Property Assessment Division Offices .....	4
Figure 5	History of Oversight and Management of Property Tax Exemption Information .....	7
Figure 6	DOR Application Review Processes for Property Tax Exemptions.....	13
Figure 7	Benefits of Review Exceed Costs by Year 13 .....	24
Figure 8	Number of Current Exemptions Has Increased Since 1970.....	30

### Tables

Table 1	Summary of Issues Identified via Testing.....	8
Table 2	Number and Types of Lease Agreements That May Constitute Beneficial and/or Exclusive Use.....	17
Table 3	HB 389 (2015) Administrative Costs.....	22
Table 4	Summary of Benefits and Costs of HB 389 .....	23
Table 5	Review of Nonprofit Healthcare, Education, and Community Service Exemptions Result in Most Benefit Per Exemption Reviewed.....	26
Table 6	Number of States That Offer Common Exemptions Offered by Montana.....	33

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Kory Hoffland, Administrator, Property Assessment Division

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Bryce Kaatz, Unit Manager, Property Assessment Division

Eric Dale, Director, Tax Policy and Research Division





# MONTANA LEGISLATIVE AUDIT DIVISION

PERFORMANCE AUDIT  
 Real Property Tax Exemptions  
 MONTANA DEPARTMENT OF REVENUE

A report to the Montana Legislature

## BACKGROUND

Montana offers real property tax exemptions to various entities and for different purposes. Government property is automatically exempt from taxation. Common entities that must apply for a real property tax exemption include charitable organizations, religious organizations, and nonprofit healthcare facilities. The Property Assessment Division oversees and manages exemption information and approves applications for real property tax exemptions.

**Agency:**  
 Department of Revenue

**Director:**  
 Brendan Beatty

**Program:**  
 Property Assessment  
 Division

**Program FTE:**  
 285.92

**Program Budget  
 Authority:**  
 \$23.92 million

Over 140,000 properties are automatically exempt from taxation. Approximately 6,000 properties receive an exemption for which an application is necessary.

Within the last decade, the legislature and department have made a concerted effort to better track real property tax exemption information. This has resulted in significant improvements in reporting and ensuring entities are appropriately receiving exemptions.

We identified several areas for further improvement in the Department of Revenue’s management of exemption information to help ensure entities are appropriately receiving exemptions and that similar types of taxpayers are treated equally. In addition, we provide a number of best practices to improve review and informed decision making related to current and newly proposed real property tax exemptions.

## KEY FINDINGS:

**There are a number of property records in the DOR database that are inappropriately receiving an exemption and do not have information supporting the properties’ exemption status.** This results in taxes inappropriately shifted to other taxpayers and a reduction in taxes collected by the state. Implementing periodic testing and review of exempt real property data could help reduce the number of properties inappropriately receiving exemptions.

**There are issues with data system and a lack of established processes, which reduces the quality of exemption data.** This diminishes the accuracy and usefulness of internal and external reports that inform decision making. There are opportunities for the department to implement processes in a number of areas to improve data quality and reporting on exemption information.

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For the full report or more information, contact the Legislative Audit Division.

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**Site visits are not consistently conducted and documented across field offices to verify exempted use of the property** during the application review process, as required by administrative rule. This raises the potential that exemptions are being granted on properties or portions of properties that should not be exempt from property taxes.

**Properties owned by the Department of Fish, Wildlife & Parks are inappropriately indicated as taxable in the Department of Revenue database.** Changing practices related to recording the taxable status of FWP property and/or amending statute is necessary to bring practices and statute into alignment.

**There is under-reporting of beneficial and exclusive use of exempt real property.** This can lead to properties not being appropriately taxed and similar types of taxpayers being treated unequally. Tracking of beneficial use and outreach to exempt entities by department staff can be improved. Statute can be amended to improve reporting and appropriate taxation of beneficial and exclusive use of exempt real property owned by government entities.

**The House Bill 389 (2015) reapplication and review process was beneficial.** The department's implementation of the bill increased revenue to the state, reduced inappropriate tax burden to property taxpayers by over \$1.8 million, and improved communication and tracking of exemption information. We provide a handful of factors that the legislature should take into account when considering when and how to implement future systematic reviews of exempt real property.

**The department can improve reporting of real property tax exemption information in its biennial report.** Providing information outlined in statute for all real property tax exemptions for which an application is necessary would further inform policy decisions.

**There are opportunities to improve exemption policy in Montana.** We identified best practices the legislature should consider when taking steps to improve review and decision making related to existing and newly proposed real property tax exemptions and to ensure that exemptions are achieving their intended purposes or policy goals.

#### **RECOMMENDATIONS:**

In this report, we issued the following recommendations:

To the department: 6

To the legislature: 2

#### **RECOMMENDATION #1 (page 11):**

##### *Management and operational effectiveness*

We recommend the Department of Revenue implement periodic quality control testing and review of exempt real property

**Department response: Concur**

**RECOMMENDATION #2 (page 13):***System and information management*

We recommend the Department of Revenue establish and implement processes to improve the accuracy and usefulness of data for reporting purposes.

**Department response: Conditionally Concur**

**RECOMMENDATION #3 (page 14):***Management and operational effectiveness*

We recommend the Department of Revenue consistently conduct and document site visits as part of the exemption application review process.

**Department response: Conditionally Concur**

**RECOMMENDATION #4 (page 15):***State compliance*

We recommend the Department of Revenue update processes and, as necessary, seek legislation to make statute and practices related to determining and recording the taxable status or payment in lieu of taxes amount of Department of Fish, Wildlife & Parks property, consistent.

**Department response: Concur**

**RECOMMENDATION #5 (page 19):***Management and operational effectiveness*

We recommend the Department of Revenue develop effective identification and tracking of government property leased out to private entities for their beneficial use and pursue legislation that requires governmental entities to report beneficial use and exclusive use.

**Department response: Conditionally Concur**

**RECOMMENDATION #6 (page 27):***Governance, risk assessment, and planning*

We recommend the Montana Legislature require a periodic reapplication and review of exempt real property.

**RECOMMENDATION #7 (page 32):***State compliance*

We recommend the Department of Revenue provide the required information related to real property tax exemptions, as available, in the biennial report to better inform legislative decision-making

**Department response: Concur**

**RECOMMENDATION #8 (page 35):***Governance, risk assessment, and planning*

We recommend the Montana Legislature require new real property tax exemptions include policy goals and evaluation metrics and assign responsibility for evaluation and review of real property tax exemptions.



# Chapter I – Introduction

## Introduction

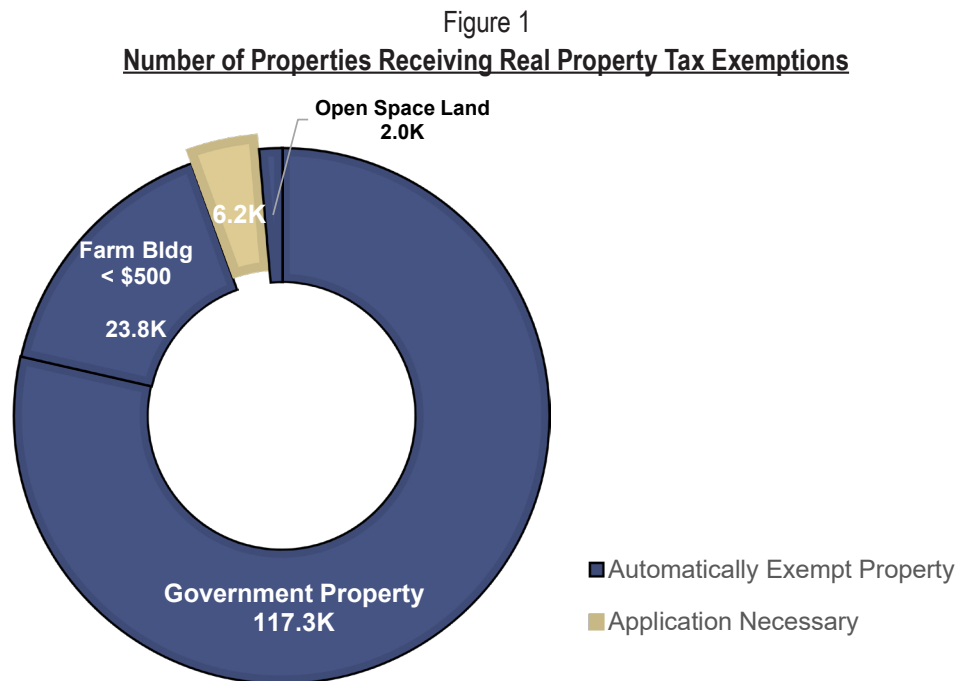
All real property in Montana is taxable except as provided by law. Property taxes are the primary source of funding for the provision of services by local jurisdictions, such as education, transportation, and public safety. They also support the state university system and technical colleges. In fiscal year (FY) 2022, \$2.0 billion was collected in property taxes in Montana.

## Real Property Tax Exemptions

Real property is defined as land and things that are affixed, incidental, immovable, or appurtenant to land (e.g., buildings and trees). Exemptions eliminate the obligation to pay taxes on all or part of a property. They exist to encourage service provision by certain types of entities that provide benefits to citizens, such as affordable housing, potable water, poverty reduction, education, entertainment, and health and social services.

There are two broad exemption categories in Montana:

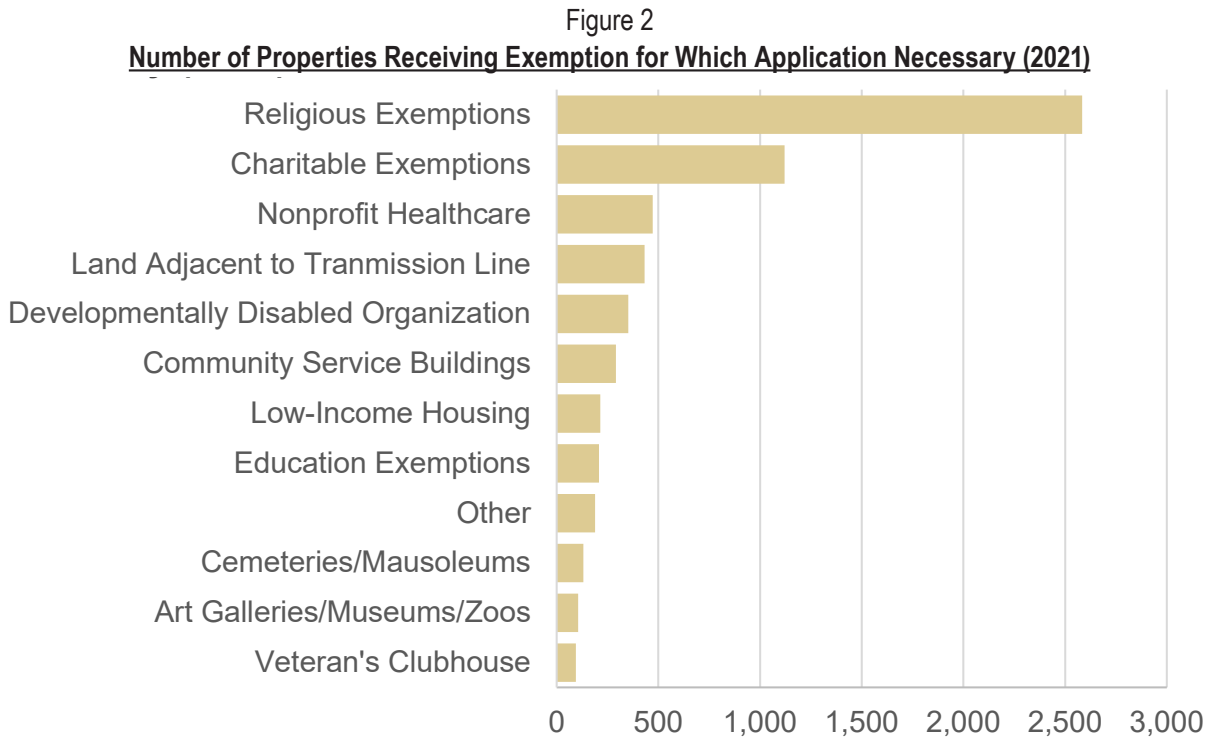
- ◆ Property that is automatically exempt from taxation, including that owned by governmental entities, irrigation and drainage facilities, farm buildings less than \$500 in market value, and property owned by private entities designated as open space land.
- ◆ Properties that need to apply to receive an exemption, including properties owned by religious, charitable, community service, and other nongovernmental organizations.



**Source: Compiled by the Legislative Audit Division from Department of Revenue data.**

A list of all real property tax exemptions currently offered under Montana statute can be found in the Appendix.

The overwhelming majority of real property that is exempt from property taxes is automatically exempt government property. Only 6,197 properties are receiving an exemption for which an application was necessary.



Source: Compiled by the Legislative Audit Division from Department of Revenue data.

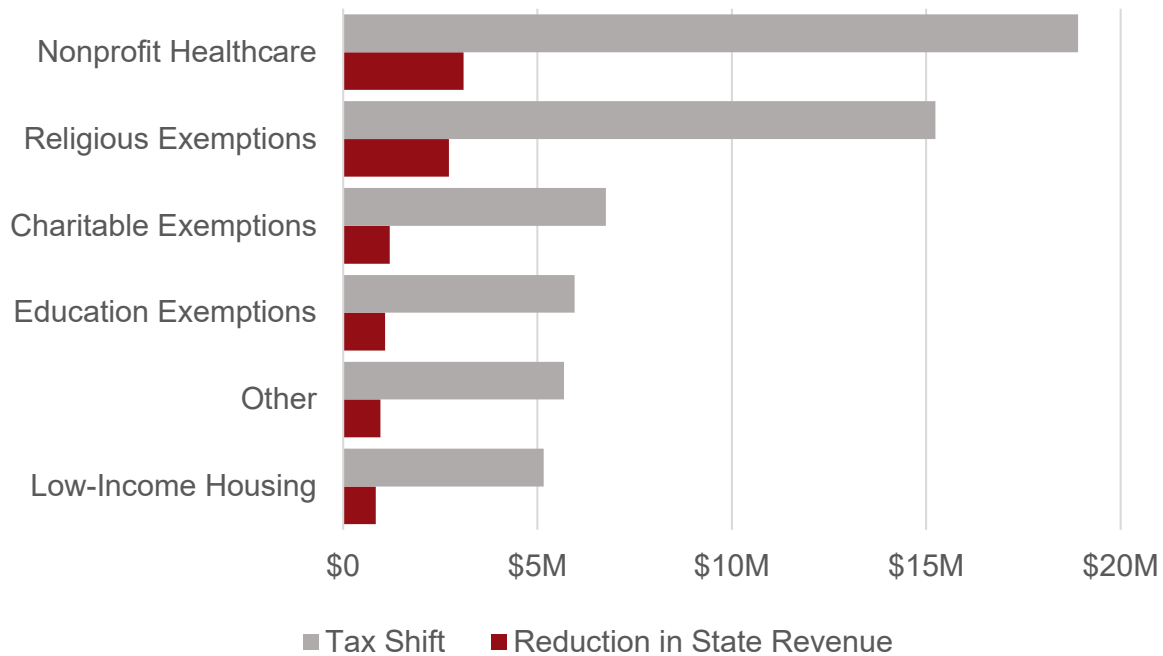
## **Exemptions Have Impacts on Other Taxpayers and State Revenue**

Property taxes provide revenue for local jurisdictions (counties, cities, schools, and other districts) to fund essential governmental services. In simple terms, the amount of revenue a local jurisdiction collects is a function of the total taxable value of property within that jurisdiction and the mill rate of the jurisdiction that is applied to the total taxable value. The mill rate is the rate a taxing jurisdiction can charge each property to maintain its desired level of revenue. The taxable value of an individual property is equal to the property's market value times the applicable tax rate.

When a property becomes exempt, it reduces the overall taxable value in a taxing jurisdiction. Tax shifts arise because in order for a local governmental entity to generate the same amount of revenue with a smaller tax base, the jurisdiction's mill rate applied to all other taxpayers must go up, resulting in an increase in taxes paid by all other taxpayers within that jurisdiction. Thus, property tax exemptions shift the tax burden from property that was previously taxable to owners of remaining taxable property.

The state receives a share of property taxes to help fund education, including K-12 school equalization, the university system, and technical colleges. When a property becomes exempt, taxes are not collected on the property, including the portion that would have been collected by the state. Since the state's mills are fixed, the result is a reduction in revenue to the state.

Figure 3  
**Tax Shift and Reduction in State Revenue by Type of Exemption for Which Application Necessary (2021)**



Source: Compiled by the Legislative Audit Division from Department of Revenue data.

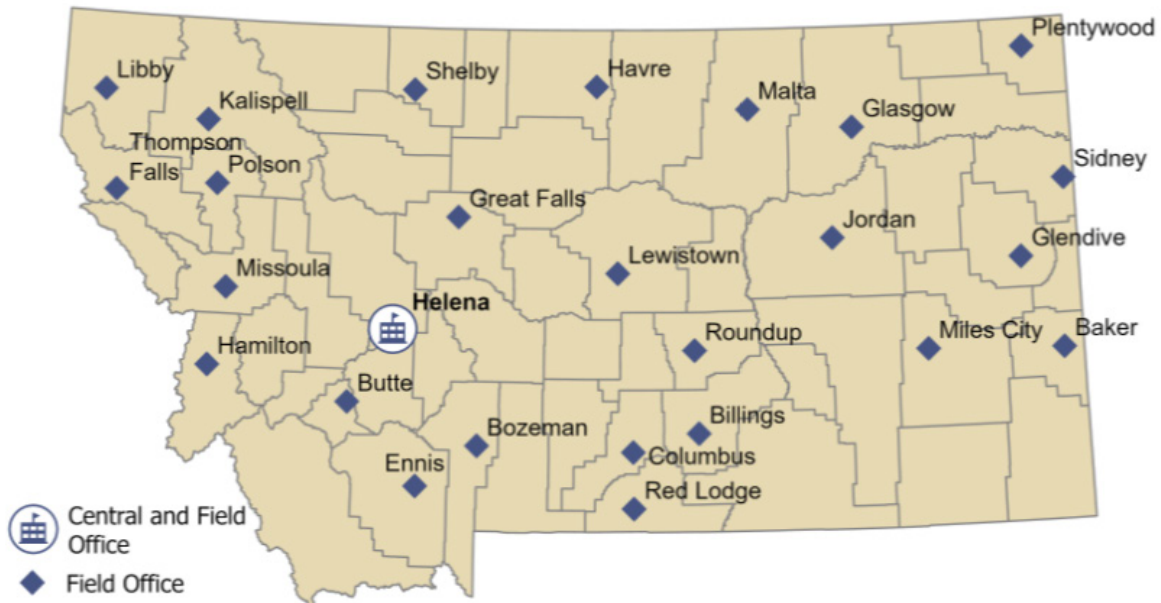
To see the amount of tax shift and reduction in revenue to the state for all types of real property tax exemptions, refer to columns 9 and 10 of the table in the Appendix.

In total, real property tax exemptions for which an application is required have an impact of \$57.7 million in taxes shifted locally and \$9.8 million in reduced state revenue. The total value of property taxes collected in FY 2022 was \$2.0 billion, \$1.64 billion is of which was retained by local jurisdictions and \$360 million was remitted to the state. Thus, real property tax exemptions for which application is necessary lead to an approximately 3 percent increase in property tax burden at the local level and a 3 percent loss in property tax revenue for the state.

### **The Property Assessment Division**

Montana is one of only a few states that assesses property at the state level. In addition to valuing property for taxation purposes, the Property Assessment Division (PAD) within the Montana Department of Revenue (DOR, department) manages and tracks real property tax exemption information, ensures entities are appropriately receiving real property tax exemptions, and makes determinations on applications for real property tax exemptions. PAD provides property tax information to county treasurer's offices that use this information to generate tax bills and collect property taxes. In FY 2022, PAD had 285.92 FTE, including appraisers (166.50 FTE) spread across 26 field offices and property tax exemption specialists (2 FTE) located in the PAD's central office in Helena. The division's budget authority in FY 2022 was \$23.92 million.

Figure 4  
**DOR Property Assessment Division Offices**



Source: Compiled by the Legislative Audit Division from department data.

## **Review of Real Property Tax Exemptions Through House Bill 389 (2015)**

House Bill (HB) 389, passed by the 2015 Montana Legislature, required most entities that applied to receive their real property tax exemption to submit a new application to the department. From 2016 through 2021, the department reviewed these applications and properties and either denied or granted them an exemption. Prior to this, there had never been a systematic review of properties receiving real property tax exemptions in Montana.

### **Audit Objectives**

This audit had two objectives:

1. Is the department collecting and effectively managing information to ensure accuracy of real property tax exemption data?
2. Do Montana's real property tax exemptions achieve their intended purpose while maintaining equal treatment for similar types of taxpayers?



## **Audit Scope**

This topic was prioritized for a performance audit based on the following factors:

- ◆ Legislative interest in oversight of exempt real properties, management of exemption information, and desire for follow-up on the implementation of HB 389 (2015).
- ◆ Concerns from previous audit work regarding whether automatically exempt government property is being inappropriately taxed.
- ◆ Broad legislative interest in the various real property tax exemptions found in Montana statute.

This audit's scope was limited to exempt real property. Throughout the report, the term property refers to real property only. The audit concerned both properties that are automatically exempt from taxation (over 140,000 property records) and properties receiving exemptions for which an application is necessary (approximately 6,000 property records). While our review emphasized records of properties that reapplied and were reviewed by the department from 2016 through 2021, many of the properties we reviewed had been exempt since statehood.

## **Methodologies**

We completed the following methodologies to help answer the audit objectives:

- ◆ Analyzed property data in the department's Orion property database and spoke with staff to determine if properties are appropriately receiving property tax exemptions and if information supports properties' exempt status. This included a review of automatically exempt government property with a positive taxable value.
- ◆ Obtained from governmental entities (federal, state, counties, cities) leasing agreements concerning properties that they lease out to private entities for the purposes of business and reviewed such agreements with department staff.
- ◆ Interviewed county treasurers and compared exemption information in department and select county databases to provide assurance that property tax and exemption data is accurately transferred and maintained at the county level.
- ◆ Reviewed the department's application review process for exempt properties to ensure that applications for property tax exemptions are being properly reviewed and approved, including the presence of proper documentation.
- ◆ Reviewed the implementation and results of the HB 389 (2015) reapplication and review process. Conducted analysis to inform policy decisions regarding future review of exempt property.
- ◆ Reviewed all real property tax exemptions offered by Montana statute as of 2021, including legislative history, with particular focus on determining the purpose of exemptions.
- ◆ Reviewed Montana's current practices in reporting and evaluating property tax exemptions.
- ◆ Spoke with stakeholders, other states, and national experts regarding best practices for managing, overseeing, and evaluating property tax exemption information.



# Chapter II – Management of Real Property Tax Exemptions

## Introduction

This chapter concerns the department's management of real property tax exemption information. This includes both automatically exempt properties and properties for which an application was necessary. Our review and analysis of data maintained by the Department of Revenue identified numerous instances of records not being appropriately updated with the correct exemption status and cases where properties were inappropriately exempt or taxable. We found that quality control testing of exempt property information was not consistently being performed to ensure accurate records. There is room for improvement in maintaining data supporting the exemption status of a property and for reporting purposes.

## A History of Real Property Tax Exemptions

Historically, maintaining up-to-date, accurate information of taxable property has taken precedence over maintenance and review of exempt property information in Montana. However, several steps have been taken over the last 50 years that have improved the tracking of exemption information, including centralization of information and decision making into a single division within the department and the transition from primarily paper records to tracking information in a property database.

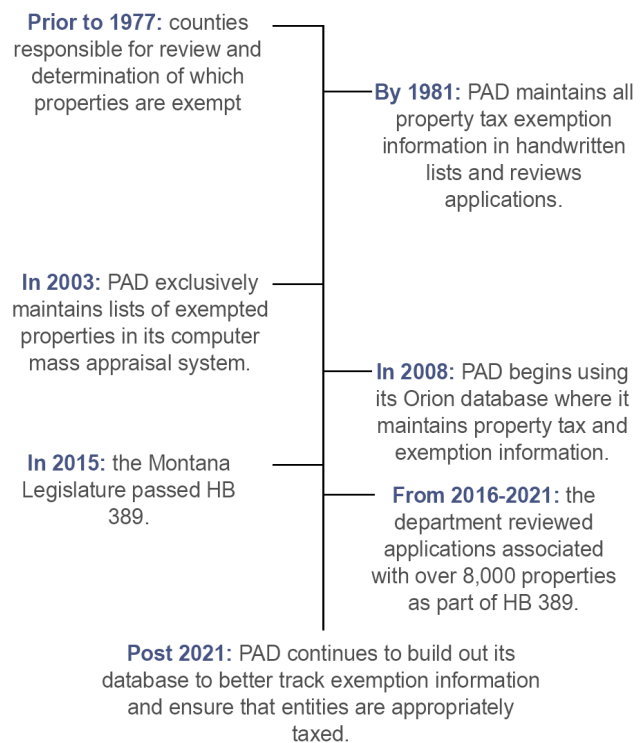
Within the last decade, particularly with the passage of HB 389 (2015), the department has made a concerted effort to develop processes to better track and maintain exemption information, which has resulted in significant improvements in reporting and ensuring entities are appropriately receiving exemptions.

## Quality Control Testing of Exempt Real Property

Two important considerations when assessing property tax exemptions include: 1. Properties are appropriately receiving exemptions and 2. Information supports properties' exemption status. Based on these considerations, we conducted a series of tests on property records in the department's Orion property database, focusing on properties that are fully exempt from taxation.

Figure 5

### History of Oversight and Management of Property Tax Exemption Information



**Source:** Compiled by the Legislative Audit Division from department information.

## Properties Without Supporting Exemption Information and Inappropriately Exempt

We identified numerous instances of exempt properties that were not reviewed by the department as part of HB 389 (2015) and that lacked supporting exemption information. The department reviewed some of the anomalous properties we identified and confirmed a number of issues, which are summarized in Table 1, including properties that were inappropriately receiving an exemption as a result of field staff not updating their exemption status/class codes.

Table 1  
**Summary of Issues Identified via Testing**

Category of Issue	Issue*	Number of Properties With Issue	Tax Shifts and Reduced Revenue to the State (2021)
<b>Issues Related to HB 389 (2015)</b>	1. Properties Required to Reapply but Were Not Reviewed	60	\$10,698**
	2. Reapplicant Exemption Information Not Entered in Database	13	N/A
	3. Discerning Government Versus Private Property	22	\$6,540**
	4. Exemption Status Not Changed Following Denial of Exemption	22	\$34,462
<b>Other Issues</b>	5. Other Times Exemption Status Not Updated: • Ownership Transfers (Involving Exempt Entities) • Exemptions That Are Terminated	29	\$56,461
	6. Discerning Trust Versus Fee Land	5	Unable to estimate
	7. Unsure if Utility Company Property Should Be Taxable	33	Unable to estimate

**Source: Compiled by the Legislative Audit Division from department data.**

\*We further describe issues below and on subsequent pages.

\*\*Denotes estimates based on the denial rate of HB 389 applicants.

### Issues Related to HB 389 (2015)

As a result of HB 389, department staff granted 4,914 exemptions for which there was reapplication and denied 390 exemptions. We identified multiple issues related to the reapplication and review of exempt real property via HB 389.

#### 1. Properties Required to Reapply via HB 389 but Not Reviewed by Department

The department did not identify and send a reminder letter to all exempt properties that were required to reapply under HB 389. The department never reviewed these properties to determine if they should still qualify for an exemption.

## 2. Reapplicant Exemption Information Not Entered into Database

The department did not enter exemption application information in the property database for a number of properties that did reapply, making it difficult to verify if such properties are appropriately exempt in the database.

## 3. Discerning Government Versus Private Property

There are exempt properties in the department's database that did not reapply, for which it is unclear if the property is owned by a government entity and is automatically exempt or if it is owned by a private entity and reapplication is necessary.

## 4. Exemption Status Not Changed Following Denial of HB 389 Reapplications

In some cases, the department determined that the reapplicant or property no longer qualified and denied the exemption. Some properties never responded to department's reminder letters to reapply, and the department determined that these properties also should no longer be exempt. We identified a number of cases where department field staff did not remove a property's exemption status after it was denied an exemption. As a result, owners of these taxable properties did not pay taxes over multiple years.

## Other Issues

### 5. Other Times Exemption Status of Properties Not Updated

#### Transfer of Property Between Exempt and Nonexempt Entities

When a property owned by an exempt entity is sold or otherwise transfers to an entity that is taxable, the property becomes taxable. The department, upon learning of the transfer, is responsible for changing the property's exemption status from exempt to taxable, via properly changing a property's class codes, four-digit descriptive codes that apply tax rates to a property (or portions of a property). Likewise, when a property transfers from a taxable entity to an automatically exempt entity, class codes/exemptions status should be appropriately changed.

We identified instances where a property transfer occurred from an exempt to a nonexempt entity, but class codes were not appropriately updated. Owners of these newly taxable properties did not receive a tax bill and did not pay taxes, sometimes over multiple years. We also identified properties that were transferred from a taxable entity to an exempt government entity that inappropriately retained a positive taxable value because class codes were not updated.

#### Exemptions That Are Terminated for Other Reasons

Beyond denials of reapplicants and changes in ownership of exempt real property, there may be other reasons a property can lose its exemption. For example, department staff may find that a property's land use has changed such that it no longer qualifies for an exemption. We identified a handful of properties that lost their exemptions and had an exemption status of closed, where class codes were never updated, and the property inappropriately remained exempt.

## 6. Discerning Trust Versus Fee Land

We identified tribal property for which the ownership name in the department's database may not reflect what is on the deed. The deed may indicate that the property is federal trust land and therefore is automatically exempt from taxation. It is not always clear from the record if the property should be trust land and automatically exempt or is fee land and taxable.

## 7. Exempt Property Owned by Utility Company Where Staff Say It Is Unclear if Properties Should Be Taxable

Field staff said a utility company owns properties for which additional information is needed to verify whether the property should be taxable.

### Quality Control Testing Not Consistently Performed on Exempt Property Data

We discussed with the department its practices in quality control testing and periodic review of exempt real property data. Prior to this audit, quality control testing and review of exempt property, including determining if exemption statuses are appropriately updated following denials and transfers involving exempt property, were not consistently performed across all department field offices. While some errors were attributed to staff training issues, both the number of exempt properties in the database and the fact that department field staff often must update multiple tax years in the Orion system, make some user error in not updating class codes inevitable. Moreover, the prioritization of taxable property has led to limited review of some issues unique to exempt property.

### Lack of Review Leads to Inappropriate Tax Shifts and Less Revenue to State

Incomplete review of exempt properties results in properties not being taxed appropriately. Consequently, taxes are inappropriately shifted to other taxpayers, and revenue is not collected by the state. In 2021, \$13,422 in taxes were not collected by the state and \$77,501 was inappropriately shifted to other taxpayers as a result of properties we identified and reviewed with department staff where exempt class codes were not updated. The department is currently reviewing numerous other properties that lack supporting exemption information. Our examination of properties for which an application is required focused primarily on properties with a taxable value of zero. Going forward, the department should also review property that applied and is receiving partial exemptions to ensure that such properties are updated properly and appropriately exempt.

*“Incomplete review of exempt properties results in properties not being taxed appropriately.”*

### Review of Exemption Data Helps Ensure Properties Appropriately Exempt

It is a best practice to ensure controls are effective and to identify and correct deficiencies in data accuracy. Quality control testing is a common practice to improve data accuracy and can help identify training needs. During the audit, the department created a role for an individual to perform quality control/assurance work to improve the quality and accuracy of property records in the department’s database. Based on the issues we identified, as part of quality control testing and review, the department should, at a minimum:

- ◆ Identify properties where class codes may not have been changed following an ownership transfer involving exempt entities, the termination or closure of an exemption, or a denial of a reapplication for a property that was previously exempt.

- ◆ Enter exemption information in the database for entities that reapplied but whose exemption information has not yet been recorded in the property database.
- ◆ Confirm the appraisal information is complete for exempt real property, including class codes.
- ◆ Update ownership name to reflect what is on the properties' deed and confirm that exempt tribal properties that appear to be owned by private individuals are automatically exempt or are fee land.
- ◆ Verify if certain utility company property should be centrally assessed versus locally assessed.
- ◆ Complete a review of properties with taxable value of zero or null taxable value that may be inappropriately exempt in the property database and enter information in database to support properties' exemption status as needed.
- ◆ Identify properties that were never sent a reminder letter, did not reapply, and were not reviewed as part of HB 389.

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#### **RECOMMENDATION #1**

*We recommend the Department of Revenue:*

- A. *Implement quality control testing and review of exempt real property data and train staff to identify and prevent errors.*
  - B. *Request a new application from the properties' owners that should have reapplied and review them to determine if properties are appropriately receiving an exemption.*
  - C. *Update class codes and return properties to taxable status, when appropriate.*
- 

## **Department Can Improve Processes That Affect Reporting of Exempt Property Information**

External users (the legislature, counties, state agencies) rely on the department's data and reports to inform decisions. State policy calls for processes that result in reliable, high quality data. We observed several opportunities for improvement in processes that affect the quality of descriptive information used to develop reports on exempt real properties.

### **Exemption Status Description Not Consistently Used**

Exemption status descriptions, such as granted, partially granted, pending, or denied, are not consistently used and updated by staff. Staff indicate that inconsistent use of exemption descriptions is because of issues with the Orion data system, user error, and a lack of standardization when certain descriptions are used.

## **Incorrect Assignment of Termination Dates**

A termination date indicates when an exemption no longer applies to a property. We observed errors introduced because Orion automatically assigns a termination date to an exemption when transfer information is edited, including when a deed is updated, even without an actual ownership transfer. Incorrect termination dates result in inappropriate exclusion of exempt properties from reports.

## **Automatically Exempt Government Property With Exemption Type Descriptions Reserved for Properties That Need to Apply to Receive Real Property Tax Exemption**

Because it was difficult to identify entities that had to reapply as part of HB 389, some automatically exempt properties reapplied under exemption types reserved for entities that need to apply for an exemption. Staff sometimes assigned exemption types reserved for properties that need to apply to automatically exempt property. This makes it difficult to distinguish between automatically exempt government property and property that needs to apply.

## **Exemption Categories as Specified in Statute**

Orion does not include categories that correspond with every exemption type that exists in statute, making it difficult to report information on certain exemption types. Examples include:

- ◆ Property rented or leased to a taxing unit for less than \$100 a year and used for public park, recreation, or landscape beautification purposes.
- ◆ Property used in the manufacture of ammunition components.
- ◆ Business incubators, industrial parks, or other qualifying land and buildings owned or leased and operated by a local economic development organization.
- ◆ Multiple exemptions for tribal property.

## **Incomplete Public Facing Listing of Exempt Real Property**

The public facing list of exempt property that the department was required to develop does not include all property receiving a real property tax exemption. In particular, properties with the “Partially Exempt” exemption status description are not included.

## **Inconsistent Property Type Description Fields**

Property type description fields are not always consistent with ownership name. For example, a number of properties are open space land and correctly exempt but have an incorrect property type label.

## **Data System Issues and Lack of Processes Reduce Data Quality**

Issues in the Orion data system and lack of established processes have led to reduced data quality. This has resulted in diminished ability to do accurate reporting, including quality control testing on exemption data.



**RECOMMENDATION #2**

We recommend the Department of Revenue establish and implement processes to improve the accuracy and usefulness of data to enhance reporting on exempt real properties.

## **Property Tax Exemption Application Review Process**

Certain entities are required to apply to the department for property tax exemptions. There were 6,197 granted exemptions as of 2021.

We reviewed applications for 132 property tax exemptions. Our review included granted exemptions of every type of property tax exemption for which an application is necessary, primarily with an effective date of 2021. If a certain type of exemption was not represented in 2021, we reviewed the exemptions of that type in the most recent year that an application was submitted. We checked that all required documents accompanied an application, the application was completed, and the department met its responsibilities required by statute and administrative rule, including conducting a site visit to the property and communicating its decision to grant the exemption to all required parties. While we noted some errors, we found that in most cases, all documents that the applicant must submit to qualify for the exemption were present and requirements were met; however, we found that the department did not consistently conduct and document site visits as part of its application review process in 2021.

Figure 6

### **DOR Application Review Processes for Property Tax Exemptions**



**Source: Compiled by the Legislative Audit Division from department information.**

Column 6 of the table in the Appendix indicates which exemptions offered under statute require application.

## Site Visits Not Consistently Conducted and Documented

In a more extensive review of 2016 and 2017 (HB 389) applications, we identified over 600 exemptions (over \$2.3 million in taxable value) with no site visit recorded in the property database and no recorded inspection of any kind for at least five years, 200 of which did not have any inspection history, suggesting that a site visit has never been conducted and recorded.

## Site Visits Required to Verify Property Used for Exempted Purpose

A site visit is the primary, proactive way that the department confirms that a property is used for its exempted purpose. Administrative rule requires a site visit to be conducted as part of the exemption application review process. Department process mandates that following a site visit, appraisers enter important details from the visit in the department's database to document that a review was conducted and to support that the property is being used for its exempted purpose.

The failure to conduct site visits increases the risk that exemptions are being granted on properties that should not be exempt from property taxes, thus denying the state the appropriate tax revenue as well as inappropriately shifting local tax burden to other taxpayers.

## Limited Resources and Competing Priorities

The department stated that limited staff, competing priorities, the need to timely approve exemptions, and different expectations among field staff regarding site visits and data entry leads to site visits not always being conducted or recorded. Some field office staff said there were certain situations when they believe a site visit is not necessary as part of an application review, including familiarity with the property, assurance that the parcel is vacant land, and difficulty accessing the parcel.

While these points provide reasons not to conduct a site visit, there are numerous examples where department staff granted exemptions on buildings without a site visit, for which these reasons do not apply. Staff at the field offices generally agreed that documentation of site visits to support a property being used for its exempted purpose could be improved.

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### **RECOMMENDATION #3**

*We recommend the Department of Revenue consistently conduct and document site visits as part of the exemption application review process as required by administrative rule to verify that property is being used for its exempted purpose.*

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## **Some State-Owned Property Inappropriately Recorded as Taxable in Database and Taxed**

One concern from a performance audit of state real property management in 2015 was identifying government properties in the Department of Revenue's database that were being inappropriately taxed. We identified 331 properties owned by the Department of Fish, Wildlife & Parks (FWP) that were

incorrectly marked as taxable in the department's database, this information was provided to county treasurers, and FWP received and paid a tax bill.

## **FWP Property Should Be Exempt and Make a Payment in Lieu of Taxes**

Properties owned by FWP are exempt from property taxes and should be recorded as exempt in the department's database. However, statute requires that county treasurers draw a warrant for the amount that would be owed if certain FWP property were taxable, and FWP makes a payment in lieu of taxes (PILT) to offset losses in property taxes to local governments due to the existence of certain nontaxable FWP land within their boundaries.

## **Considerations in Changing Processes to Align With Statute**

Counties expressed that the current process, though inconsistent with statute, is efficient. FWP stated the amount of owed taxes provided in the property tax bills they received and have paid has been accurate—the same amount they would pay if they would make a payment in lieu of taxes. We identified two considerations of changing practices to align with statute:

1. It is important for counties to have the information they need to accurately determine which FWP properties are subject to payment in lieu of taxes and to compute the warrant amount of PILT. Previously, the DOR has performed the computation and provided counties with the taxable values of the FWP property the DOR determined should be making payments.
2. Counties and FWP expressed that FWP moving from paying tax bills to providing a payment in lieu of taxes allows for the possibility for local taxing jurisdictions to increase their mills and the amount other taxpayers have to pay even when counties receive a PILT, which could reflect poorly on FWP.

However, most counties would not be substantively impacted by the possibility of tax shifts. FWP owns property in 22 counties for which it needs to make a PILT and paid approximately \$104,000 in 2021. FWP pays the most local government taxes on property within Deer Lodge (\$29,587) Flathead (\$23,400), and Lake (\$13,372) counties, respectively.

There is a need to align statute and administrative practices to address the taxable status of FWP property. The department has discussed taking steps to work with counties as necessary to ease the transfer of responsibilities to align practices with statute. Taking into consideration county and FWP concerns is something that would likely require a combination of changes in statute and administrative processes.

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### **RECOMMENDATION #4**

*We recommend the Department of Revenue revise practices and, as necessary, seek legislation to align statute and department practices related to determining and recording the taxable status or payment in lieu of tax amount of Department of Fish, Wildlife & Parks property.*

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## **Tracking Exclusive and Beneficial Use of Exempt Property**

During audit work, we found that there was under-reporting of government and other exempt property that is being leased out to private entities for their exclusive or beneficial use. We also found that recording of beneficial use information could be improved.

## **Taxation of Exempt Real Property via Exclusive and Beneficial Use**

Exempt property may be taxed if a portion of the property is leased out to a nonexempt entity. Statute addresses when exempt property leased out to nonexempt entities may be taxable:

- ◆ Federal property held under lease by any person for the person's exclusive use is subject to assessment of ad valorem property taxation.
- ◆ There is a tax upon the possession or other beneficial use for industrial, trade, or other business purposes enjoyed by any private individual, association, or corporation of property that is exempt from taxation. This applies to arrangements involving federal, state, or local government owned property.

## **Appropriately Taxing Property and Treating Similar Taxpayers Equally**

The policy reason for taxation of exempt property leased out to a private entity for its exclusive or beneficial use is to avoid giving an unfair trade advantage to private users of exempt property over competitors who must pay property tax for similar use of nonexempt properties. Properties that are not appropriately taxed under exclusive or beneficial use result in taxes being shifted to other taxpayers and similar types of taxpayers not treated equally. Over \$567,000 in taxes were collected in 2021 on real, government owned property leased to a private entity for its exclusive or beneficial use.

## **Beneficial and Exclusive Use of Automatically Exempt Property Is Under-Reported**

While we identified a significant amount of automatically exempt properties appropriately being taxed under provisions of law that concern exclusive and beneficial use of exempt property, we also identified gaps in reporting and verifying whether property owned by several governmental entities may be taxable under such provisions of law. We obtained property and leasing information from several federal, state, county, and city governments who commonly lease out property to nongovernmental entities and examined if such properties were being recorded and taxed appropriately. Department legal staff reviewed several types of unreported lease agreements we obtained to verify if the exempt properties of which these agreements concerned, may be taxable under beneficial or exclusive use.

Staff identified several properties that are exempt in the department's property database that are being leased out to private entities for a purpose that likely constitutes beneficial use. To verify that the property should be taxable, department staff will have to work with the relevant state or federal agencies to determine actual use of the property. We identified numerous other instances where federal, state, and local governments lease a portion of their property out to private, for-profit entities for commercial use. These agreements had not been previously reported to the department, so that the department could review them and determine if portions of the properties are taxable.

Table 2  
**Number and Types of Lease Agreements That May Constitute Beneficial and/or Exclusive Use**

Organization	Lease Type	Number of Leases
<b>Federal</b>		
US Department of Interior Bureau of Land Management Bureau of Reclamation	Communication Storage and Stockpile Land	46
US Postal Service	Commercial Building	1
<b>State</b>		
Montana Department of Transportation	Commercial Building Land and Parking	122
Montana Department of Fish, Wildlife & Parks	Communication	1
<b>Local</b>		
Counties and Cities	Communication Parking	5

**Source: Compiled by the Legislative Audit Division from governmental entities and department data.**

Staff could not easily identify portions of properties that these agreements concerned in the department's database based on leasing information. As a result, it was difficult to estimate potential tax implications for the properties that these leases concern.

Most state leases to private entities that likely constitute beneficial use we identified were from properties owned by the Montana Department of Transportation. Leases concerning federal property we identified that could constitute beneficial and/or exclusive use were primarily with communication companies and primarily managed by the U.S. Bureau of Land Management. Several governmental entities did not respond to our request for property and leasing information.

## Other Instances of Nonreporting

We also encountered instances of under-reporting of beneficial use of nongovernmental exempt property. We identified multiple cases where appraisers discovered space leased to for-profit providers within buildings receiving a nonprofit healthcare exemption. These leases were not reported, and taxes were not appropriately remitted despite a statutory obligation to do so.

## Statute Does Not Require Governmental Entities to Report Beneficial Use

Statute requires private landowners as well as beneficial users to report beneficial use of exempt real property. However, statute does not require publicly owned entities to report beneficial use of exempt real property to the department. Thus, for automatically exempt government property leased to an individual or entity for their beneficial use, the responsibility is solely on the lessee to report.

## **Other States Require Governmental Entities Report Agreements that Could Constitute Beneficial and Exclusive Use**

We spoke with several other states regarding how their laws address reporting beneficial and exclusive use of property owned by a governmental entity. We found that other states have specific reporting requirements and information that government agencies must provide to the taxing authority regarding leasing and beneficial use. For example, Nebraska requires any governmental entity that has leased property to send a copy of the lease to the county assessor, who determines if a property should be exempt or taxable, and government entities must provide the assessor with updated information whenever there are changes to the lease. Alternatively, the governmental entity may send a list of property they own that may be deemed taxable to the county assessor. Illinois employs recertification to uncover exempt property being leased out to nonexempt entities for business purposes.

## **Lack of Awareness by Property Owners Contributes to Under-reporting**

We found that there is likely a lack of awareness of some owners and beneficial users of exempt real property of the need to report. Some government agencies we spoke with were not aware of the provisions of statute that may make property they lease out taxable. Improved communication of these sections of statute along with the existing reporting requirements would improve awareness and rates of reporting, in addition to requiring reporting of beneficial use from public entities.

## **Inconsistencies in Outreach Among Department Staff**

We found that some department field staff are more aware and proactive than others about identifying and working with government agencies to determine beneficial use of property. For example, one field office works each year with the Montana Department of Natural Resources and Conservation to determine if any of its leased property is taxable under beneficial use. However, several state agencies do not communicate with the DOR about beneficial use of property owned by the agency. The department submits annual inquiries to some federal agencies, such as the U.S. Department of Energy, to determine if certain federal property should be taxed, but does not consistently ask other federal agencies who lease property to private individuals whose use of the property may constitute beneficial or exclusive use.

## **Poor Documentation of Beneficial Use in Property Database**

We found that leasing and beneficial use information is not recorded in a consistent way in a single place in the department's database, making it more difficult to track and identify government properties being taxed as a result of private leased interest in a property. Details related to leasing, such as the duration of the lease, are not present in the database.

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**RECOMMENDATION #5**

We recommend the Department of Revenue:

- A. *Develop and implement a process to identify and track government and private exempt property leased out to nonexempt entities for their beneficial or exclusive use.*
  - B. *Seek legislation to require public entities that own exempt property leased to nonexempt entities for their beneficial or exclusive use to report to the Department of Revenue a statement of the leasing of such tax-exempt property.*
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## Chapter III – House Bill 389 (2015): Considerations for Future Review of Exempt Real Property

### **Introduction**

House Bill 389, passed by the 2015 Montana Legislature, required that certain entities receiving property tax exemptions reapply to the department and that the department review the new application and determine whether such properties should continue to be exempt. Column 7 of the table in the Appendix specifies for which exemptions reapplication was necessary via HB 389. The bill also required that the department maintain a public listing of such exempt real properties and created a duty for owners of exempt real property to report changes in use to the department. The purpose of the bill was to improve record keeping, department reporting, transparency, and the ability to identify all real property receiving a real property tax exemption for which an application is required. HB 389 also aimed to ensure that entities are appropriately receiving property tax exemptions. Prior to this bill, no formal review of exempt real property had been performed in Montana.

### **Cost and Benefits of HB 389**

Through interviews and analysis of costs, tax shifts, and additional revenue resulting from the reapplication and review process, we found the benefits associated with HB 389 ultimately exceeded costs of implementing the law. Our analysis further suggests that it would be beneficial to other taxpayers and the state to conduct another reapplication and review process. We found that additional staffing and ongoing review of exempt property information are important considerations to reduce time spent on a systematic reapplication review. We also discuss and provide analysis for more focused review options if a shorter and less resource-intensive review is desired.

### **Costs of Implementing HB 389**

HB 389 directed the department to collect a fee from most nonprofits that reapplied to offset the administrative costs of HB 389. The department collected \$133,290 in fees from HB 389 reapplicants.

Table 3  
**HB 389 (2015) Administrative Costs**

Expense	Task Description	Hours	Estimated Cost
Dedicated Central Office Staff	Identify entities that need to reapply Review application materials Mail reminder letters Make determinations on applications Enter and maintain data Assist with reporting	9,920	\$288,060
Appraisal Staff	Site reviews Data entry	7,227	\$289,080
Manager	Reporting to Revenue Interim Committee	85	\$3,145
Temporary Employees	Assist with processing of application material Make sure required documents were submitted by applicants	2,656	\$42,496
<b>Total</b>			<b>\$622,781</b>

**Source: Compiled by the Legislative Audit Division from department information.**

The total administrative costs incurred to implement HB 389 significantly exceeded the amount of fees collected from nonprofits that reapplied. The fiscal note for the bill estimated the need for one additional full-time-equivalent (FTE) to complete implementation. The total number of hours required to review applications alone (9,920) exceeded hours that could be annually provided by one additional FTE (2,080 hours). Consequentially, department staff had to perform tasks associated with HB 389 in addition to their typical, required duties.

### **Total Benefits of HB 389 (2015) as of 2021**

Quantifiable benefits associated with HB 389 come from entities who were inappropriately receiving real property tax exemptions, reapplied, and then were denied an exemption. This resulted in an increase in state revenue as state mills are now applied to the properties' positive taxable value going forward. It also resulted in a reduction in taxes shifted to other taxpayers as an additional entity is now taxable and paying taxes to local jurisdictions. This expands the tax base and spreads taxes that need to be collected to meet local jurisdictions' budgets across more property taxpayers.

To compute benefits, we took a number of steps to isolate properties that were reapplicants versus initial applicants. We then calculated the taxes paid by reapplicants who were denied exemptions from 2016 through 2021.

As a result of the HB 389 reapplication review process, we estimate \$333,622 in additional revenue collected by the state and a reduction of \$1,887,651 paid by other taxpayers (that is now being paid by the previously exempt properties) between 2016 and 2021. Our analysis took into consideration entities who were denied an exemption and later reapplied and again received an exemption. On the other hand, a number of properties would have continued to be inappropriately exempt after 2021 if they were not reviewed and denied an exemption. Benefits associated with properly returning such properties to the tax rolls that extend past 2021 were not included in this analysis.

## Comparing Benefits and Costs

If strictly comparing the cost to the state of administering HB 389 and additional revenue collected by the state due to the denial of reapplicants, costs outweigh benefits. However, if one considers the benefit in reduction in taxes inappropriately shifted to other taxpayers, then HB 389 was clearly net beneficial by appropriately distributing the overall tax burden and providing for more equal treatment of taxpayers as required by law.

<b>Additional revenue</b> to state from denials (390 exemptions)	\$333,622
<b>Taxes paid locally by previously exempt entities</b> denied upon reapplication (390 exemptions)	\$1,887,651
<b>Total Benefit</b>	\$2,221,273
Estimated administrative <b>costs</b>	\$622,781
<b>Net Benefit</b>	\$1,598,492

Source: Compiled by the Legislative Audit Division from department data.

## Additional Benefits of HB 389

We identified several nonmonetary benefits of HB 389, including:

- ◆ Improved record keeping and data quality of exempt real properties
- ◆ Updated contact information of entities receiving a real property tax exemption
- ◆ Improved nonprofits' understanding of the requirements to receive exemptions
- ◆ Improved communication between the DOR's central and field offices
- ◆ Prioritized department review of exemption information
- ◆ Improved the accuracy of reporting of exemption information in the department's biennial report
- ◆ Updated market valuations for some exempt properties

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### CONCLUSION

*HB 389 (2015) improved tracking and communication of exemption information within the department and to external parties. The benefits of HB 389 to other taxpayers and to the state together outweighed the administrative costs to implement the bill.*

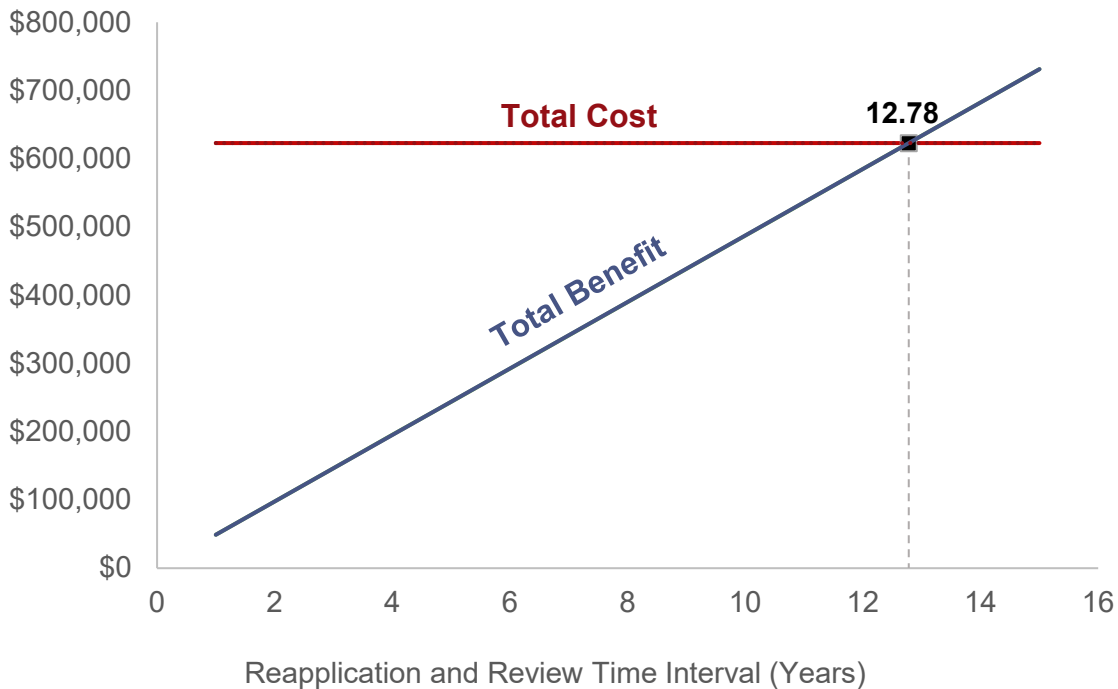
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## How Often Should Exempt Properties Have to Apply?

HB 389 required a review of most properties receiving a property tax exemption, for which an application is necessary, every six years. However, a termination date was imposed on most provisions of the bill, including the recurrent reapplication and review process, effectively making it a one-time review. Several other states have mechanisms in place to conduct periodic reviews of exempt real property. We sought to determine, based on data from the HB 389 reapplication, over what time interval the benefits of reapplication to the state and other taxpayers exceed the costs of implementation (\$622,781). In our analysis, benefits increase over time because with additional years between review periods, additional properties fall out of compliance, contributing to a larger benefits value. This

analysis does not account for increases in costs of services to the department or increases in property values and the amount of property taxes paid (benefits) across different review intervals. We believe that not factoring increases in prices into this analysis is a fair assumption, as inflationary factors applied to both costs and benefits would require additional assumptions and counteract or offset one another.

Figure 7  
**Benefits of Review Exceed Costs by Year 13**



Source: Compiled by the Legislative Audit Division from department data.

## Analysis Supports a 13-year Reapplication and Review Interval

A six-year recurrent reapplication cycle as initially intended by HB 389 is too frequent; over this time interval, costs outweigh benefits. In year 12, the benefits surpass the costs. This analysis suggests that a reapplication process starting in 2029, 13 years after the start of the last review process, would be net beneficial to taxpayers and the state. Considering only the benefit of additional revenue to the state, the analysis does not support another reapplication in the near future. A limitation with this analysis is that we generalize the results of only a six-year period in which reapplicants could have fallen out of compliance. Given the longer existence of the database, a wider time frame can be used in the future. If there is another reapplication process, it will be important to take steps to reevaluate over which time interval between reapplications that benefits associated with reapplication exceed costs, using data that spans more years.

## Challenges and Reflections from HB 389

It took multiple years for the department to process reapplications. Applicants began submitting reapplications in January 2016. The department spent several months processing mail from applications

submitted between January and March of 2016 to determine which entities had reapplied. As a result, review was completed for very few applications in 2016. Some reapplications were still being reviewed and determinations were being made as late as 2021.

If a property reapplied in 2016 but a determination that denied the property an exemption was not made until 2021, there were several years in which a property was technically not exempt yet did not pay property taxes. The department typically left it up to the county to choose whether to retroactively send a tax bill to entities for the years in which they were not billed. Some counties expressed that this was a difficult situation for them, as their decision to retroactively tax could potentially affect the continued operation of some organizations. Depending on the consistency of decisions across counties, this can lead to similar types of taxpayers who both reapplied at the same time being treated differently, as one may be retroactively billed one year while the other is not.

Long processing times were the result of several other challenges including a sudden influx of applications, limited staffing resources to timely review all properties, difficulty in initially identifying all properties that needed to apply, and difficulty contacting some exempt applicants due to outdated contact information.

## **Improvements and Considerations for Future Reapplication**

Several challenges confronted by the department in the reapplication process would be less troublesome in a future reapplication, including:

- ◆ The department now has updated contact information. Keeping contact information up to date is one advantage of having a more frequent reapplication.
- ◆ Detailed exemption information is now entered in the system for most properties that need to reapply in order to receive an exemption, and the department has improved labeling of government property, so properties that must reapply to receive an exemption can be more easily identified. This should reduce the amount of property that needs to reapply and be reviewed.

There are additional considerations the department and other states discussed with us that may reduce some of the above challenges. This includes considering allocating additional FTE, especially designated appraisers, to conduct timelier review; ongoing quality control and review of exempt real property information; a more focused reapplication and review; or an abbreviated review process, such as recertification.

## **More Focused Reapplication**

We interviewed other states regarding their practices related to review of exempt real property. We found some states with periodic reviews of exempt real property that focus on properties receiving certain types of exemptions, based on risk. For example, Minnesota statute allows its department of revenue to determine which entities must submit a reapplication for exemption every three years. Department officials state that such determination is risk based. Nebraska requires properties receiving certain types of property tax exemptions to reapply every four years.

We examined HB 389 reapplicant exemptions that were denied by exemption type to inform a more focused review of certain exemption types based on risk.

Table 5  
**Review of Nonprofit Healthcare, Education, and Community Service Exemptions  
 Result in Most Benefit Per Exemption Reviewed**

Exemption Type	Benefit per Exemption Reviewed	Number of HB 389 Exemptions Denied of Those Reviewed
Nonprofit Healthcare	\$1,058	39 denied 428 reviewed (9%)
Educational Exemptions	\$963	40 denied 212 reviewed (19%)
Community Service Building/ Fraternal	\$956	281 reviewed 35 denied (12%)
Art Galleries/Observatories/Zoos/ Museums	\$556	108 reviewed 16 denied (15%)
Charitable Exemptions	\$434	927 reviewed 88 denied (9%)
Veteran's Clubhouse	\$325	92 reviewed 11 denied (12%)
Religious Exemptions	\$298	2,508 reviewed 111 denied (4%)
Nonprofit Water Association	\$237	72 reviewed 17 denied (24%)
Cemetery, Mausoleums, Crematories	\$82	131 reviewed 17 denied (13%)
Developmentally Disabled Organization/Mentally Impaired	\$77	339 reviewed 14 denied (4%)
Retired/Aged/Chronically Ill	\$22	60 reviewed 2 denied (3%)

**Source: Compiled by the Legislative Audit Division from department data.**

Based on the data considered, some exemption types for which there was reapplication via HB 389 were not denied an exemption, namely nonprofit international athletic facilities and low-income housing. Such exemptions types are not included this table.

If the amount of taxes inappropriately shifted to other taxpayers and reduced revenue to the state per exemption reviewed (shown in column 2) are issues a review processes intends to address, a more focused reapplication process would prioritize examining properties that receive nonprofit healthcare, educational, and community service exemptions. If assessing risk based on likelihood of a property receiving a given exemption type falling out of compliance, as show as the percentage denied in column 3, a review would prioritize nonprofit water associations and educational exemptions.

## Recertification

Some states require a simple, periodic recertification of exempt properties as an alternative to a resource-intensive reapplication review process For example, Illinois requires all entities that own exempt property, including governmental entities, annually certify that the use of properties for their exempted purpose has not changed. Recertification has helped other states keep the contact information of exempt properties up-to-date and make entities receiving an exemption more aware of the requirement to report a change in the use of exempt real property.

## Future Reapplication Would Benefit Montana

Evidence suggests that another broad reapplication and review process would be net beneficial to taxpayers and the state starting in 2029. A more targeted reapplication would be more efficient and could be considered sooner if the legislature believes it to be fair. The availability of additional data over the upcoming years will assist in further informing the appropriate timing for future reapplication and review processes.

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### **RECOMMENDATION #6**

*We recommend the Montana Legislature require a periodic reapplication and review of exempt real property, taking into account the costs and benefits of either a broad or targeted reapplication process.*

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# Chapter IV – Review of Montana’s Real Property Tax Exemptions, Reporting, and Evaluation Efforts and Best Practices

## Introduction

Our second objective asked whether Montana’s property tax exemptions achieve their intended purpose while treating similar types of taxpayers equally. Montana has numerous property tax exemptions, the majority of which were enacted within the last 50 years. We found many of Montana’s property tax exemptions are commonly offered by other states and supported by academic literature or other rationale. While the legislature and department have made a concerted effort over the last decade to evaluate and report on property tax exemptions, we identified additional best practices and steps that can be taken to allow for more rigorous evaluation and review of property tax exemptions going forward.

## History of Real Property Tax Exemptions Offered Under Montana Statute

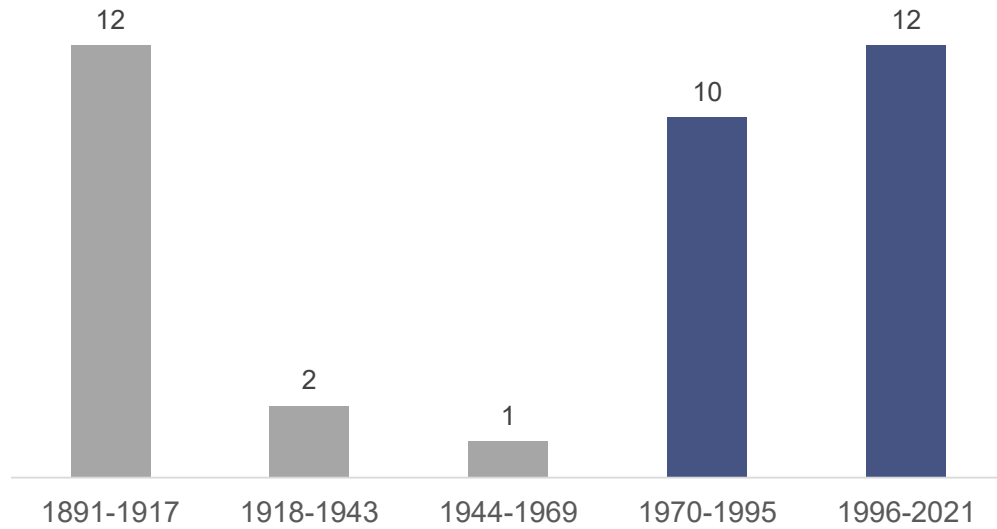
We conducted a legislative history review of all current (as of 2021) property tax exemptions offered in Montana with particular emphasis on efforts made to establish purpose of property tax exemptions.

## **Property Tax Exemptions Enacted Over Time and Purposes**

We identified 37 sections of statute that offer exemptions. Eleven of these sections date back to statehood and the 1889 Montana Constitution (and were enacted in 1891). These include the exemption of property owned by several *governmental entities* (federal government property; state, county, cities, towns, school districts; municipal corporations; and public libraries); *cemeteries*; *religious exemptions*; exemptions for property owned by *agricultural* and *horticultural societies*; exemptions for property used for the purposes of *education*; property used exclusively for *nonprofit healthcare* facilities; property used for pure public *charitable* purposes; and real property of *incompetent veterans* temporarily held by a guardian.

While there is no documented, explicit legislative purpose for these exemptions, the general rationale behind such exemptions is that such properties are either governmental or quasi-governmental entities that provide goods or services to the public and should be tax exempt.

Figure 8  
Number of Current Exemptions Has Increased Since 1970



Source: Compiled by the Legislative Audit Division from Montana Statute.

From 1891 to present, the number of sections of statute that provide for real property tax exemptions and the cumulative number of real property tax exemptions offered has increased over time, with a relative lull between 1893 and 1973, and a more consistent enactment of new real property tax exemptions over the last 50 years. An average of nearly one new exemption has been added each legislative session since 1973.

For many real property tax exemptions, we found documentation of discussion or information that otherwise supports a goal or purpose of the exemption. We found some exemptions where there was no documented purpose or hearing information to provide purpose. Examples of exemptions without a documented purpose include property owned by a railroad corporation leased to a nonprofit or governmental entity for less than \$100 a year and used for public charitable purposes; exemption for veteran's clubhouses; exemption for low-income housing; and farm buildings with less than \$500 in market value.

In recent legislative sessions, there continues to be strong interest in real property tax exemptions, with many bills proposed each session. Several new exemptions and amendments have required the department to continue to adopt new administrative processes and modify its database to accommodate such changes in statutory requirements. We provide a summary of information from the legislative history review we conducted in columns 3 through 5 in the table of the Appendix.

### **Frequency in Which Exemptions Are Applied for and Granted Over Time**

We examined the number of granted real property tax exemptions for which an application is necessary over time by type of exemption from 2016 through 2021. In general, most exemption types are either stable over this time frame or gradually increasing in use. The most growth over this time is seen in the *charitable* and *low-income housing exemptions*. The number of *education exemptions* has seen a decrease over this period.

As can be seen in column 8 of the table in the Appendix, there appear to be multiple unused exemption types, including:

- ◆ Property owned by a railroad leased to a nonprofit or government for less than \$100 a year and used for public charitable purposes.
- ◆ Property of incompetent veterans held by a guardian.
- ◆ Property used in the manufacturer of ammunition components.
- ◆ Property rented or leased to a taxing unit for less than \$100 a year and used for public park, recreation, or landscape beautification purposes.

There are several exemption types for which the department has not established a separate category in its system. This makes it difficult to verify and/or determine the extent to which an exemption is being applied for and granted.

## **Montana's Evaluation Efforts and Reporting of Property Tax Exemption Information**

The Montana Legislature has enacted multiple laws over the last decade to improve reporting and steps towards evaluation of property tax exemptions. However, there are still steps that can be taken to further improve reporting and evaluation of property tax exemptions.

### **Opportunity for the Department to Improve Reporting of Property Tax Exemption Information in Biennial Report**

In 2011, HB 641 made it mandatory for the Department of Revenue to report descriptive information of certain preferential treatments in its biennial report, including real property tax exemptions. This includes:

- ◆ The gross dollar amount of revenue loss attributable to property tax exemptions for which application to the department is necessary.
- ◆ The year of the enactment and provision of statute granting the tax benefits of property tax exemptions for which application to the department is necessary.
- ◆ The number of taxpayers benefiting from property tax exemptions.
- ◆ Identifying any known purpose of the preferential treatment.
  - ◇ Based upon the purpose of the preferential treatment, outline the available data necessary to determine the effectiveness of the preferential treatment.

### **Department Does Not Report Required Information for All Exemptions**

We reviewed the department's 2019-20 and 2021-22 biennial reports with particular focus on these requirements. We found that there are opportunities for the department to improve reporting of property tax exemption information:

- ◆ The department does not provide the year that property tax exemptions were enacted and does not cite property tax exemptions' statutory references individually.

- ◆ While the department provides lost revenue to the state, tax shifts, and how many properties are receiving some of the more commonly used exemptions, the report does not provide a count or the amount of lost revenue to the state attributable to several less commonly used exemptions. For example, how often the exemption for property within proximity to a transmission line with certain characteristics built after 2007 and the temporary tribal tax exemption are issued along with the reduction in revenue to the state are not reported. Several exemptions that do not appear to have been applied for and granted are not acknowledged in the report.
- ◆ One real property tax exemption applicable for the manufacturer of ammunition components (terminates 2024) has an explicit legislative purpose in statute. Although required, the department does not provide the known purpose of this exemption in the biennial report. HB 641 (2011) also amended statute to encourage the legislature to provide an explicit purpose and termination date for newly enacted real property tax exemptions. Defining an explicit purpose and evaluation metrics is a pre-requisite to and determines efforts to evaluate the benefits of real property tax exemptions. Since HB 641 was enacted, one of the two new exemptions had a sunset provision and an explicit purpose. For the department to report additional known purposes and subsequently provide data and metrics to inform evaluation of benefits, as intended by statute, the purposes of existing and future exemptions must be made explicit in statute.

## **Additional Detail and Defining Purposes Would Better Inform Policy Decisions**

A primary intention of the biennial report is to inform policy decisions. Policy decisions are made at the level of individual exemptions or sections of statute. In general, the biennial report makes less effort to provide the required information for all of the real property tax exemptions compared to other individual tax preferences. Thus, the legislature is not receiving all of the information as required by law to inform policy decisions regarding real property tax exemptions. The legislature can also improve content in the biennial report and evaluation efforts by continuing to explicitly define the purposes or policy goals of real property tax exemptions. The department should provide the following required information in the biennial report:

- ◆ Any explicit purposes of specific exemptions, if known.
- ◆ Based on the explicit purpose, outline data necessary to determine the effectiveness of the exemption.
- ◆ Statutory references, years enacted, a count indicating how often the exemption is used, and reduction in state revenue resulting from all unique real property tax exemptions for which an application is necessary.

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### **RECOMMENDATION #7**

We recommend the Department of Revenue provide the required information related to real property tax exemptions, as available, in the biennial report to better inform legislative decision making.

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## HB 723 (2019) and Opportunity to Further Evaluate Property Tax Exemptions

HB 723, passed in 2019, aimed to improve evaluation of tax incentives. The bill and subsequent amendment require the Revenue Interim Committee to evaluate and review tax credits over the course of ten-year cycles. However, HB 723 did not require evaluation and review of property tax exemptions.

### Exemptions Offered by Other States

We looked broadly at how the real property tax exemptions offered by Montana statute compare with the real property tax exemptions offered by other states. We found that there are standard types of property tax exemptions offered by most states, including Montana. Montana does not appear atypical or offer many excessive, highly specific property tax exemptions not offered by other states; other states appear to offer a variety of property tax exemptions, some of which are highly specific or unique to their circumstances.

Table 6  
**Number of States That Offer Common Exemptions Offered by Montana**

Exemption Type Offered in Montana	Number of States Who Offer Exemption
Government Property	50
Parks, Open Space, and Cemeteries	50
Charitable/Benevolent Organizations	49
Religious Organizations	49
Educational Institutions	49
Health and Care Facilities	48
Membership Organizations	41
Infrastructure, Transportation, and Communication Facilities	41
Housing for Vulnerable Populations	38
Art/Cultural/Literary/Scientific Organizations	27
Emergency Protection Facilities	26
Private Economic Activity	19
Other Exemptions	46

**Source: Compiled by the Legislative Audit Division from Lincoln Institute of Land Policy data.**

While many states offer the exemptions shown in Table 6, qualifying criteria and the amount of land that can be exempted under specific exemptions varies across states. Like Montana, many other states offer exemption for nonprofit water associations. Several other states also exempt agricultural and horticultural societies and certain types of athletic facilities. Some other states offer exemptions related to real property owned by a business incubator or economic development organization and some exemptions specific to railroad and tribal property.

### Other States' Evaluation Efforts of Property Tax Exemptions

We spoke with other states and the Pew Research Center to learn about other states' practices in evaluating real property tax exemptions. We found an increasing emphasis among states in evaluating

and reviewing tax incentives, although, like Montana, other states less commonly evaluate property tax exemptions compared to other tax incentive programs.

Many states have assigned a specific office or group of experts the responsibility of evaluating tax preferences to inform legislative review. To help guide evaluation of tax incentives, several states, like Montana, emphasize developing clear public policy goals for each tax incentive. The Washington legislature requires that each new tax preference, including property tax exemptions, enacted include a performance statement, stating the legislative purpose of the tax preference and the metrics and data requirements that allow for the evaluation of the preference after a period of time to determine if it is meeting its proposed purpose. These performance statements have helped guide Washington's evaluations of different types of property tax exemptions, including nonprofit health care facilities, multi-family affordable housing, and property used for economic development.

*"...performance statements have helped guide Washington's evaluations of different types of property tax exemptions..."*

While many states have not prioritized evaluation of property tax exemptions, a handful of states, including Kansas and Washington, endeavor to rigorously measure benefits associated with property tax exemptions through various means including:

- ◆ Determining if the exemption is being used by its intended recipients and if the requirements to qualify for the exemption are too broad or narrow.
- ◆ Using economic modeling software to measure the exemption's impact on the economy, such as job creation, and considering the opportunity cost of funds allotted to the exemption.
- ◆ Obtaining and analyzing data required to be provided by the entities receiving the exemption to determine benefits of additional service provision associated with the enactment of the exemption.

### **Best Practices in Property Tax Exemption Policy and Evaluation of Tax Exemptions**

We reviewed reports and interviewed representatives from several nationally recognized organizations, including the International Association of Assessing Officers, National Conference of State Legislatures, and Pew Research Center, to learn about best practices in property tax exemption policy and evaluation. We found that Montana already incorporates several of the best practices into current policies relating to real property tax exemptions. Further best practices that Montana could implement when assessing existing exemptions and considering the passage of new exemptions include:

- ◆ Exemptions should be beneficial to a substantial, identified segmented of the affected population and should apply to similarly situated taxpayers (i.e., exemptions treat similar types of taxpayers equally).
- ◆ Consistently establish explicit legislative purposes or policy goals to aid in evaluation and so that the department, lawmakers, or program evaluators can identify relevant metrics, collect data, and evaluate benefits of such exemptions, especially for exemptions focused on economic development of private industry or make the establishment of purpose and metrics legislatively mandatory.

- ◆ Require periodic review and include sunset provisions to ensure objectives of the exemption remain relevant, the exemption is meeting its purpose and goals, and benefits of the exemption are outweighing its costs. Establish a formal process to ensure that lawmakers consider the results of evaluations.
- ◆ Conduct ongoing analysis of the exemption's effects on other taxpayers, local jurisdictions, revenue, and administrative costs. Continue to estimate all costs and other potential impacts associated with the exemption upfront to the extent feasible.
- ◆ Define who is responsible for both conducting evaluation and reviewing evaluation to inform policy decisions.

In addition, best practice suggests that the department should maintain current valuations for exempt real properties to help accurately (and transparently) portray costs to taxpayers and the state associated with the real property tax exemptions.

## **Do Montana's Real Property Tax Exemptions Achieve Their Intended Purpose?**

We found that in some cases, particularly for governmental exemptions and some quasi-governmental exemptions specified in Montana's constitution, such exemptions achieve intended results and treat similar types of taxpayers equally, as statutorily constructed. There are, however, several cases where it is unclear if property tax exemptions are achieving their intended purpose. This is because no evaluation of benefits has yet been conducted for such exemptions to determine if purposes are being achieved. In several cases, a more complete evaluation of the property tax exemption would require first establishing explicit legislative purpose and measurement metrics. As noted, some exemptions are not being used at all, and these exemptions especially should be reviewed.

## **Montana Can Improve Its Review of Real Property Tax Exemptions**

Over time, Montana's legislature has not consistently established purposes or policy goals for its real property tax exemptions, and like many other states, has not consistently conducted evaluations to determine if exemptions are meeting their purposes. An interim committee could be tasked with reviewing proposals for new property tax exemptions and reviewing exemptions already in statute. Particularly provided the number and variety of new property tax exemptions and amendments proposed in recent legislative sessions, it will be important for the legislature to keep best practices in mind when considering new property tax exemptions going forward.

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### **RECOMMENDATION #8**

*We recommend the Montana Legislature:*

- A. *Require new real property tax exemptions include policy goals and evaluation metrics that can be used to determine if exemptions are meeting their purposes.*
  - B. *Assign responsibility for evaluation and review of real property tax exemptions.*
-

## Montana's Real Property Tax Exemptions

Exemption Type	Statutory Reference (MCA)	Year Enacted	Major Amendments	Purpose When Enacted***	Automatically Exempt Versus Application Necessary	Required to Reapply via HB 389?	Count of Exemptions (2021)	Taxes Shifted (2021)	Reduction in State Revenue (2021)
Government Property	15-6-201 (1) (a) (i) - (vii)	(1)(a)(i), (ii), (iv), and (v): 1891 (1) (a) (iii): 1977 (vi) rural fire districts: 1993 (vii) special districts: 2009	(1) (a) (i): 1993  (ii) - (vii): None	No documented purpose.	Automatically exempt	Not required to reapply	117,269*	\$80,480,849*	\$15,409,153*
Property Owned by a Federally Recognized Indian Tribe Within the Exterior Boundaries of a Reservation and Used Exclusively for Essential Government Purposes	15-6-201 (1) (a) (viii)	2011	2013	Equal treatment of similar types of property/taxpayers.	Application necessary	Not required to reapply	Cannot be determined	Cannot be determined	Cannot be determined
Religious Exemptions	15-6-201 (1) (b)	1891	2005 1975	No documented purpose.	Application necessary	Required to reapply	2,613	\$15,239,600	\$2,724,297
Property Owned by an a Federally Recognized Indian Tribe Used for Religious Purposes	15-6-201 (1) (c)	2011	None	Equal treatment of similar types of property/taxpayers.	Application necessary	Not required to reapply	Cannot be determined	Cannot be determined	Cannot be determined
Agricultural and Horticultural Societies	15-6-201 (1) (d)	1891	2005	No documented purpose.	Application necessary	Not required to reapply	3	\$29,852	\$6,379
Education Exemptions	15-6-201 (1) (e)	1891	2005	No documented purpose.	Application necessary	Required to reapply	215	\$5,956,342	\$1,079,807
Property Owned by a Tribal Corporation Used for the Purposes of Education	15-6-201 (1) (f)	2011	None	Equal treatment of similar types of property/taxpayers.	Application necessary	Required to reapply	Cannot be determined	Cannot be determined	Cannot be determined
Nonprofit Healthcare	15-6-201 (1) (g)	1891	1987	No documented purpose.	Application necessary	Required to reapply	497	\$18,900,723	\$3,096,735
Cemeteries, Mausoleums, Crematories	15-6-201 (1) (h)	15-6-201 (1) (h) (i) (A): 1891 15-6-201 (1) (h) (i) (B): 2011	1979 1977	(A): No documented purpose. (B): Equal treatment of similar types of property/taxpayers.	Application necessary	Not required to reapply	133	\$207,537	\$34,939
Charitable Exemptions	15-6-201 (1) (i)	1891	2005 1999 1995 1965	No documented purpose.	Application necessary	Required to reapply	1,147	\$6,763,048	\$1,198,641
Art Galleries/Observatories/Zoos/Museums	15-6-201 (1) (k)	1911	2005	No documented purpose.	Application necessary	Required to reapply	106	\$664,243	\$126,113
Nonprofit Water Association	15-6-201 (1) (l)	1987	None	Provide nonprofit water associations with more borrowing power at a lower interest rate (so they can expand their service provision).	Application necessary	Required to reapply	61	\$42,453	\$9,988
Developmentally Disabled Organization/Mentally Impaired	15-6-201 (1) (n) (i)	1983	None	No documented purpose.	Application necessary	Required to reapply	357	\$1,616,815	\$261,226
Retired/Aged/Chronically Ill	15-6-201 (1) (n) (ii)	1991	2017	No documented purpose.	Application necessary	Required to reapply	67	\$1,706,472	\$269,653
Nonprofit International Athletic Facility	15-6-201 (1) (o)	1987	None	Assist with financing high-altitude sports center in Butte, which promotes job creation, international exposure, and advertisement.	Application necessary	Required to reapply	1	\$4,527	\$759
Property Rented or Leased to a Taxing Unit for Less Than \$100 a Year and Used for Public Park, Recreation, or Landscape Beautification Purposes	15-6-201 (1) (p)	2015	None	Exempt green space in Thompson Falls owned by the railroad and leased to the city for use as open space/a park.	Application necessary	Not required to reapply	0**	\$0**	\$0**
Veteran's Clubhouse	15-6-203 (1) (a)	1931	2017 2011 1999	No documented purpose.	Application necessary	Required to reapply	95	\$239,868	\$41,882
Property of Incompetent Veterans Held by a Guardian	15-6-203 (2)	1891	None	No documented purpose.	Application necessary	Required to reapply	0**	\$0**	\$0**
State Water Conservation Projects	15-6-205	1937	1947	Exempt from taxation lands owned by the State Water Conservation Board or the State of Montana for use in water conservation projects.	Automatically exempt	Not required to reapply	Cannot be determined	Cannot be determined	Cannot be determined
Irrigation and Drainage Facilities	15-6-206	1965	None	No documented purpose.	Automatically exempt	Not required to reapply	Cannot be determined	Cannot be determined	Cannot be determined
Farm Buildings With Less Than \$500 in Market Value	15-6-207 (3)	2005	None	No documented purpose.	Automatically exempt	Not required to reapply	23,765	\$42,090	\$10,020



**Montana's Real Property Tax Exemptions (continued)**

Exemption Type	Statutory Reference (MCA)	Year Enacted	Major Amendments	Purpose When Enacted***	Automatically Exempt Versus Application Necessary	Required to Reapply via HB 389?	Count of Exemptions (2021)	Taxes Shifted (2021)	Reduction in State Revenue (2021)
Community Service Building/Fraternal	15-6-209	1977	1997 1981	As a result of the department's reappraisal tax program, nonprofit community service buildings, which had originally been assessed at a reduced tax rate, would be assessed at the full market value and many of the properties would likely have to be abandoned if not exempt from paying property taxes.	Application necessary	Required to reapply	296	\$1,105,947	\$193,443
Low-Income Housing	15-6-221	1999	2021	No documented purpose	Application necessary	Required to reapply	219	\$5,156,475	\$836,612
Property Owned by Railroad Leased to a Nonprofit or Government for Less Than \$100 a Year and Used for Public Charitable Purposes	15-6-227	2003	None	No documented purpose	Application necessary	Required to reapply	0	\$0	\$0
Exemption for Land Adjacent to Transmission Line With Certain Characteristics Built After 2007	15-6-229	2007	None	Compensates individuals whose properties are affected/for which the proposed transmission line intersects.	Application necessary	Required to reapply	433	\$45,802	\$9,352
Temporary Tribal Tax Exemption	15-6-230	2011	2021	Facilitate tribes restoring fee land acquired by the tribes to federal trust land by reducing the real property tax burden on tribes during the US DOI application review process to convert their land into trust land.	Application necessary	Not required to reapply	57	\$18,743	\$3,586
Property Used in the Manufacture of Ammunition Components (Terminates December 31, 2024)	15-24-1410	2015	None	"The legislature intends to encourage the manufacture of smokeless propellant, small arms, primers, and cartridge cases within the borders of Montana to ensure availability of small arms ammunition for the people of Montana and to fully implement the right to bear arms that the people have reserved for themselves." (§15-24-1410, MCA)	Application necessary	Not required to reapply	0**	\$0**	\$0**
Business Incubator	15-24-1802	1989	2013 1999	Encourage the establishment of business incubator organizations, which assist startup companies in their first years by providing shared services such as secretary telephone, fax, copy, computer, meeting facilities, and consulting services. Fostering startup companies is important for economic development and job creation.	Application necessary	Not required to reapply	Cannot be determined	Cannot be determined	Cannot be determined
Industrial Trade Park	15-24-1902	1989	2013 2005 1991	Assist in local development by facilitating the establishment of industrial parks owned by local economic development organizations, which encourages industry to move into the state, thereby promoting job creation and increasing revenue for local governments.	Application necessary	Not required to reapply	Cannot be determined	Cannot be determined	Cannot be determined
Land and Buildings of a Local Economic Development Organization	15-24-2002	1991	2013 2005	Allow for vacant, rundown buildings to be sold or donated to an economic development organization to help reduce local deteriorating infrastructure and encourage economic development.	Application necessary	Not required to reapply	Cannot be determined	Cannot be determined	Cannot be determined
Open Space Land	76-6-208	1969	1975	Encourage land to be set aside for parks and open space to mitigate against urban blight during a time of increasing urbanization and to help conserve recreation, historic, or other scenic areas.	Automatically exempt	Not required to reapply	2,036	Cannot be determined	Cannot be determined

Source: Compiled by the Legislative Audit Division, Department of Revenue, and legislative information.

(See Appendix Footnotes on the next page.)



## Appendix Footnotes

\*The department does not maintain up-to-date valuations of all automatically exempt property. We also identified over 3,000 parcels in the Orion property database owned by governmental entities with no associated market or taxable values. These omissions lead to underestimating the amount of tax shifts and reduction in state revenue from automatically exempt government property.

Certain federal agencies, namely those within the United States Department of the Interior, make payments in lieu of taxes to offset losses in property taxes due to federal-exempt land within local jurisdictions. In 2022, approximately \$38.2 million was dispersed to Montana counties via payments in lieu of taxes. The amount of taxes shifted from exempt government property does not reflect these payments in lieu of taxes.

\*\*Department staff stated that the exemption was not being used for such properties. There was no way to independently verify that the exemption was not being used, as there was no separate category for the exemption in the department's property database.

Similarly, "Cannot be determined" indicates that there is no way to easily isolate the properties in the database and/or provide descriptive statistics based on the section of statute.

\*\*\*The purposes in column 5 are suggested purposes based on our review of meeting minutes or hearings of the bill associated with the initial passage of the exemption. The suggested purposes are to provide some idea of discussed intent of the exemption around the time of enactment. They should not be interpreted as the exemptions' actual, agreed upon, explicit, or known purposes.



DEPARTMENT OF REVENUE

DEPARTMENT RESPONSE





GOVERNOR GREG GIANFORTE  
DIRECTOR BRENDAN BEATTY

May 2, 2023

Angus Maciver, Legislative Auditor  
Performance and Information Systems Audits  
Legislative Audit Division  
Room 160, State Capitol Building  
P O Box 201705  
Helena, MT 59620-1705

RECEIVED  
May 2, 2023  
LEGISLATIVE AUDIT DIV.

Dear Mr. Maciver:

The Department of Revenue herein responds to the Real Property Tax Exemptions: Improving Information Management and Informing Policy Decisions Performance Audit.

**Recommendation #1:**

We recommend the Department of Revenue:

- A. *Implement quality control testing and review of exempt real property data and train staff to identify and prevent errors.*

**Concur.** Many of the issues that have been highlighted in this report were also found by the department as the final HB 389 Report (2015) was developed for the Revenue Interim Committee's January 2022 meeting. The department runs data queries at regular intervals which identify the following:

- non-exempt property type with exempt class codes
- parcels coded exempt with non-exempt class codes
- exempt properties missing site visits
- parcels coded partially exempt with zero taxable value
- ownership changes on exempt parcels

The department will expand existing exemption training by creating detailed instructions on handling ownership transfers from one non-profit entity to another non-profit or a non-profit to taxable entity and guidance on coding and verification of exempt properties. This guide will be a comprehensive resource for field staff that will provide

consistency and prevent errors. The target date for this update is early 2024.

*B. Request a new application from the properties' owners that should have reapplied and review them to determine if properties are appropriately receiving an exemption.*

**Concur.** The department is currently implementing this recommendation. The department identified approximately 250 additional properties that should have reapplied and requested these entities reapply for tax year 2023. The department received a response from approximately 130 of those properties. Any remaining properties that did not respond were sent a follow up letter and will be considered taxable for tax year 2023.

*C. Update class codes and return properties to taxable status when appropriate.*

**Concur.** The department is implementing this recommendation by querying the CAMA system to identify any mismatches between a property description in the system and the class code that properly reflects the tax rate that should be assigned to it. The department is correcting all exempt property tax issues related to a class code mismatch. The review of the class code mismatch is included in reoccurring quality control queries.

## **Recommendation #2:**

*We recommend the Department of Revenue establish and implement a process to improve the accuracy and usefulness of data to enhance reporting on exempt real properties.*

**Conditionally concur.** The department will implement areas within our ability. The expanded training guide will include guidance on accurately assigning exemption status descriptions, termination dates, and processing ownership transfers.

The department will work with the system vendor to explore possible enhancements to address the current system limitations related to the incorrect assignment of termination dates. The system is designed to apply a termination date when an ownership transfer has occurred. In most instances, the system is correctly applying the termination date. The department will create a reoccurring quality control query to identify and review properties flagged because of a termination date. There are currently system limitations regarding partial exemptions and calculations appropriately applying prorations based on the exemption status and termination date.



In addition, the department will create additional exemption type categories to resolve the issue of exemption categories in the CAMA system not corresponding exactly with every exemption type in statute.

The department will also discuss how it may be able to include partially exempt properties on its website to address the issue of incomplete public facing listing of exempt properties. Partially exempt properties will need to be clearly and distinctly marked on the website so as not to create confusion. The department developed a website that displays current fully exempt properties along with an interactive map. Here is the link to the exempt property map:

<https://mtdorpad.maps.arcgis.com/home/index.html>.

Finally, the department will include a review of property type description fields in the reoccurring quality control queries to insure consistency.

### **Recommendation #3:**

*We recommend the Department of Revenue consistently conduct and document site visits as part of the exemption application review process as required by administrative rule, to verify that property is being used for its exempted purpose.*

**Conditionally Concur.** The department is currently implementing this recommendation and agrees that it can do a better job of conducting and documenting exempt property site visits. The department requires site visits by field staff. Field staff must prioritize new construction work, sales verification reviews, informal reviews, and exemption reviews along with other statutorily required tasks. Fully exempt properties have historically been the lowest priority. The department will continue to require site visits on all exempt properties but will continue to prioritize work with available resources. While the department agrees the site visits are necessary, it will need additional staff accomplish these reviews timely.

### **Recommendation #4:**

*We recommend the Department of Revenue revise practices and, as necessary, seek legislation to align statute and department practices related to determining and recording the taxable status or payment in lieu of tax amount of Department of Fish, Wildlife, & Parks property.*

**Concur.** The department is currently implementing the recommendation. The department agrees that it is not following current law as it relates to certain properties

owned by Montana Fish, Wildlife and Parks (FWP) which are subject to property taxes. The department has reached out to FWP and affected county treasurers to notify them that the department will be implementing current law for tax year 2023. The two parties will determine the taxability of the affected properties. The department agrees that it would be more efficient to change current law to align with our past practice for taxing these properties and will seek a legislative fix in 2025.

**Recommendation #5:**

*We recommend the Department of Revenue:*

- A. *Develop and implement a process to identify and track government and private exempt property leased out to nonexempt entities for their beneficial or exclusive use.*

**Conditionally Concur.** The department will implement this recommendation to the extent of its ability. However, to identify and track governmental and private exempt property leased to nonexempt entities, the department will require additional resources and staff to contact all governmental agencies.

- B. *Seek legislation to require public entities that own exempt property leased to nonexempt entities for their beneficial or exclusive use to report to the Department of Revenue a statement of the leasing of such tax-exempt property.*

The department agrees all exempt entities should be required to report to the department when their exempt property is being used by nonexempt entities. The department may seek a legislative change during the 2025 legislative session.

**Recommendation #6:**

*We recommend the Montana Legislature require a periodic reapplication and review of exempt real property, taking into account the costs and benefits of either a broad or targeted reapplication process.*

NA

**Recommendation #7:**

*We recommend the Department of Revenue provide the required information related to real property exemptions, as available, in the biennial report to better inform legislative decision making.*

**Concur.** The department agrees that more information can and should be provided in the biennial report related to tax expenditures for real property exemptions. As discussed in the audit report, the property tax data is continually improving. As data improvements continue to be implemented, the department will continue to improve the biennial report. Regarding the specific audit recommendations, future biennial reports will include specific statutes and the year of enactment for each of the individual exemption. Additionally, to the extent possible, the statutorily defined purposes of specific exemptions will be included in future biennial reports. However, very few tax expenditures contain statutorily defined purposes, as mentioned in the report, and the biennial report is only able to report the purpose of a tax expenditure when it is clearly defined in statute to continue to present useful and unbiased information to the legislature and the public. In addition to the audit recommendations, future biennial reports will attempt to better identify real property tax expenditures requiring an application.

**Recommendation #8:**

*We recommend the Montana Legislature:*

- A. *Require new real property exemption include policy goals and evaluation metrics that can be used to determine if exemptions are meeting their purposes.*

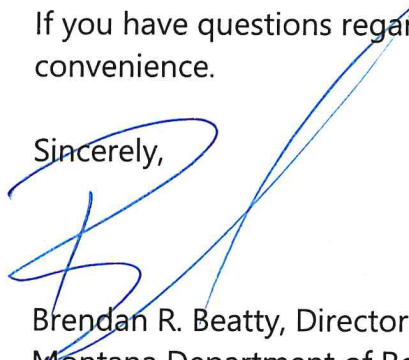
NA

- B. *Assign responsibility for evaluation and review of real property exemptions.*

NA

If you have questions regarding these responses, please contact me at your convenience.

Sincerely,



Brendan R. Beatty, Director  
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