

HB 245 INTRODUCED BY SWIFT  
CREATE SEPARATE TAX CLASS FOR COMMERCIAL PROPERTY  
AND TAX CLASS FOUR LAND AT 1.93 PERCENT

1/16 INTRODUCED  
1/16 REFERRED TO TAXATION  
1/16 FISCAL NOTE REQUESTED  
1/23 FISCAL NOTE RECEIVED  
2/06 TABLED IN COMMITTEE

1 House BILL NO. 245  
2 INTRODUCED BY [Signature]

3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT CREATING A SEPARATE  
5 PROPERTY TAX CLASSIFICATION FOR COMMERCIAL REAL PROPERTY AND  
6 IMPROVEMENTS; TAXING CLASS FOUR LAND AT ONE-HALF THE RATE  
7 FOR CLASS FOUR IMPROVEMENTS; AMENDING SECTIONS 15-1-101,  
8 15-6-134, 15-6-142, 15-7-103, 15-8-111, 15-24-1102, AND  
9 15-24-1103, MCA; AND PROVIDING AN APPLICABILITY DATE."

10  
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12 NEW SECTION. Section 1. Class twenty property --  
13 description -- taxable percentage. (1) Class twenty property  
14 includes:

15 (a) all commercial land except that specifically  
16 included in another class; and

17 (b) all commercial improvements except those  
18 specifically included in another class.

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

22 Section 2. Section 15-1-101, MCA, is amended to read:

23 "15-1-101. Definitions. (1) Except as otherwise  
24 specifically provided, when terms mentioned in this section  
25 are used in connection with taxation, they are defined in

1 the following manner:

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

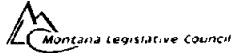
7 (b) The term "assessed value" means the value of  
8 property as defined in 15-8-111.

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

13 (d) (i) The term "commercial", when used to describe  
14 property, means any property used or owned by a business, a  
15 trade, or a nonprofit corporation as defined in 35-2-102 or  
16 used for the production of income, except that property  
17 described in subsection (ii).

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

- 20 (A) agricultural lands;
- 21 (B) timberlands;
- 22 (C) single-family residences and ancillary  
23 improvements and improvements necessary to the function of a  
24 bona fide farm, ranch, or stock operation;
- 25 (D) mobile homes used exclusively as a residence



1 except when held by a distributor or dealer of trailers or  
2 mobile homes as his stock in trade;

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

4 (F) all property described in 15-6-136; and

5 (G) all property described in 15-6-146.

6 (e) The term "comparable property" means property that  
7 has similar use, function, and utility; that is influenced  
8 by the same set of economic trends and physical,  
9 governmental, and social factors; and that has the potential  
10 of a similar highest and best use. Property assessed as  
11 commercial property is comparable only to other property  
12 assessed as commercial property, and property assessed as  
13 noncommercial property is comparable only to other property  
14 assessed as noncommercial property.

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

17 (g) The term "improvements" includes all buildings,  
18 structures, fences, and improvements situated upon, erected  
19 upon, or affixed to land. When the department of revenue or  
20 its agent determines that the permanency of location of a  
21 mobile home or housetrailer has been established, the mobile  
22 home or housetrailer is presumed to be an improvement to  
23 real property. A mobile home or housetrailer may be  
24 determined to be permanently located only when it is  
25 attached to a foundation which cannot feasibly be relocated

1 and only when the wheels are removed.

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

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

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

18 (k) The term "personal property" includes everything  
19 that is the subject of ownership but that is not included  
20 within the meaning of the terms "real estate" and  
21 "improvements".

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

25 (m) The term "property" includes moneys, credits,

1 bonds, stocks, franchises, and all other matters and things,  
 2 real, personal, and mixed, capable of private ownership.  
 3 This definition must not be construed to authorize the  
 4 taxation of the stocks of any company or corporation when  
 5 the property of such company or corporation represented by  
 6 the stocks is within the state and has been taxed.

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

8 (i) the possession of, claim to, ownership of, or  
 9 right to the possession of land;

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

15 (o) The term "taxable value" means the percentage of  
 16 market or assessed value ~~as provided for in 15-6-131 through~~  
 17 ~~15-6-140~~ established for each class of property.

18 (2) The phrase "municipal corporation" or  
 19 "municipality" or "taxing unit" shall be deemed to include a  
 20 county, city, incorporated town, township, school district,  
 21 irrigation district, drainage district, or any person,  
 22 persons, or organized body authorized by law to establish  
 23 tax levies for the purpose of raising public revenue.

24 (3) The term "state board" or "board" when used  
 25 without other qualification shall mean the state tax appeal

1 board."

2 Section 3. Section 15-6-134, MCA, is amended to read:  
 3 "15-6-134. Class four property -- description --  
 4 taxable percentage. (1) Class four property includes:

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

7 (b) all noncommercial improvements except those  
 8 specifically included in another class;

9 (c) the first \$35,000 or less of the market value of  
 10 any improvement on real property and appurtenant land not  
 11 exceeding 5 acres owned or under contract for deed and  
 12 actually occupied for at least 10 months a year as the  
 13 primary residential dwelling of any person whose total  
 14 income from all sources including otherwise tax-exempt  
 15 income of all types is not more than \$10,000 for a single  
 16 person or \$12,000 for a married couple; and

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

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

21 (a) ~~Except as provided in 15-24-1402 or 15-24-1501,~~  
 22 Property described in subsections ~~(1)(a)~~ and  
 23 subsection (1)(b) is taxed at the ~~taxable~~ percentage ~~rate~~  
 24 "P" 3.86% of its market value.

25 (b) Property Any improvement on real property

1 described in subsection (1)(c) is taxed at the taxable  
 2 percentage rate "P" 3.86% of its market value and any land  
 3 described in subsection (1)(c) is taxed at 1.93% of its  
 4 market value, both of which are multiplied by a percentage  
 5 figure based on income and determined from the following  
 6 table:

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

19 (c) Property described in subsection subsections  
 20 (1)(a) and (1)(d) is taxed at one-half the taxable  
 21 percentage rate "P" established in subsection (2)(a) (2)(b).

22 (3) -- Until January 17, 1986, the taxable percentage rate  
 23 "P" for class four property is 8.55%.

24 (4) -- Prior to July 17, 1986, the department of revenue  
 25 shall determine the taxable percentage rate "P" applicable

1 to class four property for the revaluation cycle beginning  
 2 January 17, 1986, as follows:

3 (a) -- The director of the department of revenue shall  
 4 certify to the governor before July 17, 1986, the percentage  
 5 by which the appraised value of all property in the state  
 6 classified under class four as of January 17, 1986, has  
 7 increased due to the revaluation conducted under 15-7-111.  
 8 This figure is the certified statewide percentage increase.

9 (b) -- The taxable value of property in class four is  
 10 determined as a function of the certified statewide  
 11 percentage increase in accordance with the table shown  
 12 below:

13 (c) -- This table limits the statewide increase in  
 14 taxable valuation resulting from reappraisal to 8% in  
 15 calculating the percentage increase; the department may not  
 16 consider changes resulting from new construction, additions,  
 17 or deletions during calendar year 1985.

18 (d) -- The taxable percentage must be calculated by  
 19 interpolation to coincide with the nearest whole number  
 20 certified statewide percentage increase from the following  
 21 table:

Certified Statewide Percentage Increase	Class Four Taxable Percentage "P"
0	8.55
10	7.77

1	Certified-Statewide	Class-Four-Taxable
2	Percentage-Increase	Percentage-"P"
3	20	7-12
4	30	6-57
5	40	6-10
6	50	5-70
7	60	5-34
8	70	5-02
9	80	4-75
10	90	4-50
11	100	4-27
12	110	4-07
13	120	3-80
14	130	3-71
15	140	3-56
16	150	3-42
17	160	3-28
18	170	3-16
19	180	3-05
20	190	2-94
21	200	2-85
22	210	2-75
23	220	2-67
24	230	2-59
25	240	2-51

1	Certified-Statewide	Class-Four-Taxable
2	Percentage-Increase	Percentage-"P"
3	250	2-44
4	260	2-37
5	270	2-31
6	280	2-25
7	290	2-19
8	300	2-13
9	(5)--After--July--17--1986, no adjustment may be made by	
10	the department to the taxable percentage rate--"P"--until--a	
11	revaluation has been made as provided in 15-7-111.	
12	(6)--Within--the--meaning--of--comparable--property--as	
13	defined--in--15-1-101, property assessed--as--commercial	
14	property--is--comparable--only--to--other--property--assessed--as	
15	commercial--property, and property assessed--as--other--than	
16	commercial--property--is--comparable--only--to--other--property	
17	assessed--as--other--than--commercial--property."	
18	Section 4. Section 15-6-142, MCA, is amended to read:	
19	"15-6-142. Class twelve property -- description --	
20	taxable percentage. (1) Class twelve property includes:	
21	(a) a trailer or mobile home used as a residence	
22	except when:	
23	(i) held by a distributor or dealer of trailers or	
24	mobile homes as his stock in trade; or	
25	(ii) specifically included in another class;	

(b) the first \$35,000 or less of the market value of a trailer or mobile home used as a residence 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 otherwise tax-exempt income of all types is not more than \$10,000 for a single person or \$12,000 for a married couple.

(2) Class twelve property is taxed as follows:

(a) Property described in subsection (1)(a) that is not of the type described in subsection (1)(b) is taxed at ~~the taxable percentage rate "P" described in 15-6-134~~ 3.86% of its market value.

(b) Property described in subsection (1)(b) is taxed at ~~the taxable percentage rate "P" described in 15-6-134~~ 3.86% of its market value multiplied by a percentage figure based on income and determined from the table established in subsection (2)(b) of 15-6-134."

Section 5. Section 15-7-103, MCA, is amended to read:

"15-7-103. Classification and appraisal -- general and uniform methods. (1) It is the duty of the department of revenue to implement the provisions of 15-7-101 through 15-7-103 by providing:

(a) for a general and uniform method of classifying commercial and noncommercial lands in the state for the purpose of securing an equitable and uniform basis of

assessment of said lands for taxation purposes;

(b) for a general and uniform method of appraising city and town lots;

(c) for a general and uniform method of appraising rural and urban improvements, both commercial and noncommercial; and

(d) for a general and uniform method of appraising timberlands.

(2) All lands shall be classified according to their use or uses and graded within each class according to soil and productive capacity. In such classification work, use shall be made of soil surveys and maps and all other pertinent available information.

(3) All lands must be classified by parcels or subdivisions not exceeding 1 section each, by the sections, fractional sections, or lots of all tracts of land that have been sectionized by the United States government, or by metes and bounds, whichever yields a true description of the land.

(4) All agricultural lands must be classified and appraised as agricultural lands without regard to the best and highest value use of adjacent or neighboring lands.

(5) In any periodic revaluation of taxable property completed under the provisions of 15-7-111 after January 1, 1979:

1        (a) all property classified in 15-6-134 and [section  
2        1] must be appraised on its market value in the same year;  
3        and

4        (b) The the department must publish a rule specifying  
5        the year used in the appraisal.

6        (6) All sewage disposal systems and domestic use water  
7        supply systems of all dwellings may not be appraised,  
8        assessed, and taxed separately from the land, house, or  
9        other improvements in which they are located. In no event  
10       may the sewage disposal or domestic water supply systems be  
11       included twice by including them in the valuation and  
12       assessing them separately."

13       Section 6. Section 15-8-111, MCA, is amended to read:

14       "15-8-111. Assessment -- market value standard --  
15       exceptions. (1) All taxable property must be assessed at  
16       100% of its market value except as otherwise provided in  
17       ~~subsection (5) of this section and in 15-7-111 through~~  
18       ~~15-7-114~~ by law.

19       (2) (a) Market value is the value at which property  
20       would change hands between a willing buyer and a willing  
21       seller, neither being under any compulsion to buy or to sell  
22       and both having reasonable knowledge of relevant facts.

23       (b) Except as provided in subsection (3), the market  
24       value of all motor trucks; agricultural tools, implements,  
25       and machinery; and vehicles of all kinds, including but not

1       limited to aircraft and boats and all watercraft, is the  
2       average wholesale value shown in national appraisal guides  
3       and manuals or the value of the vehicle before  
4       reconditioning and profit margin. The department of revenue  
5       shall prepare valuation schedules showing the average  
6       wholesale value when no national appraisal guide exists.

7       (3) The department of revenue or its agents may not  
8       adopt a lower or different standard of value from market  
9       value in making the official assessment and appraisal of the  
10       value of property ~~in 15-6-134 through 15-6-140 and 15-6-145~~  
11       ~~through 15-6-149~~, except:

12       (a) the wholesale value for agricultural implements  
13       and machinery is the loan value as shown in the Official  
14       Guide, Tractor and Farm Equipment, published by the national  
15       farm and power equipment dealers association, St. Louis,  
16       Missouri; and

17       (b) for agricultural implements and machinery not  
18       listed in the official guide, the department shall prepare a  
19       supplemental manual where the values reflect the same  
20       depreciation as those found in the official guide; and

21       (c) as otherwise authorized in Title 15 and Title 61.

22       (4) For purposes of taxation, assessed value is the  
23       same as appraised value.

24       (5) The taxable value for all property ~~in classes four~~  
25       ~~through eleven and fifteen through nineteen~~ is the



1 percentage of market or assessed value established for each  
2 class of property in ~~15-6-134 through 15-6-141 and 15-6-145~~  
3 ~~through 15-6-149.~~

4 (6) The assessed value of properties in 15-6-131  
5 through 15-6-133 is as follows:

6 (a) Properties in 15-6-131, under class one, are  
7 assessed at 100% of the annual net proceeds after deducting  
8 the expenses specified and allowed by 15-23-503.

9 (b) Properties in 15-6-132, under class two, are  
10 assessed at 100% of the annual gross proceeds.

11 (c) Properties in 15-6-133, under class three, are  
12 assessed at 100% of the productive capacity of the lands  
13 when valued for agricultural purposes. All lands that meet  
14 the qualifications of 15-7-202 are valued as agricultural  
15 lands for tax purposes.

16 (d) Properties in 15-6-143, under class thirteen, are  
17 assessed at 100% of the combined appraised value of the  
18 standing timber and grazing productivity of the land when  
19 valued as timberland.

20 (7) Land and the improvements thereon are separately  
21 assessed when any of the following conditions occur:

22 (a) ownership of the improvements is different from  
23 ownership of the land;

24 (b) the taxpayer makes a written request; or

25 (c) the land is outside an incorporated city or town.

1 ~~(8) The taxable value of all property in 15-6-131 and~~  
2 ~~classes two, three, and thirteen is the percentage of~~  
3 ~~assessed value established in 15-6-131(2), 15-6-132,~~  
4 ~~15-6-133, and 15-6-143 for each class of property~~  
5 ~~(Subsections (3)(a) and (3)(b) applicable to tax years~~  
6 ~~beginning after December 31, 1985--sec. 4, Ch. 463, L. 1985.~~  
7 ~~Subsection (6)(d) and references in subsection (8) [now~~  
8 ~~deleted] to class thirteen and 15-6-143 terminate January 1,~~  
9 ~~1991--sec. 10, Ch. 681, L. 1985.)"~~

10 Section 7. Section 15-24-1102, MCA, is amended to  
11 read:

12 "15-24-1102. Federal property held under contract of  
13 sale. When the property is held under a contract of sale or  
14 other agreement whereby upon payment the legal title is or  
15 may be acquired by the person, the real property shall be  
16 assessed and taxed as ~~defined in 15-6-131 through 15-6-140~~  
17 specified in Title 15, chapter 6, part 1, and 15-8-111  
18 without deduction on account of the whole or any part of the  
19 purchase price or other sum due on the property remaining  
20 unpaid. The lien for the tax may not attach to, impair, or  
21 be enforced against any interest of the United States in the  
22 real property."

23 Section 8. Section 15-24-1103, MCA, is amended to  
24 read:

25 "15-24-1103. Federal property held under lease. When

1 the property is held under lease, other interest, or estate  
 2 therein less than the fee, except under contract of sale,  
 3 the property shall be assessed and taxed as for the value,  
 4 as defined in ~~15-6-131 through 15-6-140~~ Title 15, chapter 6,  
 5 part 1, of such leasehold, interest, or estate in the  
 6 property and the lien for the tax shall attach to and be  
 7 enforced against only the leasehold, interest, or estate in  
 8 the property. When the United States authorizes the taxation  
 9 of the property for the full assessed value of the fee  
 10 thereof, the property shall be assessed for full assessed  
 11 value as defined in 15-8-111."

12 NEW SECTION. Section 9. Extension of authority. Any  
 13 existing authority of the department of revenue to make  
 14 rules on the subject of the provisions of this act is  
 15 extended to the provisions of this act.

16 NEW SECTION. Section 10. Severability. If a part of  
 17 this act is invalid, all valid parts that are severable from  
 18 the invalid part remain in effect. If a part of this act is  
 19 invalid in one or more of its applications, the part remains  
 20 in effect in all valid applications that are severable from  
 21 the invalid applications.

22 NEW SECTION. Section 11. Codification instruction.  
 23 Section 1 is intended to be codified as an integral part of  
 24 Title 15, chapter 6, part 1, and the provisions of Title 15  
 25 apply to section 1.

1 NEW SECTION. Section 12. Applicability. This act  
 2 applies to taxable years beginning after December 31, 1987.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB245, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act creating a separate property tax classification for commercial real property and improvements; taxing Class Four land at one-half the rate for Class Four improvements; providing an applicability date.

ASSUMPTIONS:

1. The taxable value of the state will be \$2,024,661,000 in FY 89 (REAC).
2. The total taxable value of noncommercial Class 4 land was \$121,942,848 in tax year 1986 (\$59,393,418 in cities and towns), and is assumed to remain constant.
3. Mill levies are 6 mills for universities, and 45 mills for the school foundation program. The average county levy for this type of property is 227.81 mills (cities and towns - 96.24).
4. The proposal applies to taxable years beginning after December 31, 1987, so there is no impact in FY88.

FISCAL IMPACT:

Revenue Impact:

	FY89		
	Current Law	Proposed Law	Difference
University Levy	\$ 12,147,966	\$ 11,782,137	\$ ( 365,829)
School Equalization	91,109,745	88,366,031	(2,743,714)
Total	\$103,257,711	\$100,148,168	\$(3,109,543)

EFFECT ON LOCAL GOVERNMENT REVENUE:

The proposal is estimated to reduce county and local school district revenues by \$13,889,900 in FY89. Cities and towns would experience a revenue loss of \$2,858,011 in FY89.

David L. Hunter DATE 1/22/87  
 DAVID L. HUNTER, BUDGET DIRECTOR  
 Office of Budget and Program Planning

Bernie Swift DATE 1/23/87  
 BERNIE SWIFT, PRIMARY SPONSOR

Fiscal Note for HB245, as introduced.

**HB-245**