HOUSE BILL 65

Introduced by Fagg

12/04	Introduced
12/04	Referred to Taxation
12/04	First Reading
12/04	Fiscal Note Requested
12/09	Fiscal Note Received
12/09	Fiscal Note Printed
12/09	Hearing
	Died in Committee

House BILL NO. 65

INTRODUCED BY [signature]

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING PROPERTY TAX RELIEF FOR LOW- TO MODERATE-INCOME HOUSEHOLDS AND FOR THE ELDERLY; INCREASING THE MARKET VALUE OF CLASS FOUR PROPERTY ELIGIBLE FOR A REDUCED TAX RATE; REVISING THE INCOME LIMITATIONS FOR TAXATION OF CLASS FOUR PROPERTY; REVISING THE DEADLINE FOR APPLICATION FOR CLASSIFICATION OF CLASS FOUR PROPERTY; INCREASING THE PROPERTY TAX CREDIT FOR THE ELDERLY; AMENDING SECTIONS 15-6-134, 15-6-151, 15-7-102, AND 15-30-176, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

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

Section 1. Section 15-6-134, MCA, is amended to read:

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

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

(b) all improvements, including trailers or mobile homes used as a residence, except those specifically included in another class;

(c) the first ~~$80,000~~ $100,000 or less of the market value of any improvement on real property, including trailers or mobile homes, and appurtenant land not exceeding 5 acres owned or under contract for deed and actually occupied for at least 10 months a year as the primary residential dwelling of any person whose total income from all sources, including net business income and otherwise tax-exempt income of all types but not including social security income paid directly to a nursing home, is not more than ~~$10,000~~ $16,000 for a single person or ~~$12,000~~ $20,000 for a married couple or a head of household, as adjusted according to subsection (2)(b)(ii). For the purposes of this subsection (c), net business income is gross income less ordinary operating expenses but before deducting depreciation or depletion allowance, or both.

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

(e) all improvements on land that is eligible for valuation, assessment, and taxation as agricultural land under 15-7-202(2), including 1 acre of real property beneath the agricultural improvements. The 1 acre must be valued at market value.

(2) Class four property is taxed as follows:

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

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

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

LC 0152/01

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

(A) multiplying the appropriate dollar amount from the table in subsection (2)(b)(i) by the ratio of the PCE for the second quarter of the year prior to the year of application to the PCE for the second quarter of 1986; and

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

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

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

(3) After July 1, 1986, an adjustment may not be made by the department to the taxable percentage rate for class four property until a revaluation has been made as provided in 15-7-111.

(4) Within the meaning of comparable property as

defined in 15-1-101, property assessed as commercial property is comparable only to other property assessed as commercial property~~,~~ and property assessed as other than commercial property is comparable only to other property assessed as other than commercial property."

Section 2. Section 15-6-151, MCA, is amended to read:

"**15-6-151. Application for certain class four classifications.** (1) A person applying for classification of property described in subsection (1)(c) of 15-6-134 shall make an affidavit to the department of revenue, on a form provided by the department without cost, stating:

(a) ~~his~~ the person's income;

(b) the fact that ~~he~~ the person maintains the land and improvements as ~~his~~ the person's primary residential dwelling, ~~where~~ when applicable; and

(c) ~~such~~ other information ~~as~~ that is relevant to the applicant's eligibility.

(2) This application must be made before ~~March 1~~ April 15 of the year after the applicant becomes eligible. The application remains in effect in subsequent years unless there is a change in the applicant's eligibility. The taxpayer shall inform the department of any change in eligibility. The department may inquire by mail whether any change in eligibility has taken place and may require a new statement of eligibility at any time that it considers

necessary.

(3) The affidavit is sufficient if the applicant signs a statement affirming the correctness of the information supplied, whether or not the statement is signed before a person authorized to administer oaths, and mails the application and statement to the department ~~of revenue~~. This signed statement ~~shall~~ must be treated as a statement under oath or equivalent affirmation for the purposes of 45-7-202, relating to the criminal offense of false swearing."

Section 3. Section 15-7-102, MCA, is amended to read:

"**15-7-102. Notice of classification and appraisal to owners** -- informational notice -- **appeals.** (1) (a) The department of revenue shall, through its agent as specified in subsection (2), mail to each owner or purchaser under contract for deed a notice of the classification of the land owned or being purchased and the appraisal of the improvements on the land only if one or more of the following changes pertaining to the land or improvements have been made since the last notice:

~~(a)~~(i) change in ownership;

~~(b)~~(ii) change in classification;

~~(c)~~(iii) change in valuation; or

~~(d)~~(iv) addition or subtraction of personal property affixed to the land.

(b) When the notice required in subsection (1)(a) is mailed, information must be included informing the taxpayer that the taxpayer may be eligible for a reduced property tax rate under 15-6-134 and for a property tax credit for the elderly under Title 15, chapter 30, part 1.

(2) (a) The county assessor shall assign each assessment to the correct owner or purchaser under contract for deed and mail the notice of classification and appraisal on a standardized form, adopted by the department, containing sufficient information in a comprehensible manner designed to fully inform the taxpayer as to the classification and appraisal of the property and of changes over the prior tax year.

(b) The notice must advise the taxpayer that in order to be eligible for a refund of taxes from an appeal of the classification or appraisal, the taxpayer is required to pay the taxes under protest as provided in 15-1-402.

(3) If the owner of any land and improvements is dissatisfied with the appraisal as it reflects the market value of the property as determined by the department or with the classification of the land or improvements, the owner may request an assessment review by submitting an objection in writing to the department, on forms provided by the department for that purpose, within 15 days after receiving the notice of classification and appraisal from the department. The review must be conducted informally and

is not subject to the contested case procedures of the Montana Administrative Procedure Act. As a part of the review, the department may consider the actual selling price of the property, independent appraisals of the property, and other relevant information presented by the taxpayer in support of the taxpayer's opinion as to the market value of the property. The department shall give reasonable notice to the taxpayer of the time and place of the review. After the review, the department shall determine the true and correct appraisal and classification of the land or improvements and notify the taxpayer of its determination. In the notification, the department shall state its reasons for revising the classification or appraisal. When the proper appraisal and classification have been determined, the land must be classified and the improvements appraised in the manner ordered by the department.

(4) Whether a review as provided in subsection (3) is held or not, the department or its agent may not adjust an appraisal or classification upon the taxpayer's objection unless:

(a) the taxpayer has submitted an objection in writing; and

(b) the department or its agent has stated its reason in writing for making the adjustment.

(5) A taxpayer's written objection to a classification

or appraisal and the department's notification to the taxpayer of its determination and the reason for that determination are public records. The department shall make the records available for inspection during regular office hours.

(6) If any property owner feels aggrieved by the classification or appraisal made by the department after the review provided for in subsection (3), the property owner has the right to first appeal to the county tax appeal board and then to the state tax appeal board, whose findings are final subject to the right of review in the courts. The appeal to the county tax appeal board must be filed within 15 days after notice of the department's determination is mailed to the taxpayer. A county tax appeal board or the state tax appeal board may consider the actual selling price of the property, independent appraisals of the property, and other relevant information presented by the taxpayer as evidence of the market value of the property. If the county tax appeal board or the state tax appeal board determines that an adjustment should be made, the department shall adjust the base value of the property in accordance with the board's order."

Section 4. Section 15-30-176, MCA, is amended to read:

"**15-30-176. Residential property tax credit for elderly -- computation of relief.** The amount of the tax credit

granted under the provisions of 15-30-171 through 15-30-179 is computed as follows:

(1) In the case of a claimant who owns the homestead for which a claim is made, the credit is the amount of property tax paid less the deduction specified in subsection (4).

(2) In the case of a claimant who rents the homestead for which a claim is made, the credit is the amount of rent-equivalent tax paid less the deduction specified in subsection (4).

(3) In the case of a claimant who both owns and rents the homestead for which a claim is made, the credit is:

(a) the amount of property tax paid on the owned portion of the homestead less the deduction specified in subsection (4); plus

(b) the amount of rent-equivalent tax paid on the rented portion of the homestead less the deduction specified in subsection (4).

(4) Property tax paid and rent-equivalent tax paid are reduced according to the following schedule:

Household income	Amount of reduction
$ 0-999	$0
1,000-1,999	$0
2,000-2,999	the product of .006 times the household income
3,000-3,999	the product of .016 times the household income

4,000-4,999	the product of .024 times the household income
5,000-5,999	the product of .028 times the household income
6,000-6,999	the product of .032 times the household income
7,000-7,999	the product of .035 times the household income
8,000-8,999	the product of .039 times the household income
9,000-9,999	the product of .042 times the household income
10,000-10,999	the product of .045 times the household income
11,000-11,999	the product of .048 times the household income
12,000 & over	the product of .050 times the household income

(5) In no case may the credit granted exceed ~~$400~~ $1,000."

NEW SECTION. **Section 5. Effective date -- applicability.** [This act] is effective on passage and approval and applies to tax years beginning after December 31, 1993.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0065, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act generally revising property tax relief for low- to moderate-income households and for the elderly; increasing the market value of class four property eligible for a reduced tax rate; revising the income limitations for taxation of class four property; revising the deadline for application for classification of class four property; increasing the property tax credit for the elderly; and providing an immediate effective date and an applicability date.

ASSUMPTIONS:

Low-Income Exemption Program

1. The changes to the low-income exemption program apply to tax year 1994.
2. Under current law, the **base year** (1986) top income levels for the low-income exemption table are $10,000 and $12,000 for single filers and married couples, respectively, as provided for in MCA, 15-6-134. The inflation adjustment provided for in that same statute results in top income levels of $13,361 and $16,034 for tax year 1994.
3. Under the proposal, the **base year** (1986) top income levels for the low-income exemption table are changed to $16,000 and $20,000 for single filers and married couples, respectively. When the inflation adjustment is applied to these values, the top income levels for program eligibility become $21,378 and $26,723 for tax year 1994.
4. Under current law, approximately 48,150 homes would be eligible for the program in tax year 1994, with 9,630 actual applicants receiving an average tax reduction of $192.82, for a total reduction in tax liability of $1,856,830.
5. Under the proposal, approximately 93,795 homes will be eligible for the program, with 31,265 applying for and receiving an average tax reduction of $300, for a total reduction in tax liability of $9,379,500.
6. Total increased tax cost of the program is approximately $7,520,000.

Increase in Elderly Homeowner/Renter Maximum Credit

1. The change in the maximum credit allowed under the elderly homeowner/renter credit program is effective for tax year 1994, and impacts fiscal year 1995 income tax collections.
2. Under current law, approximately 17,800 filers claim an average credit of $237 for total relief of $4,218,600.
3. Under the proposal, approximately 17,800 filers will claim an average credit of $259 for total relief of $4,610,200.
4. The total reduction in income tax collections in fiscal year 1995 from this proposal is $391,600.

FISCAL IMPACT:

(see next page)

Dave Lewis 12-8

DAVE LEWIS, BUDGET DIRECTOR DATE

Office of Budget and Program Planning

12-9-93

RUSSELL FAGG, PRIMARY SPONSOR DATE

Fiscal Note for HB0065, as introduced

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Fiscal Note Request, HB0065, as introduced
Form BD-15 page 2
(continued)

FISCAL IMPACT: (continued)
Expenditures: (Department of Revenue - General Fund)
In order to implement the provisions of this bill, administrative costs increase a total of $34,720 in fiscal year 1994 ($22,200 for personal services; $9,700 for operating expenses; and $2,820 for computer system upgrades).

Revenues:

Individual Income Tax	FY '94 Current Law	FY '94 Proposed Law	FY '94 Difference	FY '95 Current Law	FY '95 Proposed Law	FY '95 Difference
Income Tax	$327,093,000	$327,093,000	$0	$341,848,000	$341,456,400	($391,600)
Penalties/Interest	1,275,000	1,275,000	0	2,973,000	2,973,000	0
Total	$328,368,000	$328,368,000	$0	$344,821,000	$344,429,400	($391,600)
Fund Information:						
General Fund	195,895,335	195,895,335	0	315,080,224	314,722,693	(357,531)
School Equalization	104,015,574	104,015,574	0	0	0	0
LRB - Debt Service	28,457,091	28,457,091	0	29,740,776	29,706,707	(34,069)
Total	328,368,000	328,368,000	0	344,821,000	344,429,400	(391,600)

Change in State Property Tax Revenues
The proposal results in a total net decrease in property tax revenue of $7,522,664 in FY95 and subsequent fiscal years. The results are summarized in the tables below:

	FY94	FY95
Universities	$ 0	$ (114,745)
State Equalization (95 mills)	0	(1,816,781)
Total	$ 0	$ (1,931,526)

EFFECT ON LOCAL REVENUES:

Change in Property Tax Revenue:

	FY94	FY95
Counties	$ 0	$ (1,524,792)
Local Schools	0	(3,046,858)
Cities/Towns	0	(1,019,487)
Total	$ 0	$ (5,591,137)

TECHNICAL NOTE:
Increasing the maximum credit allowed under the current law elderly homeowner/renter credit program (MCA,15-30-171, et. seq.) will not result in expanding property tax relief for two reasons: first, simply increasing the maximum credit allowed has virtually no impact on the number of homes qualifying for the credit--no new homes will be brought into the program. Second, increasing the maximum credit impacts relatively few of the homes that are currently in the program. For example, in a 1990 sample of 195 homeowner/renter credit returns, only 27 (14%) had a maximum allowable credit of $400. Increasing the maximum credit amount to $1,000 would increase the average credit for these homeowners from $400 to $533; but the average credit for all homeowners in the sample would increase by only $21.