

House BILL NO. 265

INTRODUCED BY

*Swanson* *Whitinger* *Corbett*  
*Beaman* *Ross* *VanDyke* *Hollibaugh*

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR THE PHASEIN OF INCREASES IN THE VALUE OF CLASS FOUR PROPERTY BECAUSE OF PERIODIC REVALUATION; ALLOWING A DECREASE IN MARKET VALUE TO BE EFFECTIVE WITHOUT A PHASEIN; INCREASING THE INCOME LEVELS UNDER THE LOW-INCOME PROPERTY TAX EXEMPTION PROGRAM; INCREASING THE MAXIMUM AMOUNT OF THE RESIDENTIAL PROPERTY TAX CREDIT FOR THE ELDERLY; REQUIRING NOTICE OF THE LOW-INCOME PROPERTY TAX REDUCTION TO BE INCLUDED IN THE DEPARTMENT'S NOTICE OF CLASSIFICATION; ALLOWING AN EXTENSION OF TIME FOR APPLICATION FOR THE 1994 PROPERTY TAX EXEMPTION PROGRAM; AMENDING SECTIONS 15-6-134, 15-6-151, 15-7-102, AND 15-30-176, MCA; AND PROVIDING EFFECTIVE DATES."

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

**NEW SECTION. Section 1. Phasein of revaluation of land -- limitation on increase in value.**

(1) An increase in the appraised value of class four property resulting from a revaluation cycle under 15-7-111 must be phased in. Each year following a revaluation cycle, the value of the property must be increased annually by 33% of the difference between the phased-in value from the previous appraised value and the new appraised value.

(2) If the appraised value of property decreases because of a revaluation cycle, the decreased value is the assessed value and is not phased in.

**Section 2. Section 15-6-134, MCA, is amended to read:**

**"15-6-134. Class four property -- description -- taxable percentage.** (1) Class four property includes:

- (a) all land except that specifically included in another class;
- (b) all improvements, including trailers or mobile homes used as a residence, except those specifically included in another class;
- (c) the first ~~\$80,000~~ \$100,000 or less of the market value of any improvement on real property,

1 including trailers or mobile homes, and appurtenant land not exceeding 5 acres owned or under contract  
 2 for deed and actually occupied for at least 10 months a year as the primary residential dwelling of any  
 3 person whose total income from all sources, including net business income and otherwise tax-exempt  
 4 income of all types but not including social security income paid directly to a nursing home, is not more  
 5 than \$10,000 for a single person or \$12,000 for a married couple or a head of household, as adjusted  
 6 according to subsection (2)(b)(ii). For the purposes of this subsection (c), net business income is gross  
 7 income less ordinary operating expenses but before deducting depreciation or depletion allowance, or both.

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

10 (e) all improvements on land that is eligible for valuation, assessment, and taxation as agricultural  
 11 land under 15-7-202(2), including 1 acre of real property beneath the agricultural improvements. The 1  
 12 acre must be valued at market value.

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

14 (a) Except as provided in [section 1], 15-24-1402, or 15-24-1501, property described in  
 15 subsections (1)(a), (1)(b), and (1)(e) is taxed at 3.86% of its market value.

16 (b) (i) ~~Property~~ Except as provided in [section 1], property described in subsection (1)(c) is taxed  
 17 at 3.86% of its market value multiplied by a percentage figure based on income and determined from the  
 18 following table:

19	Income	Income	Percentage
20	Single Person	Married Couple	Multiplier
21		Head of Household	
22	\$ 0 - <del>\$ 1,000</del>	\$ 0 - <del>\$ 1,200</del>	0%
23	<u>\$ 3,750</u>	<u>\$ 5,000</u>	
24	<del>1,001 - 2,000</del>	<del>1,201 - 2,400</del>	<del>10%</del>
25	<u>3,751 - 7,500</u>	<u>5,001 - 10,000</u>	<u>25%</u>
26	<del>2,001 - 3,000</del>	<del>2,401 - 3,600</del>	<del>20%</del>
27	<u>7,501 - 12,250</u>	<u>10,001 - 15,000</u>	<u>50%</u>
28	<del>3,001 - 4,000</del>	<del>3,601 - 4,800</del>	<del>30%</del>
29	<u>12,251 - 15,000</u>	<u>15,001 - 20,000</u>	<u>75%</u>
30	<del>4,001 - 5,000</del>	<del>4,801 - 6,000</del>	<del>40%</del>

1	<del>5,001 6,000</del>	<del>6,001 7,200</del>	<del>50%</del>
2	<del>6,001 7,000</del>	<del>7,201 8,400</del>	<del>60%</del>
3	<del>7,001 8,000</del>	<del>8,401 9,600</del>	<del>70%</del>
4	<del>8,001 9,000</del>	<del>9,601 10,800</del>	<del>80%</del>
5	<del>9,001 10,000</del>	<del>10,801 12,000</del>	<del>90%</del>

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

8 (A) multiplying the appropriate dollar amount from the table in subsection (2)(b)(i) by the ratio of  
 9 the PCE for the second quarter of the year prior to the year of application to the PCE for the second quarter  
 10 of ~~1986~~ 1995; and

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

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

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

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

19 ~~(4)~~(3) Within the meaning of comparable property as defined in 15-1-101, property assessed as  
 20 commercial property is comparable only to other property assessed as commercial property, and property  
 21 assessed as other than commercial property is comparable only to other property assessed as other than  
 22 commercial property."

24 **Section 3.** Section 15-6-151, MCA, is amended to read:

25 **"15-6-151. Application for certain class four classifications.** (1) A person applying for  
 26 classification of property described in subsection (1)(c) of 15-6-134 shall make an affidavit to the  
 27 department of revenue, on a form provided by the department without cost, stating:

28 (a) ~~his~~ the applicant's income;

29 (b) the fact that ~~he~~ the applicant maintains the land and improvements as ~~his~~ the applicant's  
 30 primary residential dwelling, ~~where~~ when applicable; and

1 (c) ~~such~~ other information as that is relevant to the applicant's eligibility.

2 (2) (a) This Except as provided in subsection (2)(b), the application must be made before ~~March~~  
3 4 April 15 of the year after the applicant becomes eligible. The application remains in effect in subsequent  
4 years unless there is a change in the applicant's eligibility. The taxpayer shall inform the department of any  
5 change in eligibility. The department may inquire by mail whether any change in eligibility has taken place  
6 and may require a new statement of eligibility at any time it considers necessary.

7 (b) For tax year 1994, application may be made until 90 days after the effective date of this  
8 section].

9 (3) The affidavit is sufficient if the applicant signs a statement affirming the correctness of the  
10 information supplied, whether or not the statement is signed before a person authorized to administer oaths,  
11 and mails the application and statement to the department of revenue. This signed statement ~~shall~~ must  
12 be treated as a statement under oath or equivalent affirmation for the purposes of 45-7-202, relating to the  
13 criminal offense of false swearing."  
14

15 **Section 4.** Section 15-7-102, MCA, is amended to read:

16 "**15-7-102. Notice of classification and appraisal to owners -- appeals.** (1) (a) The department  
17 shall mail to each owner or purchaser under contract for deed a notice of the classification of the land  
18 owned or being purchased and the appraisal of the improvements on the land only if one or more of the  
19 following changes pertaining to the land or improvements have been made since the last notice:

20 ~~(a)~~(i) change in ownership;

21 ~~(b)~~(ii) change in classification;

22 ~~(c)~~(iii) change in valuation; or

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

24 (b) When the notice required in subsection (1)(a) is mailed, information must be included informing  
25 the taxpayer that the taxpayer may be eligible for a reduced property tax rate under 15-6-134.

26 (2) (a) The department shall assign each assessment to the correct owner or purchaser under  
27 contract for deed and mail the notice of classification and appraisal on a standardized form, adopted by the  
28 department, containing sufficient information in a comprehensible manner designed to fully inform the  
29 taxpayer as to the classification and appraisal of the property and of changes over the prior tax year.

30 (b) The notice must advise the taxpayer that in order to be eligible for a refund of taxes from an

1 appeal of the classification or appraisal, the taxpayer is required to pay the taxes under protest as provided  
2 in 15-1-402.

3 (3) If the owner of any land and improvements is dissatisfied with the appraisal as it reflects the  
4 market value of the property as determined by the department or with the classification of the land or  
5 improvements, the owner may request an assessment review by submitting an objection in writing to the  
6 department, on forms provided by the department for that purpose, within 15 days after receiving the  
7 notice of classification and appraisal from the department. The review must be conducted informally and  
8 is not subject to the contested case procedures of the Montana Administrative Procedure Act. As a part  
9 of the review, the department may consider the actual selling price of the property, independent appraisals  
10 of the property, and other relevant information presented by the taxpayer in support of the taxpayer's  
11 opinion as to the market value of the property. The department shall give reasonable notice to the taxpayer  
12 of the time and place of the review. After the review, the department shall determine the ~~true and~~ correct  
13 appraisal and classification of the land or improvements and notify the taxpayer of its determination. In  
14 the notification, the department shall state its reasons for revising the classification or appraisal. When the  
15 proper appraisal and classification have been determined, the land must be classified and the improvements  
16 appraised in the manner ordered by the department.

17 (4) Whether a review as provided in subsection (3) is held or not, the department may not adjust  
18 an appraisal or classification upon the taxpayer's objection unless:

- 19 (a) the taxpayer has submitted an objection in writing; and  
20 (b) the department has stated its reason in writing for making the adjustment.

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

24 (6) If any property owner feels aggrieved by the classification or appraisal made by the department  
25 after the review provided for in subsection (3), the property owner has the right to first appeal to the  
26 county tax appeal board and then to the state tax appeal board, whose findings are final subject to the right  
27 of review in the courts. The appeal to the county tax appeal board must be filed within 15 days after  
28 notice of the department's determination is mailed to the taxpayer. A county tax appeal board or the state  
29 tax appeal board may consider the actual selling price of the property, independent appraisals of the  
30 property, and other relevant information presented by the taxpayer as evidence of the market value of the

1 property. If the county tax appeal board or the state tax appeal board determines that an adjustment  
 2 should be made, the department shall adjust the base value of the property in accordance with the board's  
 3 order."

4

5 **Section 5.** Section 15-30-176, MCA, is amended to read:

6 **"15-30-176. Residential property tax credit for elderly -- computation of relief.** The amount of the  
 7 tax credit granted under the provisions of 15-30-171 through 15-30-179 is computed as follows:

8 (1) In the case of a claimant who owns the homestead for which a claim is made, the credit is the  
 9 amount of property tax paid less the deduction specified in subsection (4).

10 (2) In the case of a claimant who rents the homestead for which a claim is made, the credit is the  
 11 amount of rent-equivalent tax paid less the deduction specified in subsection (4).

12 (3) In the case of a claimant who both owns and rents the homestead for which a claim is made,  
 13 the credit is:

14 (a) the amount of property tax paid on the owned portion of the homestead less the deduction  
 15 specified in subsection (4); plus

16 (b) the amount of rent-equivalent tax paid on the rented portion of the homestead less the  
 17 deduction specified in subsection (4).

18 (4) Property tax paid and rent-equivalent tax paid are reduced according to the following schedule:

19 Household income	Amount of reduction
20 \$ 0- 999	\$0
21 1,000- 1,999	\$0
22 2,000- 2,999	the product of .006 times the household income
23 3,000- 3,999	the product of .016 times the household income
24 4,000- 4,999	the product of .024 times the household income
25 5,000- 5,999	the product of .028 times the household income
26 6,000- 6,999	the product of .032 times the household income
27 7,000- 7,999	the product of .035 times the household income
28 8,000- 8,999	the product of .039 times the household income
29 9,000- 9,999	the product of .042 times the household income
30 10,000-10,999	the product of .045 times the household income

1 11,000-11,999 the product of .048 times the household income  
2 12,000 & over the product of .050 times the household income

3 (5) In no case may the credit granted exceed ~~\$400~~ \$1,000."

4  
5 **NEW SECTION. Section 6. Codification instruction.** [Section 1] is intended to be codified as an  
6 integral part of Title 15, chapter 8, and the provisions of Title 15, chapter 8, apply to [section 1].

7  
8 **NEW SECTION. Section 7. Effective dates.** (1) [Sections 3 and 6 and this section] are effective  
9 on passage and approval.

10 (2) [Sections 2, 4, and 5] are effective October 1, 1995.

11 (3) [Section 1] is effective January 1, 1997.

12 -END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0265, as introduced

**DESCRIPTION OF PROPOSED LEGISLATION:** An act providing for the phasein of increases in the value of class four property because of periodic revaluation; allowing a decrease in market value to be effective without a phasein; increasing the income levels under the low-income property tax exemption program; increasing the maximum amount of the residential property tax credit for the elderly; requiring notice of the low-income property tax reduction to be included in the department's notice of classification; allowing an extension of time for application for the 1994 property tax exemption program; and providing effective dates.

**ASSUMPTIONS:**

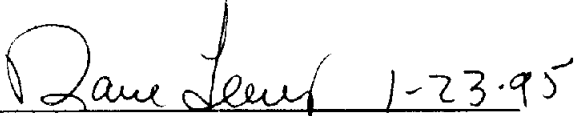
***Low-Income Abatement Program***

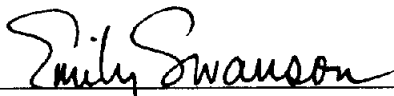
1. Under current law, 42,396 households are eligible for this program; of these, 9,695 households participate in the program (23% participation rate) and receive an average benefit of approximately \$222, for a total program cost of \$2,152,290.
2. Under the proposal, 62,621 households would be eligible for this program; of these, 15,655 households would participate in the program (25% participation rate) and receive an average benefit of approximately \$305, for a total program cost of \$4,774,775.
3. Program costs increase \$2,622,500 with this additional cost distributed 1.5% to universities; 23.6% to the school equalization aid account; 20% to counties; 41.6% to local schools; and 13.2% to cities and towns.
4. The changes to the low-income abatement program are effective for tax year 1995, and will impact fiscal year 1996 revenues.
5. Printing, mailing and advertising costs associated with the increased number of applicants under this proposal would increase by \$11,500 in FY95; and by \$2,975 in FY96 and each fiscal year thereafter.

***Elderly Homeowner/Renter (2EC) Program***

6. Under current law the maximum credit allowed under the 2EC program is \$400; this increases to \$1,000 under this proposal.
7. Increasing the maximum credit does not increase the number of households participating in this program (19,070 claimants in 1993).
8. Current program costs are projected to be \$6,000,000 in FY96 and \$6,500,000 in FY97 (DOR *Tax Expenditure Report*). Increasing the maximum credit from \$400 to \$1,000 increases the average benefit by 11 percent, which increases total program costs to \$6,660,000 in FY96 and \$7,215,000 in FY97. This results in additional costs of \$660,000 in FY96 and \$715,000 in FY97, which reduces individual income tax collections and state general fund revenue by a like amount.

(continued page 2)

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

  
EMILY SWANSON, PRIMARY SPONSOR DATE  
Fiscal Note for HB0265, as introduced

HB 265



***Phase-In of Reappraisal Values***

9. The proposal would require changes in programming to the Department of Revenue's CAMA system at an estimated cost of \$32,450 in FY96. The proposal would require upgrading the CAMA system at an estimated cost of \$248,875 in FY96.
10. Whenever a parcel of property changes valuation, the Department of Revenue notifies the owner of the parcel of the change. There are 724,540 residential property parcels in the state. Of this number, 285,000 require mailings annually under current law. The proposal would require annual mailings for the balance (439,540). Mailing costs are estimated to be \$0.32 per mailing. This additional annual mailing cost would begin in FY98.

**FISCAL IMPACT:**

**Expenditures:**

***Expenditures are increased by \$11,500 in FY95 for additional mailing and printing costs for the low-income abatement program.***

	<u>FY96</u> <u>Difference</u>	<u>FY97</u> <u>Difference</u>
Equipment & Operating Expenses	\$284,300	\$2,975

**Revenues:**

The impact of the changes to the *low-income abatement program* are to reduce revenue to the university system by \$39,145 beginning in FY96 and each fiscal year thereafter; and to reduce revenue to the school equalization aid account by \$619,802 in FY96 and each fiscal year thereafter.

***Elderly Homeowner/Renter Credit:***

	<u>FY96</u> <u>Difference</u>	<u>FY97</u> <u>Difference</u>
Individual Income Tax	\$(660,000)	\$(715,000)
Net Impact: (General Fund)	\$(944,300)	\$(717,975)

**EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:**

The proposal reduces revenue in FY96 and each fiscal year thereafter by \$525,283 to county governments; by \$1,092,242 to local schools; and by \$346,027 to cities and towns.

**LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:**

Assuming that statewide valuation will increase under reappraisal, phasing in the increasing values reduces the property tax base below what it would be under current law. This has the effect of reducing revenues to fixed mill accounts such as the university system and school equalization accounts below revenue generated under current law. The extent of this reduction depends on future economic conditions affecting the value of reappraised properties. This, in turn, could result in mill levies being higher than they otherwise would be, resulting in a shift in total tax burden away from Class 4 properties to property of other classes.

TECHNICAL NOTES:

1. The proposal does not provide a mechanism for assigning appraised value for property that is newly constructed or remodeled during a revaluation cycle, land parcels that are split during a revaluation cycle, or property which changes classification to class four during a revaluation cycle.
2. The proposal results in unequal treatment of property. Specifically, some property would be appraised at 100% of full market value while some property would be appraised at a percentage below 100% of full market value. This discrepancy appears to violate the Montana constitution (Article VIII, Sec. 3) and state statutory law (15-7-112, MCA).
3. The bill provides that the phase in of reappraised properties be at the rate of 33% each year for three years. This results in a total increase of 99% rather than 100%.
4. The bill revises MCA, 15-6-134 (2)(a) and (b) to say that except as provided in [section 1], which is the phase in language, property is taxed at 3.86% of its market value. This language should be stricken from the bill as the phase in of values does nothing to change the tax rate that is applied to the phased in property. It still will be taxed at 3.86%.
5. The bill amends MCA, 15-6-151 by adding subsection (2)(b) which states that for tax year 1994 application for the low-income abatement program may be made until 90 days after the effective date of the section. Applications for tax year 1994 have already been processed. Is the intent to make the extension of time apply to tax year 1995? If the intent actually is to allow an extension for tax year 1994, what about tax year 1995, where applications are due by March 31?