

HB 515 INTRODUCED BY WILLIAMS, M., ET AL.  
SEPARATING RESIDENTIAL AND COMMERCIAL REAL PROPERTY  
AND IMPROVEMENTS

1/28 INTRODUCED  
1/28 REFERRED TO TAXATION  
1/28 FISCAL NOTE REQUESTED  
1/29 FISCAL NOTE RECEIVED  
2/12 HEARING  
3/17 TABLED IN COMMITTEE

1 *House* BILL NO. *515* *Raney*  
 2 INTRODUCED BY *M. Williams, Fritz, Walker, Keenan*  
 3 *Richard Manning, Stang, John Connolly, Russell*  
 4 A BILL FOR AN ACT ENTITLED: "AN ACT SEPARATING RESIDENTIAL  
 5 AND COMMERCIAL REAL PROPERTY AND IMPROVEMENTS FOR PROPERTY  
 6 TAX PURPOSES; CREATING A NEW PROPERTY TAX CLASSIFICATION FOR  
 7 COMMERCIAL REAL PROPERTY AND IMPROVEMENTS; AND AMENDING  
 8 SECTIONS 15-1-101, 15-6-134, 15-6-142, 15-7-103, 15-8-111,  
 9 15-24-1102, AND 15-24-1103, MCA."

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

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

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

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 (3) Within the meaning of comparable property as  
23 defined in 15-1-101, property assessed as commercial  
24 property is comparable only to other property assessed as  
25 commercial property and property assessed as noncommercial

1 property is comparable only to other property assessed as  
2 noncommercial property.

3 Section 2. Section 15-1-101, MCA, is amended to read:  
4 "15-1-101. Definitions. (1) Except as otherwise  
5 specifically provided, when terms mentioned in this section  
6 are used in connection with taxation, they are defined in  
7 the following manner:

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

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

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

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

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



1 (A) agricultural lands;  
 2 (B) timberlands;  
 3 (C) single-family residences and ancillary  
 4 improvements and improvements necessary to the function of a  
 5 bona fide farm, ranch, or stock operation;  
 6 (D) mobile homes used exclusively as a residence  
 7 except when held by a distributor or dealer of trailers or  
 8 mobile homes as his stock in trade;  
 9 (E) all property described in 15-6-135;  
 10 (F) all property described in 15-6-136; and  
 11 (G) all property described in 15-6-146.  
 12 (e) The term "comparable property" means property that  
 13 has similar use, function, and utility; that is influenced  
 14 by the same set of economic trends and physical,  
 15 governmental, and social factors; and that has the potential  
 16 of a similar highest and best use.  
 17 (f) The term "credit" means solvent debts, secured or  
 18 unsecured, owing to a person.  
 19 (g) The term "improvements" includes all buildings,  
 20 structures, fences, and improvements situated upon, erected  
 21 upon, or affixed to land. When the department of revenue or  
 22 its agent determines that the permanency of location of a  
 23 mobile home or housetrailer has been established, the mobile  
 24 home or housetrailer is presumed to be an improvement to  
 25 real property. A mobile home or housetrailer may be

1 determined to be permanently located only when it is  
 2 attached to a foundation which cannot feasibly be relocated  
 3 and only when the wheels are removed.  
 4 (h) The term "leasehold improvements" means  
 5 improvements to mobile homes and mobile homes located on  
 6 land owned by another person. This property is assessed  
 7 under the appropriate classification and the taxes are due  
 8 and payable in two payments as provided in 15-24-202.  
 9 Delinquent taxes on such leasehold improvements are a lien  
 10 only on such leasehold improvements.  
 11 (i) The term "livestock" means cattle, sheep, swine,  
 12 goats, horses, mules, and asses.  
 13 (j) The term "mobile home" means forms of housing  
 14 known as "trailers", "housetrailer", or "trailer coaches"  
 15 exceeding 8 feet in width or 45 feet in length, designed to  
 16 be moved from one place to another by an independent power  
 17 connected to them, or any "trailer", "housetrailer", or  
 18 "trailer coach" up to 8 feet in width or 45 feet in length  
 19 used as a principal residence.  
 20 (k) The term "personal property" includes everything  
 21 that is the subject of ownership but that is not included  
 22 within the meaning of the terms "real estate" and  
 23 "improvements".  
 24 (l) The term "poultry" includes all chickens, turkeys,  
 25 geese, ducks, and other birds raised in domestication to

1 produce food or feathers.

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

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

10 (i) the possession of, claim to, ownership of, or  
11 right to the possession of land;

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

17 (o) The term "taxable value" means the percentage of  
18 market or assessed value as provided for in 15-6-131 through  
19 15-6-140 and [section 1].

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

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

4 Section 3. Section 15-6-134, MCA, is amended to read:  
5 "15-6-134. Class four property -- description --  
6 taxable percentage. (1) Class four property includes:

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

9 (b) all noncommercial improvements except those  
10 specifically included in another class;

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

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

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

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

1 market value.

2 (b) Property described in subsection (1)(c) is taxed  
 3 at the taxable percentage rate "P" 3.86% of its market value  
 4 multiplied by a percentage figure based on income and  
 5 determined from the following table:

6 Income	7 Income	8 Percentage
9 Single Person	10 Married Couple	11 Multiplier
12 \$0 - \$1,000	13 \$0 - \$1,200	14 0%
15 1,001 - 2,000	16 1,201 - 2,400	17 10%
18 2,001 - 3,000	19 2,401 - 3,600	20 20%
21 3,001 - 4,000	22 3,601 - 4,800	23 30%
24 4,001 - 5,000	25 4,801 - 6,000	26 40%
27 5,001 - 6,000	28 6,001 - 7,200	29 50%
30 6,001 - 7,000	31 7,201 - 8,400	32 60%
33 7,001 - 8,000	34 8,401 - 9,600	35 70%
36 8,001 - 9,000	37 9,601 - 10,800	38 80%
39 9,001 - 10,000	40 10,801 - 12,000	41 90%

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

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

23 (4) -- Prior to July 17, 1986, the department of revenue  
 24 shall determine the taxable percentage rate "P" applicable  
 25 to class four property for the revaluation cycle beginning

1 January 17, 1986, as follows:

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

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

12 (c) -- This table limits the statewide increase in  
 13 taxable valuation resulting from reappraisal to 0% in  
 14 calculating the percentage increase; the department may not  
 15 consider changes resulting from new construction, additions,  
 16 or deletions during calendar year 1985.

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

21 Certified-Statewide	22 Class-Four-Taxable
23 Percentage-Increase	24 Percentage-"P"
25 0	8.55
10	7.77
20	7.12

1	30	6-57
2	40	6-10
3	50	5-70
4	60	5-34
5	70	5-02
6	80	4-75
7	90	4-50
8	100	4-27
9	110	4-07
10	120	3-80
11	130	3-71
12	140	3-56
13	150	3-42
14	160	3-20
15	170	3-16
16	180	3-05
17	190	2-94
18	200	2-85
19	210	2-75
20	220	2-67
21	230	2-59
22	240	2-51
23	250	2-44
24	260	2-37
25	270	2-31

1	280	2-25
2	290	2-19
3	300	2-13

4           ~~(5)--After--July--17--1986, no adjustment may be made by~~  
5           ~~the department to the taxable percentage rate--"P"--until--a~~  
6           ~~revaluation has been made as provided in 15-7-111.~~

7           (6)(3) Within the meaning of comparable property as  
8           defined in 15-1-101, property assessed as commercial  
9           noncommercial property is comparable only to other property  
10           assessed as commercial noncommercial property, and property  
11           assessed as other than commercial noncommercial property is  
12           comparable only to other property assessed as other than  
13           commercial noncommercial property."

14           Section 4. Section 15-6-142, MCA, is amended to read:  
15           "15-6-142. Class twelve property -- description --  
16           taxable percentage. (1) Class twelve property includes:  
17           (a) a trailer or mobile home used as a residence  
18           except when:  
19           (i) held by a distributor or dealer of trailers or  
20           mobile homes as his stock in trade; or  
21           (ii) specifically included in another class;  
22           (b) the first \$35,000 or less of the market value of a  
23           trailer or mobile home used as a residence and actually  
24           occupied for at least 10 months a year as the primary  
25           residential dwelling of any person whose total income from

1 all sources including otherwise tax-exempt income of all  
2 types is not more than \$10,000 for a single person or  
3 \$12,000 for a married couple.

4 (2) Class twelve property is taxed as follows:

5 (a) Property described in subsection (1)(a) that is  
6 not of the type described in subsection (1)(b) is taxed at  
7 ~~the-taxable-percentage-rate--"P"--described--in--15-6-134,~~  
8 3.86% of its market value.

9 (b) Property described in subsection (1)(b) is taxed  
10 ~~at the-taxable-percentage-rate--"P"--described--in--15-6-134,~~  
11 3.86% of its market value multiplied by a percentage figure  
12 based on income and determined from the table established in  
13 subsection (2)(b) of 15-6-134."

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

15 "15-7-103. Classification and appraisal -- general and  
16 uniform methods. (1) It is the duty of the department of  
17 revenue to implement the provisions of 15-7-101 through  
18 15-7-103 by providing:

19 (a) for a general and uniform method of classifying  
20 commercial and noncommercial lands in the state for the  
21 purpose of securing an equitable and uniform basis of  
22 assessment of said lands for taxation purposes;

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

25 (c) for a general and uniform method of appraising

1 rural and urban improvements, both commercial and  
2 noncommercial;

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

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

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

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

19 (5) In any periodic revaluation of taxable property  
20 completed under the provisions of 15-7-111 after January 1,  
21 1979, all property classified in 15-6-134 must be appraised  
22 on its market value in the same year. The department must  
23 publish a rule specifying the year used in the appraisal.

24 (6) All sewage disposal systems and domestic use water  
25 supply systems of all dwellings may not be appraised,

1 assessed, and taxed separately from the land, house, or  
 2 other improvements in which they are located. In no event  
 3 may the sewage disposal or domestic water supply systems be  
 4 included twice by including them in the valuation and  
 5 assessing them separately."

6 Section 6. Section 15-8-111, MCA, is amended to read:  
 7 "15-8-111. Assessment -- market value standard --  
 8 exceptions. (1) All taxable property must be assessed at  
 9 100% of its market value except as provided in subsection  
 10 (5) of this section and in 15-7-111 through 15-7-114.

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

15 (b) Except as provided in subsection (3), the market  
 16 value of all motor trucks; agricultural tools, implements,  
 17 and machinery; and vehicles of all kinds, including but not  
 18 limited to aircraft and boats and all watercraft, is the  
 19 average wholesale value shown in national appraisal guides  
 20 and manuals or the value of the vehicle before  
 21 reconditioning and profit margin. The department of revenue  
 22 shall prepare valuation schedules showing the average  
 23 wholesale value when no national appraisal guide exists.

24 (3) The department of revenue or its agents may not  
 25 adopt a lower or different standard of value from market

1 value in making the official assessment and appraisal of the  
 2 value of property in 15-6-134 through 15-6-140, and 15-6-145  
 3 through 15-6-149, and [section 1], except:

4 (a) the wholesale value for agricultural implements  
 5 and machinery is the loan value as shown in the Official  
 6 Guide, Tractor and Farm Equipment, published by the national  
 7 farm and power equipment dealers association, St. Louis,  
 8 Missouri; and

9 (b) for agricultural implements and machinery not  
 10 listed in the official guide, the department shall prepare a  
 11 supplemental manual where the values reflect the same  
 12 depreciation as those found in the official guide.

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

15 (5) The taxable value for all property in classes four  
 16 through eleven and fifteen through nineteen twenty is the  
 17 percentage of market value established for each class of  
 18 property in 15-6-134 through 15-6-141, and 15-6-145 through  
 19 15-6-149, and [section 1].

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

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

25 (b) Properties in 15-6-132, under class two, are



1 assessed at 100% of the annual gross proceeds.

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

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

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

13 (a) ownership of the improvements is different from  
14 ownership of the land;

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

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

17 (8) The taxable value of all property in 15-6-131 and  
18 classes two, three, and thirteen is the percentage of  
19 assessed value established in 15-6-131(2), 15-6-132,  
20 15-6-133, and 15-6-143 for each class of property.  
21 (Subsections (3)(a) and (3)(b) applicable to tax years  
22 beginning after December 31, 1985--sec. 4, Ch. 463, L. 1985.  
23 Subsection (6)(d) and references in (8) to class thirteen  
24 and 15-6-143 terminate January 1, 1991--sec. 10, Ch. 681, L.  
25 1985.)"

1 Section 7. Section 15-24-1102, MCA, is amended to  
2 read:

3 "15-24-1102. Federal property held under contract of  
4 sale. When the property is held under a contract of sale or  
5 other agreement whereby upon payment the legal title is or  
6 may be acquired by the person, the real property shall be  
7 assessed and taxed as defined in 15-6-131 through 15-6-140,  
8 [section 1], and 15-8-111 without deduction on account of  
9 the whole or any part of the purchase price or other sum due  
10 on the property remaining unpaid. The lien for the tax may  
11 not attach to, impair, or be enforced against any interest  
12 of the United States in the real property."

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

15 "15-24-1103. Federal property held under lease. When  
16 the property is held under lease, other interest, or estate  
17 therein less than the fee, except under contract of sale,  
18 the property shall be assessed and taxed as for the value,  
19 as defined in 15-6-131 through 15-6-140 and [section 1], of  
20 such leasehold, interest, or estate in the property and the  
21 lien for the tax shall attach to and be enforced against  
22 only the leasehold, interest, or estate in the property.  
23 When the United States authorizes the taxation of the  
24 property for the full assessed value of the fee thereof, the  
25 property shall be assessed for full assessed value as

1 defined in 15-8-111."

2 NEW SECTION. Section 9. Extension of authority. Any  
3 existing authority of the department of revenue to make  
4 rules on the subject of the provisions of this act is  
5 extended to the provisions of this act.

6 NEW SECTION. Section 10. Severability. If a part of  
7 this act is invalid, all valid parts that are severable from  
8 the invalid part remain in effect. If a part of this act is  
9 invalid in one or more of its applications, the part remains  
10 in effect in all valid applications that are severable from  
11 the invalid applications.

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

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB515, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act separating residential and commercial real property and improvements for property tax purposes; creating a new property tax classification for commercial real property and improvements; and amending sections 15-1-101, 15-6-134, 15-6-142, 15-7-103, 15-8-111, 15-24-1102, and 15-24-1103, MCA.

ASSUMPTIONS:

1. Implementation of this proposal would require adjustment of computer programs in 39 counties at a cost of \$19,500 (\$500 per computer).
2. Data entry computer changes necessary under the proposal would require 2 FTE @ grade 7, step 2 for 3 months (grade 7, step 2 salaries and benefits are \$1,298 per month).

FISCAL IMPACT:

Expenditure Impact:

	FY88			FY89		
	Current Law	Proposed Law	Difference	Current Law	Proposed Law	Difference
Personal Services	\$ 0	\$ 27,288	\$ 27,288	\$ 0	\$ 0	\$ 0
Total	\$ 0	\$ 27,288	\$ 27,288	\$ 0	\$ 0	\$ 0

David L. Hunter DATE 1/29/87  
 DAVID L. HUNTER, BUDGET DIRECTOR  
 Office of Budget and Program Planning

Melvin Williams DATE 1-30-87  
 MELVIN WILLIAMS, PRIMARY SPONSOR  
 Fiscal Note for HB515, as introduced.