

Robert L. Sterup
BROWN LAW FIRM, P.C.
315 North 24th Street
P.O. Drawer 849
Billings, MT 59103-0849
Tel. (406) 248-2611
Fax (888) 289-8359
rsterup@brownfirm.com
Attorneys for Plaintiffs

**MONTANA EIGHTEENTH JUDICIAL DISTRICT COURT
GALLATIN COUNTY**

GREG HERTZ, TOM MCGILLVRAY,) CASE NO. DV
KEITH REGIER;) ,

Plaintiffs,

COMPLAINT

vs.

STATE OF MONTANA, MONTANA
DEPARTMENT OF REVENUE,
BRENDAN BEATTY, in his official
capacity as Director of the Department of
Revenue

Defendants.

COME NOW Plaintiffs Greg Hertz, Tom McGillvray, and Keith Regier, who bring
this action against the above-named Defendants, and state, aver, and allege as follows:

I. PARTIES

1. Plaintiff Greg Hertz is a Montana taxpayer who resides in Lake County. He is
currently a member of the Montana Senate, where he chairs the Senate Taxation Committee.
Senator Hertz previously served in the Montana House from 2013 to 2020, serving as House
Speaker during the 2019 session. As a direct result of SB 542's enactment, Senator Hertz's
property taxes on his residence increased. He brings this action to enforce the constitutional
limits governing the Legislature.

1 2. Plaintiff Tom McGillvray is a Montana taxpayer who resides in Yellowstone
2 County and who is currently the Majority Leader of the Montana Senate. He previously served
3 in the Montana House from 2005 to 2012. Senator McGillvray owns a cabin in Carbon
4 County. As a result of SB 542's enactment, the tax rate on Senator McGillvray's cabin
5 increased from 1.35% to 1.9% as of January 1, 2026.

6 3. Plaintiff Keith Regier is a Montana taxpayer who resides in Flathead County. He
7 previously served in the Montana House of Representatives from 2009 to 2016 and the
8 Montana Senate from 2017 to 2024. Senator Regier owns a cabin in Flathead County. As a
9 result of SB 542's enactment, the tax rate on this cabin increased from 1.35% to 1.9% as of
10 January 1, 2026.

11 4. Defendant State of Montana is sued as the sovereign entity responsible for the
12 enactment and enforcement of SB 542.

13 5. Defendant Montana Department of Revenue (DOR) is the state agency
14 responsible for administering and implementing Montana's property tax laws, including SB
15 542.
16

17 6. Defendant Brendan Beatty is the Director of the Montana Department of
18 Revenue. He is sued in his official capacity as the state official responsible for implementing
19 and enforcing SB 542's provisions.
20

21 **II. JURISDICTION AND VENUE**

22 7. This Court has subject matter jurisdiction over this action under Mont. Const.
23 art. V, § 11(6), Mont. Code Ann. § 3-5-302(1), and Mont. Code Ann. § 15-1-406(1)(b).

24 8. The 2025 Montana Legislature enacted SB 97, which provides that
25 constitutional challenges to recently enacted legislation must be filed "in the district court of
26

1 the county or counties containing the legislative district represented by the primary sponsor of
2 the legislation challenged.” Senator Wylie Galt was the primary sponsor of SB 542. Senator
3 Galt represents Senate District 39, which includes territory within Gallatin County, Montana.
4 Accordingly, venue is proper in the Eighteenth Judicial District Court, Gallatin
5 County, Montana.

6 **III. STATEMENT OF FACTS**

7 9. Senator Galt introduced SB 542 (the “Act”) in the 2025 Montana Legislative
8 Session. On April 18, 2025, the House Taxation Committee amended SB 542 by adding over
9 40 pages of permanent tax restructuring copied from HB 231, creating graduated tax rates,
10 application requirements, and complex administrative procedures. Within 24 hours, both the
11 House and Senate gave final approval to SB 542 and the 2025 legislative session adjourned.
12 On May 13, 2025, Governor Greg Gianforte signed SB 542 into law.

14 10. SB 242 implements a permanent restructuring of Montana’s property tax
15 system through graduated tax rates that vary for properties within the same tax classification.
16 SB 242 creates seven different residential property tax rate tiers ranging from 0.76% to 2.2%
17 based on market value brackets. SB 242 also restructures commercial property tax rates into a
18 two-tiered system with different rates for values below and above \$400,000, and creates
19 extensive new administrative procedures for applying for reduced tax rates, including penalties
20 for false applications and appeal processes.

22 11. Under SB 242, Montana Code Ann. §15-6-134 places residential property in
23 Class Four at a tax rate of 1.9% of market value. “(a) Except as provided in subsections (3)(b)
24 and (3)(c), class four residential property described in subsections (1)(a) through (1)(d) of this
25 section is taxed at 1.9% of market value.”
26

1 12. Residential properties within Class 4 that is “described in subsections (1)(a),
2 (1)(b)(i), (1)(b)(ii), and (1)(d)” of the Act are subject to tax rates that vary depending on the
3 market value of the residential property.

4 a. Section (1)(a) property is “all land, except that specifically included in
5 another class.”

6 b. Section (1)(b)(i) property is “all improvements, including single-family
7 residences, trailers, manufactured homes, or mobile homes used as a residence, except
8 those specifically included in another class.”

9 c. Section (1)(b)(ii) property is “(ii) appurtenant improvements to the
10 residences, including the parcels of land upon which the residences are located and any
11 leasehold improvements.”

12 d. Section (1)(d) property is “1 acre of real property beneath residential
13 improvements on land described in 15-6-133(1)(c) and 1 acre of real property beneath
14 an improvement used as a residence on land eligible for valuation, assessment, and
15 taxation as forest land under 15-6-143. The 1 acre must be valued at market value.”

16 13. Under the Act, Montana Code Ann. §15-6-405 as amended provides for a
17 “homestead reduced tax rate” for the “owner of a principal residence who applied for and
18 received the rebate provided for in 15-1-2305 through 15-1-2307 for tax year 2024.”

19 14. Under the Act, Montana Code Ann. §15-6-411 as amended provides for a
20 “rental property reduced tax rate.”

21 15. Under the Act, “residential property described in subsections (1)(a), (1)(b)(i),
22 (1)(b)(ii), and (1)(d) of this section that qualifies for the homestead reduced tax rate provided
23 for in 15-6-405 or the rental property reduced tax rate provided for in 15-6-411” are subject to
24 for in 15-6-405 or the rental property reduced tax rate provided for in 15-6-411” are subject to
25 for in 15-6-405 or the rental property reduced tax rate provided for in 15-6-411” are subject to
26 for in 15-6-405 or the rental property reduced tax rate provided for in 15-6-411” are subject to

1 varying tax rates:

2 (A) 0.76% for the market value that is less than or equal to the median
3 residential value;

4 (B) 0.9% for the market value that is greater than the median residential
5 value and less than 2 times the median residential value;

6 (C) 1.1% for the market value that is 2 times the median residential value
7 or greater and less than 4 times the median residential value; and

8 (D) 1.9% for the market value that is 4 times the median residential value
9 or greater.

10 (ii) The tax rate for a rental multifamily dwelling unit described in
11 subsection (1)(b)(iv) that qualifies for the rental property reduced tax rate
12 is 1.1%.

13 (c) The tax rate for property described in subsection (1)(c) that does not
14 qualify for the homestead reduced tax rate or the rental property reduced
15 tax rate is 1.35%.

16 (d) The tax rate for commercial and industrial property described in
17 subsections (1)(e) and (1)(f), except property described in subsections
18 (1)(f)(ii) [and (1)(f)(iv)], is: (i) for the market value less than 6 times the
19 median commercial and industrial value, 1.5%; and (ii) for the market
20 value 6 times the median commercial and industrial value or greater, 1.9%.

21 (e) Property described in subsections (1)(f)(ii) and (1)(f)(iv) is taxed at
22 one-half the tax rate established in subsection (3)(d).

23 16. Under the Act, the following definitions apply:

24 (a) "Median commercial and industrial value" means the median value of
25 class four commercial and industrial property located in the state of
26 Montana rounded to the nearest thousand dollars.

(b) "Median residential value" means the median value of a single-
family residence located in the state of Montana rounded to the nearest
thousand dollars.

Under the Act the "department shall calculate the median residential value and median
commercial and industrial value every 2 years as part of the periodic reappraisal provided for in
15-7-111."

17. Under the Act, Class 4 taxpayers are subjected to widely varying tax rates for

1 properties within the same tax class with resulting unequal treatment of members of the same
2 tax class. Without limitation:

3 a. The tax rate for Class 4 properties that are not described in subsections (1)(a),
4 (1)(b)(i), (1)(b)(ii), and (1)(d) of this section and that qualify for the homestead reduced tax rate
5 provided for in §15-6-405 or the rental property reduced tax rate provided for in §15-6-411 is
6 **1.9%** of market value.

7 b. The tax rate for Class 4 properties that are described in subsections (1)(a),
8 (1)(b)(i), (1)(b)(ii), and (1)(d) and that qualify for the homestead reduced tax rate provided for
9 in §15-6-405 or the rental property reduced tax rate provided for in §15-6-411 (the “Qualifying
10 Property”) is as low as “**0.76%** for the market value that is less than or equal to the median
11 residential value.”
12

13 c. For such Qualifying Property the tax rate is **0.9%** for the market value that is
14 greater than the median residential value and less than 2 times the median residential value.

15 d. For such Qualifying Property the tax rate is **1.1%** for the market value that is 2
16 times the median residential value or greater and less than 4 times the median residential value
17 is **1.9%** for the market value that is 4 times the median residential value or greater.
18

19 e. The taxable value of residential property within the same Class 4 is subject to
20 unequal treatment under the Act, with the result that tax burden is shifted away from some class
21 members to other class members within the same class.

22 f. Under the Act, “(d) The tax rate for commercial and industrial property
23 described in subsections (1)(e) and (1)(f), except property described in subsections (1)(f)(ii)
24 [and (1)(f)(iv)], is: (i) for the market value less than 6 times the median commercial and
25 industrial value, 1.5%; and (ii) for the market value 6 times the median commercial and
26

1 industrial value or greater, 1.9%.”

2 g. Section (1)(e) provides that “real property beneath commercial improvements
3 and as much of the surrounding land that is reasonably required to support the commercial
4 improvements on land described in §15-6-133(1)(c) and real property beneath commercial
5 improvements and as much of the surrounding land that is reasonably required to support the
6 commercial improvements on land eligible for valuation, assessment, and taxation as forest
7 land under 15-6-143. The land must be valued at market value.”

8 h. Section (1)(f) provides that “(f) all commercial and industrial property, as
9 defined in 15-1-101, and including: (i) all commercial and industrial property that is used or
10 owned by an individual, a business, a trade, a corporation, a limited liability company, or a
11 partnership and that is used primarily for the production of income; (ii) all golf courses,
12 including land and improvements actually and necessarily used for that purpose, that consist of
13 at least nine holes and not less than 700 lineal yards; (iii) commercial buildings and parcels of
14 land upon which the buildings are situated; (iv) shooting ranges that are not exempt from
15 property taxes under 15-6-201 and are operated by an entity that is a nonprofit corporation
16 exempt from taxation under 26 U.S.C. 501(c)(3) or 501(c)(4) of the Internal Revenue Code, as
17 amended, and incorporated or admitted under a certificate of authority under the Montana
18 Nonprofit Corporation Act as provided in Title 35, chapter 2; and (v) vacant commercial lots.”

21 i. Under the Act, “(d) The tax rate for commercial and industrial property
22 described in subsections (1)(e) and (1)(f), except property described in subsections (1)(f)(ii)
23 [and (1)(f)(iv)], is: (i) for the market value less than 6 times the median commercial and
24 industrial value, 1.5%; and (ii) for the market value 6 times the median commercial and
25 industrial value or greater, 1.9%. (e) Property described in subsections (1)(f)(ii) and (1)(f)(iv)
26

1 is taxed at one-half the tax rate established in subsection (3)(d).”

2 18. The taxable value of commercial property within the same Class 4 is subject to
3 unequal treatment under the Act, with the result that tax burden is shifted away from some class
4 members to other class members within the same class. Under § 15-6-134(3), Class 4 property
5 is not taxed at a single rate. Instead, the statute creates rate tiers within the class. All of this
6 property remains within the single statutory label of "Class 4," yet it is subjected to materially
7 different effective tax rates.

8 **COUNT I – DECLARTORY JUDGEMENT**

9
10 19. Plaintiffs re-allege Paragraphs 1-18 above.

11 20. Pursuant to MCA §§ 27-8-201 and 202, this Court may adjudicate and declare
12 the legal and constitutional rights of the Parties with respect to the property tax statutes placed
13 at issue by this Complaint.

14 21. Under Montana law and the Montana Constitution members of a class must be
15 given the same tax treatment. A tax is not uniform when a different rate or valuation method is
16 applied to like property.

17
18 22. A tax system which causes certain taxpayers to bear a disproportionate share of
19 the property tax burden violates the taxpayers' right to equal protection of the laws guaranteed
20 by Article II, Section 4 and Article VIII sections 3 and 4 of the Montana Constitution and the
21 equal protection clause of the United States Constitution Section 1 of the Fourteenth
22 Amendment. The equal protection clauses protect the individual from state action which
23 selects him or her out for discriminatory treatment by subjecting him or her to taxes not
24 imposed on others of the same class.

25 23. Where two Class 4 property owners hold property of similar market value but
26

1 one qualifies for the homestead or rental reduced rate and the other does not, the non-qualifying
2 owner bears a disproportionate share of the tax burden despite holding property within the
3 identical statutory class. Montana's Constitution requires that property of the same class must
4 be taxed uniformly, and any difference in rate shows discrimination and inequality violative of
5 the constitutional mandate of uniformity.

6 24. While the Legislature has authority to create different classes, once a class is
7 defined, the uniformity requirement of the Montana Constitution demands equal treatment
8 within the class. A tax is not uniform when a different rate or valuation method is applied to
9 like property. Classification is permissible; intra-class discrimination is not.

10 25. The Montana Constitution and a long line of Montana Supreme Court decisions
11 establish that taxes must be uniform upon the same class of subjects, and applying different
12 rates to property of the same class constitutes unconstitutional discrimination.

13 26. Plaintiffs seek relief pursuant to Montana's Declaratory Judgment Act as
14 follows: A declaration that Mont. Code Ann. §15-6-134's imposition of multiple tax rates on
15 property the Legislature itself has placed within a single Class 4 class violates both the
16 Montana uniformity doctrine — which requires that members of a class receive the same tax
17 treatment — and the equal protection guarantee of Article II, Section 4 of the Montana
18 Constitution, which prohibits subjecting a taxpayer to taxes not imposed on others of the same
19 class.
20
21

22 PRAYER FOR RELIEF

23 WHEREFORE, Plaintiffs respectfully request that this Court:

24 1. Declare that §15-6-134 as amended by SB 542 violates both the Montana
25 uniformity doctrine and the equal protection guarantee of Article II, Section 4 of the Montana
26

1 Constitution.

2 2. Award Plaintiffs their costs and reasonable attorney fees pursuant to applicable
3 law; and

4 3. Grant such other and further relief as the Court deems just and proper.

5 DATED this 12th day of October, 2026.

6 BROWN LAW FIRM, P.C.

7 By /s/ Robert L. Sterup
8 Robert L. Sterup
9 *Attorney for Plaintiffs*