

SENATE BILL 20

Introduced by Harp, et al.

11/30	Introduced
11/30	Referred to Taxation
11/30	First Reading
11/30	Fiscal Note Requested
12/06	Hearing
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	Died in Committee

1 SENATE BILL NO. 20
2 INTRODUCED BY HARF MERCER George Gilbert
3 Surgeon General BY REQUEST OF THE GOVERNOR Harcourt
4 Lynn E. VANETT Secretary of Revenue
5 A BILL FOR AN ACT ENTITLED: "AN ACT IMPLEMENTING A PROPOSED
6 CONSTITUTIONAL AMENDMENT ON PROPERTY TAX ADMINISTRATION THAT
7 WOULD ALLOW THE VALUATION OF PROPERTY BASED UPON ACQUISITION
8 VALUE; PROVIDING THAT THE ASSESSED VALUE OF CLASS FOUR
9 PROPERTY IS BASED UPON THE ACQUISITION VALUE OF THE
10 PROPERTY; PROVIDING THAT THE ACQUISITION VALUE WILL BE
11 CHANGED WHEN THE PROPERTY IS PURCHASED OR NEWLY CONSTRUCTED
12 OR WHEN ITS OWNERSHIP CHANGES; PROVIDING CERTAIN EXCLUSIONS
13 RELATING TO CHANGE IN OWNERSHIP; ALLOWING A REDUCTION IN THE
14 ACQUISITION VALUE IF SUBSTANTIATED BY AN INDEPENDENT
15 APPRAISAL PROVIDED BY THE PROPERTY OWNER; PROVIDING THAT
16 CONSTRUCTION FOR DAMAGE REPAIR OR REPLACEMENT, SOLAR ENERGY
17 SYSTEMS, RESIDENTIAL HANDICAPPED ACCESS, AND FIRE SAFETY DO
18 NOT AFFECT THE ACQUISITION VALUE OF THE PROPERTY; PROVIDING
19 ADMINISTRATIVE CHANGES TO IMPLEMENT THE SYSTEM OF VALUING
20 CLASS FOUR PROPERTY BY ACQUISITION VALUE; AMENDING SECTIONS
21 15-1-201, 15-1-402, 15-6-134, 15-7-101, 15-7-102, 15-7-103,
22 15-7-112, 15-7-201, 15-7-202, 15-7-303, 15-7-305, 15-7-307,
23 15-8-111, 15-8-112, 15-10-412, 15-15-101, 15-15-103, AND
24 77-1-208, MCA; REPEALING SECTIONS 15-7-111, 15-7-113,
25 15-7-114, 15-7-401, 15-7-402, AND 15-7-403, MCA; AND

1 PROVIDING A CONTINGENT EFFECTIVE DATE AND AN APPLICABILITY
2 DATE."

4 STATEMENT OF INTENT

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

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

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

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

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

1 purchase.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) For purposes of subsections (1)(f)(i) and

(1)(f)(ii), only the portion of property subject to the lease or transfer is considered to have undergone a change of ownership.

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

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

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

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

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

(d) the creation, assignment, termination, or reconveyance of a security interest or the substitution of a trustee under a security instrument;

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

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

(ii) the trust is revocable;

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

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

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

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

leased land and subject to taxation as personal property pursuant to 15-24-202, that are on leased land have a renewal option of at least 35 years on the lease of the land, whether or not a renewal option exists in a contract or agreement.

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

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

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

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

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

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

(iii) when the transfer is to the housing cooperative or to a person or family qualifying for purchase by reason of

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

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

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

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

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

25 (2) To be eligible for transfer under subsection

1 (1)(k), the dwelling unit must have been the principal place
2 of residence of the child or ward prior to the transfer and
3 remain the principal place of residence of the child or ward
4 after the transfer.

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

9 (1) transfers:

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

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

12 or

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

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

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

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

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

1 or legal separation.

2 **NEW SECTION. Section 6.** Corporate and other legal
3 entity ownership. (1) Except as provided in subsections (3)
4 and (4), the purchase or transfer of ownership interests in
5 legal entities, such as corporate stock or partnership
6 interests, does not constitute a transfer of real property
7 of the legal entity.

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

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

12 (ii) that qualifies as a reorganization under section
13 368 of the Internal Revenue Code; and

14 (iii) is a nontaxable event under Montana law.

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

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

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

25 (ii) the common parent corporation directly owns all of

1 the voting stock, exclusive of any shares owned by
2 directors, of at least one of the other corporations.

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

12 (4) If property is transferred to a legal entity in a
13 transaction excluded from change in ownership under [section
14 4(1)(b)], then the persons holding ownership interests in
15 the legal entity immediately after the transfer are
16 considered the original co-owners. Whenever shares or other
17 ownership interest representing cumulatively more than 50%
18 of the total interest in the entity is transferred by any of
19 the original co-owners in one or more transactions, a change
20 in ownership of that real property owned by the legal entity
21 has occurred and the property that was previously excluded
22 from change in ownership under [section 4(1)(b)] must be
23 appraised.

24 (5) The department shall include a question on returns
25 for partnerships, banks, and corporations (except tax-exempt

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

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

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

25 (b) Upon the termination of an interest in any joint

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

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

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

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

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

1 qualify for the exclusion, the solar energy system must be
2 used for:

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

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

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

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

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

1 (a) the department believes that the purchase price of
2 a sale of property was not the result of an arm's-length
3 transaction between the buyer and the seller;

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

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

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

16 **NEW SECTION. Section 13. Rulemaking authority.** The
17 department may adopt rules to implement [sections 1 through
18 13].

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

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

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

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

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

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

(3) The department shall collect annually from the proper officers of the municipal corporations information about the assessment of property, collection of taxes, receipts from licenses and other sources, the expenditure of public funds for all purposes, and other information as may

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

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

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

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

(b) specify the grounds of protest; and

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

(2) A person appealing a property tax or fee pursuant to chapter 2 or 15 shall pay the tax or fee under protest when due in order to receive a refund. If the tax or fee is not paid under protest when due, the appeal may continue but

1 a tax or fee may not be refunded as a result of the appeal.

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

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

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

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

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

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

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

15 (ii) 6% a year.

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

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

1 that portion of the taxpayer refund, including tax payments
 2 and costs, for which the taxing jurisdiction is proratably
 3 responsible.

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

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

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

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

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

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	Income	Percentage
Single Person	Married Couple	Multiplier
	Head of Household	
\$ 0 - \$ 1,000	\$ 0 - \$ 1,200	0%

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

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

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

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

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

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

1 subsection (2)(a).

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

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

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

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

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

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

state. A certified copy of ~~all-such~~ requested records ~~as-may~~
~~be-desired-shall~~ must be furnished to the department.

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

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

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

(a) change in ownership;

(b) change in classification;

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

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

(2) (a) The county assessor shall assign each
 assessment to the correct owner or purchaser under contract

for deed and mail the notice of classification and appraisal
 on a standardized form, adopted by the department,
 containing sufficient information in a comprehensible manner
 designed to fully inform the taxpayer as to the
 classification and appraisal of the property and of changes
 over the prior tax year.

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

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

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

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

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

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

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

1 available for inspection during regular office hours.

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

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

20 "**15-7-103. Classification and appraisal -- general and**
 21 **uniform methods.** (1) It is the duty of the department of
 22 revenue to implement the provisions of 15-7-101 through
 23 15-7-103 by providing:

24 (a) for a ~~general and~~ uniform method of classifying
 25 lands in the state for the purpose of securing an equitable

1 ~~and-uniform-basis-of~~ assessment of ~~said~~ within each class of
2 lands for taxation purposes;

3 (b) for a ~~general-and-uniform~~ method of appraising city
4 and town lots;

5 (c) for a ~~general--and--uniform~~ method of appraising
6 rural and urban improvements;

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

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

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

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

23 ~~(5)--in-any-periodic--revaluation--of--taxable--property~~
24 ~~completed--under-the-provisions-of-15-7-111-after-January-17~~
25 ~~1986--all-property-classified-in-15-6-134-must-be--appraised~~

1 ~~on--its--market-value-in-the-same-year--The-department-shall~~
2 ~~publish-a-rule-specifying-the-year-used-in-the-appraisal--~~

3 ~~(6)(5)~~ All sewage disposal systems and domestic use
4 water supply systems of all dwellings may not be appraised,
5 assessed, and taxed separately from the land, house, or
6 other improvements in which they are located. ~~in-no-event~~
7 ~~may-the~~ The sewage disposal or domestic water supply systems
8 may not be included twice by including them in the valuation
9 and assessing them separately."

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

11 "15-7-112. Equalization of valuations. The same method
12 of appraisal and assessment ~~shall~~ must be used in each
13 county of the state to the end that comparable property that
14 is assessed by market value with similar true market values
15 and subject to taxation in Montana ~~shall~~ must have
16 substantially equal taxable values ~~at--the--end--of--each~~
17 ~~cyclical-revaluation-program-hereinbefore-provided."~~

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

19 "15-7-201. (Temporary -- applicable to 1986 land
20 valuation schedules) Legislative intent -- value of
21 agricultural property. (1) Because the market value of many
22 agricultural properties is based upon speculative purchases
23 that do not reflect the productive capability of
24 agricultural land, it is the legislative intent that bona
25 fide agricultural properties be classified and assessed at a

1 value that is exclusive of values attributed to urban
2 influences or speculative purposes.

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

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

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

1 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.

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

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

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

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

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

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

(b) Net income must be based on commodity price data, grazing fees, crop share arrangements, and water cost data for the base period.

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

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

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

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

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

(c) The base crop for valuation of irrigated land is

alfalfa hay, adjusted to 80% of sales price, and the base crop for valuation of nonirrigated land is wheat. The base unit for valuation of grazing lands is the average grazing fee for a 1,000-pound animal.

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

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

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

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

"15-7-202. (Temporary) Eligibility of land for valuation as agricultural. (1) Contiguous parcels of land totaling 20 acres or more under one ownership shall be eligible for valuation, assessment, and taxation as agricultural land each year that none of the parcels is devoted to a commercial or industrial use.

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

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

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

(3) Parcels that do not meet the qualifications set out in subsections (1) and (2) ~~shall~~ may not be classified or

valued as agricultural if they are part of a platted subdivision that is filed with the county clerk and recorder in compliance with the Montana Subdivision and Platting Act.

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

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

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

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

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

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

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

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

24 (ii) Noncontiguous parcels of land that meet the income
25 requirement of subsection (1)(b)(i) are eligible for

1 valuation, assessment, and taxation as agricultural land
2 under subsection (1)(b)(i) if:

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

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

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

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

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

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

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

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

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

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

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

23 (6) The department may not classify land less than 160
 24 acres as agricultural unless the owner has applied to have
 25 land classified as agricultural land. Land of 20 acres or

1 more but less than 160 acres for which no an application for
 2 agricultural classification has not been made is taxed as
 3 provided in 15-6-133(1)(c). If land has been valued,
 4 assessed, and taxed as agricultural land in any year, it
 5 must continue to be valued, assessed, and taxed as
 6 agricultural until the department reclassifies the property.
 7 ~~A--reclassification--does--not--mean--revaluation--pursuant--to~~
 8 ~~15-7-1111.~~

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

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

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

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

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

23 (2) "Person" means and includes an individual,
 24 corporation, partnership, or other business organization,
 25 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

1 certificate imposed by this part ~~shall~~ does not apply to:

2 ~~†1†~~(a) an instrument recorded prior to July 1, 1975;

3 ~~†2†~~(b) the sale of agricultural land when the land is

4 used for agricultural purposes;

5 ~~†3†~~(c) the sale of timberland when the land is used for

6 producing timber;

7 ~~†4†~~(d) the United States of America, this state, or any

8 instrumentality, agency, or subdivision thereof;

9 ~~†5†~~(e) an instrument ~~which~~ that (without added

10 consideration) confirms, corrects, modifies, or supplements

11 a previously recorded instrument;

12 ~~†6†~~(f) a transfer pursuant to court decree;

13 ~~†7†~~(g) a transfer pursuant to mergers, consolidations,

14 or reorganizations of corporations, partnerships, or other

15 business entities;

16 ~~†8†~~(h) a transfer by a subsidiary corporation to its

17 parent corporation without actual consideration or in sole

18 consideration of the cancellation or surrender of subsidiary

19 stock;

20 ~~†9†~~(i) a transfer of decedents' estates;

21 ~~†10†~~(j) a transfer of a gift;

22 ~~†11†~~(k) a transfer between husband and wife or parent

23 and child with only nominal actual consideration therefor;

24 ~~†12†~~(l) an instrument the effect of which is to

25 transfer the property to the same party or parties;

1 ~~†13†~~(m) a sale for delinquent taxes or assessments,

2 sheriff sale, bankruptcy action, or mortgage foreclosure;

3 ~~†14†~~(n) a transfer made in contemplation of death.

4 ~~(2)~~ A transferee shall file a claim of exemption on

5 forms provided by the department of revenue before a

6 transfer specified in [sections 1 through 13] or in

7 subsection (1) of this section is exempt from the

8 certification requirement of this part."

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

10 "15-8-111. **Assessment -- market value standard --**

11 **exceptions.** (1) All taxable property must be assessed at

12 100% of its market value except as otherwise provided.

13 (2) (a) Market value is the value at which property

14 would change hands between a willing buyer and a willing

15 seller, neither being under any compulsion to buy or to sell

16 and both having reasonable knowledge of relevant facts.

17 (b) If the department of revenue uses construction cost

18 as one approximation of market value, the department shall

19 fully consider reduction in value caused by depreciation,

20 whether through physical depreciation, functional

21 obsolescence, or economic obsolescence.

22 (c) Except as provided in subsection (3), the market

23 value of all motor trucks; agricultural tools, implements,

24 and machinery; and vehicles of all kinds, including but not

25 limited to boats and all watercraft, is the average

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

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

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

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

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

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

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

25 (6) The assessed value of properties in 15-6-131

1 through ~~15-6-133~~ 15-6-134 and 15-6-143 is as follows:

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

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

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

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

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

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

1 occur:

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

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

5 (c) the land is outside an incorporated city or town.
6 ~~(Subsection-(6)(d)-terminates-January-17-1994--sec-19--Ch-~~
7 ~~7837-B7-1991-7)~~"

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

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

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

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

25 "15-10-412. Property tax limited to 1986 levels --

1 clarification -- extension to all property classes. Section
2 15-10-402 is interpreted and clarified as follows:

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

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

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

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

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

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

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

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

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

9 (a) except as provided in subsection ~~(8)(a)~~ (6)(a), the
10 taxing unit's taxable valuation decreases by 5% or more from
11 the 1986 tax year. If a taxing unit's taxable valuation
12 decreases by 5% or more from the 1986 tax year, it may levy
13 additional mills to compensate for the decreased taxable
14 valuation, but the mills levied may not exceed a number
15 calculated to equal the revenue from property taxes for the
16 1986 tax year in that taxing unit.

17 (b) a levy authorized under Title 20 raised less
18 revenue in 1986 than was raised in either 1984 or 1985, in
19 which case the taxing unit may, after approval by the voters
20 in the taxing unit, raise each year thereafter an additional
21 number of mills but may not levy more revenue than the
22 3-year average of revenue raised for that purpose during
23 1984, 1985, and 1986;

24 (c) a levy authorized in 50-2-111 that was made in 1986
25 was for less than the number of mills levied in either 1984

1 or 1985, in which case the taxing unit may, after approval
2 by the voters in the taxing unit, levy each year thereafter
3 an additional number of mills but may not levy more than the
4 3-year average number of mills levied for that purpose
5 during 1984, 1985, and 1986.

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

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

21 ~~(9)(7)~~ The limitation on the amount of taxes levied
22 does not apply to the following levy or special assessment
23 categories, whether or not they are based on commitments
24 made before or after approval of 15-10-401 and 15-10-402:

25 (a) rural improvement districts;

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

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

(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

1 contracts for deed as required in 15-7-102; and

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

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

17 (4) Challenges to a department of revenue rule
18 governing the assessment of property or to an assessment
19 procedure apply only to the taxpayer bringing the challenge
20 and may not apply to all similarly situated taxpayers unless
21 an action is brought in the district court as provided in
22 15-1-406."

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

24 "15-15-103. **Examination of applicant -- failure to hear**
25 **application.** (1) Before the county tax appeal board grants

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

20 (2) If a county tax appeal board refuses or fails to
21 hear a taxpayer's timely application for a reduction in
22 valuation of property, the taxpayer's application is
23 considered to be granted on the day following the board's
24 final meeting for that year. The county treasurer shall
25 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,

LC 0062/01

- 1 if the constitutional amendment proposed in ____ Bill No. ____
- 2 [LC 63] is passed and approved by the electorate in the
- 3 November 1994 general election.

-End-