

HOUSE BILL NO. 611

INTRODUCED BY B. MCCHESENEY

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A BILL FOR AN ACT ENTITLED: "AN ACT CREATING A HOUSING INCENTIVE FUND TO BE USED BY THE BOARD OF HOUSING TO ADDRESS CERTAIN HOUSING NEEDS; PROVIDING FOR A TEMPORARY TAX CREDIT FOR CONTRIBUTIONS TO THE HOUSING INCENTIVE FUND; ESTABLISHING THE MAXIMUM AMOUNTS THAT MAY BE CLAIMED AS CREDITS; LIMITING THE TOTAL AMOUNT OF CREDITS THROUGH AN APPLICATION PROCESS TO THE BOARD OF HOUSING; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE, A RETROACTIVE APPLICABILITY DATE, AND A TERMINATION DATE."

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

**NEW SECTION. Section 1. Housing incentive fund established -- administration.** (1) There is a

housing incentive account in the state special revenue fund, to be known as the housing incentive fund. Contributions to the fund are eligible for a tax credit as provided in [sections 2 and 3]. A contributor to the fund may specify the county in which the contribution must be used.

(2) (a) The board shall create an annual allocation plan for the distribution of the fund. Except as provided in subsection (2)(b), the plan must include the following:

(i) 25% or more must be used in counties that produce oil or gas and counties that are adjacent to counties that produce oil or gas and that can demonstrate impacts from oil and gas development;

(ii) 25% or more must be used in communities with populations of 10,000 or less to address an unmet housing need or alleviate a housing shortage; and

(iii) 50% or more must be used to benefit those with an income of 80% or less of the median income for the area, as determined by the United States department of housing and urban development, with adjustments for smaller and larger families.

(b) If a contributor specifies the county in which the contribution must be used as provided in subsection (1), the allocation plan does not apply to the extent that the allocation plan conflicts with the county designation.

(3) The board may collect a reasonable administrative fee from the fund.

(4) The board shall adopt guidelines for the fund to address unmet housing needs in the state.

Assistance from the fund may be used only for:



- 1 (a) new construction, rehabilitation, or acquisition of a multifamily housing project;
- 2 (b) gap assistance, matching funds, and accessibility improvements;
- 3 (c) assistance that does not exceed the amount necessary to qualify for a loan using underwriting
- 4 standards acceptable for secondary market financing or to make the project feasible;
- 5 (d) rental assistance, emergency assistance, or targeted supportive services designated to prevent
- 6 homelessness; and
- 7 (e) water and sewage infrastructure necessary to support housing.
- 8 (5) The following entities may receive disbursements from the fund:
- 9 (a) a unit of local, state, or tribal government;
- 10 (b) a local or tribal housing authority;
- 11 (c) a certified regional development corporation;
- 12 (d) a nonprofit organization; and
- 13 (e) a for-profit developer of multifamily housing.
- 14 (6) Within 30 days after the date on which a taxpayer makes a contribution to the housing incentive fund,
- 15 the board shall file with each contributing taxpayer and the department of revenue a completed form that shows
- 16 for each contribution to the fund:
- 17 (a) the name, address, and social security number or federal employer identification number of the
- 18 taxpayer that made the contribution;
- 19 (b) the dollar amount of the contribution; and
- 20 (c) the date on which the contribution was received.

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22 **NEW SECTION. Section 2. Tax credit for contributions to housing incentive fund.** There is a credit

23 against the taxes otherwise due under this chapter for contributions to the housing incentive fund provided for

24 in [section 1]. The credit must be computed in accordance with the provisions of [section 3].

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26 **NEW SECTION. Section 3. Tax credit for contributions to housing incentive fund.** (1) There is a

27 credit against the taxes otherwise due under this chapter for contributions to the housing incentive fund provided

28 for in [section 1].

29 (2) The credit allowed under subsection (1) is 40% of the amount contributed to the fund during the tax

30 year.

1 (3) If the amount of the credit exceeds the taxpayer's tax liability under chapter 30 or this chapter, the  
2 credit may be carried forward 10 years.

3 (4) The amount of the credit under this section must be determined at the pass-through entity level for  
4 a partnership, S. corporation, limited partnership, limited liability company, or any other pass-through entity  
5 making a contribution to the housing incentive fund. The amount of the total credit determined at the pass-through  
6 entity level must be passed through to the partners, shareholders, or members in proportion to their respective  
7 interests in the pass-through entity.

8 (5) The aggregate amount of tax credits allowed under this section and [section 2] is \$2 million per year  
9 beginning in tax year 2012.

10 (6) The board of housing shall approve the amount of tax credits for taxpayers on a first-come,  
11 first-served basis.

12 (7) Before making a contribution to the housing incentive fund, a potential donor shall by October 1 of  
13 the year in which the credit is sought notify the board of housing of the total amount of contributions that the  
14 potential donor intends to make to the housing incentive fund. The donor shall use a form that is approved by the  
15 board of housing for the notification, and the board of housing shall preapprove or deny the requested amount  
16 within 30 days after receiving the request from the potential donor. If within 30 days the board of housing fails to  
17 preapprove or deny the request, the request is considered approved. To receive a tax credit under this section,  
18 a donor shall make the contribution to the housing incentive fund within 30 days after receiving notice from the  
19 board of housing that the requested amount was preapproved or within 30 days of the date the amount was  
20 considered approved. If the potential donor does not make the contribution within the required time, the board  
21 of housing may not include the preapproved contribution amount when calculating the limit prescribed in  
22 subsection (5) and the donor may not receive the credit.

23 (8) Preapproval of contributions by the board of housing must be based solely on the availability of tax  
24 credits subject to the aggregate total limit established in subsection (5).

25 (9) To claim the tax credit under this section, a taxpayer shall attach a form that is approved by the board  
26 of housing to the taxpayer's tax return confirming that a donation was made. The form must be signed by the  
27 board of housing and include the taxpayer's name, address, and tax identification number, the amount of the  
28 contribution, the date of the contribution, and the amount of the credit.

29 (10) The contribution amount used to calculate the credit under this section may not be used to calculate  
30 any other state income tax deduction or credit allowed by law.

