

HOUSE BILL 326

Introduced by Menahan, et al.

1/23	Introduced
1/23	Referred to Taxation
1/23	Fiscal Note Requested
1/23	First Reading
1/29	Hearing
1/30	Fiscal Note Received
2/02	Fiscal Note Printed
3/12	Tabled in Committee

1 *House* BILL NO. *326*
 2 INTRODUCED BY *Manahan Whalen Dail*
 3 *Bea Mc Carthy Farlonil Ravey*
 4 A BILL FOR AN ACT ENTITLED: "AN ACT DEFINING "RECREATIONAL
 5 LAND" FOR PURPOSES OF TAXATION; SETTING THE TAX RATE
 6 APPLICABLE TO RECREATIONAL LAND AT THE RATE GENERALLY
 7 APPLICABLE TO PROPERTY IN CLASS FOUR; AMENDING SECTIONS
 8 15-1-101, 15-6-134, 15-6-144, AND 15-7-202, MCA; AND
 9 PROVIDING AN APPLICABILITY DATE."

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

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

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

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

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

1 commercial land than to truly agricultural land.

2 THEREFORE, the Legislature of the State of Montana finds
 3 that it is appropriate to revise the taxation of certain
 4 types of property to more accurately reflect the true use
 5 and concomitant value of the property.
 6

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

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

9 "15-1-101. (Temporary) Definitions. (1) Except as
 10 otherwise specifically provided, when terms mentioned in
 11 this section are used in connection with taxation, they are
 12 defined in the following manner:

13 (a) The term "agricultural" refers to:

14 (i) the production of food, feed, and fiber
 15 commodities, livestock and poultry, bees, fruits and
 16 vegetables, and sod, ornamental, nursery, and horticultural
 17 crops that are raised, grown, or produced for commercial
 18 purposes; and

19 (ii) the raising of domestic animals and wildlife in
 20 domestication or a captive environment.

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

23 (c) The term "average wholesale value" means the value
 24 to a dealer prior to reconditioning and profit margin shown
 25 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 trade, or a corporation as defined in 35-2-114 or used for the production of income, except that property described in subsection (ii).

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

(A) agricultural lands;

(B) timberlands and, beginning January 1, 1994, forest lands;

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

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

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

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

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

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

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

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

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

(j) The term "mobile home" means forms of housing known as "trailers", "housetrailer", or "trailer coaches" exceeding 8 feet in width or 45 feet in length, designed to be moved from one place to another by an independent power connected to them, or any "trailer", "housetrailer", or "trailer coach" up to 8 feet in width or 45 feet in length

1 used as a principal residence.

2 (k) The term "personal property" includes everything
3 that is the subject of ownership but that is not included
4 within the meaning of the terms "real estate" and
5 "improvements".

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

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

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

17 (i) the possession of, claim to, ownership of, or right
18 to the possession of land;

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

24 (o) The term "recreational land" means a parcel of
25 land:

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

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

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

21 ~~to~~(q) The term "taxable value" means the percentage of
22 market or assessed value as provided for in Title 15,
23 chapter 6, part 1.

24 ~~to~~(r) The term "weighted mean assessment ratio" means
25 the total of the assessed values divided by the total of the

selling prices of all area sales in the stratum.

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

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

15-1-101. (Effective July 1, 1993) 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:

(i) the production of food, feed, and fiber commodities, livestock and poultry, bees, fruits and vegetables, and sod, ornamental, nursery, and horticultural crops that are raised, grown, or produced for commercial purposes; and

(ii) the raising of domestic animals and wildlife in domestication or a captive environment.

(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 trade, or a corporation as defined in 35-2-114 or used for the production of income, except that property described in subsection (ii).

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

(A) agricultural lands;

(B) timberlands and, beginning January 1, 1994, forest lands;

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

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

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

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

(e) The term "comparable property" means property that has similar use, function, and utility; that is influenced by the same set of economic trends and physical, governmental, and social factors; and that has the potential

1 of a similar highest and best use.

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

4 (g) The term "improvements" includes all buildings,
5 structures, fences, and improvements situated upon, erected
6 upon, or affixed to land. When the department of revenue or
7 its agent determines that the permanency of location of a
8 mobile home or housetrailer has been established, the mobile
9 home or housetrailer is presumed to be an improvement to
10 real property. A mobile home or housetrailer may be
11 determined to be permanently located only when it is
12 attached to a foundation which cannot feasibly be relocated
13 and only when the wheels are removed.

14 (h) The term "leasehold improvements" means
15 improvements to mobile homes and mobile homes located on
16 land owned by another person. This property is assessed
17 under the appropriate classification and the taxes are due
18 and payable in two payments as provided in 15-24-202.
19 Delinquent taxes on such the leasehold improvements are a
20 lien only on such those leasehold improvements.

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

23 (j) The term "mobile home" means forms of housing known
24 as "trailers", "housetrailer", or "trailer coaches"
25 exceeding 8 feet in width or 45 feet in length, designed to

1 be moved from one place to another by an independent power
2 connected to them, or any "trailer", "housetrailer", or
3 "trailer coach" up to 8 feet in width or 45 feet in length
4 used as a principal residence.

5 (k) The term "personal property" includes everything
6 that is the subject of ownership but that is not included
7 within the meaning of the terms "real estate" and
8 "improvements".

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

12 (m) The term "property" includes moneys, credits,
13 bonds, stocks, franchises, and all other matters and things,
14 real, personal, and mixed, capable of private ownership.
15 This definition must not be construed to authorize the
16 taxation of the stocks of any company or corporation when
17 the property of such the company or corporation represented
18 by the stocks is within the state and has been taxed.

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

20 (i) the possession of, claim to, ownership of, or right
21 to the possession of land;

22 (ii) all mines, minerals, and quarries in and under the
23 land subject to the provisions of 15-23-501 and Title 15,
24 chapter 23, part 8; all timber belonging to individuals or
25 corporations growing or being on the lands of the United

States; and all rights and privileges appertaining thereto.

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

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

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

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

(q) The term "taxable value" means the percentage of market or assessed value as provided for in Title 15,

chapter 6, part 1.

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

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

Section 2. 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 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,

1 including net business income or loss and otherwise
 2 tax-exempt income of all types but not including social
 3 security income paid directly to a nursing home, is not more
 4 than \$10,000 for a single person or \$12,000 for a married
 5 couple or a head of household, as adjusted according to
 6 subsection (2)(b)(ii);

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

10 (e) all real and personal property that:

11 (i) is integrally related in a single working unit;

12 (ii) is devoted exclusively to the processing of
 13 agricultural or timber products; and

14 (iii) (A) has not been in production for 12 consecutive
 15 months or has been acquired in an arm's-length transaction
 16 by an unrelated person, including an acquisition in a
 17 foreclosure sale or bankruptcy proceeding; or

18 (B) has been acquired in a foreclosure or bankruptcy
 19 proceeding by a person, as defined in 15-1-102, having no
 20 relationship to or interest in the property prior to the
 21 transaction;

22 (f) all recreational land.

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

24 (a) Except as provided in 15-24-1402 or 15-24-1501,
 25 property described in subsections (1)(a), and (1)(b), and

1 (1)(f) is taxed at 3.86% of its market value.

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

Income Single Person	Income Married Couple Head of Household	Percentage 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 (ii) The income levels contained in the table in
 20 subsection (2)(b)(i) must be adjusted for inflation annually
 21 by the department of revenue. The adjustment to the income
 22 levels is determined by:

23 (A) multiplying the appropriate dollar amount from the
 24 table in subsection (2)(b)(i) by the ratio of the PCE for
 25 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).

(d) (i) In determining the market value of the property described in subsection (1)(e), the department shall reduce the assessed value by 25% a year for each year the plant continues to be out of production until the market value is reduced to salvage value.

(ii) Upon commencement of production or an acquisition described in subsection (1)(e)(iii)(B), property described in subsection (1)(e) must remain at the preceding year's valuation for the succeeding 12 months. Following the end of the 12-month period, the property may be considered new or expanding industry as provided in Title 15, chapter 24, part 14.

(3) After July 1, 1986, no adjustment may 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. (Subsections (1)(e) and (2)(d) terminate January 1, 1993--sec. 17, Ch. 773, L. 1991.)"

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

"15-6-144. Class eleven property -- description -- taxable percentage. (1) Class eleven property includes all improvements on land that is eligible for valuation, assessment, and taxation as agricultural land under 15-7-202(2). Class eleven property includes 1 acre of real property beneath the agricultural improvements. The 1 acre shall be valued at market value.

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

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

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

"15-7-202. Eligibility of land for valuation as agricultural. (1) Contiguous parcels of land totaling 20

acres or more under one ownership ~~shall be~~ are eligible for valuation, assessment, and taxation as agricultural land each year that none of the parcels is devoted to a commercial or industrial use or classified as recreational land.

(2) Except as provided in subsection (8), contiguous or noncontiguous parcels of land totaling less than 20 acres under one ownership that are actively devoted to agricultural use ~~shall be~~ are eligible for valuation, assessment, and taxation as ~~herein provided in this section~~ each year the parcels meet any of the following qualifications:

(a) the parcels produce and the owner or the owner's agent, employee, or lessee markets not less than \$1,500 in annual gross income from the raising of agricultural products as defined in 15-1-101; or

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

(3) Parcels that do not meet the qualifications set out in subsections (1) and (2) ~~shall~~ may not be classified or valued as agricultural if they are part of a platted

subdivision that is filed with the county clerk and recorder in compliance with the Montana Subdivision and Platting Act.

(4) Land may not be classified or valued as agricultural if it is subdivided land with stated restrictions effectively prohibiting its use for agricultural purposes or if it is classified as recreational land as defined in 15-1-101. For the purposes of this subsection only, "subdivided land" includes parcels of land larger than 20 acres that have been subdivided for commercial or residential purposes.

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

(6) If land has been valued, assessed, and taxed as agricultural land in any year, it shall continue to be so valued, assessed, and taxed until the department reclassifies the property. A reclassification does not mean revaluation pursuant to 15-7-111.

(7) For the purposes of this part, growing timber is not an agricultural use.

(8) Subject to the provisions of subsections (2)(a) and (2)(b), property upon which sod, ornamental, nursery, or horticultural crops are raised, grown, or produced must consist of at least 10 acres before the property is eligible

1 to be classified as agricultural land. Improvements devoted
2 to crop production described in this subsection may not be
3 included in class eleven property."

4 NEW SECTION. **Section 5. Applicability.** [This act] is
5 applicable to taxable years beginning on or after January 1,
6 1994.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0326, 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. Under current law only parcels of land under 20 acres must meet the \$1,500 annual gross income test to qualify as agricultural land.
2. Under the proposal all parcels of land must meet the \$1,500 requirement to be considered agricultural land. If a parcel fails to meet this requirement it would be classified as "recreational land" under the proposal.
3. Land which meets the requirements to be classified as agricultural land under the bill but that is also leased for recreational purposes would be classified as "recreational land."
4. "Recreational land" and improvements on "recreational land" would be in property class 4, with a tax rate of 3.86%.
5. There are 280,725 parcels of agricultural land. There are 13,578 parcels under 20 acres which currently meet the \$1,500 requirement. Of the remaining 267,147 parcels of land it is estimated that 50% of these parcels will still qualify under the proposal and for which annual applications for agricultural land income requirement will be made.
6. Some land currently in class 3 (agricultural land taxed at 30% of productive capacity) will change classification to class 4 (taxed at 3.86% of market value) under the proposal.
7. Some improvements and land currently in class 11 (farmsteads taxed at 80% of the class 4 rate) will change classification to class 4 (taxed at 3.86%) under the proposal.

FISCAL IMPACT:

Revenues:

The proposal will result in an increase in state and local (except cities and towns) property tax revenues beginning in FY95. The Department of Revenue does not have sufficient information concerning the taxable value of properties which would be reclassified under the proposal to provide an accurate estimate of the revenue increase. In addition, the department cannot anticipate how an increase in tax burden will affect taxpayer behavior. (i.e.-- Will a taxpayer, whose land would be classified as agricultural land except that all or part of it is leased for recreational purposes, discontinue the practice of leasing for recreational purposes in order to retain agricultural classification?)

David Lewis 1-29-93

DAVID LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

2-2-93
WILLIAM T. MENAHAN, PRIMARY SPONSOR DATE

Fiscal Note for HB0326, as introduced

HB 326

Expenditures: (Department of Revenue)

Implementation of this proposal would require total administrative expenses of \$678,774 in FY94 and \$629,608 in FY95 as detailed below:

<u>Property Valuation</u>	<u>FY '94</u>			<u>FY '95</u>		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
FTE	398.66	419.66	21.00	398.66	422.66	24.00
Personal Services	\$ 11,885,655	\$ 12,361,931	\$ 476,276	\$ 11,913,545	\$ 12,455,465	\$ 541,920
Operating Expenses	2,180,406	2,323,684	143,278	2,192,109	2,274,157	82,048
Equipment	222,278	281,498	59,220	205,648	211,288	5,640
Debt Service	<u>269,800</u>	<u>269,800</u>	<u>0</u>	<u>269,800</u>	<u>269,800</u>	<u>0</u>
Total	\$ 14,558,139	\$ 15,236,913	\$ 678,774	\$ 14,581,102	\$ 15,210,710	\$ 629,608
General Fund	\$ 14,558,139	\$ 15,236,913	\$ 678,774	\$ 14,581,102	\$ 15,210,710	\$ 629,608