

**LEGISLATIVE REFERENDUM NO. 123  
BALLOT LANGUAGE**

LEGISLATIVE REFERENDUM NO. 123

AN ACT REFERRED BY THE LEGISLATURE

AN ACT CREATING THE TREASURE STATE TAXPAYER DIVIDEND PROGRAM; ALLOWING TAXPAYERS A REFUND OF SURPLUS STATE GOVERNMENT FUND BALANCE THROUGH AN INCOME TAX CREDIT; AND PROVIDING THAT THE TAX CREDIT IS BASED UPON THE RELATIVE AMOUNTS OF ALL PROPERTY TAXES PAID ON A CLAIMANT'S PRINCIPAL RESIDENCE AND UPON THE AMOUNT OF INDIVIDUAL INCOME TAXES THAT HAD BEEN PAID BY THE CLAIMANT; PROVIDING THAT THE PROPOSED ACT BE SUBMITTED TO THE QUALIFIED ELECTORS OF MONTANA; AND PROVIDING AN EFFECTIVE DATE.

LR-123 creates a contingent income tax credit for individual taxpayers. The credit is triggered if the unaudited ending state general fund balance exceeds 125% of the projected fund balance and this excess balance over 125% is at least \$5 million. Each taxpayer's credit is determined by multiplying the amount they paid in property and income taxes the previous tax year by a percentage as set out in LR-123. The resulting amount is then deducted from the current year's income taxes. If the credit exceeds the tax liability of the claimant, the excess must be refunded to the claimant.

If triggered in 2013, the estimated cost to administer the credit is \$119,924. Each time the credit is triggered, revenue to the general fund will decline by the total amount of the credit. The general fund is the primary funding source for K-12 education, human services, and corrections.

- FOR contingently providing taxpayers refunds of surplus state government general fund balance through an income tax credit based upon property and individual income taxes paid.
  
- AGAINST contingently providing taxpayers refunds of surplus state government general fund balance through an income tax credit based upon property and individual income taxes paid.

**THE COMPLETE TEXT OF SENATE BILL NO. 426, REFERRED BY LR-123**

AN ACT CREATING THE TREASURE STATE TAXPAYER DIVIDEND PROGRAM; ALLOWING TAXPAYERS A REFUND OF SURPLUS STATE GOVERNMENT FUND BALANCE THROUGH AN INCOME TAX CREDIT; AND PROVIDING THAT THE TAX CREDIT IS BASED UPON THE RELATIVE AMOUNTS OF ALL PROPERTY TAXES PAID ON A CLAIMANT'S PRINCIPAL RESIDENCE AND UPON THE AMOUNT OF INDIVIDUAL INCOME TAXES THAT HAD BEEN PAID BY THE CLAIMANT; PROVIDING THAT THE PROPOSED ACT BE SUBMITTED TO THE QUALIFIED ELECTORS OF MONTANA; AND PROVIDING AN EFFECTIVE DATE.

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

**Section 1. Tax credits based on surplus fund balance -- property tax -- income tax.**

(1) (a) The department of administration shall certify to the budget director, by August 1 of each year, the amount of unaudited general fund balance in the prior fiscal year as recorded when the prior fiscal year statewide accounting, budgeting, and human resource system records are closed in July. General fund balance is as recorded in the statewide accounting, budgeting, and human resource system using generally accepted accounting principles in accordance with 17-1-102(2). Tax credits are allowed under this section if the unaudited general fund balance in the fiscal year exceeds 125% of the budgeted general fund balance for that fiscal year [and if the tax rate specified in 15-6-138(3)(a)(ii) has been in effect for at least 1 tax year]. Tax credits are not allowed under this section unless the excess balance is at least \$5 million. One-half of the amount in excess of 125% must be distributed in the form of individual income tax credits related to the property taxes paid on the taxpayer's principal residence and related to the taxpayer's individual income tax paid.

(b) There is a credit against taxes imposed by this chapter equal to the amount determined under subsection (2).

(2) (a) If a tax credit is allowed under subsection (1)(a), the department shall determine the percentage by dividing the amount to be refunded by the amounts of the total collections that are attributable to total statewide property tax that was assessed, other than local option vehicle tax under 61-3-537, and total individual income tax collections for the same fiscal year as the general fund balance.

(b) The property tax share of the excess balance must be reimbursed to property taxpayers based upon an amount of each taxpayer's property taxes paid on the taxpayer's principal residence in the taxpayer's income tax year. To determine the amount, the department shall multiply the percentage determined in subsection (2)(a) by the individual's total property taxes paid on the principal residence in the prior year.

(c) The income tax share of the excess balance must be distributed to taxpayers as a credit under this chapter based upon an amount each taxpayer paid in Montana individual income taxes pursuant to 15-30-2103 in the immediately preceding tax year. To determine the amount, the department shall multiply the percentage determined in subsection (2)(a) by the individual's income taxes paid in the prior year.

(3) Only one claim may be made with respect to any property.

(4) A claim is not allowed under this section if there are delinquent property taxes owed on the principal residence.

(5) If the amount of the credit exceeds the claimant's liability under this chapter, the amount of the excess must be refunded to the claimant. The credit may be claimed even if the claimant has no income that is taxable under this chapter.

(6) The department may adopt rules to implement and administer this section.

(7) As used in this section, the following definitions apply:

(a) "Budgeted general fund balance" is a projected general fund balance calculated by the legislative fiscal analyst by August 1 for each fiscal year. In determining the projected general fund balance, the legislative fiscal analyst shall use the appropriate fiscal year amounts as utilized by the legislature in developing the biennial budget. The fiscal year amounts are anticipated revenues and transfers that include the impacts of enacted legislation, established level of appropriations and transfers, anticipated supplemental appropriations, and anticipated reversions. To calculate the projected balance, the legislative fiscal analyst shall add the unassigned fund balance from the most recent completed fiscal year plus the anticipated revenues and transfers less the level of appropriations and transfers, supplemental appropriations, and anticipated reversions for the most recent completed fiscal year.

(b) "Principal residence" means a class four residential dwelling that is a single-family dwelling unit, unit of a multiple-unit dwelling, trailer, manufactured home, or mobile home that is located in Montana and occupied by the owner for at least 7 months during the tax year and includes as much of the surrounding land, not exceeding 5 acres, as is reasonably necessary for its use as a dwelling.

(8) This section may be cited as the "Treasure State Taxpayer Dividend Program".

**Section 2. Codification instruction.** [Section 1] is intended to be codified as an integral part of Title 15, chapter 30, and the provisions of Title 15, chapter 30, apply to [section 1].

**Section 3. Contingent voidness.** If Senate Bill No. 372 is not passed and approved or if Senate Bill No. 372 is rendered void, then the bracketed language in [section 1(1)(a)] is void.

**Section 4. Effective date.** If approved by the electorate, [this act] is effective January 1, 2013.

**Section 5. Submission to electorate.** [This act] shall be submitted to the qualified electors of Montana at the general election to be held in November 2012 by printing on the ballot the full title of [this act] and the following:

[ ] FOR contingently providing taxpayers refunds of surplus state government general fund balance through an income tax credit based upon property and individual income taxes paid.

- [ ] AGAINST contingently providing taxpayers refunds of surplus state government general fund balance through an income tax credit based upon property and individual income taxes paid.