Options for Establishing a Property Tax Exemption Review Process

REVENUE INTERIM COMMITTEE
MEGAN MOORE – MAY 2026

AUDIT RECOMMENDS EXEMPTION GOALS AND REVIEW PROCESS

As part of its follow-up work,[1] Legislative Audit Division staff updated the Revenue Interim Committee on the implementation status of recommendations contained in the 2023 performance audit of real property tax exemptions.[2]

The follow-up concluded that the Montana Legislature has not implemented the recommendation to require policy goals and an evaluation process for real property tax exemptions. The committee requested presentation of options for fulfilling the audit recommendation.

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.*

RECOMMENDATION 8A: INCLUDE GOALS, EVALUATION METRICS

Audit recommendation 8A suggests that the Legislature require that new real property exemptions include "policy goals and evaluation metrics that can be used to determine if exemptions are meeting their purpose." Though the Legal Services Office advises against legislation binding a future legislature[3], additional statutory language and increased educational efforts may achieve the goals of the recommendation.

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[1] Legislative Audit Division, "Follow-Up: Real Property Tax Exemptions," Dec. 2025, available from: https://archive.legmt.gov/content/Committees/Interim/2025-2026/RIC/Meetings/February_23_24_2026/real-property-exemption-followup.pdf.

[2] Legislative Audit Division, "Real Property Tax Exemptions: Improving Information Management and Informing Policy Decisions," May 2023, available from https://archive.legmt.gov/content/Committees/Administration/audit/2023-24/Meetings/March-2023/21P-06.pdf.

[3] The legal advice comes from an attorney general opinion finding an expenditure limitation contained in 17-8-106 unenforceable. The opinion stated: "Under our constitution each legislative assembly is vested with the full legislative power of the state with respect to all matters that are constitutionally the subject of legislative power." 2005 MT Att. Gen. Op. Vol. 51, Op. 4.

MIXED RESULTS FROM CURRENT LAW ENCOURAGING PURPOSE STATEMENT

Section 5-4-104 encourages legislation including tax expenditures to include "an explicit purpose." The definition of tax expenditures includes property tax exemptions for which application to the Department of Revenue is required. Though bill drafters generally notify a bill requester of this statute, the requester does not always choose to include a purpose statement.

The Department of Revenue's Biennial Report includes information on the purpose of exemptions when they were enacted.[4] Many of the exemptions in existence before the 2011 enactment of section 5-4-104 do not list a documented purpose.

Among the eight exemptions enacted after 2011, legislation enacting three of the exemptions included an explicit purpose. One included a new section of law with legislative findings, while the other two included the purpose in a preamble. A preamble is included in "Compiler's Comments" in the annotations to the Montana Code but is not contained in the text of the law.

How the purpose statement is included may be worth considering as methods that insert the purpose into state law are more transparent and allow the purpose to be amended.

FEW EXAMPLES OF EVALUATION METRICS IN MONTANA, WASHINGTON REQUIRES

The second part of recommendation 8A is to include evaluation metrics when enacting property tax exemptions. Evaluation metrics are not common in Montana, but the following examples may be useful in considering the audit recommendation.

1. Section 50-5-119 provides that nonprofit hospitals, which are generally tax exempt, shall provide a community benefit greater than the potential property tax liability.[5]
2. The income tax credit review process in section 15-30-2303 directs the Revenue Interim Committee to review credits based on a list of criteria, including whether the credit changes taxpayer decisions and whether the credit affects the economy.

The audit mentions Washington's requirement that tax preferences contain a performance statement that includes the purpose and evaluation metrics.[6] A Washington bill enacting an exemption for property held by a nonprofit developer for the purpose of building residences includes an example of an evaluation metric. The Washington

[4] Department of Revenue, Biennial Report: July 1, 2022-June 30, 2024, available from: https://revenue.mt.gov/files/DOR-Publications/Biennial-Reports/July-1-2022-June-30-2024-Biennial-Report/Biennial-Report-7-1-2022-6-30-2024-Tax-Expenditures.pdf, accessed May 5, 2026, p. 385-386.

[5] The purpose of the metric is to levy a fee on noncompliant hospitals rather than to evaluate the property tax exemption.

[6] "Real Property Tax Exemptions: Improving Information Management and Informing Policy Decisions," p. 34. Washington's law requiring a performance statement is RCW 82.32.808.

Legislature intends to extend the termination date of the exemption if most of the nonprofits claiming the exemption increase spending, expenses, or revenues dedicated to the development of affordable housing.[7]

OPTIONS FOR IMPLEMENTING AUDIT RECOMMENDATION 8A

Though inserting requirements for property exemption legislation may create a constitutional structure concern, implementing some or all the following options may increase the inclusion of policy goals and evaluation metrics in legislation enacting property tax exemptions.

1. Amend 5-4-104 to encourage inclusion of evaluation metrics and recommend purpose statements be inserted in codified sections of law.
2. Recommend that bill drafters advise legislators on the existence of 5-4-104 by adding discussion to the bill drafting manual and staff bill draft training.
3. Recommend that staff educate the taxation committees on 5-4-104 and alert the committee if tax legislation under consideration does not include a purpose statement or evaluation metrics.
4. Include general evaluation metrics, like the income tax credit review criteria, if proposing a property tax exemption review process.

RECOMMENDATION 8B: ASSIGN EVALUATION PROCESS

The second part of the audit recommendation is to assign responsibility for an evaluation and review process for property tax exemptions. Following the precedent of income tax credit reviews and assigning the review to this committee is one option. However, if detailed evaluation is of interest for some exemptions, the committee may need to request additional assistance, perhaps from the Legislative Audit Division, the Legislative Fiscal Division, or an external entity.

The committee should first identify the depth of the review process and, depending on the option chosen, may also need to identify which exemptions and abatements to review and on what schedule.

OPTIONS RANGE FROM REVIEWING DATA EACH INTERIM TO STATUTORY SCHEDULE

The committee should think about how much time to spend on a property tax exemption review process each interim.

A process with the least involvement could include a review of data contained in the Biennial Report each interim. Available data includes a list of exemptions and estimated exempt market value, local tax shifts, and state revenue

[7] Substitute Senate Bill 6211 (2016), available from: https://lawfilesext.leg.wa.gov/biennium/2015-16/Pdf/Bills/Senate%20Passed%20Legislature/6211-S.PL.pdf, accessed May 8, 2026.

loss. Regular review of exemption data would be informative and could allow additional work on exemptions of interest (within work plan parameters).

A more involved process may include reviewing Biennial Report data and selecting specific exemptions for detailed evaluation each interim. A detailed evaluation may include a legislative history of the exemption, reviewing use of the exemption over time, input from DOR on administration of the exemption, and inviting exempt entities to comment on the exemption. This process would allow flexibility while also resulting in more detailed evaluations. The committee could also request assistance from another entity if staff is not able to provide the desired level of evaluation, though there is no guarantee other entities will have capacity to assist.

The most involved option is to establish a detailed review schedule in statute, like the process for reviewing income tax credits. This will require committee decisions about which exemptions to review and over what timeframe. There are tradeoffs between how much time to spend on the reviews each interim and how long it will take to work through the exemptions. The option to request assistance also could apply for a statutory review schedule.

Review existing data

Advantages: Monitor all exemptions each interim; could do more detailed evaluation for some if work plan allows	**Disadvantages:** May result in few, if any, detailed evaluations

Review existing data, select specific exemptions for detailed evaluation

Advantages: Monitor all exemptions each interim; allows flexibility for detailed evaluations	**Disadvantages:** Not a systematic approach to detailed evaluations

Establish review schedule in statute

Advantages: Statutory requirement more likely to result in systematic approach to detailed evaluations	**Disadvantages:** Could require significant committee time

A STATUTORY REVIEW PROCESS REQUIRES MORE COMMITTEE DECISIONS

If opting to provide a detailed review schedule in statute, the committee should provide direction on which exemptions or abatements to review and how to sort the exemptions into a review schedule. Options may include sorting by date of enactment, by size or number of exemptions, or by type of exemption.

The following table categorizes exemptions and abatements and indicates the approving entity, length of the exemption or abatement, and the impacted mill levies. An appendix beginning on page 6 lists exemptions and abatements using these categories.[8]

Type of Exemption or Abatement	Approving Entity	Time Period	Impacted Mill Levies
General exemption	State	Ongoing	All
Limited exemption	State	May be limited	May be limited
Local exemption	County and/or city	Ongoing	Mills of the approving local government*
State abatement	State	Limited: reduction in value usually decreases over the abatement period	All
Local abatement	County and/or city	Limited: reduction in value usually decreases over the abatement period	Mills of the approving local government*
Property tax assistance	State	Ongoing	All

*May also apply to local school mills

[8] This overview does not contemplate reviewing personal property exemptions, though the committee could propose including them. For a list, see p. 389 of Department of Revenue, Biennial Report: July 1, 2022-June 30, 2024, available from: https://revenue.mt.gov/files/DOR-Publications/Biennial-Reports/July-1-2022-June-30-2024-Biennial-Report/Biennial-Report-7-1-2022-6-30-2024-Tax-Expenditures.pdf, accessed May 12, 2026.

Name	MCA	Enacted	Major Amend.	Application	Count	Exempt MV	Total Benefit
General Exemptions							
Pollution Control & Carbon Capture	15-6-135(3)(b)(i)	2015	2017	Yes	19	$2,351,410,706	$35,066,282
Governmental Property	15-6-201(1)(a)(i) - (vii)	1891, 1977, 1993, 2009	1993	No	119,406	$16,402,626,884	$122,831,080
Property Owned by a Federally Recognized Indian Tribe Within a Reservation Used for Government Purposes	15-6-201(1)(a)(viii)	2011	2013	Yes	Included in governmental property		
Religious Exemptions	15-6-201(1)(b)	1891	1975, 2005	Yes	2,665	$2,114,170,334	$23,567,493
Property Owned by a Federally Recognized Indian Tribe Used for Religious Purposes	15-6-201(1)(c)	2011	None	Yes	Included in religious exemptions		
Agricultural & Horticultural Societies	15-6-201(1)(d)	1891	2005	Yes	5	$5,159,101	$49,802
Educational Exemptions	15-6-201(1)(e)	1891	2005	Yes	239	$890,606,523	$9,730,383
Property Owned by a Tribal Corp. Used for Educational Purposes	15-6-201(1)(f)	2011	None	Yes	Included in educational exemptions		
Nonprofit Healthcare	15-6-201(1)(g)	1891	1987	Yes	473	$2,702,451,290	$32,087,313
Cemeteries, Mausoleums, Crematories	15-6-201(1)(h)	1891, 2011	1977, 1979	Yes	155	$24,433,901	$280,842
Charitable Exemptions	15-6-201(1)(i)	1891	1965, 1995, 1999, 2005	Yes	1,352	$1,220,619,858	$13,810,811
Art Galleries, Observatories, Zoos, Museums	15-6-201(1)(k)	1911	2005	Yes	115	$110,204,759	$1,157,012
Nonprofit Water Association	15-6-201(1)(l)	1987	None	Yes	92	$14,726,614	$138,708
Developmentally Disabled/Mentally Impaired Organization	15-6-201(1)(n)(i)	1983	None	Yes	361	$202,822,325	$2,315,677
Retired, Aged, Chronically Ill Organization	15-6-201(1)(n)(ii)	1991	2017	Yes	52	$173,065,755	$2,162,384
Nonprofit International Athletic Facility	15-6-201(1)(o)	1987	None	Yes	1	$379,254	$4,360
Property Leased to a Taxing Unit for Less Than $100 a Year and Used for Public Park, Recreation, or Landscape Beautification	15-6-201(1)(p)	2015	None	Yes	-	-	-
Veteran's Clubhouse	15-6-203(1)	1931	1999, 2011, 2017	Yes	98	$34,637,666	$379,660

Name	MCA	Enacted	Major Amend.	Application	Count	Exempt MV	Total Benefit
General Exemptions, Continued							
Property of Incompetent Veterans Held by a Guardian	15-6-203(2)	1891	None	Yes	-	-	-
State Water Conservation Projects	15-6-205	1937	1947	No	-	-	-
Irrigation and Drainage Facilities	15-6-206	1965	None	No	-	-	-
Farm Buildings < $500	15-6-207(3)	2005	None	No	18,612	$5,788,024	$38,297
Community Service Building/Fraternal	15-6-209	1977	1981, 1997	Yes	349	$155,320,925	$1,785,634
Intangible Personal Property	15-6-218	1999	2005	No	N/A	$2,580,618,389	$86,656,500
Agricultural Processing Facility	15-6-220	1999	2005, 2017, 2019, 2021	Yes	19	$85,466,545	$1,359,451
Low-Income Housing	15-6-221	1999	2021	Yes	260	$855,515,764	$10,453,211
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	Yes	2	$1,199,874	$15,172
Transmission Line Right-of-Way	15-6-229	2007	None	Yes	433	$4,169,402	$47,707
Low Value Mobile Home	15-6-241	2019	None	No	10,471	$66,225,683	$490,973
Abandoned Mobile Home	15-6-242	2019	None	Yes	22	$152,980	$894
Property Impacted by Natural Disaster	15-16-611	1979	1981, 1991, 2025	Yes	68	$6,255,822	$61,411
Deeded Exempt Right of Way	15-24-1208	1891	None	No	75	$4,373,499	$43,208
Navigable River	15-24-1209	2009	None	No	141	$1,228,783	$10,957
Open Space	76-6-208	1969	1975	No	968	$226,307,304	$1,682,415
Limited Exemptions							
Renewable Small Electric Generation	15-6-225	2001	2003	Yes	2	$497,730	$24,041
Temporary Tribal Tax Exemption	15-6-230	2011	2021	Yes	85	$6,380,371	$65,528
Property Used in the Manufacture of Ammunition Components (Terminates 2035)	15-24-1411	2015	None	Yes	-	-	-

Name	MCA	Enacted	Major Amend.	Application	Count	Exempt MV	Total Benefit
Local Exemptions							
Business Incubator	15-24-1802	1989	1999, 2013	Yes	-	-	-
Industrial Trade Park	15-24-1902	1989	1991, 2005, 2013	Yes	-	-	-
Land and Buildings of a Local Economic Development Organization	15-24-2002	1991	2005, 2013	Yes	-	-	-
State Abatements							
Energy Production/Development Abatement	15-24-3111	2007	2023	Yes	5	-	$1,464,384
New Fiber Optic/Coaxial Cable Exemption	15-6-135, 15-36-156,15-36-219	2021	2025	Yes	10	$113,359,539	$2,221,288
Local Abatements							
New Manufacturing Machinery/Equipment	15-6-138(4)(b)	2023	None	Yes	11	-	$1,298,383
New or Expanding Industry Abatement	15-24-1401	1981	1987, 2013, 2017	Yes	No DOR data		
Remodeling Abatement	15-24-1501	1981	1985, 2005	Yes	No DOR data		
Historic Properties Abatement	15-24-1603	1989	2013	Yes	No DOR data		
Property Tax Assistance							
Disabled Veterans Program (MDV)	15-6-311	1979	2015, 2023	Yes	3,455	-	$8,068,190
Injured First Responder Program	15-6-314	2025	None	Yes	First available in 2026		
Property Tax Assistance Program (PTAP)	15-6-305	1979	2015, 2023	Yes	30,468	-	$36,403,396
Intangible Land Value Exemption	15-6-240	2017	2023	Yes	231	-	$674,841

Sources: Real Property Tax Exemptions: Improving Information Management and Informing Policy Decisions, Department of Revenue Biennial Report, and staff research.