

HOUSE BILL 55

Introduced by Foster, et al.

12/03	Introduced
12/03	Referred to Taxation
12/03	First Reading
12/03	Fiscal Note Requested
12/07	Fiscal Note Received
12/08	Fiscal Note Printed
12/08	Hearing
12/09	Committee Report--Bill Passed as Amended
	Died in Process

1 DATE."

4 A statement of intent is required for this bill because
5 the bill gives the department of revenue authority to adopt
6 administrative rules to administer the provisions of this
7 bill. The legislature intends that the department of revenue
8 adopt rules to prescribe forms and procedures to implement
9 this bill and adopt any other rule necessary for the proper
10 administration of the bill.

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

13 NEW SECTION. **Section 1.** Definitions. For the purposes
14 of [sections 1 through 13], the following definitions apply:

15 (1) "Arm's-length transaction" or "arm's-length sale"
16 means a sale between a willing buyer and a willing seller
17 who are not related either personally or through other
18 business dealings, neither being under any compulsion to buy
19 or sell and both having a reasonable knowledge of relevant
20 facts.

21 (2) "Change in ownership" means a transfer of a present
22 interest in real property, including the beneficial use of
23 the property, the value of which is substantially equal to
24 the value of the fee interest. The term does not include a
25 purchase.

1 (3) "Department" means the department of revenue
2 created in 2-15-1301.

3 (4) "Newly constructed" and "new construction" mean:

4 (a) an addition to real property, whether land or
5 improvements, including fixtures;

6 (b) an alteration of land or any improvement, including
7 fixtures; or

8 (c) any rehabilitation, renovation, or modernization of
9 an improvement or fixture.

10 (5) "Property" or "real property" means that property
11 subject to taxation as class four property under 15-6-134.

12 (6) "Purchase" or "purchased" means an arm's-length
13 sale or a transfer for consideration.

14 **NEW SECTION. Section 2. Real property -- determination**
15 **of assessed value.** (1) The assessed value of property is the
16 acquisition value of the property. The acquisition value is:

17 (a) the January 1, 1995, assessed value of the
18 property;

19 (b) the value of the property if after January 1, 1995,
20 the property is purchased or newly constructed or its
21 ownership has changed; or

22 (c) the market value of the property based upon an
23 independent appraisal if that value is less than the
24 acquisition value of the property.

25 (2) The value of property that is purchased is the

1 purchase price paid for the property in an arm's-length
2 sale. The value of newly constructed property is the
3 appraised market value. The value of property whose
4 ownership has changed without a purchase is the appraised
5 market value.

6 (3) If the property owner believes that the value of
7 the property is less than the acquisition value, the
8 property owner may hire an independent appraiser to
9 determine the market value of the property. The appraiser
10 must be approved by the department to perform the type of
11 appraisal necessary and shall conduct the appraisal
12 according to criteria established by the department by rule.
13 Upon approval of the appraisal by the department, the market
14 value shown by the appraisal becomes the acquisition value
15 of the property for the succeeding year. If the department
16 refuses to approve the appraised value of the property, the
17 taxpayer may contest the department's decision as provided
18 in 15-7-102.

19 **NEW SECTION. Section 3. Change in ownership --**
20 **inclusions -- presumption.** (1) A change in ownership
21 includes but is not limited to the following:

22 (a) the creation, transfer, or termination of any joint
23 tenancy or tenancy in common interest, except as provided in
24 [sections 4, 5, and 7];

25 (b) a vesting of the right to possession or enjoyment

1 of a remainder or reversionary interest that occurs upon the
2 termination of a life estate or other similar precedent
3 property interest, except as provided in [sections 4(1)(d)
4 and 5];

5 (c) when the trust is irrevocable, an interest in the
6 property that vests in persons other than the trustor or,
7 pursuant to [section 5], the trustor's spouse;

8 (d) the transfer of any interest in the property
9 between a corporation, partnership, or other legal entity
10 and a shareholder, partner, or any other person;

11 (e) the creation, renewal, sublease, or assignment of a
12 taxable possessory interest in tax-exempt real property for
13 any term; and

14 (f) (i) the creation of a leasehold interest in real
15 property for a term of 35 years or more, including renewal
16 options; the termination of a leasehold interest in real
17 property that had an original term of 35 years or more,
18 including renewal options; and any transfer of a leasehold
19 interest having a remaining term of 35 years or more,
20 including renewal options;

21 (ii) a transfer of a lessor's interest in taxable real
22 property subject to a lease with a remaining term, including
23 renewal options, of less than 35 years.

24 (2) For purposes of subsections (1)(f)(i) and
25 (1)(f)(ii), only the portion of property subject to the

1 lease or transfer is considered to have undergone a change
2 of ownership.

3 (3) It is conclusively presumed that residences, other
4 than mobile homes located on rented or leased land and
5 subject to taxation as personal property pursuant to
6 15-24-202, that are on leased land have a renewal option of
7 at least 35 years on the lease of the land, whether or not a
8 renewal option exists in a contract or agreement.

9 NEW SECTION. Section 4. Change in ownership --
10 exclusions. (1) A change in ownership does not include:

11 (a) a transfer between co-owners that results in a
12 change in the method of holding title to the real property
13 transferred without changing the proportional interests of
14 the co-owners in the property, such as a tenancy in common;

15 (b) a transfer between an individual or individuals and
16 a legal entity or between legal entities, such as a
17 cotenancy, that results solely in a change in the method of
18 holding title to the real property and in which proportional
19 ownership interests of the transferors and transferees,
20 whether represented by stock, partnership interest, or
21 otherwise, in each piece of real property transferred remain
22 the same after the transfer;

23 (c) any transfer for the purpose of perfecting title to
24 the property;

25 (d) the creation, assignment, termination, or

1 reconveyance of a security interest or the substitution of a
2 trustee under a security instrument;

3 (e) a transfer by the trustor, by the trustor's spouse,
4 or by both, into a trust if:

5 (i) the transferor is the present beneficiary of the
6 trust;

7 (ii) the trust is revocable;

8 (iii) any transfer by a trustee of a trust described in
9 subsection (1)(e)(i) or (1)(e)(ii) is back to the trustor;
10 or

11 (iv) any creation or termination of a trust in which the
12 trustor retains the reversion and in which the interest of
13 others does not exceed 12 years' duration;

14 (f) any transfer by an instrument whose terms reserve
15 to the transferor an estate for years or an estate for life.
16 However, the termination of an estate for years or estate
17 for life constitutes a change in ownership except as
18 provided in [section 5(4)].

19 (g) any transfer of a lessor's interest in taxable real
20 property subject to a lease with a remaining term of 35
21 years or more, other than mobile homes located on rented or
22 leased land subject to taxation as personal property
23 pursuant to 15-24-202. It is conclusively presumed that
24 residences, other than mobile homes located on rented or
25 leased land and subject to taxation as personal property

1 pursuant to 15-24-202, that are on leased land have a
2 renewal option of at least 35 years on the lease of the
3 land, whether or not a renewal option exists in a contract
4 or agreement.

5 (h) any purchase, redemption, or other transfer of the
6 shares or units of participation of a group trust, pooled
7 fund, common trust fund, or other collective investment fund
8 established by a financial institution;

9 (i) any transfer of stock or membership certificate in
10 a housing cooperative:

11 (i) (A) that was financed under one mortgage, if the
12 mortgage was insured under section 213, 221(d)(3),
13 221(d)(4), or 236 of the National Housing Act, as amended
14 (12 U.S.C.A. 1715e, 1715 l, and 1715z-1);

15 (B) that was financed or assisted pursuant to section
16 514, 515, or 516 of the Housing Act of 1949 (42 U.S.C.A.
17 1484, 1485, or 1486) or section 202 of the Housing Act of
18 1959 (12 U.S.C.A. 1701q); or

19 (C) that was financed by the Montana board of housing
20 pursuant to Title 90, chapter 6;

21 (ii) whose regulatory and occupancy agreements were
22 approved by the governmental lender or insurer; and

23 (iii) when the transfer is to the housing cooperative or
24 to a person or family qualifying for purchase by reason of
25 limited income. Any subsequent transfer from the housing

cooperative to a person or family not eligible for state or federal assistance in reduction of monthly carrying charges or not eligible for interest reduction by reason of the income level of that person or family constitutes a change of ownership.

(j) any transfer, which would otherwise be a change in ownership, between or among the same parties for the purpose of correcting or reforming a deed to express the true intentions of the parties as long as the original relationship between the grantor and grantee is not changed;

(k) any intrafamily transfer of an eligible dwelling unit, as described in subsection (2), from a parent or legal guardian to:

(i) a minor child or children or between or among minor siblings as a result of a court order or judicial decree because of the death of the parent or guardian; or

(ii) a child or ward if the child or ward has been disabled for at least 5 years preceding the transfer and if the child or ward has an adjusted gross income that, when combined with the adjusted gross income of a spouse, parents, and children, does not exceed \$20,000 in the year in which the transfer occurs. The child or ward may be an adult or minor.

(2) To be eligible for transfer under subsection (1)(k), the dwelling unit must have been the principal place

of residence of the child or ward prior to the transfer and remain the principal place of residence of the child or ward after the transfer.

NEW SECTION. **Section 5. Interspousal transfer** -- not change in ownership. A change of ownership does not include an interspousal transfer. As used in this section, an interspousal transfer includes but is not limited to:

(1) transfers:

(a) to a trustee for the beneficial use of a spouse;

(b) to the surviving spouse of a deceased transferor;

or

(c) by a trustee of the trust to the spouse of the trustor;

(2) transfers to a surviving spouse that take effect upon the death of a spouse;

(3) transfers to a spouse or former spouse in connection with a property settlement agreement, decree of dissolution of a marriage, or legal separation;

(4) the creation, transfer, or termination, solely between spouses, of any co-owner's interest; or

(5) the distribution of a legal entity's property to a spouse or former spouse in exchange for the interest of the spouse in the legal entity in connection with a property settlement agreement, decree of dissolution of a marriage, or legal separation.

NEW SECTION. **Section 6. Corporate and other legal**

entity ownership. (1) Except as provided in subsections (3) and (4), the purchase or transfer of ownership interests in legal entities, such as corporate stock or partnership interests, does not constitute a transfer of real property of the legal entity.

(2) (a) A corporate reorganization is not a change of ownership if it is a reorganization:

(i) in which all of the corporations involved are members of an affiliated group;

(ii) that qualifies as a reorganization under section 368 of the Internal Revenue Code; and

(iii) is a nontaxable event under Montana law.

(b) A transfer of real property among members of an affiliated group is not a change of ownership.

(c) For the purposes of this subsection (2), an "affiliated group" is two or more corporations connected through stock ownership with a common parent organization if:

(i) all of the voting stock, exclusive of any share owned by directors, of each of the corporations except the parent corporation is owned by one or more of the other corporations; and

(ii) the common parent corporation directly owns all of the voting stock, exclusive of any shares owned by

directors, of at least one of the other corporations.

(3) When a corporation, partnership, or other legal entity or any other person obtains control in a corporation or obtains a majority ownership interest in a partnership or other legal entity through the purchase or transfer of corporate stock, partnership interest, or ownership interest in the other legal entities, the purchase or transfer of the stock or other interest is a change of ownership of the property owned by the corporation, partnership, or other legal entity in which the controlling interest is obtained.

(4) If property is transferred to a legal entity in a transaction excluded from change in ownership under [section 4(1)(b)], then the persons holding ownership interests in the legal entity immediately after the transfer are considered the original co-owners. Whenever shares or other ownership interest representing cumulatively more than 50% of the total interest in the entity is transferred by any of the original co-owners in one or more transactions, a change in ownership of that real property owned by the legal entity has occurred and the property that was previously excluded from change in ownership under [section 4(1)(b)] must be appraised.

(5) The department shall include a question on returns for partnerships, banks, and corporations (except tax-exempt organizations) to determine whether the corporation owns

1 real property in Montana and, if so, whether cumulatively
 2 more than 50% of the voting stock or more than 50% of the
 3 total interest in both partnership capital and partnership
 4 profits has been transferred by the corporation or
 5 partnership or has been acquired by another legal entity or
 6 person during the year.

7 NEW SECTION. Section 7. Joint tenancy property --
 8 change in ownership. (1) The creation, transfer, or
 9 termination of any joint tenancy is a change in ownership
 10 except as provided in [sections 4 and 5] and this section.
 11 Upon a change in ownership of a joint tenancy interest, only
 12 the interest or portion that is transferred from one owner
 13 to another owner must be appraised.

14 (2) (a) There is no change in ownership upon the
 15 creation or transfer of a joint tenancy interest if the
 16 transferor or transferors, after the creation or transfer,
 17 are among the joint tenants. Upon the creation of a joint
 18 tenancy, the transferor or transferors are considered the
 19 original transferor or transferors for purposes of
 20 determining the property to be reappraised on subsequent
 21 transfers. The spouses of original transferors are also
 22 considered original transferors within the meaning of this
 23 section.

24 (b) Upon the termination of an interest in any joint
 25 tenancy described in subsection (2)(a), the entire portion

1 of the property held by the original transferor or
 2 transferors prior to the creation of the joint tenancy must
 3 be reappraised unless it vests, in whole or in part, in any
 4 remaining original transferor, in which case there may not
 5 be an appraisal. Upon the termination of the interest of the
 6 last-surviving original transferor, there must be an
 7 appraisal of the interest then transferred and all other
 8 interest in the properties that were held by original
 9 transferors and that were previously excluded from appraisal
 10 pursuant to this section.

11 (c) Upon the termination of an interest held by other
 12 than the original transferor in any joint tenancy described
 13 in subsection (2)(a), there may not be an appraisal if the
 14 entire interest is transferred either to an original
 15 transferor or to all remaining joint tenants.

16 (3) For the purposes of this section, for joint
 17 tenancies created before January 1, 1995, it is rebuttably
 18 presumed that each joint tenant holding an interest in the
 19 property as of January 1, 1995, is considered an original
 20 transferor. There is no presumption for joint tenancies
 21 created on or after January 1, 1995.

22 NEW SECTION. Section 8. Partial interests -- change of
 23 ownership -- application of tax increase. (1) Except for a
 24 joint tenancy interest described in [section 4(1)(b)], when
 25 an interest in a portion of real property is purchased or

changes ownership, only the interest or portion transferred must be appraised. A purchase or change in ownership of an interest with a market value of less than 5% of the value of the total property may not be appraised if the market value of the interest transferred is less than \$10,000, but transfers during any 1 assessment year must be cumulated for the purpose of determining the percentage of interest and value transferred.

(2) If a unit or lot within a cooperative housing corporation, condominium, planned unit development, shopping center, industrial park, or other residential or land subdivision complex with common areas or facilities changes ownership, then only the unit or lot transferred and the share in the common area reserved as an appurtenance of the unit or lot must be appraised as provided in 15-8-111. The increase in property taxes resulting from the appraisal must be applied by the owner of the property only to the tenant-shareholder, lessee, or occupant of the individual unit or lot and may not be prorated among all the other units or lots of the property.

NEW SECTION. Section 9. Eminent domain and similar proceedings. The acquisition of property as a replacement for comparable property is not a change in ownership if the person acquiring the property has been displaced from property by eminent domain proceedings, acquisition by a

public entity, or governmental action that has resulted in a judgment of inverse condemnation.

NEW SECTION. Section 10. Disasters -- transfer of acquisition values. The acquisition value of property that is substantially damaged or destroyed by a disaster, as declared by the governor, may be transferred to comparable property within the same county.

NEW SECTION. Section 11. New construction -- exclusions. (1) If real property has been damaged or destroyed by misfortune or calamity, timely reconstruction of the property or a portion of the property is not new construction if the property after reconstruction is substantially equivalent to the property prior to the damage or destruction. Reconstruction that is not substantially equivalent to the damaged or destroyed property is considered to be new construction, and only the portion that exceeds substantially equivalent reconstruction must be reappraised.

(2) The construction or addition of any active solar energy system is not new construction. Active solar energy systems that are excluded from new construction are systems that use solar devices thermally isolated from living space or other areas where the energy is used and that provide for collection, storage, or distribution of solar energy. To qualify for the exclusion, the solar energy system must be

1 used for:

2 (a) domestic, recreational, therapeutic, or service hot

3 water heating;

4 (b) space conditioning;

5 (c) production of electricity;

6 (d) process heat; or

7 (e) solar mechanical energy.

8 (3) The construction or installation of a fire

9 sprinkler system or other fire extinguishing system, a fire

10 detection system, or a fire-related egress improvement is

11 not new construction.

12 (4) The construction, installation, or modification of

13 any component of a residential improvement for the purpose

14 of making the dwelling more accessible to severely disabled

15 persons is not new construction.

16 **NEW SECTION. Section 12. Appraisal by department --**

17 **change in ownership and new construction -- disputed**

18 **purchase price.** (1) Whenever a change in ownership or new

19 construction not excluded under [section 11] occurs, the

20 department shall appraise the property at the full market

21 value of the property effective January 1 of the next year.

22 (2) Upon the purchase of property, the department may

23 appraise the property and establish an acquisition value for

24 the property if:

25 (a) the department believes that the purchase price of

1 a sale of property was not the result of an arm's-length

2 transaction between the buyer and the seller;

3 (b) the purchase price is not reported on the realty

4 transfer certificate; or

5 (c) the purchase price as reported appears to be

6 erroneous or incomplete or the department believes that the

7 purchase price in any other manner does not represent the

8 market value of the property.

9 (3) If a purchase price is not reported or if the

10 assessed value upon appraisal by the department is more than

11 20% greater than the reported purchase price, the department

12 shall charge the taxpayer for the cost of the appraisal. The

13 taxpayer may contest the department's valuation of the

14 property as provided in 15-7-102.

15 **NEW SECTION. Section 13. Rulemaking authority.** The

16 department may adopt rules to implement [sections 1 through

17 13].

18 **Section 14.** Section 15-1-201, MCA, is amended to read:

19 **"15-1-201. Administration of revenue laws.** (1) (a) The

20 department of revenue ~~shall~~**has** and shall exercise

21 general supervision over the administration of the

22 assessment and tax laws of the state, except Title 15,

23 chapter 70, and over its agents and any officers of

24 municipal corporations having any duties to perform under

25 any of the laws of this state relating to taxation to the

1 end that all assessments of property be are made relatively
 2 just and equal at true value or that other methods of
 3 valuation are applied to applicable classes of property in
 4 substantial compliance with law. The department may make
 5 rules to supervise the administration of all revenue laws of
 6 the state and assist in their enforcement.

7 (b) The department of revenue shall adopt rules
 8 specifying which types of property within the several
 9 classes are considered "comparable property" as described in
 10 15-1-101.

11 (c) The department shall also adopt rules specifying
 12 the methodology to be used in conducting sales assessment
 13 ratio studies and in determining the value-weighted mean
 14 sales assessment ratio for all commercial and industrial
 15 real property and improvements.

16 (2) The department shall confer with, advise, and
 17 direct officers of municipal corporations as to their
 18 duties, with respect to taxation, under the statutes of the
 19 state.

20 (3) The department shall collect annually from the
 21 proper officers of the municipal corporations information
 22 about the assessment of property, collection of taxes,
 23 receipts from licenses and other sources, the expenditure of
 24 public funds for all purposes, and other information as may
 25 be needful and helpful in the work of the department in a

1 form prescribed by the department. It is the duty of all
 2 public officers to fill out properly and return promptly to
 3 the department all forms and aid the department in its work.
 4 The department shall examine the records of all municipal
 5 corporations for purposes considered needful or helpful."

6 **Section 15.** Section 15-1-402, MCA, is amended to read:

7 **"15-1-402. Payment of taxes under protest.** (1) The
 8 person upon whom a property tax or fee is being imposed
 9 under this title may, before the property tax or fee becomes
 10 delinquent, pay under written protest that portion of the
 11 property tax or fee protested. The protested payment must:

12 (a) be made to the officer designated and authorized to
 13 collect it;

14 (b) specify the grounds of protest; and

15 (c) not exceed the difference between the payment for
 16 the immediately preceding tax year and the amount owing in
 17 the tax year protested unless a different amount results
 18 from the specified grounds of protest~~-which-may-include-but~~
 19 ~~are-not-limited-to-changes-in-assessment-due-to--reappraisal~~
 20 ~~under-15-7-111.~~

21 (2) A person appealing a property tax or fee pursuant
 22 to chapter 2 or 15 shall pay the tax or fee under protest
 23 when due in order to receive a refund. If the tax or fee is
 24 not paid under protest when due, the appeal may continue but
 25 a tax or fee may not be refunded as a result of the appeal.

1 (3) If a protested property tax or fee is payable in
 2 installments, a subsequent installment portion considered
 3 unlawful by the state tax appeal board need not be paid and
 4 an action or suit need not be commenced to recover the
 5 subsequent installment. The determination of the action or
 6 suit commenced to recover the first installment portion paid
 7 under protest determines the right of the party paying the
 8 subsequent installment to have it or any part of it refunded
 9 to the party or the right of the taxing authority to collect
 10 a subsequent installment not paid by the taxpayer plus
 11 interest from the date the subsequent installment was due.

12 (4) All property taxes and fees paid under protest to a
 13 county or municipality must be deposited by the treasurer of
 14 the county or municipality to the credit of a special fund
 15 to be designated as a protest fund and must be retained in
 16 the protest fund until the final determination of any action
 17 or suit to recover the taxes and fees unless they are
 18 released at the request of the county, municipality, or
 19 other local taxing jurisdiction pursuant to subsection (5).
 20 This section does not prohibit the investment of the money
 21 of this fund in the state unified investment program or in
 22 any manner provided in Title 7, chapter 6. The provision
 23 creating the special protest fund does not apply to any
 24 payments made under protest directly to the state.

25 (5) The governing board of a taxing jurisdiction

1 affected by the payment of taxes under protest in the second
 2 and subsequent years that a tax protest remains unresolved
 3 may demand that the treasurer of the county or municipality
 4 pay the requesting taxing jurisdiction all or a portion of
 5 the protest payments to which it is entitled, except the
 6 amount paid by the taxpayer in the first year of the
 7 protest. The decision in a previous year of a taxing
 8 jurisdiction to leave protested taxes in the protest fund
 9 does not preclude it from demanding in a subsequent year any
 10 or all of the payments to which it is entitled, except the
 11 first-year protest amount.

12 (6) (a) If action before the county tax appeal board,
 13 state tax appeal board, or district court is not commenced
 14 within the time specified or if the action is commenced and
 15 finally determined in favor of the department of revenue,
 16 county, municipality, or treasurer of the county or the
 17 municipality, the amount of the protested portions of the
 18 property tax or fee must be taken from the protest fund and
 19 deposited to the credit of the fund or funds to which the
 20 property tax belongs, less a pro rata deduction for the
 21 costs of administration of the protest fund and related
 22 expenses charged the local government units.

23 (b) If the action is finally determined adversely to
 24 the department of revenue, a county, a municipality, or the
 25 treasurer of a county or a municipality, then the treasurer

1 shall, upon receiving a certified copy of the final judgment
 2 in the action from the state tax appeal board or from the
 3 district or supreme court, as appropriate, if the final
 4 action of the state tax appeal board is appealed in the time
 5 prescribed, refund to the person in whose favor the judgment
 6 is rendered the amount of the protested portions of the
 7 property tax or fee deposited in the protest fund, and not
 8 released pursuant to subsection (5), as the person holding
 9 the judgment is entitled to recover, together with interest
 10 from the date of payment under protest, at the greater of:

11 (i) the rate of interest generated from the pooled
 12 investment fund provided for in 17-6-203 for the applicable
 13 period; or

14 (ii) 6% a year.

15 (c) If the amount retained in the protest fund is
 16 insufficient to pay all sums due the taxpayer, the treasurer
 17 shall apply the available amount first to tax repayment,
 18 then interest owed, and lastly to costs.

19 (d) If the protest action is decided adversely to a
 20 taxing jurisdiction and the amount retained in the protest
 21 fund is insufficient to refund the tax payments and costs to
 22 which the taxpayer is entitled and for which local
 23 government units are responsible, the treasurer shall bill
 24 and the taxing jurisdiction shall refund to the treasurer
 25 that portion of the taxpayer refund, including tax payments

1 and costs, for which the taxing jurisdiction is proratably
 2 responsible.

3 (e) In satisfying the requirements of subsection
 4 (6)(d), the taxing jurisdiction is allowed not more than 1
 5 year from the beginning of the fiscal year following a final
 6 resolution of the protest. The taxpayer is entitled to
 7 interest on the unpaid balance at the greater of the rates
 8 referred to in subsections (6)(b)(i) and (6)(b)(ii) from the
 9 date of payment under protest until the date of final
 10 resolution of the protest and at the combined rate of the
 11 federal reserve discount rate quoted from the federal
 12 reserve bank in New York, New York, on the date of final
 13 resolution, plus four percentage points, from the date of
 14 final resolution of the protest until refund is made.

15 (7) A taxing jurisdiction may satisfy the requirements
 16 of this section by use of funds from one or more of the
 17 following sources:

18 (a) imposition of a property tax to be collected by a
 19 special tax protest refund levy;

20 (b) the general fund, except that amount generated by
 21 the all-purpose mill levy, or any other funds legally
 22 available to the governing body; and

23 (c) proceeds from the sale of bonds issued by a county,
 24 city, or school district for the purpose of deriving revenue
 25 for the repayment of tax protests lost by the taxing

jurisdiction. The governing body of a county, city, or school district is authorized to issue the bonds pursuant to procedures established by law. The bonds may be issued without being submitted to an election. Property taxes may be levied to amortize the bonds."

Section 16. 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, 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 for a single person or \$12,000 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 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		Percentage
Single Person	Married Couple Head of Household	Multiplier
\$ 0 - \$ 1,000	\$ 0 - \$ 1,200	0%
1,001 - 2,000	1,201 - 2,400	10%

1	2,001 - 3,000	2,401 - 3,600	20%
2	3,001 - 4,000	3,601 - 4,800	30%
3	4,001 - 5,000	4,801 - 6,000	40%
4	5,001 - 6,000	6,001 - 7,200	50%
5	6,001 - 7,000	7,201 - 8,400	60%
6	7,001 - 8,000	8,401 - 9,600	70%
7	8,001 - 9,000	9,601 - 10,800	80%
8	9,001 - 10,000	10,801 - 12,000	90%

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

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

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

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

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

1 ~~{3}--After July 17, 1986, an adjustment may not be made~~
2 ~~by the department to the taxable percentage rate for class~~
3 ~~four property until a revaluation has been made as provided~~
4 ~~in 15-7-111.~~

5 {4}{3} Within the meaning of comparable property as
6 defined in 15-1-101, property assessed as commercial
7 property is comparable only to other property assessed as
8 commercial property, and property assessed as other than
9 commercial property is comparable only to other property
10 assessed as other than commercial property."

11 **Section 17.** Section 15-7-101, MCA, is amended to read:

12 "15-7-101. Classification and appraisal -- duties of
13 the department of revenue. (1) It is the duty of the
14 department of revenue to accomplish the following:

- 15 (a) the classification of all taxable lands;
- 16 (b) the appraisal, when required, of all taxable city
17 and town lots;
- 18 (c) the appraisal, when required, of all taxable rural
19 and urban improvements.

20 (2) A record thereof of the classification and
21 appraisal must be kept upon such those maps, plats, and
22 forms and entered in such books of record as may be that are
23 prescribed by the department. Such The maps, plats, forms,
24 and books of record shall be are official records of the
25 state. A certified copy of all such requested records as may

1 ~~be-desired-shall~~ must be furnished to the department.

2 (3) It ~~shall-be~~ is the duty of the department to
3 maintain and keep current the classification of all taxable
4 lands and ~~appraisal~~ the assessed value of city and town lots
5 and rural and urban improvements, as provided for ~~herein~~ in
6 this title."

7 **Section 18.** Section 15-7-102, MCA, is amended to read:

8 "15-7-102. Notice of classification and appraisal to
9 owners -- appeals. (1) The department of revenue shall,
10 through its agent as specified in subsection (2), mail to
11 each owner or purchaser under contract for deed a notice of
12 the classification of the land owned or being purchased and
13 the appraisal of the improvements on the land only if one or
14 more of the following changes pertaining to the land or
15 improvements have been made since the last notice:

16 (a) change in ownership;

17 (b) change in classification;

18 (c) change in valuation, including the approval or
19 denial of a change in valuation based on an independent
20 appraisal under [section 2]; or

21 (d) addition or subtraction of personal property
22 affixed to the land.

23 (2) (a) The county assessor shall assign each
24 assessment to the correct owner or purchaser under contract
25 for deed and mail the notice of classification and appraisal

1 on a standardized form, adopted by the department,
2 containing sufficient information in a comprehensible manner
3 designed to fully inform the taxpayer as to the
4 classification and appraisal of the property and of changes
5 over the prior tax year.

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

10 (3) If the owner of any land and improvements is
11 dissatisfied with the appraisal as it reflects the market
12 value of the property as determined by the department, with
13 the denial of a reduction in value based upon an independent
14 appraisal, or with the classification of the land or
15 improvements, the owner may request an assessment review by
16 submitting an objection in writing to the department, on
17 forms provided by the department for that purpose, within 15
18 days after receiving the notice of classification and
19 appraisal from the department. The review must be conducted
20 informally and is not subject to the contested case
21 procedures of the Montana Administrative Procedure Act. As a
22 part of the review, the department may consider ~~the-actual~~
23 ~~selling-price-of-the-property,~~ independent appraisals of the
24 property, and other relevant information presented by the
25 taxpayer in support of the taxpayer's opinion as to the

1 market value of the property. The department shall give
 2 reasonable notice to the taxpayer of the time and place of
 3 the review. After the review, the department shall determine
 4 the true and correct appraisal and classification of the
 5 land or improvements and notify the taxpayer of its
 6 determination. In the notification, the department shall
 7 state its reasons for revising the classification or
 8 appraisal. When the proper appraisal and classification have
 9 been determined, the land must be classified and the
 10 improvements appraised in the manner ordered by the
 11 department.

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

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

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

20 (5) A taxpayer's written objection to a classification,
 21 refusal to lower a valuation, or appraisal and the
 22 department's notification to the taxpayer of its
 23 determination and the reason for that determination are
 24 public records. The department shall make the records
 25 available for inspection during regular office hours.

1 (6) If any property owner feels aggrieved by the
 2 classification or appraisal made by the department after the
 3 review provided for in subsection (3), the property owner
 4 has the right to first appeal to the county tax appeal board
 5 and then to the state tax appeal board, whose findings are
 6 final subject to the right of review in the courts. The
 7 appeal to the county tax appeal board must be filed within
 8 15 days after notice of the department's determination is
 9 mailed to the taxpayer. A county tax appeal board or the
 10 state tax appeal board may consider the actual selling price
 11 of the property, independent appraisals of the property, and
 12 other relevant information presented by the taxpayer as
 13 evidence of the market value of the property. If the county
 14 tax appeal board or the state tax appeal board determines
 15 that an adjustment should be made, the department shall
 16 adjust the base value of the property in accordance with the
 17 board's order."

18 **Section 19.** Section 15-7-103, MCA, is amended to read:

19 "15-7-103. Classification and appraisal -- ~~general~~ and
 20 ~~uniform methods~~. (1) It is the duty of the department of
 21 revenue to implement the provisions of 15-7-101 through
 22 15-7-103 by providing:

23 (a) for a ~~general and~~ uniform method of classifying
 24 lands in the state for the purpose of securing an equitable
 25 ~~and uniform basis of assessment of said~~ within each class of

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;

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

(2) All lands ~~shall~~ must be classified according to their use or uses and graded within each class according to soil and productive capacity. In ~~such~~ the classification work, use ~~shall~~ must 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-17 1986--all-property-classified-in-15-6-134-must-be--appraised on--its--market-value-in-the-same-year--The-department-shall~~

~~publish-a-rule-specifying-the-year-used-in-the-appraisal-~~

~~{6}{5}~~ All sewage disposal systems and domestic use water supply systems of all dwellings may not be appraised, assessed, and taxed separately from the land, house, or other improvements in which they are located. ~~in-no-event may-the~~ The sewage disposal or domestic water supply systems may not be included twice by including them in the valuation and assessing them separately."

Section 20. Section 15-7-112, MCA, is amended to read:

"15-7-112. **Equalization of valuations.** The same method of appraisal and assessment ~~shall~~ must be used in each county of the state to the end that comparable property that is assessed by market value with similar true market values and subject to taxation in Montana ~~shall~~ must have substantially equal taxable values ~~at--the--end--of--each cyclical-revaluation-program-hereinbefore-provided.~~"

Section 21. Section 15-7-201, MCA, is amended to read:

"15-7-201. (Temporary -- applicable to 1986 land valuation schedules) Legislative intent -- value of agricultural property. (1) Because the market value of many agricultural properties is based upon speculative purchases that do not reflect the productive capability of agricultural land, it is the legislative intent that bona fide agricultural properties be classified and assessed at a value that is exclusive of values attributed to urban

influences or speculative purposes.

(2) Agricultural land must be classified according to its use, which classifications include but are not limited to irrigated use, nonirrigated use, and grazing use. Within each class, land must be assessed at a value that is fairly based on its ability to produce, taking into consideration the classification system in existence on January 1, 1986, provided that the department may consolidate tillable irrigated land classes. With relation to irrigated land, water costs must be taken into consideration, except at no time may the resulting value of irrigated land be reduced below the value that the land would have if it were not irrigated.

(3) Capital costs, such as improved water distribution, fertilizer, and land shaping that increase productivity, may not be used in determining assessed values.

15-7-201. (Applicable to 1994 and later land valuation schedules) Legislative intent -- value of agricultural property. (1) Because the market value of many agricultural properties is based upon speculative purchases that do not reflect the productive capability of agricultural land, it is the legislative intent that bona fide agricultural properties be classified and assessed at a value that is exclusive of values attributed to urban influences or speculative purposes.

(2) Agricultural land must be classified according to its use, which classifications include but are not limited to irrigated use, nonirrigated use, and grazing use.

(3) Within each class, land must be subclassified by production categories. Production categories are determined from the productive capacity of the land based on yield.

(4) In computing the agricultural land valuation schedules to take effect on January 1, 1994, and thereafter, on the ~~effective date when each revaluation cycle takes effect pursuant to 15-7-111~~ January 1 at 3-year intervals, the department of revenue shall determine the productive capacity value of all agricultural lands using the formula $V = I/R$ where:

(a) V is the per-acre productive capacity value of agricultural land in each land use and production category;

(b) I is the per-acre net income of agricultural land in each land use and production category and is to be determined as provided in subsection (5); and

(c) R is the capitalization rate and is equal to 6.4%. This capitalization rate must remain in effect until new agricultural land valuation schedules are computed as required by law.

(5) (a) Net income must be determined separately in each land use based on production categories.

(b) Net income must be based on commodity price data,

1 grazing fees, crop share arrangements, and water cost data
2 for the base period.

3 (i) Commodity price data and grazing fees for the base
4 period must be obtained from the Montana Agricultural
5 Statistics and from the Montana crop and livestock reporting
6 service.

7 (ii) Crop share arrangements are based on the rental
8 value of the land and average landowner costs.

9 (iii) Allowable water costs consist only of the per-acre
10 labor costs and energy costs of irrigation.

11 (A) Labor costs are zero for pivot sprinkler irrigation
12 systems; \$4.50 an acre for tow lines, side roll, and lateral
13 sprinkler irrigation systems; and \$9 an acre for hand-moved
14 and flood irrigation systems.

15 (B) Energy costs must be based on per-acre energy costs
16 incurred in 1992. By July 1, 1993, an owner of irrigated
17 land shall provide the department, on a form prescribed by
18 the department, with energy costs incurred in 1992. In the
19 event that no energy costs were incurred in 1992, the owner
20 of irrigated land shall provide the department with energy
21 costs from the most recent year available. The department
22 shall adjust the most recent year's energy costs to reflect
23 costs in 1992.

24 (c) The base crop for valuation of irrigated land is
25 alfalfa hay, adjusted to 80% of sales price, and the base

1 crop for valuation of nonirrigated land is wheat. The base
2 unit for valuation of grazing lands is the average grazing
3 fee for a 1,000-pound animal.

4 (d) The base period used to determine net income must
5 be the most recent 7 years for which data is available prior
6 to the date the revaluation cycle ends. Commodity price data
7 and grazing fees referred to in subsection (5)(b) must be
8 averaged for the 7-year period, but the average must exclude
9 the lowest and highest commodity prices or grazing fees in
10 the period.

11 (6) The department shall compile data and develop
12 valuation manuals adopted by rule to implement the valuation
13 method established by subsections (4) and (5).

14 (7) The governor shall appoint an advisory committee of
15 persons knowledgeable in agriculture and agricultural
16 economics to compile and review the data required by
17 subsections (4) and (5). The advisory committee shall
18 include one member of the Montana state university, college
19 of agriculture, staff. The advisory committee shall
20 recommend agricultural land valuation schedules to the
21 department. With respect to irrigated land, the value of
22 irrigated land may not be below the value that the land
23 would have if it were not irrigated."

24 **Section 22.** Section 15-7-202, MCA, is amended to read:

25 "15-7-202. (Temporary) Eligibility of land for

1 valuation as agricultural. (1) Contiguous parcels of land
2 totaling 20 acres or more under one ownership shall be
3 eligible for valuation, assessment, and taxation as
4 agricultural land each year that none of the parcels is
5 devoted to a commercial or industrial use.

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

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

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

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

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

3 (4) Land may not be classified or valued as
4 agricultural if it is subdivided land with stated
5 restrictions effectively prohibiting its use for
6 agricultural purposes. For the purposes of this subsection
7 only, "subdivided land" includes parcels of land larger than
8 20 acres that have been subdivided for commercial or
9 residential purposes.

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

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

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

21 (8) Subject to the provisions of subsections (2)(a) and
22 (2)(b), property upon which sod, ornamental, nursery, or
23 horticultural crops are raised, grown, or produced must
24 consist of at least 10 acres before the property is eligible
25 to be classified as agricultural land. Improvements devoted

1 to crop production described in this subsection may not be
2 included in class eleven property.

3 15-7-202. (Effective July 1, 1994) Eligibility of land
4 for valuation as agricultural. (1) (a) Contiguous parcels of
5 land totaling 160 acres or more under one ownership are
6 eligible for valuation, assessment, and taxation as
7 agricultural land each year that none of the parcels is
8 devoted to a residential, commercial, or industrial use.

9 (b) (i) Contiguous parcels of land of 20 acres or more
10 but less than 160 acres under one ownership are eligible for
11 valuation, assessment, and taxation as agricultural land if
12 the land is used primarily for raising and marketing, as
13 defined in subsection (1)(c), products that meet the
14 definition of agricultural in 15-1-101. A parcel of land is
15 presumed to be used primarily for raising agricultural
16 products if the owner or the owner's immediate family
17 members, agent, employee, or lessee markets not less than
18 \$1,500 in annual gross income from the raising of
19 agricultural products produced by the land. The owner of
20 land that is not presumed to be agricultural land shall
21 verify to the department that the land is used primarily for
22 raising and marketing agricultural products.

23 (ii) Noncontiguous parcels of land that meet the income
24 requirement of subsection (1)(b)(i) are eligible for
25 valuation, assessment, and taxation as agricultural land

1 under subsection (1)(b)(i) if:

2 (A) the land is an integral part of a bona fide
3 agricultural operation undertaken by the persons set forth
4 in subsection (1)(b)(i) as defined in this section; and

5 (B) the land is not devoted to a residential,
6 commercial, or industrial use.

7 (c) For the purposes of this subsection (1),
8 "marketing" means the selling of agricultural products
9 produced by the land and includes but is not limited to:

10 (i) rental or lease of the land as long as the land is
11 actively used for grazing livestock or for other
12 agricultural purposes; and

13 (ii) rental payments made under the federal conservation
14 reserve program or a successor to that program.

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

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

25 (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) 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. 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 is not considered a bona fide agricultural operation.

(6) The department may not classify land less than 160 acres as agricultural unless the owner has applied to have land classified as agricultural land. Land of 20 acres or more but less than 160 acres for which no an application for

agricultural classification has not been made is taxed as provided in 15-6-133(1)(c). If land has been valued, assessed, and taxed as agricultural land in any year, it must continue to be valued, assessed, and taxed as agricultural 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 (1), (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 to be classified as agricultural land. Improvements devoted to crop production described in this subsection may not be included in class eleven property."

Section 23. Section 15-7-303, MCA, is amended to read:

"15-7-303. Definitions. As used in this part, the following definitions apply:

(1) "Partial interest" means a percentage interest in property when less than 100%.

(2) "Person" means and includes an individual, corporation, partnership, or other business organization, trust, fiduciary, or agent or any other party presenting a document for recordation.

(3) "Real estate" includes:

(a) land;

(b) growing timber;

(c) buildings, structures, fixtures, fences, and improvements affixed to land; and

(d) mobile homes.

(4) "Transfer" means an act of the parties or of the law by which the title to real property is conveyed from one person to another.

(5) "Value" means the amount of the full actual consideration therefor paid or to be paid for real estate, including the amount of any lien or liens thereon on the real estate."

Section 24. Section 15-7-305, MCA, is amended to read:

"15-7-305. Realty transfer certificate required. (1)

The county clerk and recorder shall cause to be executed by the parties to the transaction or their agents or representatives a certificate declaring the consideration paid or to be paid for the real estate transferred. In addition to containing matter required by the department of revenue, a valid certificate must:

(a) contain the social security numbers or, in the case of legal entities that are not individuals, the tax identification numbers of the transferors and transferees;

(b) contain, under penalty for perjury as provided in

45-7-201, a statement that the transferors and transferees under oath, or equivalent affirmation, swear or affirm that the recorded transaction was an arm's-length transaction, as defined in [section 1]; and

(c) be signed by both the transferor and transferee or by the appropriate agent for a transferor or transferee that is a legal entity and not an individual.

(2) No An instrument or deed evidencing a transfer of real estate may not be accepted for recordation until the certificate or a claim for exemption pursuant to 15-7-307(2) has been received by the county clerk and recorder. The validity or effectiveness of an instrument or deed as between the parties to it ~~shall~~ may not be affected by the failure to comply with the provisions in this part.

(3) The form of certificate ~~shall~~ must be prescribed by the department ~~of revenue~~, and the department shall provide an adequate supply of ~~such~~ forms to each county clerk and recorder in the state.

(4) The clerk and recorder shall prepare a like certificate for each contract for deed filed for recording.

(5) The clerk and recorder shall transmit each executed certificate to the department."

Section 25. Section 15-7-307, MCA, is amended to read:

"15-7-307. Certificate -- exceptions. (1) The certificate imposed by this part ~~shall~~ does not apply to:

1 †1†(a) an instrument recorded prior to July 1, 1975;
 2 †2†(b) the sale of agricultural land when the land is
 3 used for agricultural purposes;
 4 †3†(c) the sale of timberland when the land is used for
 5 producing timber;
 6 †4†(d) the United States of America, this state, or any
 7 instrumentality, agency, or subdivision thereof;
 8 †5†(e) an instrument which that (without added
 9 consideration) confirms, corrects, modifies, or supplements
 10 a previously recorded instrument;
 11 †6†(f) a transfer pursuant to court decree;
 12 †7†(g) a transfer pursuant to mergers, consolidations,
 13 or reorganizations of corporations, partnerships, or other
 14 business entities;
 15 †8†(h) a transfer by a subsidiary corporation to its
 16 parent corporation without actual consideration or in sole
 17 consideration of the cancellation or surrender of subsidiary
 18 stock;
 19 †9†(i) a transfer of decedents' estates;
 20 †10†(j) a transfer of a gift;
 21 †11†(k) a transfer between husband and wife or parent
 22 and child with only nominal actual consideration therefor;
 23 †12†(l) an instrument the effect of which is to
 24 transfer the property to the same party or parties;
 25 †13†(m) a sale for delinquent taxes or assessments,

1 sheriff sale, bankruptcy action, or mortgage foreclosure;

2 †14†(n) a transfer made in contemplation of death.

3 (2) A transferee shall file a claim of exemption on
 4 forms provided by the department of revenue before a
 5 transfer specified in [sections 1 through 13] or in
 6 subsection (1) of this section is exempt from the
 7 certification requirement of this part."

8 **Section 26.** Section 15-8-111, MCA, is amended to read:

9 "15-8-111. **Assessment -- market value standard --**
 10 **exceptions.** (1) All taxable property must be assessed at
 11 100% of its market value except as otherwise provided.

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

16 (b) If the department of revenue uses construction cost
 17 as one approximation of market value, the department shall
 18 fully consider reduction in value caused by depreciation,
 19 whether through physical depreciation, functional
 20 obsolescence, or economic obsolescence.

21 (c) Except as provided in subsection (3), the market
 22 value of all motor trucks; agricultural tools, implements,
 23 and machinery; and vehicles of all kinds, including but not
 24 limited to boats and all watercraft, is the average
 25 wholesale value shown in national appraisal guides and

1 manuals or the value of the vehicle before reconditioning
2 and profit margin. The department of--revenue shall prepare
3 valuation schedules showing the average wholesale value when
4 a national appraisal guide does not exist.

5 (3) The department of--revenue or its agents may not
6 adopt a lower or different standard of value from market
7 value in making the official assessment and appraisal of the
8 value of property, except:

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

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

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

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

21 (5) The taxable value for all property is the
22 percentage of market or assessed value established for each
23 class of property.

24 (6) The assessed value of properties in 15-6-131
25 through ~~15-6-133~~ 15-6-134 and 15-6-143 is as follows:

1 (a) Properties in 15-6-131, under class one, are
2 assessed at 100% of the annual net proceeds after deducting
3 the expenses specified and allowed by 15-23-503 or, if
4 applicable, as provided in 15-23-515, 15-23-516, or
5 15-23-517.

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

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

13 ~~(d) Beginning January 1, 1990, and ending December 31,~~
14 ~~1993, properties in 15-6-143, under class ten, are assessed~~
15 ~~at 100% of the combined appraised value of the standing~~
16 ~~timber and grazing productivity of the land when valued as~~
17 ~~timberland. The assessed value of property in class four, as~~
18 ~~described in 15-6-134, is the acquisition value of the~~
19 ~~property as determined in [sections 1 through 13].~~

20 (e) Beginning January 1, 1994, properties in 15-6-143,
21 under class ten, are assessed at 100% of the forest
22 productivity value of the land when valued as forest land.

23 (7) Land and the improvements on the land are
24 separately assessed when any of the following conditions
25 occur:

- 1 (a) ownership of the improvements is different from
 2 ownership of the land;
 3 (b) the taxpayer makes a written request; or
 4 (c) the land is outside an incorporated city or town.
 5 ~~{Subsection-{6}{d}-terminates-January-17-1994--sec--197--Ch-~~
 6 ~~7837-B7-1991-}~~"

7 **Section 27.** Section 15-8-112, MCA, is amended to read:

8 "15-8-112. Assessments to be made on classification and
 9 appraisal assessment. (1) The Subject to the provisions of
 10 15-8-111, the assessments of all lands, city and town lots,
 11 and all improvements must be made on the classification and
 12 appraisal assessment as made, or caused to be made, or
 13 approved by the department of revenue.

14 (2) The percentage basis of assessed value as provided
 15 for in chapter 6, part 1, is determined and assigned by the
 16 department when it makes its annual assessment of the
 17 property which that it is required to assess centrally under
 18 the laws of this state. The department shall transmit such
 19 the determination and assignment to its agents in the
 20 various counties with the assessments so made, and its
 21 determination is final except as to the right of review in
 22 the state tax appeal board or the proper court."

23 **Section 28.** Section 15-10-412, MCA, is amended to read:

24 "15-10-412. Property tax limited to 1986 levels --
 25 clarification -- extension to all property classes. Section

1 15-10-402 is interpreted and clarified as follows:

2 (1) The limitation to 1986 levels is extended to apply
 3 to all classes of property described in Title 15, chapter 6,
 4 part 1.

5 (2) The limitation on the amount of taxes levied is
 6 interpreted to mean that, except as otherwise provided in
 7 this section, the actual tax liability for an individual
 8 property is capped at the dollar amount due in each taxing
 9 unit for the 1986 tax year. In tax years thereafter, the
 10 property must be taxed in each taxing unit at the 1986 cap
 11 or the product of the taxable value and mills levied,
 12 whichever is less for each taxing unit, except in a taxing
 13 unit that levied a tax in tax years 1983 through 1985 but
 14 did not levy a tax in 1986, in which case the actual tax
 15 liability for an individual property is capped at the dollar
 16 amount due in that taxing unit for the 1985 tax year.

17 (3) The limitation on the amount of taxes levied does
 18 not prohibit a further increase in the total taxable
 19 valuation of a taxing unit as a result of:

20 (a) annexation of real property and improvements into a
 21 taxing unit;

22 (b) construction, expansion, or remodeling of
 23 improvements;

24 (c) transfer of property into a taxing unit;

25 (d) subdivision of real property;

1 (e) reclassification of property;
 2 (f) increases in the amount of production or the value
 3 of production for property described in 15-6-131 or
 4 15-6-132;
 5 (g) transfer of property from tax-exempt to taxable
 6 status; or
 7 (h) revaluations caused by:
 8 ~~(i) cyclical reappraisal; or~~
 9 ~~(ii) expansion, addition, replacement, or remodeling of~~
 10 ~~improvements.~~
 11 (4) The limitation on the amount of taxes levied does
 12 not prohibit a further increase in the taxable valuation or
 13 in the actual tax liability on individual property in each
 14 class as a result of:
 15 (a) a revaluation caused by:
 16 ~~(i) construction, expansion, replacement, or remodeling~~
 17 ~~of improvements that adds value to the property; or~~
 18 ~~(ii) cyclical reappraisal;~~
 19 (b) transfer of property into a taxing unit;
 20 (c) reclassification of property;
 21 (d) increases in the amount of production or the value
 22 of production for property described in 15-6-131 or
 23 15-6-132;
 24 (e) annexation of the individual property into a new
 25 taxing unit; or

1 (f) conversion of the individual property from
 2 tax-exempt to taxable status.
 3 ~~(5) Property in class four is valued according to the~~
 4 ~~procedures used in 1986 including the designation of 1982~~
 5 ~~as the base year, until the reappraisal cycle beginning~~
 6 ~~January 17, 1986 is completed and new valuations are placed~~
 7 ~~on the tax rolls and a new base year designated, if the~~
 8 ~~property is:~~
 9 ~~(a) new construction;~~
 10 ~~(b) expanded, deleted, replaced, or remodeled~~
 11 ~~improvements;~~
 12 ~~(c) annexed property; or~~
 13 ~~(d) property converted from tax-exempt to taxable~~
 14 ~~status;~~
 15 ~~(6) Property described in subsections (5)(a) through~~
 16 ~~(5)(d) that is not class four property is valued according~~
 17 ~~to the procedures used in 1986 but is also subject to the~~
 18 ~~dollar cap in each taxing unit based on 1986 mills levied;~~
 19 ~~(7)(5)~~ The limitation on the amount of taxes, as
 20 clarified in this section, is intended to leave the property
 21 appraisal and valuation methodology of the department of
 22 revenue intact. Determinations of county classifications,
 23 salaries of local government officers, and all other matters
 24 in which total taxable valuation is an integral component
 25 are not affected by 15-10-401 and 15-10-402 except for the

use of taxable valuation in fixing tax levies. In fixing tax levies, the taxing units of local government may anticipate the deficiency in revenues resulting from the tax limitations in 15-10-401 and 15-10-402, while understanding that regardless of the amount of mills levied, a taxpayer's liability may not exceed the dollar amount due in each taxing unit for the 1986 tax year unless:

(a) except as provided in subsection ~~(b)~~ (6)(a), the taxing unit's taxable valuation decreases by 5% or more from the 1986 tax year. If a taxing unit's taxable valuation decreases by 5% or more from the 1986 tax year, it may levy additional mills to compensate for the decreased taxable valuation, but the mills levied may not exceed a number calculated to equal the revenue from property taxes for the 1986 tax year in that taxing unit.

(b) a levy authorized under Title 20 raised less revenue in 1986 than was raised in either 1984 or 1985, in which case the taxing unit may, after approval by the voters in the taxing unit, raise each year thereafter an additional number of mills but may not levy more revenue than the 3-year average of revenue raised for that purpose during 1984, 1985, and 1986;

(c) a levy authorized in 50-2-111 that was made in 1986 was for less than the number of mills levied in either 1984 or 1985, in which case the taxing unit may, after approval

by the voters in the taxing unit, levy each year thereafter an additional number of mills but may not levy more than the 3-year average number of mills levied for that purpose during 1984, 1985, and 1986.

~~(b)~~ (6) (a) Except as provided in subsection ~~(b)~~ (6)(b), if a taxing unit has levied additional mills under subsection ~~(7)(a)~~ (5)(a) to compensate for a decrease in taxable valuation, it may continue to levy additional mills to equal the revenue from property taxes for the 1986 tax year when the taxing unit's taxable valuation is greater than 95% but less than 100% of the taxing unit's taxable valuation in tax year 1986.

(b) When the taxable valuation of a taxing unit that levied additional mills under subsection ~~(7)(a)~~ (5)(a) or ~~(b)~~ (6)(a) is equal to or greater than the taxing unit's taxable valuation in tax year 1986, it may not levy additional mills to compensate for a subsequent decrease in taxable valuation unless the conditions of subsection ~~(7)(a)~~ (5)(a) are satisfied.

~~(9)~~ (7) The limitation on the amount of taxes levied does not apply to the following levy or special assessment categories, whether or not they are based on commitments made before or after approval of 15-10-401 and 15-10-402:

(a) rural improvement districts;

(b) special improvement districts;

1 (c) levies pledged for the repayment of bonded
 2 indebtedness, including tax increment bonds;
 3 (d) city street maintenance districts;
 4 (e) tax increment financing districts;
 5 (f) satisfaction of judgments against a taxing unit;
 6 (g) street lighting assessments;
 7 (h) revolving funds to support any categories specified
 8 in this subsection ~~(9)~~ (7);
 9 (i) levies for economic development authorized pursuant
 10 to 90-5-112(4);
 11 (j) levies authorized under 7-6-502 for juvenile
 12 detention programs;
 13 (k) levies authorized under 76-15-531 and 76-15-532 for
 14 conservation district special administrative assessments;
 15 (l) elementary and high school districts; and
 16 (m) voted poor fund levies authorized under 53-2-322.
 17 ~~(10)~~(8) The limitation on the amount of taxes levied
 18 does not apply in a taxing unit if the voters in the taxing
 19 unit approve an increase in tax liability following a
 20 resolution of the governing body of the taxing unit
 21 containing:
 22 (a) a finding that there are insufficient funds to
 23 adequately operate the taxing unit as a result of 15-10-401
 24 and 15-10-402;
 25 (b) an explanation of the nature of the financial

1 emergency;
 2 (c) an estimate of the amount of funding shortfall
 3 expected by the taxing unit;
 4 (d) a statement that applicable fund balances are or by
 5 the end of the fiscal year will be depleted;
 6 (e) a finding that there are no alternative sources of
 7 revenue;
 8 (f) a summary of the alternatives that the governing
 9 body of the taxing unit has considered; and
 10 (g) a statement of the need for the increased revenue
 11 and how it will be used.
 12 ~~(11)~~(9) (a) The limitation on the amount of taxes
 13 levied does not apply to levies required to address the
 14 funding of relief of suffering of inhabitants caused by
 15 famine, conflagration, or other public calamity.
 16 (b) The limitation set forth in this chapter on the
 17 amount of taxes levied does not apply to levies to support:
 18 (i) a city-county board of health as provided in Title
 19 50, chapter 2, if the governing bodies of the taxing units
 20 served by the board of health determine, after a public
 21 hearing, that public health programs require funds to ensure
 22 the public health. A levy for the support of a local board
 23 of health may not exceed the 5-mill limit established in
 24 50-2-111.
 25 (ii) county, city, or town ambulance services authorized

by a vote of the electorate under 7-34-102(2); and

(iii) a rail authority, as provided in Title 7, chapter 14, part 16, authorized by a board of county commissioners. A levy for the support of a rail authority may not exceed the 6-mill limit established in 7-14-1632.

~~(12)~~(10) The limitation on the amount of taxes levied by a taxing jurisdiction subject to a statutory maximum mill levy does not prevent a taxing jurisdiction from increasing its number of mills beyond the statutory maximum mill levy to produce revenue equal to its 1986 revenue.

~~(13)~~(11) The limitation on the amount of taxes levied does not apply to a levy increase to repay taxes paid under protest in accordance with 15-1-402.

~~(14)~~(12) A taxing jurisdiction that included special improvement district revolving fund levies in the limitation on the amount of taxes levied prior to April 22, 1993, may continue to include the amount of the levies within the dollar amount due in each taxing unit for the 1986 tax year even if the necessity for the revolving fund has diminished and the levy authority has been transferred."

Section 29. Section 15-15-101, MCA, is amended to read:

"15-15-101. County tax appeal board -- meetings and compensation. (1) The board of county commissioners of each county shall appoint a three-member county tax appeal board, with the members to serve staggered terms of 3 years each.

The members of each county tax appeal board ~~shall~~ must be residents of the county in which they serve. They shall receive compensation of \$45 a day and travel expenses, as provided for in 2-18-501 through 2-18-503, only when the county tax appeal board is in session to hear taxpayers' appeals from property tax assessments or when they are attending meetings called by the state tax appeal board. Travel expenses and compensation must be paid from the appropriation to the state tax appeal board. Office space and equipment for the county tax appeal boards must be furnished by the county. All other incidental expenses must be paid from the appropriation of the state tax appeal board.

(2) The county tax appeal board shall hold an organizational meeting each year on the date of its first scheduled hearing, immediately before conducting the business for which the hearing was otherwise scheduled. It must continue in session from time to time to hear protests concerning assessments made by the department of revenue until the business of hearing protests is disposed of, but, except as provided in 15-2-201, not later than 60 days after the department of revenue or its agent:

(a) has mailed notice of classification and appraisal or valuation to all property owners and purchasers under contracts for deed as required in 15-7-102; and

(b) has notified the county tax appeal board that classification and ~~appraisal~~ assessment notices have been mailed to all property owners and purchasers under contracts for deed.

(3) In connection with an appeal, the county tax appeal board may change any assessment or fix the assessment at some other level. The county clerk shall publish a notice to taxpayers, giving the time the county tax appeal board will meet to hear protests concerning assessments and the latest date the county tax appeal board may take applications for the hearings. The notice must be published in a newspaper if any is printed in the county or, if none, then in the manner that the county tax appeal board directs. The notice must be published at least 7 days prior to the first meeting of the county tax appeal board.

(4) Challenges to a department of revenue rule governing the assessment of property or to an assessment procedure apply only to the taxpayer bringing the challenge and may not apply to all similarly situated taxpayers unless an action is brought in the district court as provided in 15-1-406."

Section 30. Section 15-15-103, MCA, is amended to read:

"15-15-103. **Examination of applicant -- failure to hear application.** (1) Before the county tax appeal board grants any application or makes any reduction applied for, it must

examine on oath the person or agent making the application, touching the value of the property of each person. ~~No~~ A reduction ~~must~~ may not be made unless ~~such~~ the person or agent makes an application, as provided in 15-15-102, and attends and answers all questions pertinent to the inquiry. The testimony of all witnesses upon ~~such~~ the hearing must be taken in shorthand or by stenotype or electronically recorded and preserved for 1 year. If the decision of the county tax appeal board is appealed, all testimony must be transcribed or otherwise reduced to writing and forwarded, together with all exhibits, to the state tax appeal board. The date of hearing, the proceedings before the board, and the decision must be entered upon the minutes of the board, and the board shall notify the applicant of its decision by mail within 3 days ~~thereafter~~ after the hearing. A copy of the minutes of the county tax appeal board must be transmitted to the state tax appeal board no later than 3 days after the board holds its final hearing of the year.

(2) If a county tax appeal board refuses or fails to hear a taxpayer's timely application for a reduction in valuation of property, the taxpayer's application is considered to be granted on the day following the board's final meeting for that year. The county treasurer shall enter the ~~appraisal~~ assessment or classification sought in the application in the assessment book. An application is

not automatically granted for the following appeals:

(a) those listed in 15-2-302; and

(b) if a taxpayer's appeal from the department's determination of classification or appraisal made pursuant to 15-7-102 was not received in time, as provided for in 15-15-102, to be considered by the board during its current 60-day session."

Section 31. Section 77-1-208, MCA, is amended to read:

"77-1-208. Cabin site licenses and leases -- method of establishing value. (1) The board shall[, taking into account recommendations of the state land board advisory council,] set the annual fee based on full market value for each cabin site and for each licensee or lessee who at any time wishes to continue or assign the license or lease. The fee must attain full market value based on appraisal of the cabin site value as determined by the department of revenue. The licensee or lessee has the option to pay the entire fee on March 1 or to divide the fee into two equal payments due March 1 and September 1. ~~The--value--may--be--increased--or--decreased--as--a--result--of--the--statewide--periodic--revaluation--of--property--pursuant--to--15-7-111.~~ An appeal of a cabin site value determined by the department of revenue must be conducted pursuant to Title 15, chapter 2.

(2) The board shall set the fee of each initial cabin site license or lease or each current cabin site license or

lease of a person who does not choose to retain the license or lease. The initial fee must be based upon a system of competitive bidding. The fee for a person who wishes to retain that license or lease must be determined under the method provided for in subsection (1).

(3) The board shall follow the procedures set forth in 77-6-302 through 77-6-306 for the disposal or valuation of any fixtures or improvements placed upon the property by the then-current licensee or lessee and shall require the subsequent licensee or lessee whose bid is accepted by the board to purchase those fixtures or improvements in the manner required by the board. (Bracketed language in subsection (1) terminates March 1, 1996--sec. 17, Ch. 586, L. 1993.)"

NEW SECTION. Section 32. Repealer. Sections 15-7-111, 15-7-113, 15-7-114, 15-7-401, 15-7-402, and 15-7-403, MCA, are repealed.

NEW SECTION. Section 33. Codification instruction. [Sections 1 through 13] are intended to be codified as an integral part of Title 15, and the provisions of Title 15 apply to [sections 1 through 13].

NEW SECTION. Section 34. Contingent effective date -- applicability. [This act] is effective January 1, 1995, and applies to all tax years beginning after December 31, 1994, if the constitutional amendment proposed in ___ Bill No. ___

LC 0026/01

- 1 [LC 63] is passed and approved by the electorate in the
- 2 November 1994 general election.

-End-

APPROVED BY COMMITTEE
ON TAXATION

HOUSE BILL NO. 55

INTRODUCED BY FOSTER, MESAROS

A BILL FOR AN ACT ENTITLED: "AN ACT IMPLEMENTING A PROPOSED CONSTITUTIONAL AMENDMENT ON PROPERTY TAX ADMINISTRATION THAT WOULD ALLOW THE VALUATION OF PROPERTY BASED UPON ACQUISITION VALUE; PROVIDING THAT THE ASSESSED VALUE OF CLASS FOUR PROPERTY IS BASED UPON THE ACQUISITION VALUE OF THE PROPERTY; PROVIDING THAT THE ACQUISITION VALUE WILL BE CHANGED WHEN THE PROPERTY IS PURCHASED OR NEWLY CONSTRUCTED OR WHEN ITS OWNERSHIP CHANGES; PROVIDING CERTAIN EXCLUSIONS RELATING TO CHANGE IN OWNERSHIP; ALLOWING A REDUCTION IN THE ACQUISITION VALUE IF SUBSTANTIATED BY AN INDEPENDENT APPRAISAL PROVIDED BY THE PROPERTY OWNER; PROVIDING THAT CONSTRUCTION FOR DAMAGE REPAIR OR REPLACEMENT, SOLAR ENERGY SYSTEMS, RESIDENTIAL HANDICAPPED ACCESS, AND FIRE SAFETY DO NOT AFFECT THE ACQUISITION VALUE OF THE PROPERTY; PROVIDING ADMINISTRATIVE CHANGES TO IMPLEMENT THE SYSTEM OF VALUING CLASS FOUR PROPERTY BY ACQUISITION VALUE; AMENDING SECTIONS 15-1-201, 15-1-402, 15-6-134, 15-7-101, 15-7-102, 15-7-103, 15-7-112, 15-7-201, 15-7-202, 15-7-303, 15-7-305, 15-7-307, 15-8-111, 15-8-112, 15-10-412, 15-15-101, 15-15-103, AND 77-1-208, MCA; REPEALING SECTIONS 15-7-111, 15-7-113, 15-7-114, 15-7-401, 15-7-402, AND 15-7-403, MCA; AND PROVIDING A CONTINGENT EFFECTIVE DATE AND AN APPLICABILITY

DATE."

STATEMENT OF INTENT

A statement of intent is required for this bill because the bill gives the department of revenue authority to adopt administrative rules to administer the provisions of this bill. The legislature intends that the department of revenue adopt rules to prescribe forms and procedures to implement this bill and adopt any other rule necessary for the proper administration of the bill.

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

NEW SECTION. **Section 1. Definitions.** For the purposes of [sections 1 through 13], the following definitions apply:

(1) "Arm's-length transaction" or "arm's-length sale" means a sale between a willing buyer and a willing seller who are not related either personally or through other business dealings, neither being under any compulsion to buy or sell and both having a reasonable knowledge of relevant facts.

(2) "Change in ownership" means a transfer of a present interest in real property, including the beneficial use of the property, the value of which is substantially equal to the value of the fee interest. The term does not include a purchase.

(3) "Department" means the department of revenue created in 2-15-1301.

(4) "Newly constructed" and "new construction" mean:
 (a) an addition to real property, whether land or improvements, ~~including fixtures;~~
 (b) ~~an alteration of land or any improvement, including fixtures; or~~
 (c) ~~any rehabilitation, renovation, or modernization of an improvement or fixture.~~

(5) "Property" or "real property" means that property subject to taxation as class four property under 15-6-134.

(6) "Purchase" or "purchased" means an arm's-length sale or a transfer for consideration.

NEW SECTION. Section 2. Real property -- determination of assessed value. (1) The assessed value of property is the acquisition value of the property. The acquisition value is:

(a) the January 1, 1995, assessed value of the property;

(b) the value of the property if after January 1, 1995, the property is purchased or newly constructed or its ownership has changed; or

(c) the market value of the property based upon an independent appraisal if that value is less than the acquisition value of the property.

(2) The value of property that is purchased is the

purchase price paid for the property in an arm's-length sale. The value of newly constructed property is the appraised market value. The value of property whose ownership has changed without a purchase is the appraised market value.

(3) If the property owner believes that the value of the property is less than the acquisition value, the property owner may hire an independent appraiser to determine the market value of the property. The appraiser must be approved by the department to perform the type of appraisal necessary and shall conduct the appraisal according to criteria established by the department by rule. Upon approval of the appraisal by the department, the market value shown by the appraisal becomes the acquisition value of the property for the succeeding year. If the department refuses to approve the appraised value of the property, the taxpayer may contest the department's decision as provided in 15-7-102.

NEW SECTION. Section 3. Change in ownership -- inclusions -- presumption. (1) A change in ownership includes but is not limited to the following:

(a) the creation, transfer, or termination of any joint tenancy or tenancy in common interest, except as provided in [sections 4, 5, and 7];

(b) a vesting of the right to possession or enjoyment

1 of a remainder or reversionary interest that occurs upon the
2 termination of a life estate or other similar precedent
3 property interest, except as provided in [sections 4(1)(d)
4 and 5];

5 (c) when the trust is irrevocable, an interest in the
6 property that vests in persons other than the trustor or,
7 pursuant to [section 5], the trustor's spouse;

8 (d) the transfer of any interest in the property
9 between a corporation, partnership, or other legal entity
10 and a shareholder, partner, or any other person;

11 (e) the creation, renewal, sublease, or assignment of a
12 taxable possessory interest in tax-exempt real property for
13 any term; and

14 (f) (i) the creation of a leasehold interest in real
15 property for a term of 35 years or more, including renewal
16 options; the termination of a leasehold interest in real
17 property that had an original term of 35 years or more,
18 including renewal options; and any transfer of a leasehold
19 interest having a remaining term of 35 years or more,
20 including renewal options;

21 (ii) a transfer of a lessor's interest in taxable real
22 property subject to a lease with a remaining term, including
23 renewal options, of less than 35 years.

24 (2) For purposes of subsections (1)(f)(i) and
25 (1)(f)(ii), only the portion of property subject to the

1 lease or transfer is considered to have undergone a change
2 of ownership.

3 (3) It is conclusively presumed that residences, other
4 than mobile homes located on rented or leased land and
5 subject to taxation as personal property pursuant to
6 15-24-202, that are on leased land have a renewal option of
7 at least 35 years on the lease of the land, whether or not a
8 renewal option exists in a contract or agreement.

9 NEW SECTION. Section 4. Change in ownership --
10 exclusions. (1) A change in ownership does not include:

11 (a) a transfer between co-owners that results in a
12 change in the method of holding title to the real property
13 transferred without changing the proportional interests of
14 the co-owners in the property, such as a tenancy in common;

15 (b) a transfer between an individual or individuals and
16 a legal entity or between legal entities, such as a
17 cotenancy, that results solely in a change in the method of
18 holding title to the real property and in which proportional
19 ownership interests of the transferors and transferees,
20 whether represented by stock, partnership interest, or
21 otherwise, in each piece of real property transferred remain
22 the same after the transfer;

23 (c) any transfer for the purpose of perfecting title to
24 the property;

25 (d) the creation, assignment, termination, or

1 reconveyance of a security interest or the substitution of a
 2 trustee under a security instrument;
 3 (e) a transfer by the trustor, by the trustor's spouse,
 4 or by both, into a trust if:
 5 (i) the transferor is the present beneficiary of the
 6 trust;
 7 (ii) the trust is revocable;
 8 (iii) any transfer by a trustee of a trust described in
 9 subsection (1)(e)(i) or (1)(e)(ii) is back to the trustor;
 10 or
 11 (iv) any creation or termination of a trust in which the
 12 trustor retains the reversion and in which the interest of
 13 others does not exceed 12 years' duration;
 14 (f) any transfer by an instrument whose terms reserve
 15 to the transferor an estate for years or an estate for life.
 16 However, the termination of an estate for years or estate
 17 for life constitutes a change in ownership except as
 18 provided in [section 5(4)].
 19 (g) any transfer of a lessor's interest in taxable real
 20 property subject to a lease with a remaining term of 35
 21 years or more, other than mobile homes located on rented or
 22 leased land subject to taxation as personal property
 23 pursuant to 15-24-202. It is conclusively presumed that
 24 residences, other than mobile homes located on rented or
 25 leased land and subject to taxation as personal property

1 pursuant to 15-24-202, that are on leased land have a
 2 renewal option of at least 35 years on the lease of the
 3 land, whether or not a renewal option exists in a contract
 4 or agreement.
 5 (h) any purchase, redemption, or other transfer of the
 6 shares or units of participation of a group trust, pooled
 7 fund, common trust fund, or other collective investment fund
 8 established by a financial institution;
 9 (i) any transfer of stock or membership certificate in
 10 a housing cooperative:
 11 (i) (A) that was financed under one mortgage, if the
 12 mortgage was insured under section 213, 221(d)(3),
 13 221(d)(4), or 236 of the National Housing Act, as amended
 14 (12 U.S.C.A. 1715e, 1715 l, and 1715z-1);
 15 (B) that was financed or assisted pursuant to section
 16 514, 515, or 516 of the Housing Act of 1949 (42 U.S.C.A.
 17 1484, 1485, or 1486) or section 202 of the Housing Act of
 18 1959 (12 U.S.C.A. 1701q); or
 19 (C) that was financed by the Montana board of housing
 20 pursuant to Title 90, chapter 6;
 21 (ii) whose regulatory and occupancy agreements were
 22 approved by the governmental lender or insurer; and
 23 (iii) when the transfer is to the housing cooperative or
 24 to a person or family qualifying for purchase by reason of
 25 limited income. Any subsequent transfer from the housing

1 cooperative to a person or family not eligible for state or
 2 federal assistance in reduction of monthly carrying charges
 3 or not eligible for interest reduction by reason of the
 4 income level of that person or family constitutes a change
 5 of ownership.

6 (j) any transfer, which would otherwise be a change in
 7 ownership, between or among the same parties for the purpose
 8 of correcting or reforming a deed to express the true
 9 intentions of the parties as long as the original
 10 relationship between the grantor and grantee is not changed;

11 (k) any intrafamily transfer of an eligible dwelling
 12 unit, as described in subsection (2), from a parent or legal
 13 guardian to:

14 (i) a minor child or children or between or among minor
 15 siblings as a result of a court order or judicial decree
 16 because of the death of the parent or guardian; or

17 (ii) a child or ward if the child or ward has been
 18 disabled for at least 5 years preceding the transfer and if
 19 the child or ward has an adjusted gross income that, when
 20 combined with the adjusted gross income of a spouse,
 21 parents, and children, does not exceed \$20,000 in the year
 22 in which the transfer occurs. The child or ward may be an
 23 adult or minor.

24 (2) To be eligible for transfer under subsection
 25 (1)(k), the dwelling unit must have been the principal place

1 of residence of the child or ward prior to the transfer and
 2 remain the principal place of residence of the child or ward
 3 after the transfer.

4 NEW SECTION. **Section 5.** Interspousal transfer -- not
 5 change in ownership. A change of ownership does not include
 6 an interspousal transfer. As used in this section, an
 7 interspousal transfer includes but is not limited to:

8 (1) transfers:

9 (a) to a trustee for the beneficial use of a spouse;

10 (b) to the surviving spouse of a deceased transferor;

11 or

12 (c) by a trustee of the trust to the spouse of the
 13 trustor;

14 (2) transfers to a surviving spouse that take effect
 15 upon the death of a spouse;

16 (3) transfers to a spouse or former spouse in
 17 connection with a property settlement agreement, decree of
 18 dissolution of a marriage, or legal separation;

19 (4) the creation, transfer, or termination, solely
 20 between spouses, of any co-owner's interest; or

21 (5) the distribution of a legal entity's property to a
 22 spouse or former spouse in exchange for the interest of the
 23 spouse in the legal entity in connection with a property
 24 settlement agreement, decree of dissolution of a marriage,
 25 or legal separation.

NEW SECTION. Section 6. Corporate and other legal

entity ownership. (1) Except as provided in subsections (3) and (4), the purchase or transfer of ownership interests in legal entities, such as corporate stock or partnership interests, does not constitute a transfer of real property of the legal entity.

(2) (a) A corporate reorganization is not a change of ownership if it is a reorganization:

(i) in which all of the corporations involved are members of an affiliated group;

(ii) that qualifies as a reorganization under section 368 of the Internal Revenue Code; and

(iii) is a nontaxable event under Montana law.

(b) A transfer of real property among members of an affiliated group is not a change of ownership.

(c) For the purposes of this subsection (2), an "affiliated group" is two or more corporations connected through stock ownership with a common parent organization if:

(i) all of the voting stock, exclusive of any share owned by directors, of each of the corporations except the parent corporation is owned by one or more of the other corporations; and

(ii) the common parent corporation directly owns all of the voting stock, exclusive of any shares owned by

directors, of at least one of the other corporations.

(3) When a corporation, partnership, or other legal entity or any other person obtains control in a corporation or obtains a majority ownership interest in a partnership or other legal entity through the purchase or transfer of corporate stock, partnership interest, or ownership interest in the other legal entities, the purchase or transfer of the stock or other interest is a change of ownership of the property owned by the corporation, partnership, or other legal entity in which the controlling interest is obtained.

(4) If property is transferred to a legal entity in a transaction excluded from change in ownership under [section 4(1)(b)], then the persons holding ownership interests in the legal entity immediately after the transfer are considered the original co-owners. Whenever shares or other ownership interest representing cumulatively more than 50% of the total interest in the entity is transferred by any of the original co-owners in one or more transactions, a change in ownership of that real property owned by the legal entity has occurred and the property that was previously excluded from change in ownership under [section 4(1)(b)] must be appraised.

(5) The department shall include a question on returns for partnerships, banks, and corporations (except tax-exempt organizations) to determine whether the corporation owns

1 real property in Montana and, if so, whether cumulatively
 2 more than 50% of the voting stock or more than 50% of the
 3 total interest in both partnership capital and partnership
 4 profits has been transferred by the corporation or
 5 partnership or has been acquired by another legal entity or
 6 person during the year.

7 **NEW SECTION. Section 7. Joint tenancy property --**
 8 **change in ownership.** (1) The creation, transfer, or
 9 termination of any joint tenancy is a change in ownership
 10 except as provided in [sections 4 and 5] and this section.
 11 Upon a change in ownership of a joint tenancy interest, only
 12 the interest or portion that is transferred from one owner
 13 to another owner must be appraised.

14 (2) (a) There is no change in ownership upon the
 15 creation or transfer of a joint tenancy interest if the
 16 transferor or transferors, after the creation or transfer,
 17 are among the joint tenants. Upon the creation of a joint
 18 tenancy, the transferor or transferors are considered the
 19 original transferor or transferors for purposes of
 20 determining the property to be reappraised on subsequent
 21 transfers. The spouses of original transferors are also
 22 considered original transferors within the meaning of this
 23 section.

24 (b) Upon the termination of an interest in any joint
 25 tenancy described in subsection (2)(a), the entire portion

1 of the property held by the original transferor or
 2 transferors prior to the creation of the joint tenancy must
 3 be reappraised unless it vests, in whole or in part, in any
 4 remaining original transferor, in which case there may not
 5 be an appraisal. Upon the termination of the interest of the
 6 last-surviving original transferor, there must be an
 7 appraisal of the interest then transferred and all other
 8 interest in the properties that were held by original
 9 transferors and that were previously excluded from appraisal
 10 pursuant to this section.

11 (c) Upon the termination of an interest held by other
 12 than the original transferor in any joint tenancy described
 13 in subsection (2)(a), there may not be an appraisal if the
 14 entire interest is transferred either to an original
 15 transferor or to all remaining joint tenants.

16 (3) For the purposes of this section, for joint
 17 tenancies created before January 1, 1995, it is rebuttably
 18 presumed that each joint tenant holding an interest in the
 19 property as of January 1, 1995, is considered an original
 20 transferor. There is no presumption for joint tenancies
 21 created on or after January 1, 1995.

22 **NEW SECTION. Section 8. Partial interests -- change of**
 23 **ownership -- application of tax increase.** (1) Except for a
 24 joint tenancy interest described in [section 4(1)(b)], when
 25 an interest in a portion of real property is purchased or

1 changes ownership, only the interest or portion transferred
 2 must be appraised. A purchase or change in ownership of an
 3 interest with a market value of less than 5% of the value of
 4 the total property may not be appraised if the market value
 5 of the interest transferred is less than \$10,000, but
 6 transfers during any 1 assessment year must be cumulated for
 7 the purpose of determining the percentage of interest and
 8 value transferred.

9 (2) If a unit or lot within a cooperative housing
 10 corporation, condominium, planned unit development, shopping
 11 center, industrial park, or other residential or land
 12 subdivision complex with common areas or facilities changes
 13 ownership, then only the unit or lot transferred and the
 14 share in the common area reserved as an appurtenance of the
 15 unit or lot must be appraised as provided in 15-8-111. The
 16 increase in property taxes resulting from the appraisal must
 17 be applied by the owner of the property only to the
 18 tenant-shareholder, lessee, or occupant of the individual
 19 unit or lot and may not be prorated among all the other
 20 units or lots of the property.

21 NEW SECTION. Section 9. Eminent domain and similar
 22 proceedings. The acquisition of property as a replacement
 23 for comparable property is not a change in ownership if the
 24 person acquiring the property has been displaced from
 25 property by eminent domain proceedings, acquisition by a

1 public entity, or governmental action that has resulted in a
 2 judgment of inverse condemnation.

3 NEW SECTION. Section 10. Disasters -- transfer of
 4 acquisition values. The acquisition value of property that
 5 is substantially damaged or destroyed by a disaster, as
 6 declared by the governor, may be transferred to comparable
 7 property within the same county.

8 NEW SECTION. Section 11. New construction --
 9 exclusions. (1) If real property has been damaged or
 10 destroyed by misfortune or calamity, timely reconstruction
 11 of the property or a portion of the property is not new
 12 construction if the property after reconstruction is
 13 substantially equivalent to the property prior to the damage
 14 or destruction. Reconstruction that is not substantially
 15 equivalent to the damaged or destroyed property is
 16 considered to be new construction, and only the portion that
 17 exceeds substantially equivalent reconstruction must be
 18 reappraised.

19 (2) The construction or addition of any active solar
 20 energy system is not new construction. Active solar energy
 21 systems that are excluded from new construction are systems
 22 that use solar devices thermally isolated from living space
 23 or other areas where the energy is used and that provide for
 24 collection, storage, or distribution of solar energy. To
 25 qualify for the exclusion, the solar energy system must be

1 used for:

- 2 (a) domestic, recreational, therapeutic, or service hot
3 water heating;
4 (b) space conditioning;
5 (c) production of electricity;
6 (d) process heat; or
7 (e) solar mechanical energy.

8 (3) The construction or installation of a fire
9 sprinkler system or other fire extinguishing system, a fire
10 detection system, or a fire-related egress improvement is
11 not new construction.

12 (4) The construction, installation, or modification of
13 any component of a residential improvement for the purpose
14 of making the dwelling more accessible to severely disabled
15 persons is not new construction.

16 NEW SECTION. Section 12. Appraisal by department --
17 change in ownership and new construction -- disputed
18 purchase price. (1) Whenever a change in ownership or new
19 construction not excluded under [section 11] occurs, the
20 department shall appraise the property at the full market
21 value of the property effective January 1 of the next year.

22 (2) Upon the purchase of property, the department may
23 appraise the property and establish an acquisition value for
24 the property if:

- 25 (a) the department believes that the purchase price of

1 a sale of property was not the result of an arm's-length
2 transaction between the buyer and the seller;

3 (b) the purchase price is not reported on the realty
4 transfer certificate; or

5 (c) the purchase price as reported appears to be
6 erroneous or incomplete or the department believes that the
7 purchase price in any other manner does not represent the
8 market value of the property.

9 (3) If a purchase price is not reported or if the
10 assessed value upon appraisal by the department is more than
11 20% greater than the reported purchase price, the department
12 shall charge the taxpayer for the cost of the appraisal. The
13 taxpayer may contest the department's valuation of the
14 property as provided in 15-7-102.

15 NEW SECTION. Section 13. Rulemaking authority. The
16 department may adopt rules to implement [sections 1 through
17 13].

18 **Section 14.** Section 15-1-201, MCA, is amended to read:

19 "15-1-201. Administration of revenue laws. (1) (a) The
20 department of revenue ~~shall--have~~ has and shall exercise
21 general supervision over the administration of the
22 assessment and tax laws of the state, except Title 15,
23 chapter 70, and over its agents and any officers of
24 municipal corporations having any duties to perform under
25 any of the laws of this state relating to taxation to the

1 end that all assessments of property be are made relatively
 2 just and equal at true value or that other methods of
 3 valuation are applied to applicable classes of property in
 4 substantial compliance with law. The department may make
 5 rules to supervise the administration of all revenue laws of
 6 the state and assist in their enforcement.

7 (b) The department of revenue shall adopt rules
 8 specifying which types of property within the several
 9 classes are considered "comparable property" as described in
 10 15-1-101.

11 (c) The department shall also adopt rules specifying
 12 the methodology to be used in conducting sales assessment
 13 ratio studies and in determining the value-weighted mean
 14 sales assessment ratio for all commercial and industrial
 15 real property and improvements.

16 (2) The department shall confer with, advise, and
 17 direct officers of municipal corporations as to their
 18 duties, with respect to taxation, under the statutes of the
 19 state.

20 (3) The department shall collect annually from the
 21 proper officers of the municipal corporations information
 22 about the assessment of property, collection of taxes,
 23 receipts from licenses and other sources, the expenditure of
 24 public funds for all purposes, and other information as may
 25 be needful and helpful in the work of the department in a

1 form prescribed by the department. It is the duty of all
 2 public officers to fill out properly and return promptly to
 3 the department all forms and aid the department in its work.
 4 The department shall examine the records of all municipal
 5 corporations for purposes considered needful or helpful."

6 **Section 15.** Section 15-1-402, MCA, is amended to read:

7 "15-1-402. Payment of taxes under protest. (1) The
 8 person upon whom a property tax or fee is being imposed
 9 under this title may, before the property tax or fee becomes
 10 delinquent, pay under written protest that portion of the
 11 property tax or fee protested. The protested payment must:

12 (a) be made to the officer designated and authorized to
 13 collect it;

14 (b) specify the grounds of protest; and

15 (c) not exceed the difference between the payment for
 16 the immediately preceding tax year and the amount owing in
 17 the tax year protested unless a different amount results
 18 from the specified grounds of protest, ~~which may include but~~
 19 ~~are not limited to changes in assessment due to reappraisal~~
 20 ~~under 15-7-111.~~

21 (2) A person appealing a property tax or fee pursuant
 22 to chapter 2 or 15 shall pay the tax or fee under protest
 23 when due in order to receive a refund. If the tax or fee is
 24 not paid under protest when due, the appeal may continue but
 25 a tax or fee may not be refunded as a result of the appeal.

1 (3) If a protested property tax or fee is payable in
 2 installments, a subsequent installment portion considered
 3 unlawful by the state tax appeal board need not be paid and
 4 an action or suit need not be commenced to recover the
 5 subsequent installment. The determination of the action or
 6 suit commenced to recover the first installment portion paid
 7 under protest determines the right of the party paying the
 8 subsequent installment to have it or any part of it refunded
 9 to the party or the right of the taxing authority to collect
 10 a subsequent installment not paid by the taxpayer plus
 11 interest from the date the subsequent installment was due.

12 (4) All property taxes and fees paid under protest to a
 13 county or municipality must be deposited by the treasurer of
 14 the county or municipality to the credit of a special fund
 15 to be designated as a protest fund and must be retained in
 16 the protest fund until the final determination of any action
 17 or suit to recover the taxes and fees unless they are
 18 released at the request of the county, municipality, or
 19 other local taxing jurisdiction pursuant to subsection (5).
 20 This section does not prohibit the investment of the money
 21 of this fund in the state unified investment program or in
 22 any manner provided in Title 7, chapter 6. The provision
 23 creating the special protest fund does not apply to any
 24 payments made under protest directly to the state.

25 (5) The governing board of a taxing jurisdiction

1 affected by the payment of taxes under protest in the second
 2 and subsequent years that a tax protest remains unresolved
 3 may demand that the treasurer of the county or municipality
 4 pay the requesting taxing jurisdiction all or a portion of
 5 the protest payments to which it is entitled, except the
 6 amount paid by the taxpayer in the first year of the
 7 protest. The decision in a previous year of a taxing
 8 jurisdiction to leave protested taxes in the protest fund
 9 does not preclude it from demanding in a subsequent year any
 10 or all of the payments to which it is entitled, except the
 11 first-year protest amount.

12 (6) (a) If action before the county tax appeal board,
 13 state tax appeal board, or district court is not commenced
 14 within the time specified or if the action is commenced and
 15 finally determined in favor of the department of revenue,
 16 county, municipality, or treasurer of the county or the
 17 municipality, the amount of the protested portions of the
 18 property tax or fee must be taken from the protest fund and
 19 deposited to the credit of the fund or funds to which the
 20 property tax belongs, less a pro rata deduction for the
 21 costs of administration of the protest fund and related
 22 expenses charged the local government units.

23 (b) If the action is finally determined adversely to
 24 the department of revenue, a county, a municipality, or the
 25 treasurer of a county or a municipality, then the treasurer

1 shall, upon receiving a certified copy of the final judgment
 2 in the action from the state tax appeal board or from the
 3 district or supreme court, as appropriate, if the final
 4 action of the state tax appeal board is appealed in the time
 5 prescribed, refund to the person in whose favor the judgment
 6 is rendered the amount of the protested portions of the
 7 property tax or fee deposited in the protest fund, and not
 8 released pursuant to subsection (5), as the person holding
 9 the judgment is entitled to recover, together with interest
 10 from the date of payment under protest, at the greater of:

11 (i) the rate of interest generated from the pooled
 12 investment fund provided for in 17-6-203 for the applicable
 13 period; or

14 (ii) 6% a year.

15 (c) If the amount retained in the protest fund is
 16 insufficient to pay all sums due the taxpayer, the treasurer
 17 shall apply the available amount first to tax repayment,
 18 then interest owed, and lastly to costs.

19 (d) If the protest action is decided adversely to a
 20 taxing jurisdiction and the amount retained in the protest
 21 fund is insufficient to refund the tax payments and costs to
 22 which the taxpayer is entitled and for which local
 23 government units are responsible, the treasurer shall bill
 24 and the taxing jurisdiction shall refund to the treasurer
 25 that portion of the taxpayer refund, including tax payments

1 and costs, for which the taxing jurisdiction is proratably
 2 responsible.

3 (e) In satisfying the requirements of subsection
 4 (6)(d), the taxing jurisdiction is allowed not more than 1
 5 year from the beginning of the fiscal year following a final
 6 resolution of the protest. The taxpayer is entitled to
 7 interest on the unpaid balance at the greater of the rates
 8 referred to in subsections (6)(b)(i) and (6)(b)(ii) from the
 9 date of payment under protest until the date of final
 10 resolution of the protest and at the combined rate of the
 11 federal reserve discount rate quoted from the federal
 12 reserve bank in New York, New York, on the date of final
 13 resolution, plus four percentage points, from the date of
 14 final resolution of the protest until refund is made.

15 (7) A taxing jurisdiction may satisfy the requirements
 16 of this section by use of funds from one or more of the
 17 following sources:

18 (a) imposition of a property tax to be collected by a
 19 special tax protest refund levy;

20 (b) the general fund, except that amount generated by
 21 the all-purpose mill levy, or any other funds legally
 22 available to the governing body; and

23 (c) proceeds from the sale of bonds issued by a county,
 24 city, or school district for the purpose of deriving revenue
 25 for the repayment of tax protests lost by the taxing

jurisdiction. The governing body of a county, city, or school district is authorized to issue the bonds pursuant to procedures established by law. The bonds may be issued without being submitted to an election. Property taxes may be levied to amortize the bonds."

Section 16. 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, 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 for a single person or \$12,000 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 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		Percentage
Single Person	Married Couple Head of Household	Multiplier
\$ 0 - \$ 1,000	\$ 0 - \$ 1,200	0%
1,001 - 2,000	1,201 - 2,400	10%

1	2,001 - 3,000	2,401 - 3,600	20%
2	3,001 - 4,000	3,601 - 4,800	30%
3	4,001 - 5,000	4,801 - 6,000	40%
4	5,001 - 6,000	6,001 - 7,200	50%
5	6,001 - 7,000	7,201 - 8,400	60%
6	7,001 - 8,000	8,401 - 9,600	70%
7	8,001 - 9,000	9,601 - 10,800	80%
8	9,001 - 10,000	10,801 - 12,000	90%

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

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

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

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

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

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

5 ~~(4)~~ (3) Within the meaning of comparable property as
6 defined in 15-1-101, property assessed as commercial
7 property is comparable only to other property assessed as
8 commercial property, and property assessed as other than
9 commercial property is comparable only to other property
10 assessed as other than commercial property."

11 **Section 17.** Section 15-7-101, MCA, is amended to read:

12 "15-7-101. Classification and appraisal -- duties of
13 the department of revenue. (1) It is the duty of the
14 department of revenue to accomplish the following:

- 15 (a) the classification of all taxable lands;
16 (b) the appraisal, when required, of ~~all~~ taxable city
17 and town lots;
18 (c) the appraisal, when required, of ~~all~~ taxable rural
19 and urban improvements.

20 (2) A record ~~thereof~~ of the classification and
21 appraisal must be kept upon such those maps, plats, and
22 forms and entered in such books of record ~~as may be~~ that are
23 prescribed by the department. ~~Such~~ The maps, plats, forms,
24 and books of record ~~shall be~~ are official records of the
25 state. A certified copy of ~~all such~~ requested records ~~as may~~

1 ~~be-desired-shall~~ must be furnished to the department.

2 (3) It ~~shall--be~~ is the duty of the department to
3 maintain and keep current the classification of all taxable
4 lands and ~~appraisal~~ the assessed value of city and town lots
5 and rural and urban improvements, as provided for herein in
6 this title."

7 **Section 18.** Section 15-7-102, MCA, is amended to read:

8 "15-7-102. Notice of classification and appraisal to
9 owners -- appeals. (1) The department of revenue shall,
10 through its agent as specified in subsection (2), mail to
11 each owner or purchaser under contract for deed a notice of
12 the classification of the land owned or being purchased and
13 the appraisal of the improvements on the land only if one or
14 more of the following changes pertaining to the land or
15 improvements have been made since the last notice:

16 (a) change in ownership;

17 (b) change in classification;

18 (c) change in valuation, including the approval or
19 denial of a change in valuation based on an independent
20 appraisal under [section 2]; or

21 (d) addition or subtraction of personal property
22 affixed to the land.

23 (2) (a) The county assessor shall assign each
24 assessment to the correct owner or purchaser under contract
25 for deed and mail the notice of classification and appraisal

1 on a standardized form, adopted by the department,
2 containing sufficient information in a comprehensible manner
3 designed to fully inform the taxpayer as to the
4 classification and appraisal of the property and of changes
5 over the prior tax year.

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

10 (3) If the owner of any land and improvements is
11 dissatisfied with the appraisal as it reflects the market
12 value of the property as determined by the department, with
13 the denial of a reduction in value based upon an independent
14 appraisal, or with the classification of the land or
15 improvements, the owner may request an assessment review by
16 submitting an objection in writing to the department, on
17 forms provided by the department for that purpose, within 15
18 days after receiving the notice of classification and
19 appraisal from the department. The review must be conducted
20 informally and is not subject to the contested case
21 procedures of the Montana Administrative Procedure Act. As a
22 part of the review, the department may consider ~~the--actual~~
23 ~~selling-price-of-the-property,~~ independent appraisals of the
24 property, and other relevant information presented by the
25 taxpayer in support of the taxpayer's opinion as to the

1 market value of the property. The department shall give
 2 reasonable notice to the taxpayer of the time and place of
 3 the review. After the review, the department shall determine
 4 the true and correct appraisal and classification of the
 5 land or improvements and notify the taxpayer of its
 6 determination. In the notification, the department shall
 7 state its reasons for revising the classification or
 8 appraisal. When the proper appraisal and classification have
 9 been determined, the land must be classified and the
 10 improvements appraised in the manner ordered by the
 11 department.

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

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

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

20 (5) A taxpayer's written objection to a classification,
 21 refusal to lower a valuation, or appraisal and the
 22 department's notification to the taxpayer of its
 23 determination and the reason for that determination are
 24 public records. The department shall make the records
 25 available for inspection during regular office hours.

1 (6) If any property owner feels aggrieved by the
 2 classification or appraisal made by the department after the
 3 review provided for in subsection (3), the property owner
 4 has the right to first appeal to the county tax appeal board
 5 and then to the state tax appeal board, whose findings are
 6 final subject to the right of review in the courts. The
 7 appeal to the county tax appeal board must be filed within
 8 15 days after notice of the department's determination is
 9 mailed to the taxpayer. A county tax appeal board or the
 10 state tax appeal board may consider the actual selling price
 11 of the property, independent appraisals of the property, and
 12 other relevant information presented by the taxpayer as
 13 evidence of the market value of the property. If the county
 14 tax appeal board or the state tax appeal board determines
 15 that an adjustment should be made, the department shall
 16 adjust the base value of the property in accordance with the
 17 board's order."

18 **Section 19.** Section 15-7-103, MCA, is amended to read:

19 "**15-7-103. Classification and appraisal -- ~~general--and~~**
 20 **~~uniform~~ methods.** (1) It is the duty of the department of
 21 revenue to implement the provisions of 15-7-101 through
 22 15-7-103 by providing:

23 (a) for a ~~general--and--uniform~~ method of classifying
 24 lands in the state for the purpose of securing an equitable
 25 and-uniform-basis-of assessment ~~of-said~~ within each class of

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;

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

(2) All lands ~~shall~~ must be classified according to their use or uses and graded within each class according to soil and productive capacity. In ~~such~~ the classification work, use ~~shall~~ must 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, 1986--all-property-classified-in-15-6-134-must-be-appraised on-its-market-value-in-the-same-year--The--department--shall~~

~~publish-a-rule-specifying-the-year-used-in-the-appraisal-~~

~~{6}{5}~~ All sewage disposal systems and domestic use water supply systems of all dwellings may not be appraised, assessed, and taxed separately from the land, house, or other improvements in which they are located. ~~in--no--event may-the~~ The sewage disposal or domestic water supply systems ~~may not~~ be included twice by including them in the valuation and assessing them separately."

Section 20. Section 15-7-112, MCA, is amended to read:

"15-7-112. Equalization of valuations. The same method of appraisal and assessment ~~shall~~ must be used in each county of the state to the end that comparable property ~~that is assessed by market value~~ with similar true market values and subject to taxation in Montana ~~shall~~ must have substantially equal taxable values ~~at--the--end--of--each cyclical-revaluation-program-hereinbefore-provided.~~"

Section 21. Section 15-7-201, MCA, is amended to read:

"15-7-201. ~~{Temporary -- applicable to 1986 land valuation schedules}~~ Legislative intent -- value of agricultural property. (1) Because the market value of many agricultural properties is based upon speculative purchases that do not reflect the productive capability of agricultural land, it is the legislative intent that bona fide agricultural properties be classified and assessed at a value that is exclusive of values attributed to urban

1 influences or speculative purposes.

2 (2) Agricultural land must be classified according to
3 its use, which classifications include but are not limited
4 to irrigated use, nonirrigated use, and grazing use. Within
5 each class, land must be assessed at a value that is fairly
6 based on its ability to produce, taking into consideration
7 the classification system in existence on January 1, 1986,
8 provided that the department may consolidate tillable
9 irrigated land classes. With relation to irrigated land,
10 water costs must be taken into consideration, except at no
11 time may the resulting value of irrigated land be reduced
12 below the value that the land would have if it were not
13 irrigated.

14 (3) Capital costs, such as improved water distribution,
15 fertilizer, and land shaping that increase productivity, may
16 not be used in determining assessed values.

17 15-7-201. (Applicable to 1994 and later land valuation
18 schedules) Legislative intent -- value of agricultural
19 property. (1) Because the market value of many agricultural
20 properties is based upon speculative purchases that do not
21 reflect the productive capability of agricultural land, it
22 is the legislative intent that bona fide agricultural
23 properties be classified and assessed at a value that is
24 exclusive of values attributed to urban influences or
25 speculative purposes.

1 (2) Agricultural land must be classified according to
2 its use, which classifications include but are not limited
3 to irrigated use, nonirrigated use, and grazing use.

4 (3) Within each class, land must be subclassified by
5 production categories. Production categories are determined
6 from the productive capacity of the land based on yield.

7 (4) In computing the agricultural land valuation
8 schedules to take effect on January 1, 1994, and,
9 thereafter, on the--effective--date--when--each--revaluation
10 ~~cycle-takes-effect-pursuant-to-15-7-111~~ January 1 at 3-year
11 intervals, the department of revenue shall determine the
12 productive capacity value of all agricultural lands using
13 the formula $V = I/R$ where:

14 (a) V is the per-acre productive capacity value of
15 agricultural land in each land use and production category;

16 (b) I is the per-acre net income of agricultural land
17 in each land use and production category and is to be
18 determined as provided in subsection (5); and

19 (c) R is the capitalization rate and is equal to 6.4%.
20 This capitalization rate must remain in effect until new
21 agricultural land valuation schedules are computed as
22 required by law.

23 (5) (a) Net income must be determined separately in
24 each land use based on production categories.

25 (b) Net income must be based on commodity price data,

1 grazing fees, crop share arrangements, and water cost data
2 for the base period.

3 (i) Commodity price data and grazing fees for the base
4 period must be obtained from the Montana Agricultural
5 Statistics and from the Montana crop and livestock reporting
6 service.

7 (ii) Crop share arrangements are based on the rental
8 value of the land and average landowner costs.

9 (iii) Allowable water costs consist only of the per-acre
10 labor costs and energy costs of irrigation.

11 (A) Labor costs are zero for pivot sprinkler irrigation
12 systems; \$4.50 an acre for tow lines, side roll, and lateral
13 sprinkler irrigation systems; and \$9 an acre for hand-moved
14 and flood irrigation systems.

15 (B) Energy costs must be based on per-acre energy costs
16 incurred in 1992. By July 1, 1993, an owner of irrigated
17 land shall provide the department, on a form prescribed by
18 the department, with energy costs incurred in 1992. In the
19 event that no energy costs were incurred in 1992, the owner
20 of irrigated land shall provide the department with energy
21 costs from the most recent year available. The department
22 shall adjust the most recent year's energy costs to reflect
23 costs in 1992.

24 (c) The base crop for valuation of irrigated land is
25 alfalfa hay, adjusted to 80% of sales price, and the base

1 crop for valuation of nonirrigated land is wheat. The base
2 unit for valuation of grazing lands is the average grazing
3 fee for a 1,000-pound animal.

4 (d) The base period used to determine net income must
5 be the most recent 7 years for which data is available prior
6 to the date the revaluation cycle ends. Commodity price data
7 and grazing fees referred to in subsection (5)(b) must be
8 averaged for the 7-year period, but the average must exclude
9 the lowest and highest commodity prices or grazing fees in
10 the period.

11 (6) The department shall compile data and develop
12 valuation manuals adopted by rule to implement the valuation
13 method established by subsections (4) and (5).

14 (7) The governor shall appoint an advisory committee of
15 persons knowledgeable in agriculture and agricultural
16 economics to compile and review the data required by
17 subsections (4) and (5). The advisory committee shall
18 include one member of the Montana state university, college
19 of agriculture, staff. The advisory committee shall
20 recommend agricultural land valuation schedules to the
21 department. With respect to irrigated land, the value of
22 irrigated land may not be below the value that the land
23 would have if it were not irrigated."

24 **Section 22.** Section 15-7-202, MCA, is amended to read:
25 "15-7-202. (Temporary) Eligibility of land for

1 valuation as agricultural. (1) Contiguous parcels of land
2 totaling 20 acres or more under one ownership shall be
3 eligible for valuation, assessment, and taxation as
4 agricultural land each year that none of the parcels is
5 devoted to a commercial or industrial use.

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

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

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

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

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

3 (4) Land may not be classified or valued as
4 agricultural if it is subdivided land with stated
5 restrictions effectively prohibiting its use for
6 agricultural purposes. For the purposes of this subsection
7 only, "subdivided land" includes parcels of land larger than
8 20 acres that have been subdivided for commercial or
9 residential purposes.

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

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

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

21 (8) Subject to the provisions of subsections (2)(a) and
22 (2)(b), property upon which sod, ornamental, nursery, or
23 horticultural crops are raised, grown, or produced must
24 consist of at least 10 acres before the property is eligible
25 to be classified as agricultural land. Improvements devoted

1 to crop production described in this subsection may not be
2 included in class eleven property.

3 15-7-202. (Effective July 1, 1994) Eligibility of land
4 for valuation as agricultural. (1) (a) Contiguous parcels of
5 land totaling 160 acres or more under one ownership are
6 eligible for valuation, assessment, and taxation as
7 agricultural land each year that none of the parcels is
8 devoted to a residential, commercial, or industrial use.

9 (b) (i) Contiguous parcels of land of 20 acres or more
10 but less than 160 acres under one ownership are eligible for
11 valuation, assessment, and taxation as agricultural land if
12 the land is used primarily for raising and marketing, as
13 defined in subsection (1)(c), products that meet the
14 definition of agricultural in 15-1-101. A parcel of land is
15 presumed to be used primarily for raising agricultural
16 products if the owner or the owner's immediate family
17 members, agent, employee, or lessee markets not less than
18 \$1,500 in annual gross income from the raising of
19 agricultural products produced by the land. The owner of
20 land that is not presumed to be agricultural land shall
21 verify to the department that the land is used primarily for
22 raising and marketing agricultural products.

23 (ii) Noncontiguous parcels of land that meet the income
24 requirement of subsection (1)(b)(i) are eligible for
25 valuation, assessment, and taxation as agricultural land

1 under subsection (1)(b)(i) if:

2 (A) the land is an integral part of a bona fide
3 agricultural operation undertaken by the persons set forth
4 in subsection (1)(b)(i) as defined in this section; and

5 (B) the land is not devoted to a residential,
6 commercial, or industrial use.

7 (c) For the purposes of this subsection (1),
8 "marketing" means the selling of agricultural products
9 produced by the land and includes but is not limited to:

10 (i) rental or lease of the land as long as the land is
11 actively used for grazing livestock or for other
12 agricultural purposes; and

13 (ii) rental payments made under the federal conservation
14 reserve program or a successor to that program.

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

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

25 (b) the parcels would have met the qualification set

1 out in subsection (2)(a) were it not for independent
2 intervening causes of production failure beyond the control
3 of the producer or marketing delay for economic advantage,
4 in which case proof of qualification in a prior year will
5 suffice.

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

11 (4) Land may not be classified or valued as
12 agricultural if it is subdivided land with stated
13 restrictions effectively prohibiting its use for
14 agricultural purposes. For the purposes of this subsection
15 only, "subdivided land" includes parcels of land larger than
16 20 acres that have been subdivided for commercial or
17 residential purposes.

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

22 (6) The department may not classify land less than 160
23 acres as agricultural unless the owner has applied to have
24 land classified as agricultural land. Land of 20 acres or
25 more but less than 160 acres for which no an application for

1 agricultural classification has not been made is taxed as
2 provided in 15-6-133(1)(c). If land has been valued,
3 assessed, and taxed as agricultural land in any year, it
4 must continue to be valued, assessed, and taxed as
5 agricultural until the department reclassifies the property.
6 ~~A-reclassification-does-not-mean-revaluation-pursuant-to~~
7 ~~15-7-111.~~

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

10 (8) Subject to the provisions of subsections (1),
11 (2)(a), and (2)(b), property upon which sod, ornamental,
12 nursery, or horticultural crops are raised, grown, or
13 produced must consist of at least 10 acres before the
14 property is eligible to be classified as agricultural land.
15 Improvements devoted to crop production described in this
16 subsection may not be included in class eleven property."

17 **Section 23.** Section 15-7-303, MCA, is amended to read:

18 "15-7-303. Definitions. As used in this part, the
19 following definitions apply:

20 (1) "Partial interest" means a percentage interest in
21 property when less than 100%.

22 (2) "Person" means and includes an individual,
23 corporation, partnership, or other business organization,
24 trust, fiduciary, or agent or any other party presenting a
25 document for recordation.

(3) "Real estate" includes:

(a) land;

(b) growing timber;

(c) buildings, structures, fixtures, fences, and improvements affixed to land; and

(d) mobile homes.

(4) "Transfer" means an act of the parties or of the law by which the title to real property is conveyed from one person to another.

(5) "Value" means the amount of the full actual consideration ~~therefor~~ paid or to be paid for real estate, including the amount of any lien or liens ~~thereon~~ on the real estate."

Section 24. Section 15-7-305, MCA, is amended to read:

"15-7-305. Realty transfer certificate required. (1)

The county clerk and recorder shall cause to be executed by the parties to the transaction or their agents or representatives a certificate declaring the consideration paid or to be paid for the real estate transferred. In addition to containing matter required by the department of revenue, a valid certificate must:

(a) contain the social security numbers or, in the case of legal entities that are not individuals, the tax identification numbers of the transferors and transferees;

(b) contain, under penalty for perjury as provided in

45-7-201, a statement that the transferors and transferees under oath, or equivalent affirmation, swear or affirm that the recorded transaction was an arm's-length transaction, as defined in [section 1]; and

(c) be signed by both the transferor and transferee or by the appropriate agent for a transferor or transferee that is a legal entity and not an individual.

(2) ~~No~~ An instrument or deed evidencing a transfer of real estate may not be accepted for recordation until the certificate or a claim for exemption pursuant to 15-7-307(2) has been received by the county clerk and recorder. The validity or effectiveness of an instrument or deed as between the parties to it ~~shall~~ may not be affected by the failure to comply with the provisions in this part.

(3) The form of certificate ~~shall~~ must be prescribed by the department ~~of revenue~~, and the department shall provide an adequate supply of ~~such~~ forms to each county clerk and recorder in the state.

(4) The clerk and recorder shall prepare a like certificate for each contract for deed filed for recording.

(5) The clerk and recorder shall transmit each executed certificate to the department."

Section 25. Section 15-7-307, MCA, is amended to read:

"15-7-307. Certificate -- exceptions. (1) The certificate imposed by this part ~~shall~~ does not apply to:

1 †1†(a) an instrument recorded prior to July 1, 1975;
 2 †2†(b) the sale of agricultural land when the land is
 3 used for agricultural purposes;
 4 †3†(c) the sale of timberland when the land is used for
 5 producing timber;
 6 †4†(d) the United States of America, this state, or any
 7 instrumentality, agency, or subdivision thereof;
 8 †5†(e) an instrument which that (without added
 9 consideration) confirms, corrects, modifies, or supplements
 10 a previously recorded instrument;
 11 †6†(f) a transfer pursuant to court decree;
 12 †7†(g) a transfer pursuant to mergers, consolidations,
 13 or reorganizations of corporations, partnerships, or other
 14 business entities;
 15 †8†(h) a transfer by a subsidiary corporation to its
 16 parent corporation without actual consideration or in sole
 17 consideration of the cancellation or surrender of subsidiary
 18 stock;
 19 †9†(i) a transfer of decedents' estates;
 20 †10†(j) a transfer of a gift;
 21 †11†(k) a transfer between husband and wife or parent
 22 and child with only nominal actual consideration therefor;
 23 †12†(l) an instrument the effect of which is to
 24 transfer the property to the same party or parties;
 25 †13†(m) a sale for delinquent taxes or assessments,

1 sheriff sale, bankruptcy action, or mortgage foreclosure;
 2 †14†(n) a transfer made in contemplation of death.
 3 (2) A transferee shall file a claim of exemption on
 4 forms provided by the department of revenue before a
 5 transfer specified in [sections 1 through 13] or in
 6 subsection (1) of this section is exempt from the
 7 certification requirement of this part."

8 **Section 26.** Section 15-8-111, MCA, is amended to read:
 9 "15-8-111. Assessment -- market value standard --
 10 exceptions. (1) All taxable property must be assessed at
 11 100% of its market value except as otherwise provided.
 12 (2) (a) Market value is the value at which property
 13 would change hands between a willing buyer and a willing
 14 seller, neither being under any compulsion to buy or to sell
 15 and both having reasonable knowledge of relevant facts.
 16 (b) If the department of revenue uses construction cost
 17 as one approximation of market value, the department shall
 18 fully consider reduction in value caused by depreciation,
 19 whether through physical depreciation, functional
 20 obsolescence, or economic obsolescence.
 21 (c) Except as provided in subsection (3), the market
 22 value of all motor trucks; agricultural tools, implements,
 23 and machinery; and vehicles of all kinds, including but not
 24 limited to boats and all watercraft, is the average
 25 wholesale value shown in national appraisal guides and

1 manuals or the value of the vehicle before reconditioning
2 and profit margin. The department of-revenue shall prepare
3 valuation schedules showing the average wholesale value when
4 a national appraisal guide does not exist.

5 (3) The department of-revenue or its agents may not
6 adopt a lower or different standard of value from market
7 value in making the official assessment and appraisal of the
8 value of property, except:

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

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

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

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

21 (5) The taxable value for all property is the
22 percentage of market or assessed value established for each
23 class of property.

24 (6) The assessed value of properties in 15-6-131
25 through ~~15-6-133~~ 15-6-134 and 15-6-143 is as follows:

1 (a) Properties in 15-6-131, under class one, are
2 assessed at 100% of the annual net proceeds after deducting
3 the expenses specified and allowed by 15-23-503 or, if
4 applicable, as provided in 15-23-515, 15-23-516, or
5 15-23-517.

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

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

13 ~~(d) Beginning--January-1,-1990--and-ending-December-31,-~~
14 ~~1993,-properties-in-15-6-143,-under-class-ten,-are--assessed~~
15 ~~at--100%--of--the--combined--appraised-value-of-the-standing~~
16 ~~timber-and-grazing-productivity-of-the-land-when--valued--as~~
17 ~~timberland. The assessed value of property in class four, as~~
18 ~~described in 15-6-134, is the acquisition value of the~~
19 ~~property as determined in [sections 1 through 13].~~

20 (e) Beginning January 1, 1994, properties in 15-6-143,
21 under class ten, are assessed at 100% of the forest
22 productivity value of the land when valued as forest land.

23 (7) Land and the improvements on the land are
24 separately assessed when any of the following conditions
25 occur:

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

(b) the taxpayer makes a written request; or

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

~~{Subsection--(6)--terminates-January-1,-1994--sec--197-Ch-7837-57-1991--}~~"

Section 27. Section 15-8-112, MCA, is amended to read:

"15-8-112. Assessments to be made on classification and appraisal assessment. (1) The Subject to the provisions of 15-8-111, the assessments of all lands, city and town lots, and all improvements must be made on the classification and appraisal assessment as made, or caused to be made, or approved by the department of revenue.

(2) The percentage basis of assessed value as provided for in chapter 6, part 1, is determined and assigned by the department when it makes its annual assessment of the property ~~which~~ that it is required to assess centrally under the laws of this state. The department shall transmit ~~such~~ the determination and assignment to its agents in the various counties with the assessments so made, and its determination is final except as to the right of review in the state tax appeal board or the proper court."

Section 28. Section 15-10-412, MCA, is amended to read:

"15-10-412. Property tax limited to 1986 levels -- clarification -- extension to all property classes. Section

15-10-402 is interpreted and clarified as follows:

(1) The limitation to 1986 levels is extended to apply to all classes of property described in Title 15, chapter 6, part 1.

(2) The limitation on the amount of taxes levied is interpreted to mean that, except as otherwise provided in this section, the actual tax liability for an individual property is capped at the dollar amount due in each taxing unit for the 1986 tax year. In tax years thereafter, the property must be taxed in each taxing unit at the 1986 cap or the product of the taxable value and mills levied, whichever is less for each taxing unit, except in a taxing unit that levied a tax in tax years 1983 through 1985 but did not levy a tax in 1986, in which case the actual tax liability for an individual property is capped at the dollar amount due in that taxing unit for the 1985 tax year.

(3) The limitation on the amount of taxes levied does not prohibit a further increase in the total taxable valuation of a taxing unit as a result of:

(a) annexation of real property and improvements into a taxing unit;

(b) construction, expansion, or remodeling of improvements;

(c) transfer of property into a taxing unit;

(d) subdivision of real property;

1 (e) reclassification of property;

2 (f) increases in the amount of production or the value

3 of production for property described in 15-6-131 or

4 15-6-132;

5 (g) transfer of property from tax-exempt to taxable

6 status; or

7 (h) revaluations caused by:

8 ~~{i}--cyclical-reappraisal; or~~

9 ~~{ii} expansion, addition, replacement, or remodeling of~~

10 ~~improvements.~~

11 (4) The limitation on the amount of taxes levied does

12 not prohibit a further increase in the taxable valuation or

13 in the actual tax liability on individual property in each

14 class as a result of:

15 (a) a revaluation caused by:

16 ~~{i} construction, expansion, replacement, or remodeling~~

17 ~~of improvements that adds value to the property; or~~

18 ~~{ii} cyclical-reappraisal;~~

19 (b) transfer of property into a taxing unit;

20 (c) reclassification of property;

21 (d) increases in the amount of production or the value

22 of production for property described in 15-6-131 or

23 15-6-132;

24 (e) annexation of the individual property into a new

25 taxing unit; or

1 (f) conversion of the individual property from

2 tax-exempt to taxable status.

3 ~~{5}--Property--in--class-four-is-valued-according-to-the~~

4 ~~procedures-used-in-1986--including-the-designation--of--1982~~

5 ~~as--the--base--year,--until--the-reappraisal-cycle-beginning~~

6 ~~January-1-1986-is-completed-and-new-valuations-are--placed~~

7 ~~on--the--tax--rolls--and--a-new-base-year-designated,--if-the~~

8 ~~property-is:~~

9 ~~{a}--new-construction;~~

10 ~~{b}--expanded,--deleted,--replaced,--or--remodeled~~

11 ~~improvements;~~

12 ~~{c}--annexed-property; or~~

13 ~~{d}--property--converted--from--tax-exempt--to--taxable~~

14 ~~status.~~

15 ~~{6}--Property-described-in--subsections--{5}{a}--through~~

16 ~~{5}{d}--that--is-not-class-four-property-is-valued-according~~

17 ~~to-the-procedures-used-in-1986-but-is-also--subject--to--the~~

18 ~~dollar-cap-in-each-taxing-unit-based-on-1986-mills-levied.~~

19 ~~{7}{5} The limitation on the amount of taxes, as~~

20 ~~clarified in this section, is intended to leave the property~~

21 ~~appraisal and valuation methodology of the department of~~

22 ~~revenue intact. Determinations of county classifications,~~

23 ~~salaries of local government officers, and all other matters~~

24 ~~in which total taxable valuation is an integral component~~

25 ~~are not affected by 15-10-401 and 15-10-402 except for the~~

use of taxable valuation in fixing tax levies. In fixing tax levies, the taxing units of local government may anticipate the deficiency in revenues resulting from the tax limitations in 15-10-401 and 15-10-402, while understanding that regardless of the amount of mills levied, a taxpayer's liability may not exceed the dollar amount due in each taxing unit for the 1986 tax year unless:

(a) except as provided in subsection ~~(8)(a)~~ (6)(a), the taxing unit's taxable valuation decreases by 5% or more from the 1986 tax year. If a taxing unit's taxable valuation decreases by 5% or more from the 1986 tax year, it may levy additional mills to compensate for the decreased taxable valuation, but the mills levied may not exceed a number calculated to equal the revenue from property taxes for the 1986 tax year in that taxing unit.

(b) a levy authorized under Title 20 raised less revenue in 1986 than was raised in either 1984 or 1985, in which case the taxing unit may, after approval by the voters in the taxing unit, raise each year thereafter an additional number of mills but may not levy more revenue than the 3-year average of revenue raised for that purpose during 1984, 1985, and 1986;

(c) a levy authorized in 50-2-111 that was made in 1986 was for less than the number of mills levied in either 1984 or 1985, in which case the taxing unit may, after approval

by the voters in the taxing unit, levy each year thereafter an additional number of mills but may not levy more than the 3-year average number of mills levied for that purpose during 1984, 1985, and 1986.

~~(8)(6)~~ (a) Except as provided in subsection ~~(8)(b)~~ (6)(b), if a taxing unit has levied additional mills under subsection ~~(7)(a)~~ (5)(a) to compensate for a decrease in taxable valuation, it may continue to levy additional mills to equal the revenue from property taxes for the 1986 tax year when the taxing unit's taxable valuation is greater than 95% but less than 100% of the taxing unit's taxable valuation in tax year 1986.

(b) When the taxable valuation of a taxing unit that levied additional mills under subsection ~~(7)(a)~~ (5)(a) or ~~(8)(a)~~ (6)(a) is equal to or greater than the taxing unit's taxable valuation in tax year 1986, it may not levy additional mills to compensate for a subsequent decrease in taxable valuation unless the conditions of subsection ~~(7)(a)~~ (5)(a) are satisfied.

~~(9)(7)~~ The limitation on the amount of taxes levied does not apply to the following levy or special assessment categories, whether or not they are based on commitments made before or after approval of 15-10-401 and 15-10-402:

(a) rural improvement districts;

(b) special improvement districts;

1 (c) levies pledged for the repayment of bonded
 2 indebtedness, including tax increment bonds;
 3 (d) city street maintenance districts;
 4 (e) tax increment financing districts;
 5 (f) satisfaction of judgments against a taxing unit;
 6 (g) street lighting assessments;
 7 (h) revolving funds to support any categories specified
 8 in this subsection ~~(9)~~ (7);
 9 (i) levies for economic development authorized pursuant
 10 to 90-5-112(4);
 11 (j) levies authorized under 7-6-502 for juvenile
 12 detention programs;
 13 (k) levies authorized under 76-15-531 and 76-15-532 for
 14 conservation district special administrative assessments;
 15 (l) elementary and high school districts; and
 16 (m) voted poor fund levies authorized under 53-2-322.
 17 ~~(10)~~ (8) The limitation on the amount of taxes levied
 18 does not apply in a taxing unit if the voters in the taxing
 19 unit approve an increase in tax liability following a
 20 resolution of the governing body of the taxing unit
 21 containing:
 22 (a) a finding that there are insufficient funds to
 23 adequately operate the taxing unit as a result of 15-10-401
 24 and 15-10-402;
 25 (b) an explanation of the nature of the financial

1 emergency;
 2 (c) an estimate of the amount of funding shortfall
 3 expected by the taxing unit;
 4 (d) a statement that applicable fund balances are or by
 5 the end of the fiscal year will be depleted;
 6 (e) a finding that there are no alternative sources of
 7 revenue;
 8 (f) a summary of the alternatives that the governing
 9 body of the taxing unit has considered; and
 10 (g) a statement of the need for the increased revenue
 11 and how it will be used.
 12 ~~(11)~~ (9) (a) The limitation on the amount of taxes
 13 levied does not apply to levies required to address the
 14 funding of relief of suffering of inhabitants caused by
 15 famine, conflagration, or other public calamity.
 16 (b) The limitation set forth in this chapter on the
 17 amount of taxes levied does not apply to levies to support:
 18 (i) a city-county board of health as provided in Title
 19 50, chapter 2, if the governing bodies of the taxing units
 20 served by the board of health determine, after a public
 21 hearing, that public health programs require funds to ensure
 22 the public health. A levy for the support of a local board
 23 of health may not exceed the 5-mill limit established in
 24 50-2-111.
 25 (ii) county, city, or town ambulance services authorized

1 by a vote of the electorate under 7-34-102(2); and

2 (iii) a rail authority, as provided in Title 7, chapter
3 14, part 16, authorized by a board of county commissioners.
4 A levy for the support of a rail authority may not exceed
5 the 6-mill limit established in 7-14-1632.

6 ~~{12}~~(10) The limitation on the amount of taxes levied by
7 a taxing jurisdiction subject to a statutory maximum mill
8 levy does not prevent a taxing jurisdiction from increasing
9 its number of mills beyond the statutory maximum mill levy
10 to produce revenue equal to its 1986 revenue.

11 ~~{13}~~(11) The limitation on the amount of taxes levied
12 does not apply to a levy increase to repay taxes paid under
13 protest in accordance with 15-1-402.

14 ~~{14}~~(12) A taxing jurisdiction that included special
15 improvement district revolving fund levies in the limitation
16 on the amount of taxes levied prior to April 22, 1993, may
17 continue to include the amount of the levies within the
18 dollar amount due in each taxing unit for the 1986 tax year
19 even if the necessity for the revolving fund has diminished
20 and the levy authority has been transferred."

21 **Section 29.** Section 15-15-101, MCA, is amended to read:

22 "15-15-101. County tax appeal board -- meetings and
23 compensation. (1) The board of county commissioners of each
24 county shall appoint a three-member county tax appeal board,
25 with the members to serve staggered terms of 3 years each.

1 The members of each county tax appeal board ~~shall~~ must be
2 residents of the county in which they serve. They shall
3 receive compensation of \$45 a day and travel expenses, as
4 provided for in 2-18-501 through 2-18-503, only when the
5 county tax appeal board is in session to hear taxpayers'
6 appeals from property tax assessments or when they are
7 attending meetings called by the state tax appeal board.
8 Travel expenses and compensation must be paid from the
9 appropriation to the state tax appeal board. Office space
10 and equipment for the county tax appeal boards must be
11 furnished by the county. All other incidental expenses must
12 be paid from the appropriation of the state tax appeal
13 board.

14 (2) The county tax appeal board shall hold an
15 organizational meeting each year on the date of its first
16 scheduled hearing, immediately before conducting the
17 business for which the hearing was otherwise scheduled. It
18 must continue in session from time to time to hear protests
19 concerning assessments made by the department of revenue
20 until the business of hearing protests is disposed of, but,
21 except as provided in 15-2-201, not later than 60 days after
22 the department of revenue or its agent:

23 (a) has mailed notice of classification and appraisal
24 or valuation to all property owners and purchasers under
25 contracts for deed as required in 15-7-102; and

(b) has notified the county tax appeal board that classification and ~~appraisal~~ assessment notices have been mailed to all property owners and purchasers under contracts for deed.

(3) In connection with an appeal, the county tax appeal board may change any assessment or fix the assessment at some other level. The county clerk shall publish a notice to taxpayers, giving the time the county tax appeal board will meet to hear protests concerning assessments and the latest date the county tax appeal board may take applications for the hearings. The notice must be published in a newspaper if any is printed in the county or, if none, then in the manner that the county tax appeal board directs. The notice must be published at least 7 days prior to the first meeting of the county tax appeal board.

(4) Challenges to a department of revenue rule governing the assessment of property or to an assessment procedure apply only to the taxpayer bringing the challenge and may not apply to all similarly situated taxpayers unless an action is brought in the district court as provided in 15-1-406."

Section 30. Section 15-15-103, MCA, is amended to read:

"15-15-103. **Examination of applicant -- failure to hear application.** (1) Before the county tax appeal board grants any application or makes any reduction applied for, it must

examine on oath the person or agent making the application, touching the value of the property of each person. No ~~A~~ reduction ~~must~~ may not be made unless ~~such~~ the person or agent makes an application, as provided in 15-15-102, and attends and answers all questions pertinent to the inquiry. The testimony of all witnesses upon ~~such~~ the hearing must be taken in shorthand or by stenotype or electronically recorded and preserved for 1 year. If the decision of the county tax appeal board is appealed, all testimony must be transcribed or otherwise reduced to writing and forwarded, together with all exhibits, to the state tax appeal board. The date of hearing, the proceedings before the board, and the decision must be entered upon the minutes of the board, and the board shall notify the applicant of its decision by mail within 3 days ~~thereafter~~ after the hearing. A copy of the minutes of the county tax appeal board must be transmitted to the state tax appeal board no later than 3 days after the board holds its final hearing of the year.

(2) If a county tax appeal board refuses or fails to hear a taxpayer's timely application for a reduction in valuation of property, the taxpayer's application is considered to be granted on the day following the board's final meeting for that year. The county treasurer shall enter the ~~appraisal~~ assessment or classification sought in the application in the assessment book. An application is

1 not automatically granted for the following appeals:

2 (a) those listed in 15-2-302; and

3 (b) if a taxpayer's appeal from the department's
4 determination of classification or appraisal made pursuant
5 to 15-7-102 was not received in time, as provided for in
6 15-15-102, to be considered by the board during its current
7 60-day session."

8 **Section 31.** Section 77-1-208, MCA, is amended to read:

9 "77-1-208. Cabin site licenses and leases -- method of
10 establishing value. (1) The board shall[, taking into
11 account recommendations of the state land board advisory
12 council,] set the annual fee based on full market value for
13 each cabin site and for each licensee or lessee who at any
14 time wishes to continue or assign the license or lease. The
15 fee must attain full market value based on appraisal of the
16 cabin site value as determined by the department of revenue.
17 The licensee or lessee has the option to pay the entire fee
18 on March 1 or to divide the fee into two equal payments due
19 March 1 and September 1. ~~The--value-may-be-increased-or~~
20 ~~decreased-as-a-result-of-the-statewide-periodic--revaluation~~
21 ~~of--property-pursuant-to-15-7-111.~~ An appeal of a cabin site
22 value determined by the department of revenue must be
23 conducted pursuant to Title 15, chapter 2.

24 (2) The board shall set the fee of each initial cabin
25 site license or lease or each current cabin site license or

1 lease of a person who does not choose to retain the license
2 or lease. The initial fee must be based upon a system of
3 competitive bidding. The fee for a person who wishes to
4 retain that license or lease must be determined under the
5 method provided for in subsection (1).

6 (3) The board shall follow the procedures set forth in
7 77-6-302 through 77-6-306 for the disposal or valuation of
8 any fixtures or improvements placed upon the property by the
9 then-current licensee or lessee and shall require the
10 subsequent licensee or lessee whose bid is accepted by the
11 board to purchase those fixtures or improvements in the
12 manner required by the board. (Bracketed language in
13 subsection (1) terminates March 1, 1996--sec. 17, Ch. 586,
14 L. 1993.)"

15 NEW SECTION. **Section 32.** Repealer. Sections 15-7-111,
16 15-7-113, 15-7-114, 15-7-401, 15-7-402, and 15-7-403, MCA,
17 are repealed.

18 NEW SECTION. **Section 33.** Codification instruction.
19 [Sections 1 through 13] are intended to be codified as an
20 integral part of Title 15, and the provisions of Title 15
21 apply to [sections 1 through 13].

22 NEW SECTION. **Section 34.** Contingent effective date --
23 applicability. [This act] is effective January 1, 1995, and
24 applies to all tax years beginning after December 31, 1994,
25 if the constitutional amendment proposed in --- SENATE Bill

HB 0055/02

- 1 No. ~~---~~ 17 ~~HB-63~~ is passed and approved by the electorate
- 2 in the November 1994 general election.

-End-