

HOUSE BILL 802

Introduced by Menahan, et al.

2/13	Introduced
2/13	Referred to Taxation
2/13	First Reading
2/13	Fiscal Note Requested
2/18	Fiscal Note Received
2/20	Fiscal Note Printed
3/12	Hearing
3/27	Tabled in Committee

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INTRODUCED BY HOUSE BILL NO. 802  
*Menahon Houghton B. McCreedy*

A BILL FOR AN ACT ENTITLED: "AN ACT DEFINING "RECREATIONAL LAND" FOR PURPOSES OF TAXATION; SETTING THE TAX RATE APPLICABLE TO RECREATIONAL LAND AT THE RATE GENERALLY APPLICABLE TO PROPERTY IN CLASS FOUR; AMENDING SECTIONS 15-1-101, 15-6-134, 15-6-144, AND 15-7-202, MCA AND PROVIDING AN APPLICABILITY DATE."

WHEREAS, the tax base of property subject to property taxation has been gradually but constantly eroding for at least the last 10 years; and

WHEREAS, part of the erosion of the property tax base can be traced to the slow exodus of persons moving from cities and towns to suburban areas or onto "ranchettes"; and

WHEREAS, land that has historically and traditionally been used solely for agricultural or silvicultural purposes is beginning to also be rented or leased for purposes of recreation; and

WHEREAS, the property tax treatment of "ranchettes" as agricultural land has substantially eroded the tax base of schools and local governments; and

WHEREAS, agricultural land that is also leased for recreational purposes bears a closer resemblance to

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commercial land than to truly agricultural land.  
THEREFORE, the Legislature of the State of Montana finds that it is appropriate to revise the taxation of certain types of property to more accurately reflect the true use and concomitant value of the property.

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

**Section 1.** Section 15-1-101, MCA, is amended to read:

"15-1-101. Definitions. (1) Except as otherwise specifically provided, when terms mentioned in this section are used in connection with taxation, they are defined in the following manner:

(a) The term "agricultural" refers to the raising of livestock, poultry, bees, and other species of domestic animals and wildlife in domestication or a captive environment, and the raising of field crops, fruit, and other animal and vegetable matter for food or fiber.

(b) The term "assessed value" means the value of property as defined in 15-8-111.

(c) The term "average wholesale value" means the value to a dealer prior to reconditioning and profit margin shown in national appraisal guides and manuals or the valuation schedules of the department of revenue.

(d) (i) The term "commercial", when used to describe property, means any property used or owned by a business, a



1 trade, or a nonprofit corporation as defined in 35-2-102 or  
2 used for the production of income, except that property  
3 described in subsection (ii).

4 (ii) The following types of property are not commercial:

5 (A) agricultural lands;

6 (B) timberlands;

7 (C) single-family residences and ancillary improvements  
8 and improvements necessary to the function of a bona fide  
9 farm, ranch, or stock operation;

10 (D) mobile homes used exclusively as a residence except  
11 when held by a distributor or dealer of trailers or mobile  
12 homes as his stock in trade;

13 (E) all property described in 15-6-135; and

14 (F) all property described in 15-6-136.

15 (e) The term "comparable property" means property that  
16 has similar use, function, and utility; that is influenced  
17 by the same set of economic trends and physical,  
18 governmental, and social factors; and that has the potential  
19 of a similar highest and best use.

20 (f) The term "credit" means solvent debts, secured or  
21 unsecured, owing to a person.

22 (g) The term "improvements" includes all buildings,  
23 structures, fences, and improvements situated upon, erected  
24 upon, or affixed to land. When the department of revenue or  
25 its agent determines that the permanency of location of a

1 mobile home or housetrailer has been established, the mobile  
2 home or housetrailer is presumed to be an improvement to  
3 real property. A mobile home or housetrailer may be  
4 determined to be permanently located only when it is  
5 attached to a foundation which cannot feasibly be re-located  
6 and only when the wheels are removed.

7 (h) The term "leasehold improvements" means  
8 improvements to mobile homes and mobile homes located on  
9 land owned by another person. This property is assessed  
10 under the appropriate classification and the taxes are due  
11 and payable in two payments as provided in 15-24-202.  
12 Delinquent taxes on such leasehold improvements are a lien  
13 only on such leasehold improvements.

14 (i) The term "livestock" means cattle, sheep, swine,  
15 goats, horses, mules, and asses.

16 (j) The term "mobile home" means forms of housing known  
17 as "trailers", "housetrainers", or "trailer coaches"  
18 exceeding 8 feet in width or 45 feet in length, designed to  
19 be moved from one place to another by an independent power  
20 connected to them, or any "trailer", "housetrailer", or  
21 "trailer coach" up to 8 feet in width or 45 feet in length  
22 used as a principal residence.

23 (k) The term "personal property" includes everything  
24 that is the subject of ownership but that is not included  
25 within the meaning of the terms "real estate" and

1 "improvements".

2 (l) The term "poultry" includes all chickens, turkeys,  
3 geese, ducks, and other birds raised in domestication to  
4 produce food or feathers.

5 (m) The term "property" includes moneys, credits,  
6 bonds, stocks, franchises, and all other matters and things,  
7 real, personal, and mixed, capable of private ownership.  
8 This definition must not be construed to authorize the  
9 taxation of the stocks of any company or corporation when  
10 the property of such company or corporation represented by  
11 the stocks is within the state and has been taxed.

12 (n) The term "real estate" includes:

13 (i) the possession of, claim to, ownership of, or right  
14 to the possession of land;

15 (ii) all mines, minerals, and quarries in and under the  
16 land subject to the provisions of 15-23-501 and Title 15,  
17 chapter 23, part 8; all timber belonging to individuals or  
18 corporations growing or being on the lands of the United  
19 States; and all rights and privileges appertaining thereto.

20 (o) The term "recreational land" means a parcel of  
21 land:

22 (i) totaling 20 acres or more that would not be  
23 classified as agricultural land if required to meet the  
24 qualifications of 15-7-202(2)(a) or (2)(b) and on which  
25 there is a residence, leasehold improvement, or mobile home;

1 or

2 (ii) that is regularly used for agricultural purposes,  
3 including growing timber, but that is also leased for  
4 recreational purposes, including but not limited to hunting,  
5 fishing, camping, hiking, backpacking, sightseeing, skiing,  
6 or snowmobiling.

7 (p) "Research and development firm" means an entity  
8 incorporated under the laws of this state or a foreign  
9 corporation authorized to do business in this state whose  
10 principal purpose is to engage in theoretical analysis,  
11 exploration, and experimentation and the extension of  
12 investigative findings and theories of a scientific and  
13 technical nature into practical application for experimental  
14 and demonstration purposes, including the experimental  
15 production and testing of models, devices, equipment,  
16 materials, and processes.

17 (q) The term "taxable value" means the percentage of  
18 market or assessed value as provided for in Title 15,  
19 chapter 6, part 1.

20 (r) The term "weighted mean assessment ratio" means  
21 the total of the assessed values divided by the total of the  
22 selling prices of all area sales in the stratum.

23 (2) The phrase "municipal corporation" or  
24 "municipality" or "taxing unit" shall be deemed to include a  
25 county, city, incorporated town, township, school district,

1 irrigation district, drainage district, or any person,  
 2 persons, or organized body authorized by law to establish  
 3 tax levies for the purpose of raising public revenue.

4 (3) The term "state board" or "board" when used without  
 5 other qualification shall mean the state tax appeal board."

6 **Section 2.** Section 15-6-134, MCA, is amended to read:

7 **"15-6-134. Class four property -- description --**  
 8 **taxable percentage.** (1) Class four property includes:

9 (a) all land except that specifically included in  
 10 another class;

11 (b) all improvements except those specifically included  
 12 in another class;

13 (c) the first \$80,000 or less of the market value of  
 14 any improvement on real property and appurtenant land not  
 15 exceeding 5 acres owned or under contract for deed and  
 16 actually occupied for at least 10 months a year as the  
 17 primary residential dwelling of any person whose total  
 18 income from all sources including otherwise tax-exempt  
 19 income of all types is not more than \$10,000 for a single  
 20 person or \$12,000 for a married couple, as adjusted  
 21 according to subsection (2)(b)(ii);

22 (d) all golf courses, including land and improvements  
 23 actually and necessarily used for that purpose, that consist  
 24 of at least 9 holes and not less than 3,000 lineal yards;

25 (e) all recreational land.

1 (2) Class four property is taxed as follows:

2 (a) Except as provided in 15-24-1402 or 15-24-1501,  
 3 property described in subsections (1)(a) and, (1)(b), and  
 4 (1)(e) is taxed at 3.86% of its market value.

5 (b) (i) Property described in subsection (1)(c) is  
 6 taxed at 3.86% of its market value multiplied by a  
 7 percentage figure based on income and determined from the  
 8 following table:

9	Income	Income	Percentage
10	Single Person	Married Couple	Multiplier
11	\$ 0 - \$ 1,000	\$ 0 - \$ 1,200	0%
12	1,001 - 2,000	1,201 - 2,400	10%
13	2,001 - 3,000	2,401 - 3,600	20%
14	3,001 - 4,000	3,601 - 4,800	30%
15	4,001 - 5,000	4,801 - 6,000	40%
16	5,001 - 6,000	6,001 - 7,200	50%
17	6,001 - 7,000	7,201 - 8,400	60%
18	7,001 - 8,000	8,401 - 9,600	70%
19	8,001 - 9,000	9,601 - 10,800	80%
20	9,001 - 10,000	10,801 - 12,000	90%

21 (ii) The income levels contained in the table in  
 22 subsection (2)(b)(i) must be adjusted for inflation annually  
 23 by the department of revenue. The adjustment to the income  
 24 levels is determined by:

25 (A) multiplying the appropriate dollar amount from the

1 table in subsection (2)(b)(i) by the ratio of the PCE for  
2 the second quarter of the year prior to the year of  
3 application to the PCE for the second quarter of 1986; and

4 (B) rounding the product thus obtained to the nearest  
5 whole dollar amount.

6 (iii) "PCE" means the implicit price deflator for  
7 personal consumption expenditures as published quarterly in  
8 the Survey of Current Business by the bureau of economic  
9 analysis of the U.S. department of commerce.

10 (c) Property described in subsection (1)(d) is taxed at  
11 one-half the taxable percentage rate established in  
12 subsection (2)(a).

13 (3) After July 1, 1986, no adjustment may be made by  
14 the department to the taxable percentage rate for class four  
15 property until a revaluation has been made as provided in  
16 15-7-111.

17 (4) Within the meaning of comparable property as  
18 defined in 15-1-101, property assessed as commercial  
19 property is comparable only to other property assessed as  
20 commercial property, and property assessed as other than  
21 commercial property is comparable only to other property  
22 assessed as other than commercial property."

23 **Section 3.** Section 15-6-144, MCA, is amended to read:

24 "15-6-144. Class fourteen property -- description --  
25 taxable percentage. (1) Class fourteen property includes all

1 improvements on land that is eligible for valuation,  
2 assessment, and taxation as agricultural land under  
3 15-7-202(2). Class fourteen property includes 1 acre of real  
4 property beneath the agricultural improvements. The 1 acre  
5 shall be valued at market value.

6 (2) Class fourteen property is taxed at 80% of the  
7 taxable percentage applicable to class four property.

8 (3) Improvements on land classified as recreational  
9 land are not included in class fourteen property but are  
10 included in class four property under 15-6-134."

11 **Section 4.** Section 15-7-202, MCA, is amended to read:

12 "15-7-202. Eligibility of land for valuation as  
13 agricultural. (1) Contiguous parcels of land totaling 20  
14 acres or more under one ownership shall be eligible for  
15 valuation, assessment, and taxation as agricultural land  
16 each year that none of the parcels is devoted to a  
17 commercial or industrial use or is classified as  
18 recreational land.

19 (2) Contiguous or noncontiguous parcels of land  
20 totaling less than 20 acres under one ownership that are  
21 actively devoted to agricultural use shall be eligible for  
22 valuation, assessment, and taxation as herein provided each  
23 year the parcels meet any of the following qualifications:

24 (a) the parcels produce and the owner or the owner's  
25 agent, employee, or lessee markets not less than \$1,500 in

1 annual gross income from the raising of livestock, poultry,  
2 field crops, fruit, and other animal and vegetable matter  
3 for food or fiber; or

4 (b) the parcels would have met the qualification set  
5 out in subsection (2)(a) were it not for independent  
6 intervening causes of production failure beyond the control  
7 of the producer or marketing delay for economic advantage,  
8 in which case proof of qualification in a prior year will  
9 suffice.

10 (3) Parcels that do not meet the qualifications set out  
11 in subsections (1) and (2) shall not be classified or valued  
12 as agricultural if they are part of a platted subdivision  
13 that is filed with the county clerk and recorder in  
14 compliance with the Montana Subdivision and Platting Act.

15 (4) Land shall not be classified or valued as  
16 agricultural if it is subdivided with stated restrictions  
17 prohibiting its use for agricultural purposes or if it is  
18 classified as recreational land as defined in 15-1-101.

19 (5) The grazing on land by a horse or other animals  
20 kept as a hobby and not as a part of a bona fide  
21 agricultural enterprise shall not be considered a bona fide  
22 agricultural operation.

23 (6) If land has been valued, assessed, and taxed as  
24 agricultural land in any year, it shall continue to be so  
25 valued, assessed, and taxed until the department

1 reclassifies the property. A reclassification does not mean  
2 revaluation pursuant to 15-7-111.

3 (7) For the purposes of this part, growing timber is  
4 not an agricultural use. (Subsection (7) terminates January  
5 1, 1991--sec. 10, Ch. 681, L. 1985.)"

6 NEW SECTION. Section 5. Applicability. [This act] is  
7 applicable to taxable years beginning on or after January 1,  
8 1993.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0802, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act defining "recreational land" for purposes of taxation; setting the tax rate applicable to recreational land at the rate generally applicable to property in class four; and providing an applicability date.


ASSUMPTIONS:

1. Some land currently in class 3 (agricultural land) will change classification to class 4 under the proposal.
2. Some improvements and land currently in class 14 (farmsteads) will change classification to class 4 under the proposal.

FISCAL IMPACT:

Revenues:

The proposal will result in an increase in local (except cities and towns) and state property tax revenues beginning in FY94. However, the department does not have adequate information to provide an accurate estimate.

  
ROD SUNDSTED, BUDGET DIRECTOR      DATE  
Office of Budget and Program Planning

  
WILLIAM T. "RED" MENAHAN, PRIMARY SPONSOR      DATE

Fiscal Note for HB0802, as introduced

2/20/91  
HB 802